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### 1

#### Financial incentives must disburse federal funds for energy production—mandates and regulations are indirect incentive—that crushes limits

Webb, sessional lecture – Faculty of Law @ University of Ottawa, ‘93

(Kernaghan, 31 Alta. L. Rev. 501)

One of the obstacles to intelligent discussion of this topic is the tremendous potential for confusion about what is meant by several of the key terms involved. In the hopes of contributing to the development of a consistent and precise vocabulary applying to this important but understudied area of regulatory activity, various terms are defined below. In this paper, "financial incentives" are taken to mean disbursements**18** of public funds or contingent commitments to individuals and organizations, intended to encourage, support or induce certain behaviours in accordance with express public policy objectives. They take the form of grants, contributions, repayable contributions, loans, loan guarantees and insurance, subsidies, procurement contracts and tax expenditures.**19** Needless to say, the ability of government to achieve desired behaviour may vary with the type of incentive in use: up-front disbursements of funds (such as with contributions and procurement contracts) may put government in a better position to dictate the terms upon which assistance is provided than contingent disbursements such as loan guarantees and insurance. In some cases, the incentive aspects of the funding come from the conditions attached to use of the monies.20 In others, the mere existence of a program providing financial assistance for a particular activity (eg. low interest loans for a nuclear power plant, or a pulp mill) may be taken as government approval of that activity, and in that sense, an incentive to encourage that type of activity has been created.21 Given the wide variety of incentive types, it will not be possible in a paper of this length to provide anything more than a cursory discussion of some of the main incentives used.22 And, needless to say, the comments made herein concerning accountability apply to differing degrees depending upon the type of incentive under consideration. By limiting the definition of financial incentives to initiatives where public funds are either disbursed or contingently committed, a large number of regulatory programs with incentive effects which exist, but in which no money is forthcoming,23 are excluded from direct examination in this paper. Such programs might be referred to as indirect incentives. Through elimination of indirect incentives from the scope of discussion, the definition of the incentive instrument becomes both more manageable and more particular. Nevertheless, it is possible that much of the approach taken here may be usefully applied to these types of indirect incentives as well.24 Also excluded from discussion here are social assistance programs such as welfare and ad hoc industry bailout initiatives because such programs are not designed primarily to encourage behaviours in furtherance of specific public policy objectives. In effect, these programs are assistance, but they are not incentives.

#### The plan is indirect and not a financial incentive

WFC 7 (World Future Council, "Feed-In Tariffs – A guide to one of the world’s best environmental policies Boosting Energy for our Future" http://www.worldfuturecouncil.org/fileadmin/user\_upload/Maja/Feed-in\_Tariffs\_WFC.pdf)

How does a FIT work? 6 FITs are simple. They put a legal obligation on utility companies to buy electricity from renewable energy producers at a premium rate, usually over a guaranteed period, making the installation of renewable energy systems a worthwhile and secure investment for the producer. The extra cost is shared among all energy users, thereby reducing it to a barely noticeable level.

#### Vote Neg—plethora of bidirectional mechanisms impact energy markets in ways that could increase production—only direct financial disbursements for increased production create a predictable and manageable topic—prerequisite to negative ground and preparation

EIA, Energy Information Administration, Office of Energy Markets and End Use, U.S. DOE, ‘92

(“Federal Energy Subsidies: Direct and Indirect Interventions in Energy Markets,” ftp://tonto.eia.doe.gov/service/emeu9202.pdf)

In some sense, most Federal policies have the potential to affect energy markets. Policies supporting economic stability or economic growth have energy market consequences; so also do Government policies supporting highway development or affordable housing. The interaction between any of these policies and energy market outcomes may be worthy of study. However, energy impacts of such policies would be incidental to their primary purpose and are not examined here. Instead, this report focuses on Government actions whose prima facie purpose is to affect energy market outcomes, whether through financial incentives, regulation, public enterprise, or research and development.

### 2

#### Obama pushing for sequestration deal now – key to avert economic collapse

Susa Crabtree (writer for the Washington Times) February 6, 2013 “Obama ramps up pressure to resolve sequester;¶ Sets up another partisan battle” Lexis

Warning of serious repercussions for the economy and the military if Congress fails to halt the next round of $85 billion in budget cuts next month, President Obama on Tuesday called for replacing the automatic spending "sequesters" with a vague mix of smaller cuts and more tax increases.¶ At a time when many top Republicans have said the cuts should take effect, Mr. Obama's call renews the battle over spending that has dominated Washington for the past two years, but which seemed to cool after the January deal that raised taxes across the board.¶ The president said he would like another big tax reform that targets the wealthy, cutting deductions and loopholes, but said at the very least Congress should avert the sequester, which he called an avoidable self-inflicted economic wound.¶ "If they can't get a bigger package done by the time the sequester is scheduled to go into effect, then I believe they should at least pass a smaller package," he said. "There is no reason that the jobs of thousands of Americans who work in national security or education or clean energy - not to mention the growth of the entire economy - should be put in jeopardy."¶ His offer is a rehash of proposals he has made to end tax breaks and lower projected increases in health care spending, though the White House has yet to lay out a full list of deductions it wants Congress to target.¶ Even before Mr. Obama spoke, Republicans were rejecting his offer.¶ House Speaker John A. Boehner, Ohio Republican, issued a statement saying it was the president who came up with the sequester idea. He also said House Republicans have passed two bills to avert the sequesters, so Mr. Obama must lay out his own specific plan.¶ Still smarting from his "fiscal cliff" deal with Democrats in which Republicans agreed to increase taxes without spending cuts, the speaker made it clear that he was ruling out any need to increase taxes further.¶ "President Obama first proposed the sequester and insisted it become law. Republicans have twice voted to replace these arbitrary cuts with common-sense cuts and reforms that protect our national defense," he said. "We believe there is a better way to reduce the deficit, but Americans do not support sacrificing real spending cuts for more tax hikes.¶ "The president's sequester should be replaced with spending cuts and reforms that will start us on the path to balancing the budget in 10 years," he said.¶ Senate Minority Leader Mitch McConnell, Kentucky Republican, rebuked Mr. Obama for lecturing Congress about the need to avoid the cuts he proposed.¶ "If Democrats have ideas for smarter cuts, they should bring them up for debate," he said. "But the American people will not support more tax hikes in place of the meaningful spending reductions both parties already agreed to and the president signed into law."¶ Mr. McConnell also criticized Mr. Obama for failing to submit a budget by the statutory deadline this year.¶ "The clock is ticking. It's time to get serious," he added.¶ The White House first came up with the idea of the arbitrary, across-the-board spending cuts during budget talks in summer 2011 as a way to pressure Democrats and Republicans in Congress into coming up with their own spending cut plan to reduce the deficit over the next decade.¶ But partisan Washington gridlock quickly took hold and a supercommittee of lawmakers tasked with coming up with a plan to find alternative spending cuts to replace the sequester failed to reach a deal after negotiating for months.¶ As the country braced for the cuts to kick in and Washington to tumble off the fiscal cliff Jan. 1, lawmakers struck a last-minute deal that shifted the first two months of cuts into future spending bills and replaced the rest with an increase in the way retirement accounts are taxed. Still, the deal postponed another $85 billion in cuts to March 1 - a way to buy more time to find alternative sources of revenue.¶ The Pentagon in recent weeks has grown increasingly pessimistic about the chances of avoiding the cuts, and the branches of the military have issued memos outlining what programs and sections would be hit hardest.¶ Washington think tanks and policy centers have warned repeatedly of the havoc that the cuts could wreak on the economy. The Bipartisan Policy Center has estimated that 1 million jobs could be lost this year and next as a direct result of the spending cuts, and defense industry analysts say that number could rise to 2 million this year alone.¶ The president made his plea as Senate Democrats were meeting in Annapolis for their annual retreat. Mr. Obama is scheduled to address the group Wednesday.

#### The aff causes huge political backlash

Matthew Byrne (J.D., The Ohio State University Moritz College of Law, expected 2007) 2006 “Protecting National Security and Promoting Foreign Investment: Maintaining the Exon-Florio Balance” OHIO STATE LAW JOURNAL <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/67.4.byrne_.pdf>

In the summer of 2005, the third largest state-owned Chinese oil company, the China National Offshore Petroleum Company, Ltd. (“CNOOC”) announced it would attempt to acquire Unocal, an American oil company that owned oil reserves around the world.158 Unocal was already in the midst of negotiations with Chevron, another American oil company, which had offered $16.4 billion to purchase Unocal.159 CNOOC offered a higher bid of $18.5 billion.160 Negative congressional reaction to the proposed acquisition was evident almost immediately. Numerous members of Congress wrote letters to Secretary of the Treasury John Snow urging that the transaction be reviewed and blocked by CFIUS due to the national security concerns they saw associated with China, a Communist regime, gaining control of an American company with extensive oil reserves.161 Various members of Congress, as well as prominent commentators, raised serious arguments that in light of U.S. dependence on foreign oil, rising oil prices, and China’s increasing military, political, and economic strength, it would be irresponsible for the country to permit China to acquire an American oil company.162

#### Economy is at the top of the agenda – but controversy derails it

Wolf Blitzer and Gloria Borger (CNN political analysts) February 1, 2013 “Wall Street Soars; Senate Scandal; Super Bowl Advertising; Al Gore Defends Selling to Al Jazeera; The Most Expensive Election; Hillary Clinton Resigns; Kerry Arrives at Swearing in Ceremony; Geraldo Rivera for Senator?; New Jersey Senate Showdown; Once Powerful Cardinal Disciplined; $8M a Minute; Controversy Over Some Super Bowl Ads; New York Mourns Ed Koch” Lexis

BLITZER: So, there's more jobs created, another 150,000 last month. They revised figures for November and December, another 200,000 beyond those earlier announced.¶ So how is this going to impact his legislative agenda on some of these critically important issues?¶ BORGER: Before he gets to immigration and everything else, he has to go through all of the business speed bumps, the economic speed bumps.¶ BLITZER: And there are plenty of them.¶ BORGER: And there are plenty of them coming up.¶ And I think both sides can make the case, Wolf, and they will, that a dysfunctional Washington really hurts consumer confidence and hurts business hiring. Republicans will say you have got to decrease the deficit and the president will say, you know what, we have to perhaps think about spending a little bit of money to get out of this and to try and reduce that unemployment rate.¶ So they are going to come at it from different sides, Wolf. The big thing to think about here is the president's approval rating. It is now at 52 percent. That gives him an awful lot of leverage on these economic issues.¶ BLITZER: He's going to need that if he's going to get some of these agenda items through.¶ BORGER: He will need every bit of it. Yes.

#### Sequestration guarantees collapse of the economy and hegemony – causes Middle East war

Hutchison 9/21U.S. Senator from the great state of Texas, 9/21/2012

(Kay Bailey, “A Looming Threat to National Security,” States News Service, Lexis)

Despite warnings of the dire consequences, America is teetering at the edge of a fiscal cliff, with January 1st, 2013 as the tipping point. On that date, unless Congress and the White House can reach agreement on how to cut the federal deficit, all taxpayers will be hit with higher taxes and deep cuts - called "sequestration" - will occur in almost all government spending, disrupting our already weak economy and putting our national security at risk. According to the House Armed Services Committee, if sequestration goes into effect, it would put us on course for more than $1 trillion in defense cuts over the next 10 years. What would that mean? A huge hit to our military personnel and their families; devastating cuts in funding for critical military equipment and supplies for our soldiers; and a potentially catastrophic blow to our national defense and security capabilities in a time of increasing violence and danger. All Americans feel a debt of gratitude to our men and women who serve in uniform. But Texas in particular has a culture that not only reveres the commitment and sacrifice they make to protect our freedom, we send a disproportionate number of our sons and daughters to serve. The burden is not borne solely by those who continue to answer the call of duty, but by their families as well, as they endure separation and the anxiety of a loved one going off to war. These Americans have made tremendous sacrifices. They deserve better than to face threats to their financial security and increased risks to their loved ones in uniform, purely for political gamesmanship. Sequestration would also place an additional burden on our economy. In the industries that support national defense, as many as 1 million skilled workers could be laid off. With 43 straight months of unemployment above 8 percent, it is beyond comprehension to add a virtual army to the 23 million Americans who are already out of work or under-employed. Government and private economic forecasters warn that sequestration will push the country back into recession next year. The recent murder of our Ambassador to Libya and members of his staff, attacks on US embassies and consulates and continued riots across the Middle East and North Africa are stark reminders that great portions of the world remain volatile and hostile to the US. We have the mantle of responsibility that being the world's lone super-power brings. In the absence of U.S. military leadership, upheaval in the Middle East would be worse. As any student of history can attest, instability does not confine itself to national borders. Strife that starts in one country can spread like wildfire across a region. Sequestration's cuts would reduce an additional 100,000 airmen, Marines, sailors and soldiers. That would leave us with the smallest ground force since 1940, the smallest naval fleet since 1915 and the smallest tactical fighter force in the Air Force's history. With the destabilization in the Middle East and other areas tenuous, we would be left with a crippled military, a diminished stature internationally and a loss of technological research, development and advantage - just as actors across the globe are increasing their capabilities. Sequestration can still be avoided. But that will require leadership from the President that has thus far been missing. Congress and the White House must reach a long-term agreement to reduce $1 trillion annual budget deficits, without the harsh tax increases that could stall economic growth and punish working families.

#### Those escalate

James A. Russell (managing editor of Strategic Insights, senior lecturer in the Department of National Security Affairs at NPS, From 1988-2001 held a variety of positions in the Office of the Assistant Secretary Defense for International Security Affairs, Near East South Asia, Department of Defense) Spring 2009 “Strategic Stability Reconsidered: Prospects for Escalation and Nuclear War in the Middle East” <http://www.analyst-network.com/articles/141/StrategicStabilityReconsideredProspectsforEscalationandNuclearWarintheMiddleEast.pdf>

Strategic stability in the region is thus undermined by various factors: (1) asymmetric interests in the bargaining framework that can introduce unpredictable behavior from actors; (2) the presence of non-state actors that introduce unpredictability into relationships between the antagonists; (3) incompatible assumptions about the structure of the deterrent relationship that makes the bargaining framework strategically unstable; (4) perceptions by Israel and the United States that its window of opportunity for military action is closing, which could prompt a preventive attack; (5) the prospect that Iran’s response to pre-emptive attacks could involve unconventional weapons, which could prompt escalation by Israel and/or the United States; (6) the lack of a communications framework to build trust and cooperation among framework participants. These systemic weaknesses in the coercive bargaining framework all suggest that escalation by any the parties could happen either on purpose or as a result of miscalculation or the pressures of wartime circumstance. Given these factors, it is disturbingly easy to imagine scenarios under which a conflict could quickly escalate in which the regional antagonists would consider the use of chemical, biological, or nuclear weapons. It would be a mistake to believe the nuclear taboo can somehow magically keep nuclear weapons from being used in the context of an unstable strategic framework. Systemic asymmetries between actors in fact suggest a certain increase in the probability of war – a war in which escalation could happen quickly and from a variety of participants. Once such a war starts, events would likely develop a momentum all their own and decision-making would consequently be shaped in unpredictable ways. The international community must take this possibility seriously, and muster every tool at its disposal to prevent such an outcome, which would be an unprecedented disaster for the peoples of the region, with substantial risk for the entire world.

### 3

The United States federal government should limit the review of foreign investment in wind power by the Committee on Foreign Investment in the United States to cases in which national security, not economic competition is a factor.

#### The United States Supreme Court should rule the limit of the review of foreign investment in wind power by the Committee on Foreign Investment in the United States in cases in which economic competition is a factor unconstitutional.

#### Courts have authority to rule over energy production

Brenda Bowers April 2011 “Future Of American Energy Production At Stake In US Supreme Court – Big Government” http://brendabowers.wordpress.com/2011/04/19/%C2%BB-future-of-american-energy-production-at-stake-in-us-supreme-court-big-government/

We all know how important energy is in our lives, just as commercial energy is critical to free market capitalism and the pursuit of prosperity in America. Now, thanks to environmental activists and several states, that may all be at risk in the US Supreme Court. In 2004, unhappy that the duly elected Bush administration wasn’t restricting carbon emissions in the alleged cause of global warming, environmental activism prompted several states to file a “public nuisance” lawsuit, which would empower the courts in this regard. They lost in the lower court but that was reversed in 2007. This case is novel, and far more aggressive and disruptive than the global warming case the Court previously permitted. In a 2007 decision, Massachusetts v. EPA, a closely divided Court agreed with 12 states and several cities that the Environmental Protection Agency has authority to regulate carbon dioxide as a pollutant under the Clean Air Act. Though that case dealt with a narrow claim to enforce a federal statute, the Court’s decision emboldened what had already become a cottage industry of lawsuits designed to slow global warming by asking federal courts to enact what interest groups have been unable to secure through the democratic process: carbon caps and other limits on the way energy is produced in this country. Under the guise of “public nuisance,” the plaintiffs in these suits seek to impose enormous damages and binding emissions caps on energy companies. The plaintiffs have acknowledged that their goal is a veritable sea change in the way energy is produced, sold, and used in this country. Incredibly, they assert that these companies can make major changes to lower emissions – such as the adoption of wind and solar alternatives – “without significantly increasing the cost of electricity.” But never before has the “public nuisance” doctrine been used to set national economic and energy policy. While litigation may be therapeutic for those frustrated by political inaction, this case is at odds with this country’s legal tradition. Meanwhile, a recently elected Republican House is taking steps to go in the other direction through budget cuts to the EPA. Environmental activism in the US is, in effect, looking to up-end the democratic process – an all too common theme across the Left – by empowering the courts to make policy in perhaps the single most critical policy area for American prosperity.

#### It’s competitive --- doesn’t reduce restrictions, just rules them unenforceable

Treanor & Sperling 93 William - Prof Law at Fordham. Gene - Deputy Assistant to President for Economic Policy. “PROSPECTIVE OVERRULING AND THE REVIVAL OF "UNCONSTITUTIONAL" STATUTES,” Columbia Law Review, Dec 93, lexis

Unlike the Supreme Court, several state courts have explicitly addressed the revival issue. The relevant state court cases have concerned the specific issue of whether a statute that has been held unconstitutional is revived when the invalidating decision is overturned. n42 With one exception, they have concluded that such statutes are immediately enforceable.

The most noted instance in which the revival issue was resolved by a court involved the District of Columbia minimum wage statute pronounced unconstitutional in Adkins. After the Court reversed Adkins in West Coast Hotel, President Roosevelt asked Attorney General Homer [\*1913] Cummings for an opinion on the status of the District of Columbia's statute. The Attorney General responded,

 The decisions are practically in accord in holding that the courts have no power to repeal or abolish a statute, and that notwithstanding a decision holding it unconstitutional a statute continues to remain on the statute books; and that if a statute be declared unconstitutional and the decision so declaring it be subsequently overruled the statute will then be held valid from the date it became effective. n43

Enforcement of the statute followed without congressional action. n44

When this enforcement was challenged, the Municipal Court of Appeals for the District of Columbia in Jawish v. Morlet n45 held that the decision in West Coast Hotel had had the effect of making the statute enforceable. The court observed that previous opinions addressing the revival issue proceed on the principle that a statute declared unconstitutional is void in the sense that it is inoperative or unenforceable, but not void in the sense that it is repealed or abolished; that so long as the decision stands the statute is dormant but not dead; and that if the decision is reversed the statute is valid from its first effective date. n46

 The court declared this precedent sound since the cases were "in accord with the principle "that a decision of a court of appellate jurisdiction overruling a former decision is retrospective in its operation, and the effect is not that the former decision is bad law but that it never was the law.' " n47 Adkins was thus, and had always been, a nullity. The court acknowledged that, after Adkins, it had been thought that the District of Columbia's minimum wage statute was unconstitutional. As the court put it, " "Just about everybody was fooled.' " n48 Nonetheless, the court's view was that since the minimum wage law had always been valid, although for a period judicially unenforceable, there was no need to reenact it. n49

Almost all other courts that have addressed the issue of whether a statute that has been found unconstitutional can be revived have reached the same result as the Jawish court, using a similar formalistic [\*1914] analysis. n50 The sole decision in which a court adopted the nonrevival position is Jefferson v. Jefferson, n51 a poorly reasoned decision of the Louisiana Supreme Court. The plaintiff in Jefferson sought child support and maintenance from her husband. She prevailed at the trial level; he filed his notice of appeal one day after the end of the filing period established by the Louisiana Uniform Rules of the Court of Appeals. The Court of Appeals rejected his appeal as untimely, even though the Louisiana Supreme Court had previously found that the applicable section of the Uniform Rules violated the state constitution. One of Ms. Jefferson's arguments before the state Supreme Court was that that court's previous ruling had been erroneous and that the rules should therefore be revived. In rejecting this claim and in finding for the husband, the Court stated:

 Since we have declared the uniform court rule partially unconstitutional, it appears to be somewhat dubious that we have the right to reconsider this ruling in the instant case as counsel for the respondent judges urges us to do. For a rule of court, like a statute, has the force and effect of law and, when a law is stricken as void, it no longer has existence as law; the law cannot be resurrected thereafter by a judicial decree changing the final judgment of unconstitutionality to constitutionality as this would constitute a reenactment of the law by the Court - an assumption of legislative power not delegated to it by the Constitution. n52

 The Louisiana Court thus took a mechanical approach to the revival question. According to its rationale, when a statute is found unconstitutional, it is judicially determined never to have existed. Revival therefore entails judicial legislation and thereby violates constitutionally mandated separation of powers: because the initial legislative passage [\*1915] of the bill has no legitimacy, the bill's force is considered to be purely a creature of judicial decision-making.

Jefferson has little analytic appeal. Its view of the separation of powers doctrine is too simplistic. Contrary to the Jefferson rationale, a "revived" law is not the pure product of judicial decision-making. It is, instead, a law that once gained the support of a legislature and that has never been legislatively repealed. Its legitimacy rests on its initial legislative authorization. Moreover, the view that a statute that has been found unconstitutional should be treated as if it never existed may have had some support in the early case law, but it has been clearly rejected by the Supreme Court. Instead of treating all statutes that it has found unconstitutional as if they had never existed, the Court has recognized a range of circumstances in which people who rely on an overturned decision are protected. Indeed, as will be developed, the doctrine of prospective overruling evolved to shield from harm those who relied on subsequently overruled judicial decisions. n53 In short, the one case in which there was a holding that a statute.

### 4

#### Financialization of energy production is a neoliberal tool to subvert communal agency—fuels inequality and unsustainable practices

**Hildyard et al 2012** – \*founder and Director of The Corner House, a U.K. research and advocacy group focusing on human rights, the environment, and development, co-editor of The Ecologist, \*\*co-founder of the Durban Group for Climate Justice (February, Nicholas Hildyard, Larry Lohmann and Sarah Sexton, The Corner House, “Energy Security For What? For Whom?”, http://www.thecornerhouse.org.uk/sites/thecornerhouse.org.uk/files/Energy%20Security%20For%20Whom%20For%20What.pdf, WEA)

The neoliberal market-driven approach to energy policy in Europe and¶ North America that is actively promoted throughout the world by the¶ International Monetary Fund and the World Bank and through bilateral¶ investment treaties and the Energy Charter Treaty is barely 30 years¶ old. Prior to the 1980s, energy – oil, gas, coal and electricity – was¶ largely provided either by state monopolies at prices determined by the¶ state with investment centrally planned by government bureaucracies,¶ or by private monopolies subject to government oversight and regulation to protect users from excessive charges. Markets, in which for-profit companies competed with each to generate, distribute and supply¶ “energy”, were considered “hopelessly inadequate in providing appropriate energy supplies,”¶ 3¶ considered to be “the lifeblood of the world¶ economy.”4¶ “Moving to the market,” however, was proposed as a way of ensuring¶ investment in energy infrastructure – power plants, transmission systems and storage capacity – that would not only guarantee supplies to¶ consumers at cheaper prices but would also direct investment to the¶ most cost-effective means of reducing carbon emissions.¶ 5¶ But markets have singularly failed to deliver on these promises. Directly opposed to forms of social and economic organisation that seek¶ to guarantee the shared right of all to survival, market-based energy¶ policies have led to the exclusion of those who cannot afford to pay for¶ the energy they require to meet their basic needs. The financialisation¶ of “energy”– where the production and distribution of oil, gas and electricity is mediated and shaped not just by markets in general but by¶ financial markets in particular,¶ 6¶ and where capital is accumulated primarily through financial speculation rather than production – is also¶ jeopardising investment in the infrastructure that might enable a just¶ transition to a sustainable and equitable climatic future. Investment is¶ diverted into trading on money or the products of money, often creating¶ energy shortages in the process through the speculative “gaming” of¶ energy markets. Just as energy is now “saturated with the language of¶ security”,¶ 7¶ so, too, it is “infused by the logic of finance”,¶ 8¶ even though¶ financialisation is conspicuously absent from energy security narratives.¶ Market-led policies marginalise the role of communities and ordinary¶ people in decision-making: instead “choices” about future energy technologies and use are left to those who have economic and political¶ power within the range of markets that affect energy. The input of¶ consumers is reduced to the (limited) decisions they can make within¶ energy retail markets based on price signals alone: the cost of electricity or gas. Debates over how society might be differently organised to¶ generate and use (less) “energy” in different ways are entirely sidelined,¶ except where they might provide opportunities to make money.¶ Meanwhile, efforts to address climate change through carbon trading¶ and other market mechanisms are fatally delaying the action that is¶ necessary to prevent runaway global climatic instability, whilst at the¶ same time creating new sources of conflict and insecurity.

#### The impact is extinction—focus on production and technology in the neoliberal frame generates crises and precludes other orientations

**Holleman 2012** – assistant professor of sociology at Amherst, PhD in sociology from the University of Oregon (June, Hannah, sociology dissertation, University of Oregon, “Energy justice and foundations for a sustainable sociology of energy”, https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/12419/Holleman\_oregon\_0171A\_10410.pdf?sequence=1, WEA)

As Marilyn Waring noted twenty years ago, under this system, when there is an ¶ environmental catastrophe, like the Exxon Valdez oil spill in Alaska, or the current BP oil ¶ spill in the Gulf, companies make an enormous profit cleaning up, or at least professing ¶ to do so. GDP goes up. If someone is sick, if they die a long, drawn-out death from ¶ cancer, there is profit to be made. There is no money to be made in human and ecological ¶ health and well-being. If communities grow their own food, the global food market ¶ significantly decreases; if people walk rather than drive, the oil and car companies don’t ¶ make money. If education is free, who benefits? Maybe most people, and the society at ¶ large, maybe even the environment, but not necessarily the shareholders. Therefore, it is ¶ much more economically efficient to let the market shape education. Today students take ¶ out larger and larger loans to buy more expensive books, to get less education engendered ¶ by fewer teachers. This is capitalist efficiency. The surplus is efficiently transferred from ¶ one segment of the population to another, those at the top. The same goes for letting the ¶ market shape energy policy. Those arguing today for market intervention in the climate ¶ crisis often fail to mention that it is absolutely already the market shaping energy policy. ¶ This is precisely the problem. It is very efficient for the market to extract oil at bargain ¶ prices from countries without militaries to stop them. It is very efficient, in terms of ¶ profit, to have the most vulnerable in society pay the costs of energy production, and to ¶ keep polluting, all the while terrifying people that new energy developments might be ¶ their only chance of economic survival. Nevermind where the real money goes and what ¶ happens with the boom goes bust.

The current version of capitalist ideology, which absorbs energy scholars (and ¶ even environmental socialists) often unwittingly, was consciously shaped to co-opt the ¶ language of social movements seeking freedom from the yolk of capitalism and ¶ imperialism. It is no surprise that the market would co-opt green rhetoric today. ¶ Economists having the greatest ideological influence on political debates and social ¶ science today, the architects of neoliberal ideology, have sought to re-write the history of ¶ capitalist development as “the constitution of liberty,” and the basis of free society ¶ (Hayek 1960; Friedman 1962; Van Horn, Mirowski, and Stapleford, eds. 2011). There ¶ can be no acknowledgement of slavery, racism, sexism, or ecological destruction among ¶ other issues, because all of these undermine the basic thesis neoliberal writers actively ¶ promote as political ideology. To make their argument, these writers must present ¶ capitalism as raising all boats, color-blind, gender-neutral, and free of class coercion, the ¶ globalization of which results in a “flat,” happy world, even if it is hot (Friedman 2005, ¶ 2008). Unfortunately, these ideas dominate the political sphere, and contemporary ¶ notions of organizational, community, and national development. In academia, many ¶ “theorists celebrate the alleged leveling of social differences owing to globalization”¶ (Pellow 2007, 41). The blinders imposed by this view continue to infect energy studies¶ despite the work of critical energy scholars.

Spreading capitalism thus becomes the solution for poverty associated with ¶ inequalities caused by oppression based on race, class, gender, and position in the world ¶ system, as well as the solution to environmental and energy crises. This is the basic ¶ modernization thesis. The Ecological Modernization Reader (Mol, Sonnenfeld, and ¶ Spaargaren 2009) presents these systematized views regarding the environmental crisis, ¶ which are increasingly influential in environmental sociology. York and Rosa (2003) and ¶ Foster (2012) have pointed out the empirical, theoretical, and philosophical roots of, and ¶ problems associated with this perspective as a basis for understanding ecological and ¶ social crises and solutions. But, we can expect this view to persist as long as social ¶ relations remain intact because the logic of modernization is seductive precisely because ¶ it is the logic of capitalism (Foster 1999b, 2002, 2009, 2012). The processes of ¶ capitalism, including its ideological developments, are the “background conditions” in ¶ which those integrated into the market economy live, as fish swim in water, they are the ¶ “social gravity” we might naturally feel is right, but don’t necessarily see, as much a part ¶ of our lives as the air we breathe (York and Clark 2006).

In contrast to the modernization thesis, environmental justice scholars, among ¶ other critical theorists and activists have sought to expose the mythological basis of ¶ neoliberalism and transcend the system. The work of environmental justice scholars, ¶ feminist ecologists, and ecological rift theorists, marshaling the empirical evidence, ¶ represent powerful critiques of the modernization thesis. Taken together with the insights ¶ in existing critical work on energy, they provide an alternative approach to energy that¶ belies the notion that “there is no alternative.” They share a common commitment, as ¶ social scientists and activists, to reality. Part of this reality is that “actual class and racial ¶ inequalities around the global and between North and South have only worsened in the ¶ past half-century—the same period during which the late modern state of capitalism took ¶ hold” (Pellow 2007, 41). Despite views that we live in a post-racial society, (or one ¶ where “men are finished and women are taking over” [Sohn 2011]), in fact economic ¶ globalization has “seriously undermined the gains of the civil rights and labor movement ¶ and the general antiracist struggle in the United States and undercut the global benefits of ¶ the anticolonial struggles occurring throughout the global South” (Pellow 2007, 43). ¶ Moreover, economic globalization and the intensified spread of ecological destruction ¶ “are intimately linked because the TNCs [transnational corporations] themselves were¶ the ones creating and pushing both globalization and toxins on the world markets, ¶ facilitating greater control over nations, communities, human bodies, and the natural ¶ world itself”(43).

Today, neoliberal mythology has severely hindered the development of a wider ¶ environmental justice consciousness in the broader public, and amongst activists and ¶ academics. In energy studies this view is especially pronounced in the focus on ¶ technology, carbon markets, voluntary certification schemes, and alternative energies that ¶ basically allow business to continue as usual (Foster 2002, 9-25; Rogers 2010; Holleman ¶ 2012). The critical literature emerging from what I call an energy justice perspective in ¶ ecological rift theory, systems ecology, feminist and critical human ecology, and ¶ environmental justice scholarship has drawn out the social and ecological crises of the ¶ current energy regime. This is in contrast to too many well-intentioned scholars and ¶ activists who buy into the main tenets of the modernization thesis, and thus are reluctant ¶ to break with capitalism as a system, or worse, they promote it, ignoring or ignorant of ¶ the enormous costs. This has led to the view that our task as environmentalists is getting ¶ economics to “internalize the externalities,” to bring under the pricing system the work of ¶ natural systems and human services (labor). For energy this means carbon markets and ¶ trade in other forms of pollution and raising energy prices. While it is clear that as long as ¶ we have this system, goals should include wealth redistribution and businesses ¶ shouldering the costs of their polluting practices, long-term, internalizing more of the ¶ world in the market system is a total death strategy. The logic of the market is clear. An ¶ energy justice movement, with the intention of healing the ecological rift and ¶ transcending social injustice, on the other hand has as its base the goal of “externalizing ¶ the internalities.” This is an ecological and social imperative.

Understanding the nature of the current system, Daniel Yergin’s worse-than-nothing approach to energy is the logical response of capital. Carbon markets and the ¶ new biotech boom also make sense. If the point is accumulation, sources of profit must ¶ be found at every turn and crises represent especially ripe opportunities (Klein 2007). The ¶ problem today is not capitalism’s lack of response to the climate crisis, capital was never ¶ developed as a system geared toward ecological reproduction or meeting human needs. It ¶ is a system geared toward profit at all cost and can have no rational response. The ¶ problem is that capitalism organizes so many of our productive activities in the first ¶ place. The sooner this is recognized, the sooner we can start thinking of real alternatives, ¶ and understand ourselves as subjects, not merely objects of the system, as protagonists of ¶ our own future. We can move beyond playing the passive consumers of the next product¶ capitalism has on offer, green or otherwise, packaged as a solution to energy crises. ¶ Examples like the carbon market schemes, or Daniel Yergin’s view of what constitutes ¶ energy revolution, make clear “that there’s no way we can just subcontract our ¶ environmental conscience to the new breed of green marketers” (McKibben 2010).

Energy and social inequality, the challenges of our generation

The social and ecological costs of our energy regime today are clear, though the ¶ ways these are both the result of and exacerbate social inequality and oppression are often ¶ misunderstood or ignored. While the future is unwritten, projections, if business ¶ continues as usual, indicate environmental and social catastrophe with much of the ¶ damage irreversible. Without significant social change, we should prepare for, among ¶ other depredations, increased warfare to secure energy resources to meet increased ¶ demand. The most recent British Ministry of Defence Strategic Trends report suggests ¶ that nations will increasingly use energy security “to challenge conventional ¶ interpretations on the legality of the use of force” (108). Environmentally and socially ¶ destructive energy sectors are projected to grow the next thirty years, such as nuclear ¶ energy and biofuel, while expected fossil fuel demand also goes only one way, up: ¶ Global Energy use has approximately doubled over the last ¶ 30 years and, by 2040, demand is likely to grow by more ¶ than half again. Despite concerns over climate change, ¶ demand is likely to remain positively correlated to ¶ economic growth with fossil fuels, meeting more than 80% ¶ of this increase. Urban areas will be responsible for over ¶ 75% of total demand. (Strategic Trends, 106) ¶ Even a U.S. government official has recognized publicly that “our patterns of energy use ¶ create geopolitical instability. The ways we use energy are disrupting the climate system ¶ and threaten terrifying disruptions in decades to come” (Sandalow 2009).

These realities only partially illustrate energy’s extensive contribution to what K. ¶ William Kapp (1950) referred to as capitalism’s systemic “unpaid costs.” As Anderson ¶ (1976) put it: “the growth society operates as if it had tunnel vision and nearsightedness; ¶ the accumulation of capital is pursued without regard for the side-effects or for longrange consequences, leaving to nature and the larger community these uncalculated ¶ costs” (140). Prefiguring contemporary discussions and movement framing, Anderson ¶ referred to these accumulated unpaid costs, or externalities as “the ecological debt,” the ¶ result of the exploitation of both nature and humans for the sake of economic growth at ¶ all costs (142-43), undermining the natural and social conditions of production.

As indicated previously, with energy demand expected only to increase as the ¶ economy expands, the “unpaid costs” associated with its extraction and use will continue ¶ to accumulate, but on a scale heretofore unseen. The science is clear that if we do not ¶ severely curtail energy use, we will cross critical thresholds in the biosphere’s ability to ¶ recycle waste and regulate the earth’s temperature. The consequences of crossing such ¶ planetary boundaries will be irreversible (Hansen 2009; Solomon, et al. 2009; Cullen ¶ 2010; Foster 2011).

This is a new juncture in humanity’s relation to the rest of nature. However, the ¶ costs of climate change, among other environmental crises generated by energy ¶ production and use, which is driven largely by economic growth, already are visited upon ¶ communities and other social groups in a dramatically unequal way––this we may ¶ understand as a defining feature of energy injustice. This social inequality, indeed, is a ¶ necessary feature of capitalism, making human exploitation and the assault on the ¶ environment possible, and energy injustice inevitable in the current system:

“Environmental deterioration will continue so long as there is a class system, since the ¶ profits of environmental neglect accrue primarily to one class whereas the costs are borne ¶ primarily by another” (Anderson 1976, 139). Scholars studying the ecological and social ¶ rift of capitalism, including those working on environmental racism and feminist ecology, ¶ have expanded the understanding of how these processes are gendered and racialized. ¶ Work on unequal ecological exchange amply has demonstrated that inequality between ¶ nations and regions also increases the burdens of environmental injustice. Studies from ¶ all of these perspectives have drawn out inequalities embedded in our current patterns of ¶ energy decision-making, extraction, use, and waste disposal, documenting energy ¶ injustice through various theoretical lenses.

#### Vote neg to eschew neoliberal frameworks—they’re unsustainable and insulate decisionmaking from deliberation and alternative assumptions needed to solve

**Adaman and Madra** **2012** – \*economic professor at Bogazici University in Istanbul, \*\*PhD from UMass-Amherst, economics professor (Fikret and Yahya, Bogazici University, “Understanding Neoliberalism as Economization: The Case of the Ecology”, http://www.econ.boun.edu.tr/content/wp/EC2012\_04.pdf, WEA)

The reduction of ecological valuation through a market mechanism (or various techniques) to a ¶ mere aggregation of individual subjective valuations—which is the main premise of neoliberal ¶ ideology—may be inappropriate for complex and uncertain phenomena ridden with ¶ incommensurabilities and inter- and intra-generational distributional conflicts, such as global ¶ warming, where individual valuations will have clear implications for all living beings. Indeed, ¶ in making decisions with substantial consequences pertaining to our current life as well as our ¶ future (such as the overall growth rate, distributional trajectories, technological path, ¶ consumption habits, risk attitude [say, vis-à-vis nuclear energy]), the market response or the ¶ aggregation of individuals’ valuation through a set of available techniques (e.g., the contingent ¶ valuation) may substantially differ from what could be derived through collective deliberation ¶ and negotiation of various stakeholders including the scientific community (see, e.g., ¶ Özkaynak, Adaman and Devine, 2012). This criticism applies not only to neoliberal positions ¶ that favor the current unequal distribution of power but also to the Post-Walrasian one which ¶ although concerned with distributional issues keeps relying on individualist ontologies of ¶ calculative and calculable agency. Indeed, there is a growing theoretical and applied literature ¶ arguing that in incommensurable cases, where all relevant aspects cannot be captured in a single ¶ dimension (such as those derived from monetary cost-benefit analyses), a multi-criteria ¶ methodology would seem better placed, as it will be possible to involve not only economic but ¶ also political, moral, scientific and cultural inputs from a variety of stakeholders (see, e.g., ¶ Martinez-Alier, Munda and O’Neil, 1999; Munda, 2008). The key promise of the multicriteria decision-making tool and other similar participatory and deliberatory dispositifs is that ¶ rather than finding a “solution” to a conflictual decision, they shed light on the multifaceted¶ dimensions of the problem at hand and thus facilitate the consensus-building process from ¶ below (see, e.g., Adaman, 2012). In this regard, they constitute a formidable path to be ¶ explored as an alternative to the surreptitiously normative neoliberal governmental dispositifs, ¶ designed by experts from above, under the assumption that all actors are calculative and ¶ calculable.

The current indiscriminate application of neoliberal policies over the entire scope of the social ¶ field has brought about such political, economic, cultural and ecological devastation that any ¶ type of reform suggestion along the line to halt this process is met with much welcoming by ¶ many of us—even if some of them are still acting as if economic incentives are the only viable ¶ policy tool in town. Consider the case of carbon markets, for example, where the cap is ¶ decided either through a scientific body or through aggregating individuals’ preferences. The ¶ fact of the matter is that, far from addressing the inefficiencies that emanate from opportunistic ¶ and manipulative activities, these mechanisms are vulnerable precisely because they end up¶ soliciting manipulative, predatory, and rent-seeking behavior (because they are designed to ¶ function under such behavioral assumptions in the first place). In other words, these solutions ¶ subject a commons such as global climate into the economic logic of markets and ¶ “performatively” turn it into an object of strategic-calculative logic (MacKenzie, Muniesa and ¶ Siu, 2007; Çalışkan and Callon, 2009; MacKenzie, 2009; Çalışkan and Callon, 2010; see also ¶ Spash, 2011). Consider, furthermore, the case of price-per-bag policies. Laboratory ¶ experiments and anthropological evidence both suggest that charging a price for some activity ¶ that should in fact be treated as a duty or a commitment may well create perverse results (see, ¶ e.g., Campbell, 1998; Bowles and Hwang, 2008). Monetizing the pollution-generating activity ¶ instead of limiting the use of plastic bags (along with an awareness program) may well result in ¶ an increase of the unwanted activity. Similarly, while nationalization is the trend in areas of ¶ natural resource extraction and energy production, many continue to argue for privatization ¶ and private-public partnerships instead. Nevertheless, the problem with the private versus ¶ public dichotomy, given our reading of the contemporary state as an agent of economization, is ¶ precisely that both forms, to the extent that they are informed by the different variants of ¶ neoliberal reason, serve to isolate these critical areas from the deliberations and political ¶ demands of various stakeholders and the general public, limiting the only channels for ¶ communication available to them to the price (or price-like) mechanisms. However, perhaps ¶ most importantly, neither can be immune towards all sorts of rent-seeking activities that occur ¶ behind the close doors of the technocracy that operates in the area where state shades into ¶ market in the various forms of dispositifs.

Needless to say, economic activities that generate pollution and consume energy are not recent ¶ phenomena that are exclusive to what is now increasingly being called the neoliberal era. If ¶ anything, postwar Keynesian developmentalism was possible precisely because of the ¶ availability of cheap oil, and is responsible for an enormous amount of environmental pollution ¶ and ecological degradation (Mitchell, 2011). In this sense, it would be wrong to present ¶ neoliberal as being the only responsible mode of governmentality for the dual crises of climate ¶ change and natural resource depletion. Yet, this does not change the fact that the neoliberal ¶ reason (in its free-market and mechanism-design variations) is pushing its agenda in an era ¶ where both of these crises are reaching catastrophic levels, and it is highly questionable whether ¶ neoliberal methods of handling the environmental pollution and the extraction crisis will be¶ capable of addressing long-term concerns.

### 5

#### Transmission investments are increasing now – but it will take a long time

**POWERGRID International, 12/17/12** – from the editors based on an interview with Andre Begosso, managing director in the Accenture management consulting practice and is focused on the resources operating group. He has more than seventeen years of experience in the utility and energy industries and advises clients in the alternative energy, power generation and oil and gas sectors (“2013 trends for the power industry” December, <http://www.elp.com/blogs/eye-on-the-grid/2012/12/2013-trends-for-the-power-industry.html>)

In the absence of some major advance in energy storage, Andre said, he expects that renewable energy installation will probably start to slow as its shortcomings become more apparent to utilities and power companies.¶ "I would not expect these trends to continue because of the tremendous limitation that renewable technologies have. You cannot break the laws of physics or the laws of chemistry. The wind doesn't blow all the time and it never will, and the sun doesn't always shine and it never will," he said.¶ Trend No. 4: Energy back on the agenda¶ In my last blog post , I speculated about what it might take to get energy policy back on the agenda. When I asked about this, Andre said energy already is back on the agenda.¶ "Over the next 3 years, over $220 billion in new infrastructure will be built. But the problem with infrastructure is Rome wasn't built in a day. It takes time," he said.¶ This new wave of infrastructure upgrades will require a level of patience and understanding on the part of ratepayers that Andre wonders whether the average person is capable of. During Hurricane Sandy, for example, Con Edison had one of the most sophisticated electric grids available — yet it still failed, and people wonder why.¶ "As much as people hate outages, I don't think they understand them," he said. "If we had to build everything to withstand every possible disaster that could happen, it would never be built. It would be too expensive."¶ As far as utilities are concerned in this, Andre compares adopting new infrastructure improvements to how consumers usually approach the release of flashy new electronic gizmos.¶ "Remember when BluRay players were $400? Some people did pay for them, but the average Joe looked at it and said, 'Well, I can still watch movies on my old DVD player.' The infrastructure problem isn't much different from that."

#### Rapid build outs of wind or solar will overwhelm the rate of transmission investments and collapse the grid – grid investments have to occur first

**Martin, 9** (Christopher, Bloomberg, “Wind Promises Blackouts as Obama Strains Grid With Renewables” 8/7, <http://www.bloomberg.com/apps/news?pid=washingtonstory&sid=arbHcz0ryM_E>)

President Barack Obama’s push for wind and solar energy to wean the U.S. from foreign oil carries a hidden cost: overburdening the nation’s electrical grid and increasing the threat of blackouts.

The funding Obama devoted to get high-voltage lines ready for handling the additional load of alternative supplies is less than 5 percent of the $130 billion that power users, producers and the U.S. Energy Department say is needed.

Without more investment, cities can’t tap much of the renewable energy from remote areas, said Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission. He serves as the administration’s top official on grid issues and recognizes the dilemma it faces.

“As we add more and more wind power, the grid will get more stressed, and there’s going to be a point where the grid can’t handle any more,” Wellinghoff said at an energy conference in Chicago. “The first thing we need is to build out transmission.”

The country’s electricity network sprawls over 211,000 miles (340,000 kilometers) of high-voltage power lines, a patchwork connecting substations and transformers owned by utilities and federal agencies.

Obama’s $787 billion stimulus plan to end the deepest U.S. recession since the 1940s dedicates $6 billion in the next two years to expand the country’s transmission system for renewable energy. By contrast, China is spending 23 percent of its 4 trillion yuan ($585 billion) in stimulus to make its grid ready for alternative sources, using advanced electrical technologies from Zurich-based ABB Ltd. and American Superconductor Corp.

Grid Gets Less

“China’s our fastest-growing market,” said Jason Fredette, investor relations manager at Devens, Massachusetts- based American Superconductor, which has outperformed the Standard & Poor’s 500 Index by 93 percentage points this year. “We’re not counting on U.S. stimulus money.”

The Energy Department’s latest round of loan guarantees, announced July 29, underscored the government’s emphasis on alternative energy over the transmission system itself. The department said it will provide as much as $30 billion for renewable projects, compared with $750 million to increase the reliability of the nation’s power network.

The administration is counting on private utilities and transmission developers to complement its investment, according to Wellinghoff. Yet a full refit of the U.S. grid would cost $13 billion annually over 10 years, compared with the $5 billion a year averaged over the last decade, said Rich Lordan of the Electric Power Research Institute, an industry-funded energy research organization in Palo Alto, California.

Consumer Backlash

The amount utilities will spend is limited by how much consumers are willing to pay for transmission work and alternative energy, said Keith Martin, a lawyer at New York- based Chadbourne & Parke LLP who represents developers of renewable projects. A new solar-power facility costs three times as much as a coal-fired plant of the same size, the Energy Department estimates.

“Five years from now, we could experience ratepayer backlash,” Martin said.

Encouraging alternative sources without preparing the grid heightens the risk of shortages, said Will Gabrielski, an analyst with Broadpoint AmTech Inc. in San Francisco. He ranked first in a Bloomberg analyst survey based on the 12-month accuracy of his calls on Houston-based Quanta Services Inc., the largest U.S. builder of power lines.

#### It could overload the entire grid

**Rutgers News, 08** (“Sustainable Energy Must Be Integrated Into Existing Power Grid, Says Rutgers–Camden Finance Scholar,” 11/18, <http://news.rutgers.edu/medrel/news-releases/2008/11/sustainable-energy-m-20081118/>)

CAMDEN --  Engineers and entrepreneurs are rushing to explore alternative sources of efficient and renewable energy in New Jersey and elsewhere in the country. A Rutgers School of Business—Camden professor has strong words of caution as projects involving wind farms and photovoltaic cells proliferate.

With the electric-power industry poised for its most dramatic changes in decades, too little thought is being devoted to coordinating these piecemeal initiatives, warns [Richard Michelfelder](http://business.camden.rutgers.edu/FacultyStaff/Directory/michelfelder.htm) in a recent edition of The Electricity Journal, the leading policy journal for the electric industry.

The consequence, he fears, might well be a disastrous overload of the nation’s electrical grid.

An assistant professor of finance at the Rutgers School of Business—Camden and former president and CEO of Quantum Consulting Inc., a national public utilities consulting firm based in Berkeley, Cal., Michelfelder comes to his assessment after a quarter-century in the energy-technology industry.

“When you start adding random assets to the grid, you also add the possibility of disruptions in the coordination of the flow of electricity,” says Michelfelder.

#### Blackouts cause nuclear meltdowns

**Cappiello ‘11** (Dina, reporter for the AP March 29, 2011 “AP IMPACT: Long Blackouts Pose Risk to US Reactors” The Post and Courier <http://www.postandcourier.com/news/2011/mar/29/ap-impact-long-blackouts-pose-risk-us-reactors/?print>)

Long before the nuclear emergency in Japan, U.S. regulators knew that a power failure lasting for days at an American nuclear plant, whatever the cause, could lead to a radioactive leak. Even so, they have only required the nation’s 104 nuclear reactors to develop plans for dealing with much shorter blackouts on the assumption that power would be restored quickly. In one nightmare simulation presented by the Nuclear Regulatory Commission in 2009, it would take less than a day for radiation to escape from a reactor at a Pennsylvania nuclear power plant after an earthquake, flood or fire knocked out all electrical power and there was no way to keep the reactors cool after backup battery power ran out. That plant, the Peach Bottom Atomic Power Station outside Lancaster, has reactors of the same older make and model as those releasing radiation at Japan’s Fukushima Dai-ichi plant, which is using other means to try to cool the reactors. And like Fukushima Dai-ichi, the Peach Bottom plant has enough battery power on site to power emergency cooling systems for eight hours. In Japan, that wasn’t enough time for power to be restored. According to the International Atomic Energy Agency and the Nuclear Energy Institute trade association, three of the six reactors at the plant still can’t get power to operate the emergency cooling systems. Two were shut down at the time. In the sixth, the fuel was removed completely and put in the spent fuel pool when it was shut down for maintenance at the time of the disaster. A week after the March 11 earthquake, diesel generators started supplying power to two other two reactors, Units 5 and 6, the groups said. The risk of a blackout leading to core damage, while extremely remote, exists at all U.S. nuclear power plants, and some are more susceptible than others, according to an Associated Press investigation. While regulators say they have confidence that measures adopted in the U.S. will prevent or significantly delay a core from melting and threatening a radioactive release, the events in Japan raise questions about whether U.S. power plants are as prepared as they could and should be. A top Nuclear Regulatory Commission official said Tuesday that the agency will review station blackouts and whether the nation’s 104 nuclear reactors are capable of coping with them. As part of a review requested by President Barack Obama in the wake of the Japan crisis, the NRC will examine “what conditions and capabilities exist at all 104 reactors to see if we need to strengthen the regulatory requirement,” said Bill Borchardt, the agency’s executive director for operations. Borchardt said an obvious question that should be answered is whether nuclear plants need enhanced battery supplies, or ones that can last longer. “There is a robust capability that exists already, but given what happened in Japan there’s obviously a question that presents itself: Do we need to make it even more robust?” He said the NRC would do a site-by-site review of the nation’s nuclear reactors to assess the blackout risk. “We didn’t address a tsunami and an earthquake, but clearly we have known for some time that one of the weak links that makes accidents a little more likely is losing power,” said Alan Kolaczkowski, a retired nuclear engineer who worked on a federal risk analysis of Peach Bottom released in 1990 and is familiar with the updated risk analysis. Risk analyses conducted by the plants in 1991-94 and published by the commission in 2003 show that the chances of such an event striking a U.S. power plant are remote, even at the plant where the risk is the highest, the Beaver Valley Power Station in Pennsylvania. These long odds are among the reasons why the United States since the late 1980s has only required nuclear power plants to cope with blackouts for four or eight hours. That’s about how much time batteries would last. After that, it is assumed that power would be restored. And so far, that’s been the case. Equipment put in place after the Sept. 11, 2001, terrorist attacks could buy more time. Otherwise, the reactor’s radioactive core could begin to melt unless alternative cooling methods were employed. In Japan, the utility has tried using portable generators and dumped tons of seawater, among other things, on the reactors in an attempt to keep them cool. A 2003 federal analysis looking at how to estimate the risk of containment failure said that should power be knocked out by an earthquake or tornado it “would be unlikely that power will be recovered in the time frame to prevent core meltdown.” In Japan, it was a one-two punch: first the earthquake, then the tsunami.

#### Extinction

**Lendman ‘11** (Stephen, Research Associate of the Center for Research on Globalization, “Nuclear Meltdown in Japan,” <http://www.opednews.com/articles/Nuclear-Meltdown-in-Japan-by-Stephen-Lendman-110313-843.html>)

Fukushima Daiichi "nuclear power plant in Okuma, Japan, appears to have caused a reactor meltdown." Stratfor downplayed its seriousness, adding that such an event "does not necessarily mean a nuclear disaster," that already may have happened - the ultimate nightmare short of nuclear winter. According to Stratfor, "(A)s long as the reactor core, which is specifically designed to contain high levels of heat, pressure and radiation, remains intact, the melted fuel can be dealt with. If the (core's) breached but the containment facility built around (it) remains intact, the melted fuel can be....entombed within specialized concrete" as at Chernobyl in 1986. In fact, that disaster killed nearly one million people worldwide from nuclear radiation exposure. In their book titled, "Chernobyl: Consequences of the Catastrophe for People and the Environment," Alexey Yablokov, Vassily Nesterenko and Alexey Nesterenko said: "For the past 23 years, it has been clear that there is a danger greater than nuclear weapons concealed within nuclear power. Emissions from this one reactor exceeded a hundred-fold the radioactive contamination of the bombs dropped on Hiroshima and Nagasaki." "No citizen of any country can be assured that he or she can be protected from radioactive contamination. One nuclear reactor can pollute half the globe. Chernobyl fallout covers the entire Northern Hemisphere." Stratfor explained that if Fukushima's floor cracked, "it is highly likely that the melting fuel will burn through (its) containment system and enter the ground. This has never happened before," at least not reported. If now occurring, "containment goes from being merely dangerous, time consuming and expensive to nearly impossible," making the quake, aftershocks, and tsunamis seem mild by comparison. Potentially, millions of lives will be jeopardized.

### Relations

#### Economic and overall relations are upbeat – recent trade talks indicate complaints have no impact

**AP** 12/19/**12** (Associated Press, US, China Economies ‘Inseparable’: China Official, http://www.npr.org/templates/story/story.php?storyId=167643978)

WASHINGTON (AP) — The economies of China and the U.S. have become "interdependent and inseparable," a top Chinese official said Wednesday after high-level trade talks which were being watched for signs of how the two powers will cooperate after their respective political transitions. Vice Premier Wang Qishan was speaking after the annual U.S.-China Joint Commission on Commerce and Trade. Tackling dozens of thorny, detailed trade issues, the two days of talks were short on big outcomes but set an upbeat tone for relations after President Barack Obama's re-election and the elevation of new leaders of China's ruling Communist Party. Wang, who last month was elevated to a spot in the elite seven-man Politburo Standing Committee, said recovery of the world economy in the next five years will be sluggish, so the U.S.-China economic relationship has acquired critical importance. "Our two countries have to strengthen our economic relationship. We have to come to terms with the fact that we have become interdependent and inseparable," he said. The two nations share more than $500 billion in two-way trade, heavily weighted in China's favor. That is a longstanding bone of contention for Washington, which has stepped up its trade complaints against China. It also wants Beijing to stimulate domestic demand so its economy is less reliant on export growth and allow more market access for American companies. New Chinese party leader Xi Jinping, who will succeed Hu Jintao as the nation's president in March, is already under domestic pressure to revive a Chinese economy that has slowed some after three decades of rapid growth. Speaking to American business executives at a glitzy dinner after the trade talks, Wang drew a direct comparison between Xi and Obama, saying both had a "very heavy weight to bear" to make good on promises they have made to their peoples during the campaign for "election." Wang said China was sticking to the path of economic reform. He said China would honor its promises to observe trade rules and give fair treatment to foreign companies — amid concerns over the reach of China's hulking state-owned enterprises and restrictions on investment in some sectors of the economy. "When we say we are opening up in China, it's not just empty talk," said Wang, who has been China's point man on financial and trade policy with the United States. He will soon be giving up that portfolio to focus on the fight against corruption. Both sides were upbeat about the wide-ranging trade talks. The U.S. cited progress on intellectual property protection, market barriers and Chinese government procurement policies but said there was much more to be done. "We have provided a new platform for a strong U.S.-China relationship," acting U.S. Commerce Secretary Rebecca Blank told a news conference. China pointed to U.S. reforms of its controls on high-technology exports and a commitment to fair treatment for Chinese companies investing in the U.S. China claims its companies are discriminated against in national security screening procedures. Commerce Minister Chen Deming sounded a note of caution, saying China still needed to wait for a while to observe "what kind of measures the U.S. side is going to take." Wang contended that Chinese investors were being subject to political background checks. U.S. Trade Representative Ron Kirk said China's concerns on the investment screening would be referred to Treasury but defended the screening procedures as having affected few investors. He said Chinese direct investment in the U.S. had grown to $9 billion from $2 billion in just three years.

#### Plan doesn’t open up overall discriminatory CFIUS policy toward China – chilling effect would remain

James D. Roesner, 9-22-2011; attorney for Pepper Hamilton LLP, “Ostensibly Kosher: CFIUS Review of Foreign Investment in U.S. Industries” This article was part of a presentaton to the American Bar Association Section of Public Contract Law's 2011 Annual Meeting (Toronto, Canada) on August 5-8, 2011. http://www.pepperlaw.com/publications\_update.aspx?ArticleKey=2198

In recent years, the CFIUS has been rather swift in blocking Chinese deals. In 2009, CFIUS blocked the purchase of Firstgold Corp., a development stage mining company, by Northwest Non Ferrous International Investment Company Ltd., a Chinese corporation. It is reported that this sale was blocked because the mining company was located near sensitive military assets. Similarly, in 2005, the China National Offshore Oil Corporation (CNOOC), through its Hong Kong subsidiary (CNOOC Ltd.), announced an unsolicited bid to acquire the U.S. energy company Unocal. Pursuant to filing with the CFIUS, CNOOC subsequently withdrew its bid among concerns of foreign ownership of U.S. energy companies.

#### China is investing despite the restrictions – FDI from China is rising, not falling

Laura Tyson 8-2-2012; a former chair of the US President's Council of Economic Advisers, is a professor at the Haas School of Business at the University of California, Berkeley. The Benefits of Chinese FDI <http://www.project-syndicate.org/commentary/the-benefits-of-chinese-fdi-by-laura-tyson>

So far, China’s FDI outflows have been concentrated in developing countries and a handful of resource-rich developed countries, including Australia and Canada, and have been aimed at facilitating trade and acquiring access to natural resources. But the patterns and destinations of China’s outward FDI will change as rising wages, an appreciating real exchange rate, and the entry of new suppliers from other emerging countries erode Chinese companies’ competitiveness, motivating them to invest abroad to upgrade their technology and management capabilities, find new growth opportunities, and move up the value chain. Currently, the US receives only about 2-3% of FDI flows from China. But China’s direct investments in the US have increased rapidly, from less than $1 billion annually in 2003-2008 to more than $5 billion per year in 2010-2011. At least 38 US states now host FDI projects from China, and competition for Chinese investment has intensified as states’ budgets have contracted.

#### Chinese SOEs have integration problems that self-constrain FDI expansion

 Xu et al 12 (Ting, with Thieß Petersen and Tianlong Wang, Cash in Hand: Chinese Foreign Direct Investment in the U.S. and Germany, June, http://www.bfna.org/sites/default/files/publications/Cash%20In%20Hand.pdf)

Large Chinese SOEs that invest in the U.S. and Germany also face enormous challenges even if cross-border M&As are successful. There may be problems in integration with local companies, resulting in operational difficulties and an ultimate failure of the M&A deal. According to a survey about Chinese FDI conducted by the Development Research Center of the State Council (DRC), Chinese FDI is facing a number of obstacles, including lack of fundraising ability, information asymmetry, international talent shortages, and insufficient policy support from the Chinese government. (See Table 3) These challenges highlight many of the indigenous future obstacles for China to further increase its FDI.

#### Alt cause – telecom blockages

James D. Roesner, 9-22-2011; attorney for Pepper Hamilton LLP, “Ostensibly Kosher: CFIUS Review of Foreign Investment in U.S. Industries” This article was part of a presentaton to the American Bar Association Section of Public Contract Law's 2011 Annual Meeting (Toronto, Canada) on August 5-8, 2011. http://www.pepperlaw.com/publications\_update.aspx?ArticleKey=2198

If there is one foreign acquirer that can be said to have been "jilted by CFIUS" then probably Huawei Technologies, a Chinese telecommunication equipment maker, fits the bill rather perfectly as its attempted acquisitions of U.S. technology assets have been blocked or unwound by CFIUS not once but twice! In 2008, the CFIUS blocked Huawei Technologies’ proposed acquisition of 3Com Corp., a communications networking equipment manufacturer. In February 2011, CFIUS requested a review of Huawei’s acquisition of certain assets of 3Leaf Systems post-closing and determined that Huwei should unwind its purchase. Based on news reports and media coverage, it appears that Huawei has a concerning history and possible links to the Chinese military. It is reported that the founder and current CEO of Huawei was a member of China’s People’s Liberation Army (PLA).

#### Relations fail but no impact to hostility

**Blackwill 2009** – former US ambassador to India and US National Security Council Deputy for Iraq, former dean of the Kennedy School of Government at Harvard (Robert D., RAND, “The Geopolitical Consequences of the World Economic Recession—A Caution”, http://www.rand.org/pubs/occasional\_papers/2009/RAND\_OP275.pdf, WEA)

Alternatively, will the current world economic crisis change relations between China and the United States in a much more positive and intimate direction, producing what some are calling a transcendent G-2? This seems improbable for seven reasons. First, the United States and China have profoundly different visions of Asian security. For Washington, maintaining U.S. alliances in Asia is the hub of its concept of Asian security, whereas, for Beijing, America’s alliance system is a destabilizing factor in Asian security and over time should wither away. These opposing concepts will be an enduring source of tension between the two sides. Second, these two countries systematically prepare for war against one another, which is reflected in their military doctrines, their weapons procurement and force modernization, and their deployments and military exercises. As long as this is the case, it will provide a formidable psychological and material barrier to much closer bilateral relations. Third, the United States is critical of China’s external resource acquisition policy, which Washington believes could threaten both American economic and security interests in the developing world. Fourth, despite their deep economic dependence on each other, U.S.-China economic relations are inherently fragile. China sells too much to the United States and buys too little, and the United States saves too little and borrows too much from China. This will inevitably lead to a backlash in the United States and a Chinese preoccupation with the value of its American investments. Fifth, Chinese environmental policy will be an increasing problem, both for U.S. policymakers who are committed to bringing China fully into global efforts to reduce climate degradation and for Chinese leaders who are just as determined to emphasize domestic economic growth over international climate regimes. Sixth, China and the United States have wholly different domestic political arrangements that make a sustained entente difficult to manage. Americans continue to care about human rights in China, and Beijing resents what it regards as U.S. interference in its domestic affairs. This will be a drag on the bilateral relationship for the foreseeable future. And seventh, any extended application by Washington of “Chimerica,” as Moritz Schularick of Berlin’s Free University has called it,23 would so alarm America’s Asian allies, beginning with Japan, that the United States would soon retreat from the concept.24

Nevertheless, these factors are unlikely to lead to a substantial downturn in U.S.-China bilateral ties. In addition to their economic interdependence, both nations have important reasons to keep their interaction more or less stable. As Washington wants to concentrate on its many problems elsewhere in the world, especially in the Greater Middle East, Beijing prefers to keep its focus on its domestic economic development and political stability. Neither wants the bilateral relationship to get out of hand. In sum, a positive strategic breakthrough in the U.S.-China relationship or a serious deterioration in bilateral interaction both seem doubtful in the period ahead. And the current economic downturn will not essentially affect the abiding primary and constraining factors on the two sides. Therefore, the U.S.-China relationship in five years will probably look pretty much as it does today—part cooperation, part competition, part suspicion—unaffected by today’s economic time of troubles, except in the increasing unlikely event of a cross-strait crisis and confrontation.

#### Alt causes are inevitable

**Lawrence & Lum 11** – Beijing Bureau Chief for the Far Eastern Economic Review & specialist in Asian Affairs at the Congressional Research Service (Susan V. & Thomas, "US-China Relations: Policy Issues" Congressional Research Service, January 12, http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA535780&Location=U2&doc=GetTRDoc.pdf)

The U.S.-China relationship remains dogged, however, by long-standing mutual mistrust. That mistrust stems in part from the two countries’ very different political systems. Many in the United States are uncomfortable with China’s authoritarian system of government and see continued Communist Party rule in a post-Cold War world as an anachronism. Many Communist Party elites in China are suspicious that the United States seeks to constrain China’s rise, and in the longer-term, to foist multi-party democracy on China and push the Communist Party from power. The two countries’ different economic models have led to mistrust, too. Some in the United States believe that China has achieved its economic successes by playing by a different, and not always fair, set of rules. Such critics point to China’s alleged strong reliance on exports for growth and the PRC government’s policy of keeping China’s currency artificially weak, in part to make Chinese exports more attractive to importing nations. Other points of contention include the PRC government’s direct and indirect subsidies and other forms of support for its state-owned corporations, and its inability or unwillingness to prevent violations of foreign intellectual property by Chinese entities. For their part, PRC officials have sometimes criticized the United States for its high levels of consumption, low savings rate, and long-term debt. Chinese officials have also criticized the United States’ allegedly loose monetary policy. Mistrust is particularly pronounced on security matters. The United States increasingly sees China’s military modernization as aimed at constraining the U.S. military’s freedom of movement in Asia and deterring any U.S. intervention in the case of a Chinese use of force against Taiwan.1 In mirror image, China sees the United States as intent on thwarting its unification with Taiwan and constraining the activities of its own military throughout Asia. Although China stated in a 2009 U.S.-China Joint Statement that it “welcomes the United States as an Asia-Pacific nation that contributes to peace, stability and prosperity in the region” (see “The 2009 U.S.-China Joint Statement,” below), many in China chafe at the surveillance activities undertaken by the U.S. military along China’s coast and at U.S. military exercises in waters near China, and regard U.S. military alliances in Asia as aimed to a significant degree at China. With U.S. troops deployed in Afghanistan, which shares a short border with China to the west, and with U.S. military and intelligence agencies deeply engaged in Pakistan, also a neighbor to the west, some Chinese commentators speak of their country being “encircled” by U.S. forces.2 The bilateral relationship was strained in 2010 by long-standing issues of disagreement between the United States and China such as Taiwan and Tibet and China’s currency policy, as well as by each side’s responses to unexpected new crises in Asia. China condemned the Obama Administration’s January 2010 announcement of a long-planned sale of a package of arms to Taiwan. It also strongly protested President Obama’s February 2010 meeting with the Dalai Lama, although in hosting the meeting, the President was following in the footsteps of his predecessors in the White House. Among the unexpected crises that undermined U.S.-China relations was a series of North Korean provocations, starting in March 2010 with North Korea’s apparent sinking of a South Korean naval vessel. China incurred U.S. criticism for its efforts to shield North Korea from the most serious diplomatic consequences for its actions, while the United States unsettled China when it responded to the North Korean actions by scheduling military exercises in the Yellow Sea that China charged were meant in part as a threat to China. In September 2010, the collision of a Chinese fishing trawler and Japanese Coast Guard vessels near disputed islands in the East China Sea set off a new crisis. The United States angered China by voicing its support for Japan in the ensuing China-Japan spat, and by clarifying that that the U.S. military alliance with Japan covers the disputed islands. Also contributing to bilateral tensions in 2010 were China’s reassertion of expansive claims to territory in the South China Sea, and the United States’ subsequent July 2010 declaration of a “national interest” in freedom of navigation in the sea. The 2009 Joint Statement, issued during President Obama’s November 2009 state visit to China, laid down some significant new statements of principle. In the document, the U.S. side declared that the United States “welcomes a strong, prosperous and successful China that plays a greater role in world affairs,” while the Chinese side stated that China “welcomes the United States as an Asia-Pacific nation that contributes to peace, stability and prosperity in the region.” This was the first time China agreed to put in writing such a positive characterization of the U.S. presence in Asia, although the wording of the Chinese-language version of the statement was more conditional than the English. While the English text appeared to signal an acceptance that the United States presence contributes to peace, stability, and prosperity in the region, the Chinese text stated that China welcomes U.S. “efforts” for peace, stability, and prosperity in the region, leaving open the question of how China sees the U.S. presence as contributing to peace, stability, and prosperity currently.10 The 2009 Joint Statement also included the controversial statement that, “respecting each other’s core interests is extremely important to ensure steady progress in U.S.-China relations.”11 “Core interests” was left undefined. Critics have suggested that the language may have raised unrealistic expectations on the Chinese side of greater U.S. deference to China on issues that China considers part of its core interests, such as Taiwan, Tibet, and the maintenance of domestic stability through suppression of dissent.12 The “core interests” language in the Joint Statement may also have encouraged China to experiment with referring to the South China Sea as a “core national interest” in some closed-door meetings with foreign officials in 2010. According to Secretary of State Hillary Clinton, those statements contributed to the U.S. decision to declare a “national interest” in freedom of navigation in the South China Sea at a meeting in Hanoi in July 2010.13 Finally, in the 2009 Joint Statement, the two sides stated that, “they are committed to building a positive, cooperative and comprehensive U.S. China relationship for the 21st Century.”14 While this statement may seem formulaic, officials in both governments are careful to include it in almost every official statement related to the relationship. Its repetition is considered to provide reassurance of each country’s commitment to the relationship. The “positive, cooperative, and comprehensive” formulation marked an evolution from President George W. Bush’s description of the relationship as “constructive, cooperative, and candid,”15 with “candid” upgraded to “positive” and “comprehensive” added to reflect the broad range of issues on which the two countries expected to work together. The Obama-Hu language was a departure from the language agreed to by President Bill Clinton and his counterpart, Chinese President Jiang Zemin, in a 1997 Joint Statement, in which they pledged, “to build toward a constructive strategic partnership.”16

#### Warming tipping points inevitable – too late

**NPR 9** (1/26, Global Warming Is Irreversible, Study Says, All Things Considered, http://www.npr.org/templates/story/story.php?storyId=99888903)

Climate change is essentially irreversible, according to a sobering new scientific study. As carbon dioxide emissions continue to rise, the world will experience more and more long-term environmental disruption. The damage will persist even when, and if, emissions are brought under control, says study author Susan Solomon, who is among the world's top climate scientists. "We're used to thinking about pollution problems as things that we can fix," Solomon says. "Smog, we just cut back and everything will be better later. Or haze, you know, it'll go away pretty quickly." That's the case for some of the gases that contribute to climate change, such as methane and nitrous oxide. But as Solomon and colleagues suggest in a new study published in the Proceedings of the National Academy of Sciences, it is not true for the most abundant greenhouse gas: carbon dioxide. **Turning off the carbon dioxide emissions won't stop global warming**. "People have imagined that if we stopped emitting carbon dioxide that the climate would go back to normal in 100 years or 200 years. What we're showing here is that's not right. It's essentially an irreversible change that will last for more than a thousand years," Solomon says. This is because the oceans are currently soaking up a lot of the planet's excess heat — and a lot of the carbon dioxide put into the air. The carbon dioxide and heat will eventually start coming out of the ocean. And that will take place for many hundreds of years. Solomon is a scientist with the National Oceanic and Atmospheric Administration. Her new study looked at the consequences of this long-term effect in terms of sea level rise and drought.

#### International community won’t act – means warming becomes inevitable

**Mckibben 10** – Foreign Policy writer, author, environmentalist, and activist. In 1988, he wrote The End of Nature, the first book for a common audience about global warming. (Bill, 11-22, “Sipping Margaritas While the Climate Burns” http://www.foreignpolicy.com/articles/2010/11/22/sipping\_margaritas\_while\_the\_climate\_burns?page=0,1) Jacome

In fact, I suspect it will be mostly holding pattern and very little landing in Mexico this December. The fundamental problem that has always dogged these talks -- a rich north that won't give up its fossil-fuel addiction, a poor south that can't give up its hope of fossil-fueled development -- has, if anything, gotten worse, mostly because the north has decided to think of itself as poor, too or at least not able to devote resources to changing our climate course.

It is possible -- indeed it has been possible from the start -- that this essential gulf will prevent action to slow greenhouse gas emissions at the pace that physics and chemistry demand before it's too late to reverse or contain the impacts of climate change. There's really only one way to build a bridge across the divide, and that's with big stacks of money. Theoretically, the rich countries pledged at Copenhagen that they would pony up $30 billion in "fast-start" financing to help poor countries get going on building renewable energy. And at last scrupulous count, according to the World Resources Institute, there's actually $28.34 billion on the table, more than half of it coming from Japan. Unfortunately, much of it isn't "new and additional" -- instead it's repurposed money from other development grants. None of that increases anyone's confidence in the $100 billion a year that U.S. Secretary of State Hillary Clinton projected in Copenhagen would be available by 2020 -- especially because the only news that has emerged this year as to its source is that it won't be coming from "public funds."

#### No warming

**Beisner 10** — former associate professor of interdisciplinary studies in economics, government, and public policy, Covenant. PhD, University of St. Andrews (Calvin, Forget Global Warming Mini Ice Age May Be on Its Way, 12 January 2010, http://www.rightsidenews.com/201001128144/energy-and-environment/forget-global-warming-mini-ice-age-may-be-on-its-way.html, AMiles) Note – graph omitted

The UK's MailOnline did just that this week under the headline The mini ice age starts here. Lead paragraph? "The bitter winter afflicting much of the Northern Hemisphere is only the start of a global trend towards cooler weather that is likely to last for 20 or 30 years, say some of the world's most eminent climate scientists." Right. MailOnline reporter David Rose doesn't call them "the world's leading climate skeptics." He calls them "some of the world's most eminent climate scientists"--and he goes on to cite "Mojib Latif, a leading member of the UN's Intergovernmental Panel on Climate Change (IPCC)," "Anastasios Tsonis, head of the University of Wisconsin Atmospheric Sciences Group," and "William Gray, emeritus Professor of Atmospheric Sciences at Colorado State University." Contrary to fears of inexorably diminishing Arctic sea ice, Rose cites the U.S. National Snow and Ice Data Center as reporting that "Arctic summer sea ice has increased by 409,000 square miles, or 26 per cent, since 2007." Though snow's been unusual for most of the southern half of the United Kingdom in recent decades, the Mail published the accompanying satellite photo of Great Britain during the recent cold snap. The island is essentially all covered with snow. Rose reported record lows as far south as Cuba--something I can attest to, living near Miami in south Florida, where we experienced sub-freezing weather over the weekend. He quoted Tsonis as saying that last week 56% of the United States was covered by snow--something that hasn't happened in several decades. And the "'Arctic oscillation'--a weather pattern that sees the development of huge 'blocking' areas of high pressure in northern latitudes, driving polar winds far to the south . . . is at its strongest for at least 60 years. As a result, the jetstream--the high-altitude wind that circles the globe from west to east and normally pushes a series of wet but mild Atlantic lows across Britain--is currently running not over the English Channel but the Strait of Gibraltar." Consequently, most of the Northern Hemisphere is much colder this winter than it's been in decades--and the Southern Hemisphere is cooler, too. According to Rose, Latif, Tsonis, and other scientists attribute the cold shift primarily to a shift in the world's dominant ocean circulations--the Pacific Decadal Oscillation and the Atlantic Multidecadal Oscillation--from a warm phase to a cool phase, something that happens about every 20 to 30 years. "The scientists' predictions also undermine the standard climate computer models, which assert that the warming of the Earth since 1900 has been driven solely by man-made greenhouse gas emissions and will continue as long as carbon dioxide levels rise. They say that their research shows that much of the warming was caused by oceanic cycles when they were in a 'warm mode' as opposed to the present 'cold mode'." That's a point made by Dr. Roy W. Spencer in the science chapter of the Cornwall Alliance's new document A Renewed Call to Truth, Prudence, and Protection of the Poor: An Evangelical Examination of the Theology, Science, and Economics of Global Warming and illustrated in the graph below. "A significant share of the warming we saw from 1980 to 2000 and at earlier periods in the 20th Century was due to these cycles," said Latif, "perhaps as much as 50 per cent. They have now gone into reverse, so winters like this one will become much more likely. Summers will also probably be cooler, and all this may well last two decades or longer. The extreme retreats that we have seen in glaciers and sea ice will come to a halt. For the time being, global warming has paused, and there may well be some cooling." Tsonis also believes that the ocean current cycles dominated global climate change in the 20th century, including the post-1970s, the period many point to as driven by human greenhouse gas emissions, but he doesn't venture to attribute specific percentages to the natural and human causes. "I do not believe in catastrophe theories," Rose quoted him as saying. "Man-made warming is balanced by the natural cycles, and I do not trust the computer models which state that if CO2 reaches a particular level then temperatures and sea levels will rise by a given amount. These models cannot be trusted to predict the weather for a week, yet they are running them to give readings for 100 years." Gray went farther: "Most of the rise in temperature from the Seventies to the Nineties was natural. Very little was down to CO2--in my view, as little as five to ten per cent." Gray, Tsonis, and Latif all agreed that the findings about the ocean currents undermined the credibility of the computer climate models on which the IPCC and other alarmists rely.

#### Long timeframe means intervening actors and tech solve

**Michaels 7** – Cato senior fellow (Patrick, 2/2, Live with Climate Change, http://www.cato.org/pub\_display.php?pub\_id=7502)

Consequently, the best policy is to live with some modest climate change now and encourage economic development, which will generate the capital necessary for investment in the more efficient technologies of the future.

Fortunately, we have more time than the alarmists suggest. The warming path of the planet falls at the lowest end of today's U.N. projections. In aggregate, our computer models tell us that once warming is established, it tends to take place at a constant, not an increasing, rate. Reassuringly, the rate has been remarkably constant, at 0.324 degrees F per decade, since warming began around 1975. The notion that we must do "something in 10 years," repeated by a small but vocal band of extremists, enjoys virtually no support in the truly peer reviewed scientific literature.

Rather than burning our capital now for no environmental gain (did someone say "ethanol?"), let's encourage economic development so people can invest and profit in our more efficient future.

People who invested in automobile companies that developed hybrid technology have been rewarded handsomely in the past few years, and there's no reason to think environmental speculators won't be rewarded in the future, too.

### Trade

Plan doesn’t solve – Carroll says you have to redefine “national security” in the entire review process – arbitrarily waiving the requirement for part of one sector doesn’t change CFIUS policy or foreign perception of American FDI protectionism

#### Massive alt cause – CFIUS wind energy suit

Shierman, 9/20**/**12 (Eric, “Fed foreign investment review committee abusing its power?” Oregon Catalyst, <http://oregoncatalyst.com/19321-fed-foreign-investment-review-committee-abusing-power.html>)

A terribly counterproductive and arbitrarily political ruling of the Obama administration to shut down the development of a startup Oregon energy company presents a remarkable abuse of power that has so far gone completely unreported here locally. Ironically, I’m not referring to a coal company either. Obama is shutting down a wind energy company.¶ Ralls Corporation, named after the Texan town it originates from, has purchased four small Oregon startup wind farms that were unable to tap into the green energy gravy train. These Oregon startups had acquired wind farm development rights, power distribution agreements, and all the required regulatory approval, but they lacked the capital to purchase the wind turbines.¶ Ralls intends to risk its own capital building this business here in Oregon to develop the capacity to produce and sell 40 megawatts in our state’s electricity market. So what’s not to love? I have been critical of wind energy projects that risk public money, but if a firm wants to have at it on its own dime I say best of luck to them. So why were they shut down by Mr. “all the above” energy strategy? Could it be that Ralls will be competing with subsidized firms in Obama’s patronage support network? Could it be that Ralls will not be purchasing GE turbines?¶ We don’t know. The Obama administration refuses to say. The Committee on Foreign Investment in the United States (CFIUS) has simply vetoed the project, declaring this investment in the Oregon economy a threat to national security. Made up of the heads of Treasury, DOJ, State, DHS, Commerce, Energy, and a few others, this high level committee is the most powerful government organ you have never heard of. It is not required to sign off on every business deal, but when they choose to review one, their veto is final. There is no process of appeal.¶ This incredibly strong executive power of the Presidency can be exercised any time there is some foreign element to a domestic business transaction. Given the integrated nature of our global economy that finds a non US actor in nearly every major aspect of our domestic commerce, this has some potential to become an almost dictatorial power if left unchecked.¶ In the case of Ralls, the jurisdiction is certainly clear, this investment is being made by two Chinese private investors, Dawei Duan and Jialiang Wu, but the CFIUS only issued a veto. It failed to give any reasons for its actions or even offer any conditions by which the committee’s concerns, whatever they are, could be resolved. The CFIUS simply prohibited the transaction outright while even going so far as to prohibit Ralls’ Oregon assets from being sold to a US buyer to cut their losses. It’s as if the Obama administration’s goal is simply to condemn the project itself, using the nationality of the investors as a mere jurisdictional fig leaf.

#### Arbitrarily excluding wind is worse – sends a signal of inconsistency in CFIUS review that chills foreign investment

MICHAELS 11 (Jon D.; Acting Professor – UCLA School of Law, “The (Willingly) Fettered Executive: Presidential Spinoffs in National Security Domains and Beyond,” 97 Va. L. Rev. 801, l/n)

In addition, by insulating the crucial work of CFIUS from the President, there is likely to be a higher level of consistency over time (and between presidential administrations) than if the President had sole discretion. 311 This is because the interests advanced by cabinet officials involved in the decisionmaking may reflect common institutional goals across administrations, rather than just partisan or presidential objectives. 312 Consistency over time is especially important in this space given the need to accommodate core regulatory questions, diplomatic considerations, national-security concerns, and the interests of the parties to the proposed transaction - coupled with the inability to explain publicly what, if anything, [880] distinguishes superficially inconsistent outcomes. 313 Without judicial review, changes in presidential administrations would lead to destabilizing about-faces in administrative governance of foreign investment. 314 Although much is made in the administrative law literature about ossification, 315 the converse - administrative vacillation - can be just as problematic. It is problematic not just for legitimacy reasons but also because uncertainty substantially increases costs to regulated parties. 316 American companies seeking to attract foreign investors and foreign investors seeking business opportunities in the United States already express unease about having to submit to CFIUS review. Prospective investors would have even colder feet and perhaps fewer deals would be pursued, especially in the months leading up to a presidential transition, were foreign-investment regulation more variable and unpredictable. 317 Investigations, mitigation negotiations, and final recommendations [881] that need to go through the Committee's inter-agency deliberative ringer - and thus are not simply a function of presidential predilections 318 - potentially go a long way in minimizing that unease. Further, this deliberative process conveys to participants that the legally and politically unaccountable framework for foreign-investment review is nevertheless rational and rigorous. 319 [882] Though the foreign investors might not on their own be clued in to this and other subtleties, many rely on a relatively small group of experienced lawyers who deal regularly with CFIUS and can counsel their clients accordingly. 320

#### Few transactions are blocked, negotiations check, referral is voluntary, and the president could always block anyway

Michaels 11 (Jon D.; Acting Professor – UCLA School of Law, “The (Willingly) Fettered Executive: Presidential Spinoffs in National Security Domains and Beyond,” 97 Va. L. Rev. 801, l/n)

CFIUS's responsibilities today are substantially the same as they were under Exon-Florio. 90 It is charged with reviewing proposed transactions, 91 a process that begins when CFIUS is notified by the parties to the proposed transaction and that lasts no longer than thirty days. 92 Notification is voluntary. 93 Because foreign acquisitions falling within CFIUS's ambit that are not reviewed in advance by CFIUS "remain subject indefinitely to divestment or other appropriate actions by the President," 94 there has always been a strong incentive for opting in. 95 If that review leads CFIUS to find evidence of a threat to national security, 96 CFIUS is obligated to initiate a more rigorous, formal investigation lasting no more than forty-five days. 97 Actions taken by the President or the Committee are not subject to public scrutiny 98 or judicial review. 99 [825] CFIUS must notify Congress of its recommendations (though not necessarily the terms or tenor of mitigation negotiations), 100 and provide the legislature with an annual, confidential report summarizing the transactions reviewed or investigated in the past year. 101¶ Two elements of CFIUS scrutiny are especially significant. The first is the breadth of the definition of national security. The precise meaning has never been defined in the U.S. Code or via regulation. 102Congress has enumerated factors that CFIUS should consider in determining whether a transaction threatens national security. 103 But the factors are broad and malleable, and could easily be read to include consideration of economic security, too. 104¶ The second is CFIUS's aforementioned authority to negotiate with the parties seeking to consummate the deal. 105 When CFIUS encounters troubling aspects of deals, it negotiates mitigation agreements with the parties to minimize the putative security concerns. 106 [826] One notable mitigation agreement arose out of the French company Alcatel's acquisition of Lucent. CFIUS conditioned its endorsement of the acquisition on Lucent's special research division - Bell Labs, which does extensive classified work for U.S. national-security agencies - remaining largely off-limits to Alcatel personnel. 107 In another, CFIUS required Lenovo, a firm owned in part by the Chinese government and seeking to acquire IBM's PC business, to agree to wall itself off from the identity of U.S. government purchasers of IBM products and from two IBM buildings. 108¶ CFIUS rarely advises the President to block a proposed investment, 109 and the President has been even more selective in actually [827] blocking an investment. 110 Yet of the proposed deals that raise serious national-security concerns (about 1.6% of all cases brought to CFIUS's attention), 111 many are undone not by the President's formal decision to block an acquisition, but rather earlier - through attrition at the review and investigation stages, and in the course of mitigation negotiations. This is where the Committee's subtle but substantial influence is most felt. 112 From 1990 to 2008, "nearly half of the transactions CFIUS investigated were terminated by the firms involved, because the firms decided to withdraw … rather than face a negative determination by CFIUS," 113 or rather than accept mitigation terms imposed by CFIUS that would make the acquisition less economically (or, assuming ulterior motives, less politically 114) [828] desirable. 115 Indeed, the central importance of informal CFIUS negotiation - as opposed to official, formal presidential decisions to approve or block foreign investments - is not unlike that of plea-agreements vis-a-vis courtroom verdicts in the vast majority of criminal matters. 116

#### No China war

Robert J. **Art**, Fall 20**10** Christian A. Herter Professor of International Relations at Brandeis University and Director of MIT's Seminar XXI Program The United States and the rise of China: implications for the long haul Political Science Quarterly 125.3 (Fall 2010): p359(33)

The workings of these three factors should make us cautiously optimistic about keeping Sino-American relations on the peaceful rather than the warlike track. The peaceful track does not, by any means, imply the absence of political and economic conflicts in Sino-American relations, nor does it foreclose coercive diplomatic gambits by each against the other. What it does mean is that the conditions are in place for war to be a low-probability event, if policymakers are smart in both states (see below), and that an **all-out war is** nearly **impossible** to imagine. By the historical standards of recent dominant-rising state dyads, this is no mean feat. In sum, there will be some security dilemma dynamics at work in the U.S.-China relationship, both over Taiwan and over maritime supremacy in East Asia, should China decide eventually to contest America's maritime hegemony, and there will certainly be political and military conflicts, but nuclear weapons should work to mute their severity because the security of each state's homeland will never be in doubt as long as each maintains a second-strike capability vis-a-vis the other. If two states cannot conquer one another, then the character of their relation and their competition **changes dramatically**. These three benchmarks--China's ambitions will grow as its power grows; the United States cannot successfully wage economic warfare against a China that pursues a smart reassurance (peaceful rise) strategy; and Sino-American relations are not doomed to follow recent past rising-dominant power dyads--are the starting points from which to analyze America's interests in East Asia. I now turn to these interests.

#### Mutual dependence checks trade escalation.

**Stokes 6** (2/9/2006, Bruce, YaleGlobal, "America’s China Worries–Part II" http://yaleglobal.yale.edu/article.print?id=8733)

Any actions from Congress or the administration will be tempered by the mutually dependent nature of Sino-American trade and the conflicting self-interest of US multinational firms. China’s exports are only now beginning to impact American industry–so the political backlash has yet to come. And China bashing may never be as severe as Japan bashing in the 1980s, if only because the US manufacturing sector is far smaller today, so fewer people face losing their jobs. Moreover, one consequence of years of US investment in China is that Beijing now has hostages. Powerful American companies deeply involved in China have much to lose in a Sino-American trade war. They will lobby hard against meaningful trade action. Failure of the Bush administration to file a long-threatened WTO case against alleged Chinese failure to protect intellectual property rights–an action Hollywood once championed and now, at least in part, opposes–is an indication of the leverage such multinational firms exert in Washington. Finally, as concerned as Americans are about Chinese economic power, they worry more about Beijing’s military might. China is a military and creditor superpower in a way Japan never was. Thus Beijing must be accorded deference, even if it galls many Americans. Sino-American tensions will worsen because the underlying economic frictions have rubbed relations raw, as underscored by the WTO case. But a higher visibility for problems in the relationship should not be confused with a breakdown in relations. More skirmishes do not make a war. There is not yet the wherewithal or the leverage in Washington for a knockdown drag-out fight with Beijing over trade.

#### Trade does not solve war—there’s no correlation between trade and peace

**Martin, Mayer, and Thoenig 2008** (Phillipe, University of Paris 1 Pantheon—Sorbonne, Paris School of Economics, and Centre for Economic Policy Research; Thierry MAYER, University of Paris 1 Pantheon—Sorbonne, Paris School of Economics, CEPII, and Centre for Economic Policy Research, Mathias THOENIG, University of Geneva and Paris School of Economics, The Review of Economic Studies 75)

Does globalization pacify international relations? The “liberal” view in political science argues that increasing trade flows and the spread of free markets and democracy should limit the incentive to use military force in interstate relations. This vision, which can partly be traced back to Kant’s Essay on Perpetual Peace (1795), has been very influential: The main objective of the European trade integration process was to prevent the killing and destruction of the two World Wars from ever happening again.1 Figure 1 suggests2 however, that during the 1870–2001 period, the correlation between trade openness and military conflicts is not a clear cut one. The first era of globalization, at the end of the 19th century, was a period of rising trade openness and multiple military conflicts, culminating with World War I. Then, the interwar period was characterized by a simultaneous collapse of world trade and conflicts. After World War II, world trade increased rapidly, while the number of conflicts decreased (although the risk of a global conflict was obviously high). There is no clear evidence that the 1990s, during which trade flows increased dramatically, was a period of lower prevalence of military conflicts, even taking into account the increase in the number of sovereign states.

## 2nc Courts

### Solvency

#### Recent data proves – Court will have the last word

Adam Litpak (Writer for the New York Times) August 20, 2012 “In Congress’s Paralysis, a Mightier Supreme Court” http://www.nytimes.com/2012/08/21/us/politics/supreme-court-gains-power-from-paralysis-of-congress.html

 The Supreme Court does not always have the last word. Sure, its interpretation of the Constitution is the one that counts, and only a constitutional amendment can change things after the justices have acted in a constitutional case. But much of the court’s work involves the interpretation of laws enacted by Congress. In those cases, the court is, in theory at least, engaged in a dialogue with lawmakers. Lately, though, that conversation has become pretty one-sided, thanks to the legislative paralysis brought on by Congressional polarization. The upshot is that the Supreme Court is becoming even more powerful. Here is the way things are supposed to work. In cases concerning the interpretation of ambiguous federal statutes, the justices give their best sense of what the words of the law mean and how they apply in the case before them. If Congress disagrees, all it needs to do is say so in a new law. The most prominent recent example of this dynamic was Ledbetter v. Goodyear Tire and Rubber Company, the 2007 ruling that said Title VII of the Civil Rights Act of 1964 imposed strict time limits for bringing workplace discrimination suits. In her dissent, Justice Ruth Bader Ginsburg reminded lawmakers that on earlier occasions they had overridden what she called “a cramped interpretation of Title VII.” “Once again,” she wrote, “the ball is in Congress’s court.” Congress responded with the Lilly Ledbetter Fair Pay Act of 2009, which overrode the 2007 decision. This sort of back and forth works only if Congress is not paralyzed. An overlooked consequence of the current polarization and gridlock in Congress, a new study found, has been a huge transfer of power to the Supreme Court. It now almost always has the last word, even in decisions that theoretically invite a Congressional response. “Congress is overriding the Supreme Court much less frequently in the last decade,” Richard L. Hasen, the author of the study, said in an interview. “I didn’t expect to see such a dramatic decline. The number of overrides has fallen to almost none.” The few recent overrides of major decisions, including the one responding to the Ledbetter case, were by partisan majorities. “In the past, when Congress overturned a Supreme Court decision, it was usually on a nonpartisan basis,” said Professor Hasen, who teaches at the University of California, Irvine. In each two-year Congressional term from 1975 to 1990, he found, Congress overrode an average of 12 Supreme Court decisions. The corresponding number fell to 4.8 in the decade ending in 2000 and to just 2.7 in the last dozen years. “Congressional overruling of Supreme Court cases,” Professor Hasen wrote, “slowed down dramatically since 1991 and essentially halted in January 2009.” Tracking legislative overrides is not an exact science, as some fixes may be technical and trivial. And there may be other reasons for the decline, including drops in legislative activity generally and in the Supreme Court’s docket. But scholars who follow the issue say that Professor Hasen has discovered something important. “Particularly since the 2000 elections, there has been a big falloff in overrides,” said William N. Eskridge Jr., a law professor at Yale and the author of a seminal 1991 study on which Professor Hasen built his own. “It gives the Supreme Court significantly more power and Congress significantly less power.” Richard H. Pildes, a law professor at New York University, said the findings were further proof that “the hyperpolarization of Congress is the single most important fact about American governance today.” It is, he said, a phenomenon that has “been building steadily over the last 30 years and is almost certainly likely to be enduring for the foreseeable future.” “The assumption,” he added, “has long been that when the court interprets a federal statute, Congress can always come back in and fix the statute if it disagrees with the court. Now, however, the court’s decisions are likely to be the last word, not the first word, on what a statute means.”

#### Courts solve – no rollback

Richard Hasan (Chancellor’s Professor of Law and Political Science, UC Irvine School of Law) August 14, 2012 “END OF THE DIALOGUE? POLITICAL POLARIZATION, THE SUPREME COURT, AND CONGRESS” <http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2130190>

Whether or not one subscribes to the view of positive political theorists that Supreme Court Justices interpret federal statutes in line with their personal preferences and their strategic calculations about the chances of reversal, there seems little doubt that as things currently stand that a majority of Supreme Court Justices is usually getting its way when it comes to statutory interpretation. Supreme Court interpretations of federal statutes are now very likely to be final. The combination of Supreme Court interpretive rules premised on the CourtCongress dialogue, and the failure of Congress to override any significant number of Court interpretations of federal statutes, has given the Justices the last word on statutory interpretation questions almost as often as they get the last word on constitutional questions.

#### Here’s predictive evidence—the counterplan will solve.

Ginsburg, 2009 (Tom Ginsburg, professor of law, the University of Chicago Law School, 9 Chi. J. Int'l L. 499, Winter, lexis)

In a recent contribution, David Law argues that courts can, counterintuitively, enhance their power by making unpopular or risky decisions--so long as the decisions generate compliance. 56 The key is to think of the court as interested in developing a reputation for generating effective focal points, in the form of decisions that are complied with. As the court is [\*513] successful in issuing such decisions, people will adjust their expectations of others' responses to future decisions, generating a potential cascade of compliance. Furthermore, from the perspective of an audience member evaluating the probability of compliance in a future case, it is surely more impressive that the court has generated compliance in an unpopular case than in a popular one. A risky and unpopular decision actually shores up the court's long-term reputation for generating focal points. 57

#### Court rulings solve – everyone will comply

Stephen L. Carter (Professor of Law, Yale University) Summer 1986 53 U. Chi. L. Rev. 819

The force with which the American people (and just as important, those who govern them) are socialized into obedience to the rule of law as articulated by the Supreme Court **is tremendous**. Children are taught obedience to law from early in their school years; as adolescents, they learn in civics that the Supreme Court authoritatively interprets the Constitution; as adults, they are warned that disobedience to the courts is subversive. This general respect for law, even if the law is considered unjust, **is probably the most powerful bulwark the American legal and political culture** offers against revolution. This socialization and the concomitant responsibilities it surely carries are the most powerful weapons the Court can bring to bear in any struggle with the Congress. Although the public may be angry, the Justices, if they possess sufficient fortitude, will nearly always win -- at least for the near term. But the fact that the Congress is likely to lose its battle to convince the Court (if it is a fact) cannot be the argument against undertaking it. The point is that by enacting a statute that the Supreme Court will likely find patently unconstitutional, the Congress may nevertheless play a role in constitutional dialogue. This is surely what Abraham Lincoln had in mind when, in debate with Stephen Douglas, he declined to assign to the Dred Scott decision n117 the force some claimed for it: We do not propose that when Dred Scott has been decided to be a slave by the court, we, as a mob, will decide him to be free. . . . [W]e nevertheless do oppose that decision as a political rule . . . which shall be binding on the members of Congress or the President to favor no measure that does not actually [\*856] concur with the principles of that decision. . . . We propose so resisting it as to have it reversed if we can, and a new judicial rule established upon this subject. n118 His argument was not for mob justice or revolution. His method, after all, would not succeed unless the Justices changed their minds. Thus the torturous judicial and academic searches for authority to explain and rules to limit the scope of the congressional authority enunciated in Katzenbach v. Morgan may be somewhat misguided. After all, a sufficiently determined Supreme Court might have countered section 4(e) with an opinion boiling down to this: "Look, we told you before that literacy tests do not violate the fourteenth or fifteenth amendments, so quit trying to find a way around our decision." Instead it said in effect: "Well, okay, if you're really sure that literacy tests are so bad, we're content to go along." Oregon v. Mitchell, n119 in which the Justices sustained the nationwide suspension of literacy tests, might be explained the same way. To take a contrary case, in Mississippi University for Women v. Hogan, n120 wherein they rejected a claim that the Congress possessed and had exercised authority under section 5 of the fourteenth amendment to permit the states to operate single-sex nursing schools, the Justices were plainly unpersuaded that sexually segregated schools run by the state were a good thing. Following the same reasoning, in the unlikely event that the Congress were to enact a Human Life Bill, judicial independence would not necessarily be threatened: The Justices could certainly strike the legislation as patently unconstitutional. On the other hand, the Justices might vote to sustain it. Were they to do so, the best explanation would be not that they had yielded their constitutional prerogative, but rather that they had been convinced by the reasoning (or the depth) of the congressional opposition. If all of this is so, then the place of the Morgan power in the dialogue between the Court and its constituents should be plain. I earlier outlined the ideal of symbiotic progress, in which the Congress and the Supreme Court take turns leading the way toward a better future. An exercise of the Morgan power may fit into that progression in a special way, as the Congress's most effective tool for expressing its strong disapproval of a judicial decision accepting [\*857]or rejecting a claim of fundamental right without risking the Court's legitimacy, hence the Constitution's, hence ultimately its own. To be sure, the Congress might try to do the same thing by enacting apparently unconstitutional legislation under the authority granted by any number of constitutional provisions, but proceeding under section 5 reduces the likelihood that the moral authority of the Court will be diminished should the Justices alter their decisions. As clever lawyers, the Justices can always accommodate the congressional action without unduly expanding congressional authority. Justice Brennan tried to do exactly this through his footnote 10 in Morgan. Furthermore, reliance on the special power granted to the Congress under the fourteenth amendment is consistent with the distinction I have drawn here and elsewhere between types of constitutional provisions. When the decision that the Congress calls into question is one regarding governmental structure, flowing therefore from the document's structural provisions, the Court may properly decline to enter the dialogue. By hypothesis, the Justices construe the Constitution's structural clauses under a set of rules chosen to channel their discretion narrowly. But under the open-textured clauses, where there is less to guide the Court in its decisions, it is particularly important that the Congress be able to engage the Court in dialogue without being accused of defiance. The Court may reaffirm its decisions, and in most cases -- including, I suspect, Roe v. Wade -- it presumably will, but it must do so with the knowledge that there exists a congressional consensus adequate to bring about affirmative and contrary legislation. Denying to the Congress the authority to enact the legislation is in a sense to deny to the Justices the knowledge that this contrary consensus exists. Permitting the legislation, even when it might subsequently be overturned, forces the Court to make an informed choice. And in the continuing dialogue, informed choices are the ones that matter most. This understanding of the Morgan power seems entirely consistent with the separation of powers. There is no violation of the rule of United States v. Klein, n121 because the Congress is not requiring the courts to decide cases in a particular way. After all, the Supreme Court still has the power to say "No," thus preventing enforcement of the congressional plan. No matter how many plans are presented, the Court may strike all of them down until the [\*858] Congress gets tired of trying, as Texas apparently did in the "white primary" cases. n122 Or the Justices may instead be the first to tire and may reverse themselves, as they apparently did during the New Deal. n123 But as long as the decision rests with the Justices alone, a judicial change of mind cannot be barred by separation of powers, even when the change is brought on by congressional or public pressure. The doctrine of separation of powers insulates the courts from force, not from persuasion.

### 2NC – A2 Perm Do the CP

#### First, it severs the agent. “The” means whole [USFG].

Merriam-Websters, 2010 (Online dictionary)

used as a function word before a noun or a substantivized adjective to indicate reference to a group as a whole

#### Courts can’t reduce—they rely on acquiescence.

Hanson et al, 2006 (Jon D. Hanson, professor at Harvard Law School; and Adam Benforado, Frank Knox Fellow at Cambridge University, “The drifters: Why the supreme court makes justices more liberal” January/February, online)

It would be a mistake to believe that the only situation that influences justices comes from within the Supreme Court building or individual judges’ limited spheres of interaction. The mechanisms designed to keep the judiciary independent of the other branches of government are necessarily incomplete, and there is good evidence that judges frequently interpret laws in ways that align with the particular policy desires of sitting members of Congress and the current president. This is not surprising given the forces that Congress and the president can bring to bear on the judiciary—including limiting or even stripping jurisdiction in certain areas, altering the size of federal courts, and instituting impeachment hearings. Just as important is the fact that the court cannot implement its orders without the acquiescence and assistance of other government actors. In addition, lower-court judges may be constrained by pressures not to be overruled by higher courts or the need to stake out particular positions in order to improve their chances of promotion within the judiciary.

#### Also, unenforceability.

Treanor and Sperling, 1993 (William Michael Treanor, Associate Professor of Law, Fordham University; and Gene B. Sperling, J.D., Yale Law School, Columbia Law Review, December, lexis)

Commentators have generally agreed with the overwhelming majority of courts that an overruling decision has the effect of automatically reviving statutes. For example, Erica Frohman Plave observed that revival was a necessary function of the limited scope of a judicial determination of unconstitutionality: "Such laws found unconstitutional are merely unenforceable until such time as they are found valid." 54 Professor Gerald Gunther has pronounced Attorney General Cummings's conclusion that Adkins "simply "suspended' enforcement" 55 of the District of Columbia minimum wage statute "persuasive," 56 and Professor Melville Nimmer similarly declared that "it seems clear that Attorney General Homer Cummings' opinion was correct." 57 Finally, Professor Oliver Field noted that a statute that has been found unconstitutional becomes enforceable when the case in which it was held unconstitutional is reversed because "a declaration of unconstitutionality does not operate as a repeal of a statute." 58 [\*1916]

## 2nc topicality

### T

#### Restrictions on production must mandate a decrease in the quantity produced

Lars E.R Anell (Chairman, WTO panel) 1989 “CANADA - IMPORT RESTRICTIONS ON ICE CREAM AND YOGHURT Report of the Panel adopted at the Forty-fifth Session of the CONTRACTING PARTIES on 5 December 1989 (L/6568 - 36S/68)

http://www.wto.org/english/tratop\_e/dispu\_e/88icecrm.pdf

The United States argued that Canada had failed to demonstrate that it effectively restricted domestic production of milk. The differentiation between "fluid" and "industrial" milk was an artificial one for administrative purposes; with regard to GATT obligations, the product at issue was raw milk from the cow, regardless of what further use was made of it. The use of the word "permitted" in Article XI:2(c)(i) required that there be a limitation on the total quantity of milk that domestic producers were authorized or allowed to produce or sell. The provincial controls on fluid milk did not restrict the quantities permitted to be produced; rather dairy farmers could produce and market as much milk as could be sold as beverage milk or table cream. There were no penalties for delivering more than a farmer's fluid milk quota, it was only if deliveries exceeded actual fluid milk usage or sales that it counted against his industrial milk quota. At least one province did not participate in this voluntary system, and another province had considered leaving it. Furthermore, Canada did not even prohibit the production or sale of milk that exceeded the Market Share Quota. The method used to calculate direct support payments on within-quota deliveries assured that most dairy farmers would completely recover all of their fixed and variable costs on their within-quota deliveries. The farmer was permitted to produce and market milk in excess of the quota, and perhaps had an economic incentive to do so. 27. The United States noted that in the past six years total industrial milk production had consistently exceeded the established Market Sharing Quota, and concluded that the Canadian system was a regulation of production but not a restriction of production. Proposals to amend Article XI:2(c)(i) to replace the word "restrict" with "regulate" had been defeated; what was required was the reduction of production. The results of the econometric analyses cited by Canada provided no indication of what would happen to milk production in the absence not only of the production quotas, but also of the accompanying high price guarantees which operated as incentives to produce. According to the official publication of the Canadian Dairy Commission, a key element of Canada's national dairy policy was to promote self-sufficiency in milk production. The effectiveness of the government supply controls had to be compared to what the situation would be in the absence of all government measures.

The plan changes how energy is produced, rather than restricting how much is produced

Voting issue -

#### Including regulations is a limits disaster

William Offutt Doub (Former United States Representative to the Southern Interstate Nuclear Board, principal in the law firm of Doub and Muntzing, which he formed in 1977. Previously he was a partner in the law firm of LeBoeuf, Lamb, Leiby and MacRae. He was a member of the U.S. Atomic Energy Commission in 1971 - 1974. He served as a member of the Executive Advisory Committee to the Federal Power Commission in 1968 - 1971 and was appointed by the President of the United States to the President's Air Quality Advisory Board in 1970) 1976 “Energy Regulation: A Quagmire for Energy Policy” Annual Review of Energy Vol. 1: 715-725 (Volume publication date November 1976) DOI: 10.1146/annurev.eg.01.110176.003435

FERS began with the recognition that federal energy policy must result from concerted efforts in all areas dealing with energy, not the least of which was the manner in which energy is regulated by the federal government. Energy selfsufficiency is improbable, if not impossible, without sensible regulatory processes, and effective regulation is necessary for public confidence. Thus, the President directed that "a comprehensive study be undertaken, in full consultation with Congress, to determine the best way to organize all energy-related regulatory activities of the government." An interagency task force was formed to study this question. With 19 different federal departments and agencies contributing, the task force spent seven months deciphering the present organizational makeup of the federal energy regulatory system, studying the need for organizational improvement, and evaluating alternatives. More than 40 agencies were found to be involved with making regulatory decisions on energy. Although only a few deal exclusively with energy, most of the 40 could significantly affect the availability and/or cost of energy. For example, in the field of gas transmission, there are five federal agencies that must act on siting and land-use issues, seven on emission and effluent issues, five on public safety issues, and one on worker health and safety issues-all before an onshore gas pipeline can be built. The complexity of energy regulation is also illustrated by the case of Standard Oil Company (Indiana), which reportedly must file about 1000 reports a year with 35 different federal agencies. Unfortunately, this example is the rule rather than the exception.

#### Precision: Only direct prohibition is a restriction – key to predictability

Sinha (former judge of the Supreme Court of India) 2006 “Union Of India & Ors vs M/S. Asian Food Industries”

We may, however, notice that this Court in State of U.P. and Others v. M/s. Hindustan Aluminium Corpn. and others [AIR 1979 SC 1459] stated the law thus:

"It appears that a distinction between regulation and restriction or prohibition has always been drawn, ever since Municipal Corporation of the City of Toronto v. Virgo. Regulation promotes the freedom or the facility which is required to be regulated in the interest of all concerned, whereas prohibition obstructs or shuts off, or denies it to those to whom it is applied. The Oxford English Dictionary does not define regulate to include prohibition so that if it had been the intention to prohibit the supply, distribution, consumption or use of energy, the legislature would not have contented itself with the use of the word regulating without using the word prohibiting or some such word, to bring out that effect."

#### Including energy regulations adds five million research hours

Tugwell 88 Franklin Tugwell joined The Asia Foundation's Board of Trustees in 2010. Dr. Tugwell has served as the President and CEO of Winrock International since 1999. Previously, Dr. Tugwell was the executive director of the Heinz Endowments of Pittsburgh, the founder and president of the Environment Enterprises Assistance Fund, and as a senior consultant for International Projects and Programs at PG&E Enterprises. He served as a deputy assistant administrator at USAID (1980-1981) and as a senior analyst for the energy program at the U.S. Office of Technology Assessment (1979-1980). Dr. Tugwell was also a professor at Pomona College and an adjunct distinguished professor at the Heinz School of Carnegie Mellon University. Additionally, he serves on the Advisory Board and International Committee of the American Council on Renewable Energy and on the Joint Board of Councilors of the China-U.S. Center for Sustainable Development. He also serves on the Board of Eucord (European Cooperative for International Development). Dr. Tugwell received a PhD in political science from Columbia University. “The Energy Crisis and the American Political Economy,” ISBN 0-8047-1500-9

 Finally, administering energy regulations proved a costly and cumbersome endeavor, exacting a price all citizens had to pay. As the energy specialist Paul MacAvoy has noted: "More than 300,000 firms were required to respond to controls, ranging from the three dozen major refining companies to a quarter of a million retailers of petroleum products. The respondents had to file more than half a million reports each year, which probably took more than five million man-hours to prepare, at an estimated cost alone of $80 mil- lion."64 To these expenditures must be added the additional costs to the government of collecting and processing these reports, monitor- ing compliance, and managing the complex process associated with setting forth new regulations and adjudicating disputes. All to- gether, it seems likely that the administrative costs, private and public, directly attributable to the regulatory process also exceeded $1 billion a year from 1974 to 1980.65

## 2ncTrade

### 2NC Must Read – No Solvency

#### They have to amend the definition of “national security” in the Exon-Florio process to access any of their broader spillover claims – the aff just arbitrarily waives restrictions for one sector of the economy without redefining “national security” – this is a zero risk of solvency argument because they don’t meet any coherent or logical threshold to resolve the perception problems in Exon-Florio

Carroll, 9 - \* Notes & Comments Editor, Emory International Law Review; JD (Jamie, 23 Emory Int'l L. Rev. 167, “BACK TO THE FUTURE: REDEFINING THE FOREIGN INVESTMENT AND NATIONAL SECURITY ACT'S CONCEPTION OF NATIONAL SECURITY” lexis)

Conclusion

Exon-Florio should be amended to more narrowly define national security. The open-ended nature of the current definition has allowed the process to become politicized. Instead, national security should be specifically defined so as to prevent acquisition of industries that are critical to the military aspects of our national defense and that have capacities that are not duplicable by other market entities. The definition should also serve to ensure that export control laws are not circumvented by foreign acquisition of American companies. The following proposed definition would once again focus on preventing foreign governments from gaining unique military capabilities through private transactions that could threaten American national security:

National Security shall be defined so as to consider the following factors in reviewing foreign acquisitions:

A. Potential effect upon assets essential to the military aspects of national defense, specifically those firms whose contributions to the national defense cannot be easily replaced by another domestic corporation;

B. Whether the acquisition poses a substantial risk of espionage or terrorism that can be certified by the relevant United States intelligence agencies;

C. Whether the acquisition would pose a unique risk of weapons proliferation of critical military assets that cannot be otherwise dealt with by United States laws, particularly to countries that are not allies of the United States;

 [\*198] D. Economic security, or any other factor not mentioned in this section, shall not be considered by the CFIUS process. n222

Such an interpretation of national security would heavily scrutinize acquisition of, or joint ventures with, Lockheed Martin or any other company that makes a large contribution to the defense industrial base. Certain high-tech companies that produce computer chips that give the U.S. armed forces technological advantages over other countries might also fall under this definition. China should not be allowed to acquire a controlling interest in the present-day equivalent of Fairchild Semiconductor.

This proposed definition of national security would be even more limited than the original Exon-Florio signed by President Reagan, as Exon-Florio was designed to apply mainly to defense-based technological acquisitions. n223 The main difference between this definition of national security and the original Exon-Florio legislation is that this definition would codify national security to **explicitly prevent protectionist use of the CFIUS for political ends**. Any consideration **of economic security** or protection of energy assets from foreign acquisition would be excluded from this definition, as inclusion of such economic factors **can only encourage protectionism and politicization** of the CFIUS process. n224

The narrower definition of national security would eliminate the mandatory reviews of every foreign-government-controlled transaction as required by FINSA. n225 Instead, the CFIUS would be given flexibility to decide which transactions truly threaten national security, without being bound to review every governmental acquisition. Narrowing the definition of national security in this manner would allow the CFIUS to focus its resources on real national security threats, rather than waste resources analyzing nearly every transaction involving a foreign governmental takeover. n226

### 2NC Backlash Turns Case

#### Congress and the public will backlash regardless of CFIUS - scuttles deals before they reach review – empirically proven

MATTHEW R. Byrne 2006, J.D., The Ohio State University Moritz College of Law, expected 2007, Protecting National Security and Promoting Foreign Investment: Maintaining the Exon-Florio Balance, OHIO STATE LAW JOURNAL, 2006, http://moritzlaw.osu.edu/students/groups/oslj/files/2012/04/67.4.byrne\_.pdf

CNOOC’s attempt to acquire Unocal occurred in the summer of 2005. After a much-publicized bidding and public relations war for control of Unocal between CNOOC and another major U.S. oil company, Chevron, Inc., CNOOC’s bid was ultimately defeated by political pressure applied by the United States Congress.8 Many members of Congress had publicly and forcefully expressed grave reservations about the possible national security repercussions if China’s state-owned company gained control of Unocal’s oil reserves.9 This debate led to discussion of not only national security, but also economic security.10 **Even though CFIUS never initiated a review** of the CNOOC transaction, let alone gave the transaction its approval, numerous members of Congress who feared that the Committee would not block the transaction began to suggest that changes to the Exon-Florio statute were in order as a means to address these concerns.11 This debate over changes to Exon-Florio resumed in early 2006, when DPW attempted to purchase Peninsular and Oriental Steam Navigation Co. (“P&O”), a British firm, in a $6.8 billion deal.12 With the acquisition of P&O, the Dubai-based company would have acquired operational control of certain terminals at six U.S. ports.13 The revelation that CFIUS had approved the deal set off a firestorm of criticism on Capitol Hill as members and leaders of both political parties in Congress denounced the merger.14 Though DPW and the Bush Administration agreed to conduct an additional fortyfive- day investigation under the CFIUS statute, the House Appropriations Committee voted 62–2 **to effectively block the transaction**, and under intense political pressure DPW agreed to transfer its U.S. ports interests to an American buyer.15 In the midst of the ports controversy, legislation was proposed in Congress not only to block the deal, but also to make substantial changes to the Exon-Florio statute in an attempt to strengthen the CFIUS review process.16 As of the time this Note goes to publication, committees in both the House and Senate have approved legislation that would modify the Exon-Florio statute.17 The full bodies have not yet approved these bills, their significant differences have not been reconciled in a conference committee, and the President has not signed a bill. Therefore, these bills’ proposed changes to the statute are still mere possibilities, not certainties.

### XT Chilling Effect

#### The plan exacerbates inconsistencies in FDI policy – sends a chilling effect that crushes Chinese investment

Xu et al 12 (Ting, with Thieß Petersen and Tianlong Wang, Cash in Hand: Chinese Foreign Direct Investment in the U.S. and Germany, June,

http://www.bfna.org/sites/default/files/publications/Cash%20In%20Hand.pdf)

As a result of the different regulatory environment for Foreign Direct Investment and different considerations of sensitive industries for national security purposes, some Chinese firms have had quite different experiences in their investment activities in the U.S. and in Germany, resulting in divergent perceptions. The U.S. has been widely perceived, fairly or unfairly, in China as lacking transparency towards Chinese FDI. The complaint has been brought up to the top-level leadership in China. In May 2011, the Chinese commerce minister openly questioned the credibility of the U.S. investment investigation process: “Even though those who were rejected were the minority, **the possibility of being rejected** by the U.S. has scared away Chinese companies that are taking the initial steps to invest abroad. We hope that American government and mediate institutions can tell us more clearly where we can invest and where we cannot.” (Caixin News 2011) This complaint seldom is heard about Germany. Particular Uncertainty for U.S.-bound Chinese FDI The lack of transparency surrounding the CFIUS process–particularly the lack of a **clearly defined** industry blacklist or **a set of credibility criteria guiding review of investments**—has created uncertainty among investors. This in turn may deter otherwise benign and mutually beneficial FDI from China. However, the emphasis on CFIUS and on the deterred deals by media is largely overblown and it taints the image that in general the U.S. wants to attract Chinese FDI. CFIUS has covered 313 transactions from 2008–2010, only 16 of which involved Chinese acquirers compared to 91 transactions of UK origin. That said, it is understandable that Chinese companies are under heavier scrutiny, given that Japan over the same period had roughly the same number of covered transactions, while the Netherlands and Finland combined had fewer than China (CFIUS 2011, 18). These countries take a far more significant share in FDI in the U.S. than China (See Figure 9).

#### China will stay protectionist – keeps playing the victim to justify new policies

Robert Plummer, 9-17-2012; BBC News, “Protectionism: Is it on the way back?” <http://www.bbc.co.uk/news/business-18104024>

Now, you might think it a bit rich for China to denounce such measures, given that Beijing is **routinely accused** by others of protectionist behaviour. Most recently, US President Barack Obama has alleged that China illegally subsidises exports of cars and car parts, thus forcing US manufacturers to shift production overseas. On the other side of the US political fence, anti-China sentiment is also strong. The Republicans' Mitt Romney has pledged to declare China a "currency manipulator" if he is elected president in November, reflecting the anger felt by many Americans over what they see as the deliberate undervaluing of the yuan to favour Chinese exporters. China is already facing **several cases at the** World Trade Organization (**WTO**), including one brought jointly by the US, the EU and Japan over its restrictions on rare earth exports. On the other hand, China also sees itself as a victim of protectionism. In an effort to alleviate the pressure, it has begun talks with Japan and South Korea on a free-trade pact.

### Not escalate

#### No escalating protectionism – international checks

Robert Plummer, 9-17-2012; BBC News, “Protectionism: Is it on the way back?” <http://www.bbc.co.uk/news/business-18104024>

It seems that free-trade and protectionist tendencies are fairly evenly balanced among the great powers, **with every nationalist impulse countered by a liberalising one.** This "one step forward, one step back" behaviour can be seen in the EU as well, beset as it is by the crisis in the eurozone. The recent French presidential election saw both the successful challenger, Francois Hollande, and the defeated incumbent, Nicolas Sarkozy, stepping up their protectionist rhetoric in an effort to woo the 80% of voters who are anti-globalisation. However, as has often been stated beyond the country's borders, France is a big winner from globalisation, with French companies doing 14 times more business abroad than foreign firms do in France. Mr Hollande has said he wants French financial aid to go to exporters of French products. But if he is serious about his campaign promise to create 150,000 new jobs in France, many analysts feel he will have to promote more competition in the economy, not less - in other words, more liberalisation and less protectionism. In any case, the German Chancellor, Angela Merkel, has long maintained that a return to protectionism would be a grave danger for the global economy, making it unlikely that Mr Hollande will get his way at a pan-European level. 'Fortress Mercosur' Other regions of the world, notably Latin America, are similarly blowing hot and cold in the same trade debate.

## 2nc Relations

### SQ solves

#### Relations are burgeoning, regardless of trade disputes

China Daily 12/20/12 (Locke urges continuity in US-China relations, http://www.chinadaily.com.cn/cndy/2012-12/20/content\_16033940.htm)

World looking for leadership from both countries, says ambassadorGary Locke, the US ambassador to China, has spoken optimistically about deepening ties between the two countries and insisted that despite their recent leadership transitions, there must be continuity in bilateral relations. Speaking at a forum sponsored by the Asia Society in New York on Monday, Locke told his audience: "For quite some time, the leaders of both countries have been committed to greater engagement with each other."They are really working very hard, developing a constructive, mutually beneficial relationship, one with cooperation."Our economies are so intertwined. The Chinese leaders know that, and American leaders know that, so we have to figure out how we get along, not because of our own self interests, but because the history of the Asia-Pacific region will be written by the US and China."The former US commerce secretary and governor of Washington state, who assumed his current post 16 months ago, was speaking at a sold-out event in which he discussed the recent history of US-China ties with Orville Schell, director of the Asia Society's Center on US-China Relations.The event was a precursor to the arrival of Vice-Premier Wang Qishan, who was due in Washington on Wednesday to open the 23rd session of the China-US Joint Commission on Commerce and Trade.China is the second-largest export destination for the US and its top agricultural export destination.US agricultural exports to China increased 42 percent over the last year. Exports of all goods and services have soared 50 percent over the last two years, doubling the increase in US exports to the rest of the world. Figures show that a million US jobs now depend on goods and services exported to China, and millions of jobs in China depend on goods and services exported in the other direction. Locke said many of the world's problems will only be solved by cooperation between the US and China."The entire world is looking for leadership from both China and the US, so we've got to get this relationship right," he added. "We are off to a good start."Despite US President Barack Obama's administration bringing a record number of WTO cases against China, Locke said this does not mean the US won't cooperate with China. "We have had trade disputes with Canada and France," he added, emphasizing that Americans should welcome Chinese businesses that want to invest in the US, much as Japan and South Korea have done as their economies industrialized.

### 2NC Inconsistency

#### Inconsistency poisons the well – China will have no idea what gets through review or why

Xu et al 12 (Ting, with Thieß Petersen and Tianlong Wang, Cash in Hand: Chinese Foreign Direct Investment in the U.S. and Germany, June, http://www.bfna.org/sites/default/files/publications/Cash%20In%20Hand.pdf)

**The U.S. lacks a clear strategy toward Chinese FDI**. There is some credibility in the complaint from China that **it is not clear which industries are no-go in the U.S., and which are welcomed**. At the same time, some apparently grounded suspicions of Chinese FDI projects in the U.S. are **mainly politically driven**. For example, 50 members of the Congressional Steel Caucus urged CFIUS to investigate the investment of the Chinese Anshan Iron and Steel Group in a 14 % share of the American Steel Development Company for a greenfield project (Visclosky 2011) Their arguments were based on loss of American jobs and on U.S. national security. However, this greenfield investment project is not covered by CFIUS jurisdiction, which only covers M&A projects, and is projected to create 1,000 construction jobs and 150 permanent plant jobs (Zhang 2010). This contrasts to the picture in Germany, where the most important objective associated with inbound FDI is the creation of jobs: any foreign investment which creates new jobs or safeguards employment in Germany is highly welcomed.

### resiliency

#### Trade, relations, and security cooperation seriously resilient

Joe Barnes et al 2011; BONNER MEANS BAKER FELLOW JAMES A. BAKER III INSTITUTE FOR PUBLIC POLICY, RICE UNIVERSITY “THE RISE OF CHINA AND ITS ENERGY IMPLICATIONS” http://www.bakerinstitute.org/publications/EF-pub-RiseOfChinaBarnesCoanElass-120211-WEB.pdf

Today, relations between the United States and China reflect the complex array of subjects that both join and divide them. **Levels of trade and investment** between the two countries, for instance, **are simply astonishing**: In 2010, the United States was China’s top trade partner, with a total trade volume of more than $450 billion.20 Two old issues—Taiwan and human rights—continue to bedevil Sino-American relations. To date, **however**, **the two countries have navigated disputes in ways that have avoided conflict**. A possible crisis in early 2001—the forced landing of a U.S. spy plane in China—was, after a few days of harsh words, finessed with no major repercussions for bilateral relations.21 Moreover, China and the United States have successfully collaborated on a number of international initiatives, most notably—if still unsuccessfully—the six-party talks aimed at halting North Korea’s nuclear weapons programs. In its first commitment far from home, China contributed peacekeepers to Lebanon starting in 2006, and China also has several ships patrolling against pirates off the Somali coast.22 China and the United States both currently have military personnel in the United Nations (U.N.) Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and a military as well as a police presence in the U.N. Mission in Liberia (UNMIL).23 Both countries are in the Association of Southeast Asian Nations (ASEAN) Regional Forum, designed to foster dialogue on political and security interests.24 China and the United States are also in various international nuclear organizations including the Nuclear Suppliers Group and the Zangger Committee.25 Earlier this year, China and the United States agreed to establish a facility in China to provide training on the detection of radioactive materials to address the smuggling of nuclear and radiological materials and set up a Center of Excellence on Nuclear Security in China in order to promote nuclear security and safeguards.26

### A2 wind key

#### Energy is just another part of the relationship – other factors outweigh

Joe Barnes et al 2011; BONNER MEANS BAKER FELLOW JAMES A. BAKER III INSTITUTE FOR PUBLIC POLICY, RICE UNIVERSITY “THE RISE OF CHINA AND ITS ENERGY IMPLICATIONS” http://www.bakerinstitute.org/publications/EF-pub-RiseOfChinaBarnesCoanElass-120211-WEB.pdf

U.S.-China cooperation on energy may be important. **But it is very much a subset** of broader Sino-American relations. And these are, as we have argued, profoundly ambiguous. Going forward, we can expect to see both countries hedging their bets. The United States may well seek partnership with China on an increasing array of international issues. But it is also going to maintain current allies, like Japan, and cultivate possible future ones, like India, necessary to offset China’s growing strength. China, for its part, may well cooperate with the United States **on energy issues** but will remain very uneasy about its increasing vulnerability to U.S. naval interdiction. It will likely continue efforts to build its own partnerships with oilproducing countries, seek supplies less open to U.S. blockade, and continue to expand its navy. In the United States, there is a sizeable range of opinion on China’s future trajectory, both domestic and foreign. Many conservatives already consider China a de facto enemy of the United States. Prior to September 11, there was already much talk of a coming conflict between the United States and China.77 For many conservatives, the immediate threat of radical Islam displaced the longer-term threat presumably posed by China. This may be changing. Enemies are useful things—for Chinese and Americans.

## 1nr

### 2nc econ turns china war

**WMD Conflict with China is inevitable absent a strong US economy that allows economic interdependence**

Mead 04 (Walter Russell, Senior Fellow @ Council on Foreign Relations, Foreign Policy, lexis)

Similarly, in the last 60 years, as foreigners have acquired a greater value in the United States--government and private bonds, direct and portfolio private investments--more and more of them have acquired an interest in maintaining the strength of the U.S.-led system. A collapse of the U.S. economy and the ruin of the dollar would do more than dent the prosperity of the United States. Without their best customer, countries including China and Japan would fall into depressions. The financial strength of every country would be severely shaken should the United States collapse. Under those circumstances, debt becomes a strength, not a weakness, and other countries fear to break with the United States because they need its market and own its securities. Of course, pressed too far, a large national debt can turn from a source of strength to a crippling liability, and the United States must continue to justify other countries' faith by maintaining its long-term record of meeting its financial obligations. But, like Samson in the temple of the Philistines, a collapsing U.S. economy would inflict enormous, unacceptable damage on the rest of the world. That is sticky power with a vengeance. THE SUM OF ALL POWERS? The United States' global economic might is therefore not simply, to use Nye's formulations, hard power that compels others or soft power that attracts the rest of the world. Certainly, the U.S. economic system provides the United States with the prosperity needed to underwrite its security strategy, but it also encourages other countries to accept U.S. leadership. U.S. economic might is sticky power. How will sticky power help the United States address today's challenges? One pressing need is to ensure that Iraq's economic reconstruction integrates the nation more firmly in the global economy. Countries with open economies develop powerful trade-oriented businesses; the leaders of these businesses can promote economic policies that respect property rights, democracy, and the rule of law. Such leaders also lobby governments to avoid the isolation that characterized Iraq and Libya under economic sanctions. And looking beyond Iraq, the allure of access to Western capital and global markets is one of the few forces protecting the rule of law from even further erosion in Russia. China's rise to global prominence will offer a key test case for sticky power. As China develops economically, it should gain wealth that could support a military rivaling that of the United States; China is also gaining political influence in the world. Some analysts in both China and the United States believe that the laws of history mean that Chinese power will someday clash with the reigning U.S. power. Sticky power offers a way out. China benefits from participating in the U.S. economic system and integrating itself into the global economy. Between 1970 and 2003, China's gross domestic product grew from an estimated $ 106 billion to more than $ 1.3 trillion. By 2003, an estimated $ 450 billion of foreign money had flowed into the Chinese economy. Moreover, China is becoming increasingly dependent on both imports and exports to keep its economy (and its military machine) going. Hostilities between the United States and China would cripple China's industry, and cut off supplies of oil and other key commodities. Sticky power works both ways, though. If China cannot afford war with the United States, the United States will have an increasingly hard time breaking off commercial relations with China. In an era of weapons of mass destruction, this mutual dependence is probably good for both sides. Sticky power did not prevent World War I, but economic interdependence runs deeper now; as a result, the "inevitable" U.S.-Chinese conflict is less likely to occur.

### 2nc econ turns trade

**Economy uniquely turns protectionism**

**Barfield 2009** – resident scholar at AEI (10/1, Claude, “Protectionism and the Global Economic Crisis”, http://www.aei.org/article/101169, WEA)

The impact on world trade of recent protectionist tendencies--including increased tariffs, anti-dumping measures, sector subsidies, and "buy national" provisions--depends on the swiftness of economic recovery from the current crisis. If the global economy continues to improve, protectionist government policies will likely fade; however, if the recovery weakens and a recession returns, the pressures for protectionist measures may mount.

The impact of protectionism--both outright and "murky"--on world trade will be highly dependent on the future course of the economic crisis. If the "green shoots" of an economic recovery blossom and bear fruit, then the (thus-far) moderate upsurge of protectionist government actions is likely to fade; if on the other hand, the world should plunge back into a "double dip" recession then all bets would be off.

Certainly, the absolute numbers chronicling the world economy from 2007 through 2009 are stark. World output slowed appreciably from 3.5 percent growth in 2007 to 1.7 percent in 2008. Then, for the first time since World War II, the World Bank predicts that in 2009 world GDP will decline (2.9 percent in the latest projection). Similarly, a decline in foreign direct investment flows began in 2008 and is projected to deepen in 2009, dropping some 30 percent in year-over-year numbers.

Trade figures were no exception to the negative trends. World trade by volume grew 6 percent in 2007, then by only 2 percent in 2008. For 2009, the projection is for an unprecedented decline of 11 percent.[1]

### agenda tradeoff mod

**GOP win on fiscal cliff would tank Obama’s agenda**

Jim O’Sullivan (writer for the National Journal) January 17, 2013 “How Mini-Cliffs Could Ruin Obama's Second Term” http://www.nationaljournal.com/magazine/how-mini-cliffs-could-ruin-obama-s-second-term-20130117

Washington needs no reminder of how big-casino fiscal negotiations can crowd out the rest of a policy agenda. If congressional Republicans hold their ground, they could force a series of “mini-cliffs”—short-term borrowing-authority extensions or continuing budget resolutions that expire every two or three months. The GOP could use budgetary hostage-taking as a reasonable strategic replacement for Senate Minority Leader Mitch McConnell’s original goal for Obama’s first term: keep him from having a second.¶ Having failed to replace the man in office, Republicans appear to have settled on the crowding-out strategy. Already, in a climate of ever-lengthening election seasons, issue advocates are eyeing a relatively narrow window for legislative achievement. “We have until November to move immigration reform through the 113th,” said Ali Noorani, executive director of the National Immigration Forum, which supports comprehensive reform. “After that, it’s all [the midterms].”

**Obama will use PC on climate change in second term agenda – its at the forefront**

Derek Miles (J.D. Candidate at the University of Louisville) January 21, 2013 “Obama Inauguration Shows Climate Change a Top Priority Over the Next 4 Years: It's About Time” Obama Inauguration Shows Climate Change a Top Priority Over the Next 4 Years: It's About Time

In his second inaugural address on Monday, President Obama placed climate change at the forefront of his political agenda in a not-so-subtle way.¶ Just a few minutes into his landmark speech, Obama stated: “We will respond to the threat of climate change, knowing that the failure to do so would betray our children and future generations.”¶ In 2008 Obama campaigned heavily on the premise of taking broad steps to stem the effects of global climatic changes if he was elected president. But during his re-election campaign in 2012 Obama barely mentioned the issue — much to the chagrin of environmental advocates.¶ By giving climate change such prime billing during his inauguration speech, Obama made it clear that actions attempting to alleviate effects caused by emissions of greenhouse gases will be at the front of his administration's legislative agenda during his second term, much like universal health care was at the onset of his first term.¶ This is not the first time that Obama has attempted to rally support to take action against climate change. In 2009 the House, which was still controlled by Democrats, narrowly passed the Waxman-Markey Bill which, most notably, aimed to drastically reduce greenhouse gas emission levels by 2050. However, the bill went on to die in the Senate due to the effects of the recession, regional political divides, and the unfortunate timing of the BP oil spill.¶ That being said, Obama’s second attempt to address climate change will be equally as difficult despite Obama’s clear intention of placing priority on the issue. The economy will remain at the top of the Obama administration's list, especially as recovery remains stubbornly slow and unemployment remains at the same rate as when Obama first took office. Regional political divides will continue to play an important role in the success or failure of any such action as large portions of the country remain heavily invested in the forms of energy and production most commonly associated with the emission of greenhouse gases (i.e. coal) and which any actions on climate change would most likely seek to curtail. Obama also does not have the luxury of having a Democratic majority in both houses of Congress, making any measures on the issue even more difficult than they were in 2009.¶ However, by addressing climate change as he did during his speech it is clear that Obama is willing to expend precious political capital on the issue, which wasn't the case during the failed Waxman-Markey bill in the Senate.¶ During second terms, presidents consider what legacy their time in office will leave. As many feel that climate change is the most pressing and urgent issue facing not only our country, but our world, Obama is looking towards the future by seeking to lessen America’s role in the effects caused by climate change and attempting to turn the country as a whole towards greater use of sustainable energy.

**Warming is a VI**

**Sify 2010** – Sydney newspaper citing Ove Hoegh-Guldberg, professor at University of Queensland and Director of the Global Change Institute, and John Bruno, associate professor of Marine Science at UNC (Sify News, “Could unbridled climate changes lead to human extinction?”, <http://www.sify.com/news/could-unbridled-climate-changes-lead-to-human-extinction-news-international-kgtrOhdaahc.html>, WEA)

The findings of the comprehensive report: 'The impact of climate change on the world's marine ecosystems' emerged from a synthesis of recent research on the world's oceans, carried out by two of the world's leading marine scientists.

One of the authors of the report is Ove Hoegh-Guldberg, professor at The University of Queensland and the director of its Global Change Institute (GCI).

'We may see sudden, unexpected changes that have serious ramifications for the overall well-being of humans, including the capacity of the planet to support people. This is further evidence that we are well on the way to the next great extinction event,' says Hoegh-Guldberg.

'The findings have enormous implications for mankind, particularly if the trend continues. The earth's ocean, which produces half of the oxygen we breathe and absorbs 30 per cent of human-generated carbon dioxide, is equivalent to its heart and lungs. This study shows worrying signs of ill-health. It's as if the earth has been smoking two packs of cigarettes a day!,' he added.

'We are entering a period in which the ocean services upon which humanity depends are undergoing massive change and in some cases beginning to fail', he added.

The 'fundamental and comprehensive' changes to marine life identified in the report include rapidly warming and acidifying oceans, changes in water circulation and expansion of dead zones within the ocean depths.

These are driving major changes in marine ecosystems: less abundant coral reefs, sea grasses and mangroves (important fish nurseries); fewer, smaller fish; a breakdown in food chains; changes in the distribution of marine life; and more frequent diseases and pests among marine organisms.

Study co-author John F Bruno, associate professor in marine science at The University of North Carolina, says greenhouse gas emissions are modifying many physical and geochemical aspects of the planet's oceans, in ways 'unprecedented in nearly a million years'.

'This is causing fundamental and comprehensive changes to the way marine ecosystems function,' Bruno warned, according to a GCI release.

These findings were published in Science

### AT: Budget Fights UQ

#### This is an argument for the DA – says that budget is top of the docket and coming now and at least will be resolved in months

**Obama will get a deal on sequestration and spending by the end of February, before the cuts reappear, since it’s his top priority, but this time he can’t use the expiring Bush tax cuts as leverage to extort the GOP, and the Republicans are holding the line on cutting the military, setting up a fight that will require every bit of his capital, that’s Crabtree and Blitzer**

#### Obama has the leverage in sequestration cuts fights now

Julian Zelizer (writer for CNN) February 4, 2013 “Republicans, be smart about defense cuts” http://www.cnn.com/2013/02/04/opinion/zelizer-defense-spending/index.html

Right now, Republicans are not well positioned for this debate. Ironically, President Obama is -- given that during his first term he broke with his party with an aggressive stance toward terrorism, including the killing of Osama bin Laden, and potentially with picking a Republican secretary of defense. He is well positioned to push for defense cuts without opening himself up to charges of being a reckless dove.¶ Republicans need to show the nation that they can engage in serious debates over the policy needs of the nation, rather than simply reiterating talking points meant to please the base. If they don't, on this issue, like so many others, the party will stand far off center and make it that much harder for the next presidential candidate to build a winning coalition.

#### Obama has the PC to push through budget compromise now that is key to the economy – but the fight will be huge

Huffington Post January 20, 2013 “Obama's Deficit Demons Can Be Vanquished In Second Term Thanks To Political, Economic Momentum” http://www.huffingtonpost.com/2013/01/20/obama-deficit-second-term\_n\_2506882.html

Three standoff scenarios are currently the talk of the Beltway:¶ 1. The debt-ceiling fight. Obama is thought to have the upper hand going into the latest battle over the debt limit, while congressional Republicans have everything to lose if they continue to play the role of hostage-taking obstructionists. They are already showing signs of bending, trying to stall the coming late-February face-off for another three months, pushing it as far back as June.¶ 2. A government shutdown. Leaders of both parties believe the GOP will be blamed for a default or a federal shutdown if Congress doesn't fund the government when it runs out of money at the end of March, even if Republicans help pass a debt-ceiling extension.¶ 3. The “sequestration.” The automatic budget cuts due to go into effect in early March will hit GOP-affiliated defense contractors hard, without cutting Social Security or Medicare benefits.¶ Getting through all three scenarios leaves Obama the opportunity to defuse the deficit as a political issue, perhaps without taking a hatchet to the social safety net.¶ He also may be able to shrink the deficit a surprisingly good deal. Obama has set a target of $4 trillion in deficit reduction over 10 years -- a number that even many deficit hawk economists view as more than sufficient to stabilize the economy. Budget and spending deals he made in his first term are worth $2.5 trillion. So he’s already not too far from that target, and the GOP may be unable to stop him from getting the rest of the way there.¶ Of course navigating this tricky course will take both political will and the right policy priorities. Obama has himself repeatedly proposed cutting both Social Security and Medicare in the name of deficit reduction during prior standoffs, and has caved on other important policies as negotiations have come down to the wire. Will he stand firm this time?¶ The underpinnings of the current manufactured crises give him a chance. Despite the ubiquitous deficit hyperventilation in and around the Capitol, the fiscal situation Obama faces is not dire or insurmountable. Deficit woes are and always have been more political than economic.¶ The consensus of mainstream experts is that there is little risk of catastrophe in running large deficits over the next few years, and that the budget gap can be narrowed dramatically without attacking programs that benefit the elderly or the disadvantaged, as long as the economy continues its slow but steady recovery.¶ "The recovery is going along pretty well, in spite of the political system's attempts to derail it," said Alice Rivlin, a centrist Democrat who has worked with GOP stalwarts including former Sen. Pete Domenici (R-N.M.) and Rep. Paul Ryan (R-Wis.) on deficit-reduction plans.¶ The way Rivlin sees it, the biggest threats to the improving economy are those coming from Congress, either in continued brinkmanship or in cutting too deeply too fast.¶ "The thing not to do is to get hysterical about the current level of the deficit, but focus on the real problem, which is the future debt," Rivlin said. Deficits are the annual shortfalls the government runs, while debt is the long-term bill it owes. Deficits are now running above $1 trillion, but are projected to drop.¶ Total U.S. debt is about $16.4 trillion -- a scary, oft-cited number that's about equal to the country's total annual economic output. But that includes some $5 trillion that the government owes itself, primarily to the Social Security Trust Fund. The less-frightening amount that economists care about is what Uncle Sam owes the public, and that's a little over $11 trillion, or about three-quarters of the GDP. Such a debt level is historically high, but nowhere near a record. And it looks even better next to the significant assets the government holds.¶ Rivlin notes that while such debt ratios have sparked problems in other countries, including interest rate spikes and even banking crises, they're another matter for the United States. So far, investors have been perfectly comfortable with American debt. The only objective measurement of investor confidence -- interest rates on Treasury bonds -- are at record lows, indicating high confidence. Foreign governments in China and Japan have in fact been increasing their purchases of U.S. debt.¶ "The world has always been willing to lend us money at relatively low interest rates," said Rivlin. "The reason for being nervous is that may not last. It's almost certainly not going to last forever, and as your debt gets to be a larger and larger ratio to your economy, you're more and more vulnerable."¶ University of Texas economist James Galbraith, a former Democratic staffer on the congressional Joint Economic Committee who is even less concerned than Rivlin, notes that several factors -- the dollar's status as the reserve currency abroad, the United States' ability to borrow money in its own currency, and the Federal Reserve's operations -- make the U.S. deficit fundamentally different from deficits in other countries.¶ "The term 'deficit' presupposes and implies something bad that should be filled in or made up for," Galbraith said. "It suggests that the right norm is a deficit of zero, and all of this is completely without meaning in economics. Zero is not the middle number. ... There's no presumption that zero is better than some other number, and in the case of the U.S., it's absolutely the wrong number. The U.S. provides reserve assets to the rest of the world, so it has to run a deficit and it would be a bad thing if it did not."¶ Deficit concerns are usually raised as a proxy for unpopular ideological preferences, Galbraith notes. Instead of demanding cuts to Medicare because it constitutes what Ronald Reagan once called "socialized medicine," conservatives now insist that such programs must be cut to avoid the supposedly greater pain caused by fiscal trauma.¶ "The deficit is a front issue for a different agenda of rolling back the New Deal, Social Security, Medicare and Medicaid," Galbraith said. "It's frustrating to have to shadow-box on this."¶ And indeed, staunch proponents of dramatic deficit reduction like the arch-conservative Club for Growth accompany their calls for tighter budgets with anti-government ideology. In an interview with The Huffington Post, Club spokesman Barney Keller suggested eliminating the Department of Commerce, the Department of Education and the Department of Housing and Urban Development to close the deficit. Paul Ryan's most famous budget proposal included a plan to privatize and cut Medicare benefits, while also cutting taxes so severely that it would have actually expanded deficits.¶ Total deficit failure in the U.S. isn't likely to end the way it has in other countries, like Greece, that can't borrow money in their own currency. When Greece gets in trouble, it is at the political mercy of the European Union. The United States, in contrast, is at the mercy of the Federal Reserve, which can always print more dollars to finance American debt. Eventually, printing money can result in inflation. But inflation isn't likely to get too out of hand thanks to the dollar's status as the international reserve currency. So the U.S. faces the prospect of mild long-term inflation if it doesn't get its fiscal house in order. That's very different from the bank runs in Argentina during the '90s, or the current humanitarian crisis in Greece.¶ If Obama can emerge from the looming policy battles with the bulk of his priorities in place -- and secure sufficient savings to satisfy the financial markets -- he'll have nearly his full second term to try to prove that progressive-leaning economics are not just good for people, they're better for the economy.¶ Public attitudes on the deficit are muddled. Two-thirds of respondents to a new HuffPost/YouGov poll said it was either "extremely important" or "very important" to "drastically reduce the federal budget deficit through either spending cuts or tax increases," and a narrow plurality -- 43 percent -- favored reduction through spending cuts alone, compared to 39 percent who favored both spending cuts and tax increases.¶ But when asked to specify what programs should be cut -- Social Security, Medicare, Medicaid, Defense, or "Something Else," respondents overwhelmingly favored Defense and Something Else, registering 39 percent and 34 percent each. Just 2 percent said Medicare, and 3 percent said Social Security. When asked which program is the biggest contributor to the deficit, a small plurality, 28 percent, said defense spending. The next most popular response was "foreign aid," at 22 percent.¶ The polling sentiment doesn’t square with the spending reality. Social Security, health care programs and defense spending each account for roughly 20 percent of the federal budget, according to the Center on Budget and Policy Priorities. Foreign aid accounts for about 0.1 percent of the budget. All "non-defense discretionary spending" -- everything but defense, Medicare, Medicaid and Social Security -- amounts to about 40 percent of the total deficit. Even if the U.S. cut every item under "something else," most of the deficit would remain. Many of those programs are popular or essential government functions -- like veteran's benefits, transportation funding and public education.¶ Obama's high approval rating and the actual state of the budget then give him a strong hand in the upcoming showdowns. He has been arguing for a "balanced approach" -- raising some taxes and making some cuts -- to find the remaining $1.5 trillion in his planned deficit reduction. Republicans have insisted that no revenue be raised, and that further reductions come from cuts alone.¶ But they lost in their bid to stick to that formula on New Year's Day, and had to swallow some $600 billion in tax hikes on the wealthy in the fiscal cliff deal. There has been no change in the public mood since. That suggests that whatever the GOP stance, the White House and Democrats are likely to continue seeking their balance.¶ Indeed, the deal that Obama and House Speaker John Boehner (R-Ohio) nearly cut in December could have come very close to the overall $4 trillion target for deficit reduction.¶ Similar proposals are likely to emerge in the coming months. The largest pieces would curb tax breaks for the wealthy, perhaps limiting how much they can write off mortgage interest and other common deductions. That could bring in some $500 billion to $600 billion. There are also numerous other tax law loopholes -- such as oil subsidies and tax breaks for private jets that add up to hundreds of billions more.¶ The White House also has floated some $300 billion in health care cuts, and hundreds of billions in cuts to Social Security and mandatory spending programs.¶ There is a path to get such a plan passed -- especially, Democrats note, since Boehner nearly backed such a scheme in December and back in 2011.¶ “Everyone knows that the tax code is riddled with giveaways for the wealthiest Americans and biggest corporations, and those should certainly be on the table as we work toward a balanced and bipartisan budget deal," said Sen. Patty Murray (D-Wash.) the chair of the Senate Budget Committee. "Speaker Boehner proposed to raise $800 billion by closing these loopholes during the last negotiation, so I am certainly going to fight to make sure that middle-class families and seniors aren’t being asked to bear the burden of the next round of deficit reduction alone.”¶ Republicans' leverage to demand cuts is essentially to threaten catastrophe -- a strategy that is increasingly unpopular, except with the GOP base in very red districts.¶ That schism has all-but paralyzed the House, dividing the Republicans into a Tea Party camp and a more realistic anti-tax group led by Boehner. The solution to the cliff standoff was to have Senate Minority Leader Mitch McConnell (R-Ky.) work out compromises with the White House and then leave them on Boehner's doorstep.¶ The GOP protested loudly. But once Boehner put the measures up for votes, they passed easily with support from Democrats and a minority of Republicans. Faced with both public pressure and the reality that shutting down the government or defaulting would be more harmful, that same scenario is likely to play out again and again.¶ If it does, it leaves the White House in an enviable position for the rest of Obama's administration. If bipartisanship takes root, it could open up the possibility of doing better still on spending, including on the real long-term driver of America's future debts: the high cost of health care.¶ The problem with focusing on health care, however, has always been that one side or the other invariably politicizes it. Finding health care savings doesn't have to mean slashing benefits. Strategies such permitting Medicare to negotiate with prescription drug companies could save billions without hitting seniors. But when Obama extracted such savings with the Affordable Care Act, Republicans demagogued the issue by saying he'd "cut Medicare," and Democrats lost control of the House.¶ Facing no reelection, and with the debt stabilized, Obama could wind up with the clout to start dealing with that root problem of health care costs, not to mention other priorities such as education and immigration.

### AT: Agencies Shield

#### Evidence cites Bush for political cover – doesn’t assume recalcitrant House Republicans in current Congress – Democrats in 06 were at least willing to entertain not starting controversy over every policy

#### Agencies don’t shield and no risk of a turn---Obama is velcro and will only get blamed---no credit

**Nicholas & Hook 10** Peter and Janet, Staff Writers---LA Times, “Obama the Velcro president”, LA Times, 7-30, http://articles.latimes.com/2010/jul/30/nation/la-na-velcro-presidency-20100730/3

If Ronald Reagan was the classic Teflon president, Barack **Obama is made of Velcro.¶** Through two terms, Reagan eluded much of the responsibility for recession and foreign policy scandal. In less than two years, Obama has become ensnared in blame.¶ Hoping to better insulate Obama, White House aides have sought to give other Cabinet officials a higher profile and additional public exposure. They are also crafting new ways to explain the president's policies to a skeptical public.¶ But Obama remains **the colossus of his administration** — to a point where trouble anywhere in the world is often his to solve.¶ The president is on the hook to repair the Gulf Coast oil spill disaster, stabilize Afghanistan, help fix Greece's ailing economy and do right by Shirley Sherrod, the Agriculture Department official fired as a result of a misleading fragment of videotape¶ What's not sticking to Obama is a legislative track record that his recent predecessors might envy. Political dividends from passage of a healthcare overhaul or a financial regulatory bill have been fleeting.¶ Instead, voters are measuring his presidency by a more immediate yardstick: Is he creating enough jobs? So far the verdict is no, and that has taken a toll on Obama's approval ratings. Only 46% approve of Obama's job performance, compared with 47% who disapprove, according to Gallup's daily tracking poll.¶ "I think the accomplishments are very significant, but I think most people would look at this and say, 'What was the plan for jobs?' " said Sen. Byron L. Dorgan (D-N.D.). "The agenda he's pushed here has been a very important agenda, but it hasn't translated into dinner table conversations."¶ Reagan was able to glide past controversies with his popularity largely intact. He maintained his affable persona as a small-government advocate while seeming above the fray in his own administration.¶ Reagan was untarnished by such calamities as the 1983 terrorist bombing of the Marines stationed in Beirut and scandals involving members of his administration. In the 1986 Iran-Contra affair, most of the blame fell on lieutenants.¶ Obama lately has tried to rip off the Velcro veneer. In a revealing moment during the oil spill crisis, he reminded Americans that his powers aren't "limitless." He told residents in Grand Isle, La., that he is a flesh-and-blood president, not a comic-book superhero able to dive to the bottom of the sea and plug the hole.¶ "I can't suck it up with a straw," he said.¶ But as a candidate in 2008, he set sky-high expectations about what he could achieve and what government could accomplish.¶ Clinching the Democratic nomination two years ago, Obama described the moment as an epic breakthrough when "we began to provide care for the sick and good jobs to the jobless" and "when the rise of the oceans began to slow and our planet began to heal."¶ Those towering goals remain a long way off. And most people would have preferred to see Obama focus more narrowly on the "good jobs" part of the promise.¶ A recent Gallup poll showed that 53% of the population rated unemployment and the economy as the nation's most important problem. By contrast, only 7% cited healthcare — a single-minded focus of the White House for a full year.¶ At every turn, Obama makes the argument that he has improved lives in concrete ways.¶ Without the steps he took, he says, the economy would be in worse shape and more people would be out of work. There's evidence to support that. Two economists, Mark Zandi and Alan Blinder, reported recently that without the stimulus and other measures, gross domestic product would be about 6.5% lower.¶ Yet, Americans aren't apt to cheer when something bad doesn't materialize.¶ Unemployment has been rising — from 7.7% when Obama took office, to 9.5%. Last month, more than 2 million homes in the U.S. were in various stages of foreclosure — up from 1.7 million when Obama was sworn in.¶ "Folks just aren't in a mood to hand out gold stars when unemployment is hovering around 10%," said Paul Begala, a Democratic pundit.¶ **Insulating the president from bad news has proved impossible**. Other White Houses have tried doing so with more success. Reagan's Cabinet officials often took the blame, shielding the boss.¶ But the Obama administration is about one man. Obama is the White House's chief spokesman, policy pitchman, fundraiser and negotiator. **No Cabinet secretary has emerged as an adequate surrogate**. Treasury Secretary Timothy F. Geithner is seen as a tepid public speaker; Energy Secretary Steven Chu is prone to long, wonky digressions and has rarely gone before the cameras during an oil spill crisis that he is working to end.¶ So, more falls to Obama, reinforcing the Velcro effect: **Everything sticks to him**. He has opined on virtually everything in the hundreds of public statements he has made: nuclear arms treaties, basketball star LeBron James' career plans; Chelsea Clinton's wedding.¶ Few audiences are off-limits. On Wednesday, he taped a spot on ABC's "The View," drawing a rebuke from Democratic Pennsylvania Gov. Edward G. Rendell, who deemed the appearance unworthy of the presidency during tough times.¶ "Stylistically he creates some of those problems," Eddie Mahe, a Republican political strategist, said in an interview. "His favorite pronoun is 'I.' When you position yourself as being all things to all people, the ultimate controller and decision maker with the capacity to fix anything, you set yourself up to be blamed when it doesn't get fixed or things happen."¶ A new White House strategy is to forgo talk of big policy changes that are easy to ridicule. Instead, aides want to market policies as more digestible pieces. So, rather than tout the healthcare package as a whole, advisors will talk about smaller parts that may be more appealing and understandable — such as barring insurers from denying coverage based on preexisting conditions.¶ But at this stage, it may be late in the game to downsize either the president or his agenda.

#### Makes them not topical – voting issue for jurisdiction

#### “The” means all parts

Encarta 9 (World English Dictionary, “The”, http://encarta.msn.com/encnet/features/dictionary/DictionaryResults.aspx?refid=1861719495)

2. indicating generic class: used to refer to a person or thing considered generically or universally
Exercise is good for the heart.
She played the violin.
The dog is a loyal pet.

#### “Government” is all three branches

Black’s Law 90 (Dictionary, p. 695)

“[*Government*] In the United States, government consists of the executive, legislative, and judicial branches in addition to administrative agencies. In a broader sense, includes the federal government and all its agencies and bureaus, state and county governments, and city and township governments.”

#### 2ac Clarification is a voting issue – should have been in the 1ac, their green evidence says that they could do the plan not that they would do the plan – normal means debates are inhibit so the only predictable standard is holding them to USFG in the plan text which is key to any and all negative ground.

#### Obama will take the fall – even if he doesn’t want to

**Politico, 1-7-10**, p. http://www.politico.com/news/stories/0110/31259.html

Taking a decidedly different tack from his predecessor in the face of a government failure, President Barack Obama on Thursday took the blame for shortcomings that led to a failed Christmas Day bombing plot, saying, “The buck stops with me.”

Aides to Obama signaled that he was consciously seeking to be the anti-Bush, airing the administration’s dirty laundry and stepping up to take his share of the responsibility.

“The president also wanted to do something, I think, unusual today,” National Security Council Chief of Staff Denis McDonough said during a webchat after Obama’s speech. “Not only was this a very quick accounting, not only did the president accept responsibility for it, but the president also wanted to do this as transparently as possible.”

Quick, transparent, willing to take the blame — all things Obama has said President George W. Bush was not.

#### Requires Congressional authority

**Lovell 2k** – Assistant Professor of Government, College of William and Mary (George, 17 Const. Commentary 79, AG)

An initial problem with this complaint is that it is not entirely accurate. Even in a world with delegation, voters can usually trace regulatory decisions to "yes" or "no" votes cast by their representatives in Congress. It is true that members of Congress do not cast "yes" or "no" votes on particular rules created by agencies, but they do quite often need to go on record with "yes" or "no" votes that make agency activities possible. Legislators must cast votes to establish executive branch agencies and to give those agencies the authority to make regulatory decisions. The democratic controls created by such votes weaken over time. (Most of the voters who voted for the legislators who passed the Agricultural Adjustment Act are now dead). But members of Congress need to take at least one vote per year (on the relevant appropriations bill) in order for any regulatory program to continue, and circumstances sometimes force members to cast additional votes on particular programs. Since no regulatory program can operate without being created and continually authorized by Congress, there is nothing about delegation that prevents an unhappy electorate from holding members of Congress accountable for regulatory power exercised by the agencies. Opponents of incumbents are certainly free to make such votes an issue in the next campaign, and they sometimes do. Representative George Nethercutt (R-Washington) recently found this out the hard way from an ad sponsored by some of his political opponents. Nethercutt probably did not know that he had voted for the Endangered [\*91] Species Act twelve times until he saw an ad that recounted his votes on various appropriations and authorizations items. 21

#### Obama will be blamed for agency action

Wallison 3 Resident Fellow @ A.E.I. “A Power Shift No One Noticed”, AEI Online, 1-1, http://www.aei.org/publications/pubID.15652/pub\_detail.asp

To be sure, the president had appointed the chairman and the other members of the SEC, but that in itself would not make him blameworthy unless one assumed that he was also directly responsible for how the SEC acted before, and after, the scandals erupted. That is the nub of the important but largely unnoticed change that has occurred: the unchallenged assumption on the part of all parties--in Congress, in the media, among the public, and even in the White House itself--that the president was **fully accountable for an agency** that has always been viewed as independent.¶ The significance of this change in the grand government scheme of things can hardly be overstated. Without legislation or judicial decision, the president has suddenly become **electorally responsible** for the decisions of bodies that were considered to be within the special purview of Congress, susceptible only to congressional policy direction. Of course, this functional revolution did not give the president any new powers with respect to the independent regulatory agencies. But the die is now cast. The way the American people look at the president's responsibilities apparently is changing, and that will affect the attitude of Congress. If the American people believe that the president should be responsible for the actions of the SEC, it will be **difficult to convince them otherwise**. Significantly, since Harvey Pitt's resignation as SEC chairman in November, the media have routinely referred to the president's choice to head the SEC, investment banker William H. Donaldson, as a member of the Bush "economic team."

#### Every SINGLE MOVE Obama makes is hotly contested and intensely debated—there’s only risk of a link

**TVNZ 10/8** (Jon Johansson, 10/8/09, "A presidential chess game", http://tvnz.co.nz/world-news/presidential-chess-game-3060277)

While only his most serious chess matches have been mentioned here, numerous other games are continually taking shape, demanding his study and his response. Every single move Obama makes, in whichever game he plays, is hotly contested and intensely debated. There is no let up for him.

### AT: Link Turn

#### To some extent, that begs the question of the magnitude of the link – 1nc Byrne evidence says that people are super scared of China and would get upset over losing companies to a military and economic threat – triggers irrational xenophobic reactions

#### The plan starts fights, because people hate China

Xu et al 12 (Ting, with Thieß Petersen and Tianlong Wang, Cash in Hand: Chinese Foreign Direct Investment in the U.S. and Germany, June, http://www.bfna.org/sites/default/files/publications/Cash%20In%20Hand.pdf)

The U.S. lacks a clear strategy toward Chinese FDI. There is some credibility in the complaint from China that it is not clear which industries are no-go in the U.S., and which are welcomed. At the same time, some apparently grounded suspicions of Chinese FDI projects in the U.S. are mainly politically driven. For example, 50 members of the Congressional Steel Caucus urged CFIUS to investigate the investment of the Chinese Anshan Iron and Steel Group in a 14 % share of the American Steel Development Company for a greenfield project (Visclosky 2011) Their arguments were based on loss of American jobs and on U.S. national security. However, this greenfield investment project is not covered by CFIUS jurisdiction, which only covers M&A projects, and is projected to create 1,000 construction jobs and 150 permanent plant jobs (Zhang 2010). This contrasts to the picture in Germany, where the most important objective associated with inbound FDI is the creation of jobs: any foreign investment which creates new jobs or safeguards employment in Germany is highly welcomed.

#### The public would think we are letting China steal our firms

Drezner, 8– associate professor of international politics at The Fletcher School, Tufts University (Daniel, The American (Washington, DC), 5/1, “The sovereigns are coming!”, lexis

Over the past 30 years, the United States has experienced periodic waves of investor protectionism. In the 1980s, the specter of Japan Inc. gobbling up prestigious pieces of property led to such absurdities as members of Congress holding a press conference to bash Toshiba products. In 2006, public hysteria helped to block United Arab Emirates-owned DP World's acquisition of six port facilities in the United States. Congressional resistance thwarted China National Offshore OilCorporation's attempt to acquire Unocal. Public opinion polling shows unremitting hostility among a majority of Americans toward the prospect of foreign "ownership" of American firms (they're more receptive to "investment"). SWFs exacerbate these suspicions. If Americans reacted negatively to faceless Japanese salarymen, imagine the reaction when the foreign purchasers are Arab governments or the Chinese Communist Party.

#### Plan massively unpopular – China bashing empirically effective

Yingzi 10. [Tan, reporter, "US likely to give nod to CNOOC deal, despite opposition" China Daily -- www.chinadaily.com.cn/bizchina/2010-10/14/content\_11409139.htm]

Several proposed Chinese investment projects in the US have encountered political obstacles this year. Some Congress members blamed China for the high US unemployment rate and regard the emerging economy's global expansion as a national security threat.¶ China has appeared as a "scapegoat" for the wobbly US economy in the fierce campaign for November's midterm elections. At least 29 candidates have aired advertisements blaming their opponents for being too sympathetic to China, the New York Times reported on Saturday.¶ Strong political opposition to the CNOOC deal is likely, given the recent congressional objections to Anshan Iron and Steel Group's investment in a small US steel company, said Scissors from the Heritage Foundation.

\*\*\*Note: CNOOC = China energy giant

#### The link turns case—public uproar about the aff would disrupt FDI

**Merrill, 11** - \* B.A. Tufts University; J.D. Columbia Law School (Margaret, “Overcoming CFIUS Jitters: A Practical Guide for Understanding the Committee on Foreign Investment in the United States”, 30 Quinnipiac L. Rev. 1, lexis)

The second measure relates to the public's perception of the proposed covered transaction. Considering the highly politicized nature of the CFIUS process, creating a positive public image is crucial for any deal. As discussed above, the negative publicity surrounding past FDI misfires has often played a key role in a transaction's collapse**.** Time and time again, generating negative media coverage in regards to potential FDI transactions has been a potent tool for private interests looking to gain from the transaction's undoing. This type of maneuvering, however, can also be employed by those who would like to see the transaction consummated. Given the prominent and widespread trepidation over the future strength of economic stability in this country, FDI transactions are likely to be viewed more favorably than they have been in a long time. n232 Proactively reaching out to suitable media outlets with information regarding the benefits of any proposed FDI transaction allows the foreign investor to shape the conversation rather than being on the defensive. The resulting public support for the transaction will make it that much more resistant to political attack.

### 2nc at: Hirsch

#### First, Political Capital Does Actually Matter

**A) Framing issue—judge the Hirsch evidence according to specificity—his argument is that the political landscape changed in response to events like Newtown, this doesn’t apply to the budget fight where people are always aware of the situation and it’s not a matter of the ‘mood of the country’ but rather political arm twisting—this is proven by the fact that Obama was able to use the expiring Bush tax credits to force the Republicans into a corner and raise the debt ceiling proves that influence does matter**

#### Here’s evidence on that issue specific to the budget

Mark Blumenthal (writer for the Huffington Post) January 21, 2013 “Barack Obama Rethinks The Bully Pulpit” www.huffingtonpost.com/2013/01/21/obama-bully-pulpit\_n\_2498852.html#slide=more261539

President Barack Obama begins his second term enjoying his strongest approval ratings in three years. Less clear is whether that newly gained popularity will power up Obama's bully pulpit, enabling him to break the political gridlock with a substantive agenda that includes economic recovery, gun violence prevention and immigration reform.¶ Political science studies suggest that presidents rarely change opinions with speeches, but they can influence debate by shining a spotlight on a policy that is more popular, but not widely appreciated as such.¶ In other words, presidents are trend-amplifiers, helping to push through Congress widely accepted measures -- like rigorous gun background checks and immigration reform with a path to citizenship.¶ Since the election, Obama's job approval rating, which had hovered in the mid-to-high 40 percent range for much of his first term, has surged to roughly 55 percent on the HuffPost Pollster average of all available national public polls.¶ Perhaps more important, Obama's popularity soars above that of his Republican opposition in Congress. As reported most recently by the Washington Post/ABC News poll, Obama's 55 percent approval rating is more than double that of "Republicans in Congress," who are earning just 24 percent approval.¶ As a series of HuffPost/YouGov online polls conducted in recent weeks reveal, large majorities of Americans believe a president can make at least a minor difference on a wide variety of issues, from reducing poverty and expanding the middle class, to improving education and preventing another financial crisis.¶ Yet while the contrast in approval ratings gives Obama "a clear upper hand over the deeply unpopular Congress," as ABC News put it, political scientists warn that little or no evidence exists to suggest that presidents can move public opinion on specific issues in their favor with speeches or other uses of the bully pulpit.¶ "Presidential speeches don't tend to persuade people on policy," wrote George Washington University professor John Sides. Sides cited the work of scholar George Edwards, who found that the "Great Communicator," President Ronald Reagan, failed to move opinion in his favor with nationally televised addresses on issues such as increased defense spending or aid to the Contra rebels in Nicaragua.¶ But Edwards didn't stop with Reagan. As Ezra Klein explained, Edwards "marshaled so much evidence" on the limits of the bully pulpit as used by presidents from Franklin Roosevelt to George W. Bush that his views have gained wide acceptance among other political scientists.¶ Still, Obama's team believe their experiences from the first term offer a formula to help break the legislative impasse on some issues. "Among the lessons we learned," a senior administration official told The Huffington Post, "is you can take an issue to the country and have some success, turn the dynamic around."¶ The official specifically cited last year's debate over extending low interest rates on subsidized student loans. In April, Obama took up the matter on the campaign trail, giving a series of speeches on college campuses. He even appeared on "Late Night With Jimmy Fallon," opening with a "slow jam the news" segment on the student loan issue.¶ Republicans initially resisted bringing the president's student loan proposal to a vote in the House. Under public pressure from Obama, however, GOP presidential nominee Mitt Romney endorsed his proposal and Republicans ultimately brought the measure up for a vote. It passed both houses of Congress in July.¶ The student loan example is consistent with the findings of **Princeton political scientist Brandice Canes-Wrone, who examined televised presidential appeals on budget issues from 1957 to 2000. She found that presidents do "obtain significant legislative influence by promoting their proposals** in nationally televised speeches," but in a limited context: Their successful appeals tended to be on proposals that were already popular but that were stalled legislatively or otherwise unlikely to pass without the president's public sales pitch.¶ Canes-Wrone demonstrated that on budget issues, at least, the critical value of the bully pulpit is less about changing public opinion on policy measures and more about increasing awareness of lesser-known proposals that meet with approval. By loudly advocating on behalf of the latter policies, a president can show to opponents a willingness to use the proposals as campaign issues and thus change the legislative "dynamic."¶ While the subject of student loan interest rates had previously been "reserved for the deep weeds of Congressional committees," as The New York Times put it, a test of the issue in the spring of 2012 by the United Technologies/National Journal Congressional Connection Poll found popular support for the Obama administration's proposal.¶ Canes-Wrone was careful to emphasize the limits of her findings. "We do not argue that a president can achieve any policy goal by appealing to the public about it," she wrote.¶ Sides agrees. "It's really about the way in which the president's behavior changes the perceptions of other political leaders," he told HuffPost via email.

#### Hirsch concedes capital can act as a magnifier—Obama swayed GOP direction to pass immigration sooner

**Hirsch 2/7** Michael, chief correspondent for National Journal and former senior editor and columnist at Newsweek "There's no such thing as political capital", 2013

When he mounted his bully pulpit in Nevada, he delivered another new message as well: You Republicans don’t have to listen to what I say anymore. And don’t worry about who’s got the political capital. Just take a hard look at where I’m saying this: in a state you were supposed to have won but lost because of the rising Hispanic vote.

Obama was cleverly pointing the GOP toward conclusions that he knows it is already reaching on its own: If you, the Republicans, want to have any kind of a future in a vastly changed electoral map, you have no choice but to move. It’s your choice.

#### Second, Winners don’t win

#### A) Hirsch distinguishes between what Obama is doing and what Bush did with social security—the plan makes Obama into Bush 2.0 by trying to push the rock of nuclear power up a hill—Obama will resolve the economy now because of public urgency but nuclear power gives Republicans a rallying point

**Hirsch 2/7** Michael, chief correspondent for National Journal and former senior editor and columnist at Newsweek "There's no such thing as political capital", 2013

The mistake that Bush made with Social Security, says John Sides, an associate professor of political science at George Washington University and a well-followed political blogger, “was that just because he won an election, he thought he had a green light. But there was no sense of any kind of public urgency on Social Security reform. It’s like he went into the garage where various Republican policy ideas were hanging up and picked one. I don’t think Obama’s going to make that mistake.… Bush decided he wanted to push a rock up a hill. He didn’t understand how steep the hill was. I think Obama has more momentum on his side because of the Republican Party’s concerns about the Latino vote and the shooting at Newtown.” Obama may also get his way on the debt ceiling, not because of his reelection, Sides says, “but because Republicans are beginning to doubt whether taking a hard line on fiscal policy is a good idea,” as the party suffers in the polls.

#### B) Hirsch concedes tradeoffs happen especially between economic policy and especially if a policy is unpopular and out of sync with the country’s mood—ie the plan

**Hirsch 2/7** Michael, chief correspondent for National Journal and former senior editor and columnist at Newsweek "There's no such thing as political capital", 2013

Presidents are limited in what they can do by time and attention span, of course, just as much as they are by electoral balances in the House and Senate. But this, too, has nothing to do with political capital. Another well-worn meme of recent years was that Obama used up too much political capital passing the health care law in his first term. But the real problem was that the plan was unpopular, the economy was bad, and the president didn’t realize that the national mood (yes, again, the national mood) was at a tipping point against big-government intervention, with the tea-party revolt about to burst on the scene. For Americans in 2009 and 2010—haunted by too many rounds of layoffs, appalled by the Wall Street bailout, aghast at the amount of federal spending that never seemed to find its way into their pockets—government-imposed health care coverage was simply an intervention too far. So was the idea of another economic stimulus. Cue the tea party and what ensued: two titanic fights over the debt ceiling. Obama, like Bush, had settled on pushing an issue that was out of sync with the country’s mood.

Unlike Bush, Obama did ultimately get his idea passed. But the bigger political problem with health care reform was that it distracted the government’s attention from other issues that people cared about more urgently, such as the need to jump-start the economy and financial reform. Various congressional staffers told me at the time that their bosses didn’t really have the time to understand how the Wall Street lobby was riddling the Dodd-Frank financial-reform legislation with loopholes. Health care was sucking all the oxygen out of the room, the aides said.

#### C) LBJ is the exception not the rule—history is replete with failures by Presidents to take advantage of momentum

 Reagan – Iran-contra

 Clinton – impeachment

 Bush – social security

#### Empirically wrong

**Clark 1/19**

Lesley Clark and Anita Kumar (writers for McClatchy Newspapers) January 19, 2013 “Obama's second term: Guns, immigration, taxes -- and warnings of hubris” Lexis

"People will say, 'If we're spending that much energy, we're not spending enough energy on immigration, we're not spending enough energy on the fiscal problem,'" Biden said. "Look folks, presidents don't get to choose what they deal with, they deal with what is before them."¶ The history books, however, are replete with second-term presidents tripped up by their own hubris, scandal or controversy. Ronald Reagan endured the Iran-Contra scandal, the dark mark of his otherwise successful presidency. Bill Clinton was impeached for lying to conceal an affair. George W. Bush tried to get Congress to overhaul Social Security and couldn't get his own party to even bring it to a vote.¶ Obama said he's "more than familiar with all the literature about presidential overreach in second terms," adding: "We are very cautious about that. On the other hand, I didn't get re-elected just to bask in re-election."

#### Yes vote switching—even due to unrelated legislation

**Simes and Saunders 2010** – \*publisher of the National Interest, \*\*Executive Director of The Nixon Center and Associate Publisher of The National Interest, served in the State Department from 2003 to 2005 (12/23, Dimitri and Paul, National Interest, “START of a Pyrrhic Victory?”, http://nationalinterest.org/commentary/start-pyrrhic-victory-4626, WEA)

Had the lame-duck session not already been so contentious, this need not have been a particular problem. Several Senate Republicans indicated openness to supporting the treaty earlier in the session, including Senator Lindsey Graham and Senator John McCain. Senator Jon Kyl—seen by many as leading Republican opposition to the agreement—was actually quite careful to avoid saying that he opposed New START until almost immediately prior to the vote. Our own conversations with Republican Senate sources during the lame duck session suggested that several additional Republicans could have voted to ratify New START under other circumstances; Senator Lamar Alexander is quoted in the press as saying that **Republican anger over unrelated legislation cost** five to ten **votes**. By the time the Senate reached New START, earlier conduct by Senate Democrats and the White House had alienated many Republicans who could have voted for the treaty.

That the administration secured thirteen Republican votes (including some from retiring Senators) for the treaty now—and had many more potentially within its grasp—makes clear what many had believed all along: it would not have been so difficult for President Obama to win the fourteen Republican votes needed for ratification in the new Senate, if he had been prepared to wait and to work more cooperatively with Senate Republicans. Senator Kerry’s comment that “70 votes is yesterday’s 95” ignores the reality that he and the White House could have secured many more than 70 votes had they handled the process differently and attempts to shift the blame for the low vote count onto Republicans.

### 2nc thumpers

Our uniqueness assumes thumpers—past issues didn’t drain enough capital, because Obama could stay above the fray. The plan pushes through a massive energy policy, that’s a whole different level of presidential involvement

Top of docket – 1nc blitzer evidence seperates it from immigration and gun control

#### **Issues don’t cost capital till they are at the finish line, if they cant cite vote counts 0 weight**

Drum, 10 (Kevin, Political Blogger, Mother Jones, http://motherjones.com/kevin-drum/2010/03/immigration-

coming-back-burner)

Not to pick on Ezra or anything, but this attitude betrays a surprisingly common misconception about political issues in general. The fact is that political dogs never bark until an issue becomes an active one. Opposition to Social Security privatization was pretty mild until 2005, when George Bush turned it into an active issue. Opposition to healthcare reform was mild until 2009, when Barack Obama turned it into an active issue. Etc. I only bring this up because we often take a look at polls and think they tell us what the public thinks about something. But for the most part, they don't.1 That is, they don't until the issue in question is squarely on the table and both sides have spent a couple of months filling the airwaves with their best agitprop. Polling data about gays in the military, for example, hasn't changed a lot over the past year or two, but once Congress takes up the issue in earnest and the Focus on the Family newsletters go out, the push polling starts, Rush Limbaugh picks it up, and Fox News creates an incendiary graphic to go with its saturation coverage — well, that's when the polling will tell you something. And it will probably tell you something different from what it tells you now. Immigration was bubbling along as sort of a background issue during the Bush administration too until 2007, when he tried to move an actual bill. Then all hell broke loose. The same thing will happen this time, and without even a John McCain to act as a conservative point man for a moderate solution. The political environment is worse now than it was in 2007, and I'll be very surprised if it's possible to make any serious progress on immigration reform. "Love 'em or hate 'em," says Ezra, illegal immigrants "aren't at the forefront of people's minds." Maybe not. But they will be soon.

### 2nc military

#### Failure to successfully negotiate over sequestration and continuing resolution guts the military – impact is extinction

Sydney Freedberg and Colin Clark (writers for AOL Defense) January 17, 2013 “Sequester's A Nightmare But Year-Long CR Is Just As Bad: SecNav Mabus, Under Sec. Work” http://defense.aol.com/2013/01/17/sequesters-a-nightmare-but-year-long-cr-is-just-as-bad-secn/

The automatic budget cuts known as sequestration aren't the only nightmare scenario looming in March for the Department of Defense, Navy Secretary Ray Mabus said this morning. If Congress keeps on funding the federal government on the current ad hoc basis, by simply extending the current "continuing resolution" -- now set to expire March 27 -- instead of by finally passing proper appropriations bills, the impact would be equally bad.¶ "Most of the attention is put on sequestration because it was such a big deal leading up to the fiscal cliff," Mabus told reporters after his public remarks at the Surface Navy Association's annual conference. "We have an equal, equal concern about CR."¶ Asked about remarks earlier in the conference by uniformed leaders that the Navy was sailing for a readiness crisis -- the infamous "hollow force" -- Mabus said, "I agree with Adm. Gortney that if these things are triggered, in the sort of mindless automatic way they work, you do run a big risk of becoming hollow."¶ [Updated: Speaking later at the same conference, Mabus's Under Secretary, the gloriously outspoken Robert Work, said it was entirely possible that both disasters might strike at once. "We are planning as if sequestration occurs and a year-long CR occurs," he said. "If that happens, ladies and gentlemen, the world as we know it will end. There's just no way you can keep the Navy whole and keep the Marine Corps whole."¶ [If he had to guess, Work went on, "we're going to get some type of deal that take sequestration off the table, but we're going to have a year-long CR."]¶ Either disaster would have an equal financial impact on the Navy, but it would be distributed in different ways.¶ Sequestration "would be $4.6 billion hit for the Department of the Navy," said Mabus in his speech. "If that continuing resolution is extended for the rest of the fiscal year that's another -- exactly the same number -- $4.6 billion hit."¶ The second similarity is "the mindless way both those things operate," Mabus continued. "Under sequestration, you just whack a certain percentage off virtually every program. Continuing resolution says you stay at the levels you were at last year and no new starts."¶ A memo last week from Deputy Defense Secretary Ash Carter instructed the services to prepare for sequestration by economizing on readiness, including -- if sequester takes effect -- cancelling the "availabilities" of Navy warships for major maintenance in port. But a continuing resolution only allows the government to keep spending on existing programs, not to start new ones (unless Congress makes a specific exception), and each "availability" is technically a new program unto itself.¶ So the CR would have exactly the same crippling impact on maintenance as the sequester, Mabus explained to AOL Defense: "If you put a ship in for a shipyard availability, that may be considered a new start, and so we couldn't do that."¶ That said, the two disasters aren't identical. Sequestration has its own unique and nasty wrinkles for the Navy. For example, the sea service has pushed hard for multi-year procurement contracts, in which it guarantees contractors the same amount every year for several years running in return for a lower overall price. Such steady-state expenditures are allowed under a continuing resolution. But sequestration cuts multi-year payments by the same amount it does almost all other programs, about 8.8 percent, which means the Navy couldn't pay the whole sum. That, in turn, would violate the contract and send everyone back to the bargaining table. So, said Mabus to reporters, "if we can't pay under sequestration, we breach a multi-year and the price just goes through the roof."¶ The Navy Secretary wasn't the only senior defense official bemoaning the current budgetary state of the United States early today. The head of Air Force Space Command, Gen. William Shelton, told reporters that the absence of a 2013 appropriations bill adds to the uncertainty engendered by sequestration. "That affects the planning for 2014 and that affects the planning for 2015, which we are deep into," Shelton said at a breakfast put on by the Defense Writers Group. So far, the general said readiness has not been affected. "Day to day we are carrying on," but he made clear that the Air Force would soon have to pare back or forgo flying hours, purchases of information technology, office furniture and the like.¶ Mabus made clear that he understood that budget cuts are probably coming no matter what, even if Congress and the White House cut a deal to avert sequestration. But rather than sequestration's automatic cuts to every program or a continuing resolution's auto-pilot continuation of last year's spending levels, he begged political leaders to give the military discretion of how to apply the cuts: Give us a bill, he said, and let us figure out how to pay it so we can protect our priorities.¶ "Nobody likes budget cuts, but if Defense or the Navy has to be a part of some ... grand bargain," Mabus told the audience at the Surface Navy conference, "then give us the top line, let us manage how any cuts , how any reductions, are made. Let us put dollars against strategy instead of simply cutting the top line."¶ Beset just a few years ago by out-of-control shipbuilding costs on programs like the Littoral Combat Ship, the Navy has vastly improved its management, Mabus argued. "We have shown, I believe pretty decisively so, that we know how to manage the budget, that we know how to set some priorities, that we know how to get money into programs, that we know how to drive a hard bargain, that we know how to get the most money for the taxpayers' dollars," he said. "Instead of mindlessly cutting, give us that chance to manage to whatever the final number is."¶ "We've shown," he said, "that we're willing to make some pretty hard choices, that we're willing to cancel some stuff."¶ Mabus mentioned both shipbuilding and maintenance as priorities he wanted to protect. But what else is left to cut?¶ "I learned a long time ago," said the veteran politician in answer to AOL Defense, "I only get in trouble when I answer what-if questions."¶ [Updated: Under Secretary Work was far more direct, as is his wont: "Shipbuilding is the No. 1 priority in the Department of the Navy. If given a choice between an aviation program and a shipbuilding program, the Secretary will choose shipbuilding."]¶ Any specifics now would just inflame key programs' partisans in Congress. But there's the rub: Sequestration and the continuing resolution may be mindless, but precisely for that reason they save political leaders from making painful choices. The sequester law actually allows the President's Office of Management and Budget to submit an alternative proposal for how to achieve the required cuts, while Congress can exempt any program it wishes from the restrictions of the CR -- but either way requires sacrificing some constituency's favorite program to save another's, and it requires legislators to step up and vote to do so. America's political class may no longer have the courage -- and there's no one left to beat it into them.

### 2nc US economy internal

#### Huge hit to the economy – markets haven’t prices the impact into their decisionmaking

Sam Ro (writer for Business Insider) January 25, 2013 “MORGAN STANLEY: 'The Odds Favor A Government Shutdown'” http://www.businessinsider.com/reinhart-odds-favor-government-shutdown-2013-1

¶ However, Reinhart thinks that we are likely to see a government shutdown, or the freezing of non-essential services. And because the market has gotten used to fiscal brinksmanship, a shutdown could be bad news because the markets don't appear to have priced in the drag on the economy and shock to confidence.¶ ¶ From Reinhart:¶ ¶ The odds favor a government shut-down. The experience of 1995 to 1996 reassures that the world will not end. However, the drag on spending will likely be more significant than market participants expect. With the countdown clocks on cable television put back into motion, consumer confidence could take a hit. And, as always, the ratings agencies are a wild-card that could make this more of a market event, even if short lived.¶ ¶ Circling back to the start, the conversation at the policy-making scrum at the Conference Center at Davos shows the key problem for the US and Europe. Market observers are bored by the details of the political debate. Trained by last-minute bargains on both sides of the Atlantic, everyone assumes that nothing can go seriously wrong and compromise will win at the end. If nothing can go seriously wrong, it should not be embedded in market prices. And if market prices are not sending at least a yellow flashing signal of threat, politicians believe they have time to act. Politicians who think they have time to act use it. And what happens to market confidence in the absence of political action? We will find out.¶ ¶ We can hope for the best.