### 1

#### It’s also for production outside of the United States – the THA governs production outside of the 200 mile exclusive economic zone, outside of US jurisdiction

**Wood, 12** - Professor, Instituto Tecnológico Autónomo de México Senior Adviser, Mexico Institute, Renewable Energy Initiative (Duncan, “US-Mexico Cross Border Energy Cooperation: a new era in the Gulf of Mexico” March, <http://www.wilsoncenter.org/sites/default/files/March_2012_Transboundary_Oil_Agreement_0.pdf>)

On the 20th of February, the governments of Mexico and the United States signed a Transboundary Hydrocarbons Agreement that resolves the question of what to do with potential oil reserves along the dividing line between the two countries in the Gulf of Mexico. Two areas in particular have been disputed for a number of years: the Western and Eastern polygons, or "donut holes" as they are more colloquially known, comprise over 500 miles of the maritime border between the two countries and are thought to hold billions of barrels of crude oil (though nobody is sure quite how much, as comprehensive seismic scans have not been undertaken). The signing of the treaty is extremely good news as it marks the end of a decades-long process to try to determine oil rights in these two areas, opening the door to exploration and production that offers the prospect of exciting new modes of cooperation between Pemex and private oil companies.

The question of what to do with the Gulf of Mexico's donut holes goes back to the 1970s. Following on from negotiations in the United Nations over the International Law of the Sea, the two countries came together to determine ownership of resources found in these two areas that were beyond their twohundred miles exclusion zones but entirely surrounded by them (thereby not qualifying as international waters). Early discussions over the areas broke down, but in the late 1990s the two countries agreed to a ten year moratorium on exploration and drilling in order to be able to negotiate a mutually agreeable settlement.

#### That’s outside of the US which is defined as areas under US jurisdiction

**Kovacs, 7** – vice president for Environmental, Technology & Regulatory Affairs at the U.S. Chamber of Commerce (William, Comments on Proposed Rule on Loan Guarantees for Projects that Employ Innovative Technologies, 6/29,

<http://www.lgprogram.energy.gov/nopr-comments/comment16.pdf>)

DOE defines “United States” as follows:3

*United States means the several states, the District of Columbia, the Commonwealth of* *Puerto Rico, the Virgin Islands, Guam, American Samoa or any territory or possession of* *the United States of America.*

DOE further states that:4

[loan guarantee] *Applications will be denied if:* *(1) The project will be built or* *operated* *outside the United States…*

Many planned off-shore renewable energy projects are designed to derive energy from wind as well as the tides, waves, currents, thermal differences and other properties of ocean waters. However, it is unclear to what extent the definition of “United States” as, included in DOE’s proposed rule, would exclude the loan guarantee eligibility of such contemplated projects. This is because, owing to the definition of “United States” it is unclear whether such projects would be considered as “built or operated outside the United States”. To address this concern, DOE should modify the proposed rule to state that in addition to the definition provided, the term “United States” includes:

*all ocean waters (and* *airspace* *above them) of the Atlantic Ocean (including the Gulf of* *Mexico) and the Pacific Ocean within the jurisdiction of the United States from which* *energy may be derived through application of winds,* *solar energy collection,* *tides, waves,* *currents, thermal differences, or other means to produce renewable or low carbon energy.*

There is precedent for using such a definition of ocean waters as they relate to the United States: DOE has used a similar definition in its Final Rule on Renewable Energy Production Incentives.5

Limits – explodes the

### 2

#### Hagel will be confirmed now – momentum – but it is not a lock now

Paul Kane (writer for The Washington Post) January 16, 2013 “Hagel's nomination gains momentum” ProQuest

Despite all the sound and fury before and after his nomination, Chuck Hagel began his bid to lead the Pentagon as a favorite to win Senate confirmation. And he seems only to be gaining momentum.¶ For sure, the Republican former senator from Nebraska made his share of enemies during his two terms in the Senate, which now must consider his nomination as defense secretary, but he began with two key advantages.¶ One is traditional senatorial courtesy, which has almost always meant a relatively smooth confirmation process for any current or former senator chosen for a Cabinet or ambassadorial post.¶ More important, almost every failed nomination of the past three decades has stemmed from key defections within the president's own party, and so far Hagel's opposition has come almost entirely from fellow Republicans.¶ The prospect of significant Democratic defections grew more unlikely Tuesday when a pair of influential Senate Democrats who had been cagey about their support for Hagel came out in support of his confirmation. Many of Hagel's critics accused him of being hostile to Israel's interests. But on Tuesday, Sens. Charles E. Schumer (N.Y.) and Barbara Boxer (Calif.), two of the most influential Jewish Democrats, issued lengthy testimonials to Hagel's credentials to lead the Pentagon and accepted his assurances that he would support the Obama administration's policy of vigorously opposing Iran's bid to obtain nuclear weapons.¶ "Senator Hagel could not have been more forthcoming and sincere," Schumer said Tuesday in a 676-word statement that covered every possible controversy of Hagel's nomination. "Based on several key assurances provided by Senator Hagel, I am currently prepared to vote for his confirmation. I encourage my Senate colleagues who have shared my previous concerns to also support him."¶ "I needed comprehensive answers," Boxer told reporters Tuesday in a conference call, explaining that she demanded that Hagel follow up their phone discussion with a letter documenting his answers on Israel and Iran as well as issues related to gay rights and female soldiers' access to reproductive services.¶ Hagel's confirmation is still not a certainty. He has only just begun the traditional process of making the rounds for face-to-face meetings with key senators, and on Tuesday the top Republican on the Armed Services Committee announced his opposition.¶ "Unfortunately, as I told him during our meeting [Tuesday], we are simply too philosophically opposed on the issues for me to support his nomination," said Sen. James M. Inhofe (Okla.). Inhofe said he was concerned about looming Pentagon spending cuts: "Senator Hagel's comments have not demonstrated that same level of concern about the pending defense cuts."¶ The committee has yet to schedule a confirmation hearing, which is certain to be a lengthy session that could resemble the combative queries that former senator John D. Ashcroft (R-Mo.) faced in January 2001 after he was nominated as attorney general.¶ Ashcroft's confirmation hearings, fueled by questions about racial sensitivity, lasted three days, unusually long for a former senator.¶ In the modern era of televised hearings, just two former senators have failed to win confirmation after being nominated. John G. Tower, a Texas Republican, lost his bid to become defense secretary in 1989 over accusations of improper drunken behavior, receiving just 47 votes. In 2009, Thomas A. Daschle, the former Democratic majority leader from South Dakota, withdrew his nomination to be secretary of health and human services after it was revealed that he had failed to pay more than $100,000 in taxes on limousine service provided to him as a member of an investment firm.¶ As of now, Hagel's opponents have not leveled any accusations of questionable ethical behavior and instead have focused on his past statements and votes about Middle East policy. Conservative activists rejected his statements to Schumer and Boxer as just a "confirmation conversion," and senior Republicans promised tough questioning.

#### Plan destroys political capital

Hobson 4/18 Margaret is a writer for E&E Publishing. “OFFSHORE DRILLING: Obama's development plans gain little political traction in years since Gulf spill,” 2012, http://www.eenews.net/public/energywire/2012/04/18/1

President Obama is embracing the offshore oil and gas development policies he proposed in early 2010 but were sidelined in the shadow of the Deepwater Horizon oil spill.¶ Two years after the BP PLC oil rig exploded, killing 11 people and causing the worst oil spill in U.S. history, Obama's "all of the above" energy policy includes offshore drilling provisions that are nearly identical to his aggressive March 2010 drilling plan.¶ Since the moratorium on offshore oil drilling ended in late 2010, the administration expanded oil and gas development in the western and central Gulf of Mexico and announced plans for lease sales in the eastern Gulf. The White House appears poised to allow Royal Dutch Shell PLC to begin exploring for oil this summer in Alaska's Beaufort and Chukchi seas and to open oil industry access to the Cook Inlet, south of Anchorage. The administration is also paving the way for oil and gas seismic studies along the mid- and south Atlantic coasts, the first such survey in 30 years.¶ While opening more offshore lands to oil and gas development, the Obama administration has also taken steps to make offshore oil drilling safer, according to a report card issued yesterday by Oil Spill Commission Action, an oversight panel formed by seven members of President Obama's oil spill commission.¶ That report criticized Congress for failing to adopt new oil spill safety laws but praised the Interior Department and industry for making progress in improving offshore oil development safety, environmental protection and oil spill preparation.¶ An environmental group was less complimentary. A report yesterday by Oceana charged that the measures adopted by government and industry are "woefully inadequate."¶ As the 2012 presidential campaign heats up and gasoline prices remain stuck near $4 per gallon, Obama's offshore oil development policies aren't winning him any political capital. The environmental community hates the drilling proposals. The Republicans and oil industry officials complain that the White House hasn't gone far enough. And independent voters are confused by the president's rhetoric.

#### Key to nomination

Michael Falcone (writer for ABC News) January 7, 2013 “Cabinet Shakeup: No Such Thing As A ‘Slam Dunk’ (The Note)” http://abcnews.go.com/blogs/politics/2013/01/cabinet-shakeup-no-such-thing-as-a-slam-dunk-the-note/

But as ABC Chief White House Correspondent Jon Karl notes today, the confirmation of Hagel, a former Republican senator, “will be no slam dunk”: “Senate Democrats tell me there is no guarantee Hagel will win confirmation and that, as of right now, there are enough Democratic Senators with serious concerns about Hagel to put him below 50 votes. The bottom line: He may ultimately win confirmation, but not before a bloody fight in the Senate. On the plus side, Hagel is a decorated Vietnam veteran and a former Republican Senator who’s views on military issues closely match the president’s views. But he has already come under withering criticism from across the political spectrum. Among other things, he has come under fire for controversial comments on Israel (in 2008, he referred to Israel’s US supporters as ‘the Jewish lobby’), his opposition to some sanctions against Iran, and his suggestion, also in 2008, that the U.S. should negotiate with Hamas.” Time Magazine’s Mark Halperin had a similar prediction: “If Hagel has a good confirmation sherpa and performs well in his courtesy calls and at his hearings, he will likely be confirmed. But/and at a pretty high cost. Expect a LOT of people to want to testify against him. And don’t rule out a filibuster of this nomination, which would, obviously, change the math.” http://ti.me/VvwfU0 More on the rough road ahead for Hagel from ABC’s Martha Raddatz on”Good Morning America” today. WATCH: http://abcn.ws/VNTZBZ NOTED! ABC’s RICK KLEIN: It’s getting crowded in here. One consequence of the un-grand bargain is that Washington will be fighting fiscal battles again early this year — then likely later, too. The result is not just a feeling of déjà vu but of suffocation. Republicans and any coalition that wants to slow President Obama’s agenda — on immigration, gun control, energy policy, what have you — has the perfect way to do so now, perhaps indefinitely. “None of these issues, I think, will have the kind of priority that spending and debt are going to have over the next two or three months,” Senate Minority Leader Mitch McConnell said on ABC’s “This Week” yesterday. ABC’s AMY WALTER: For all the hand wringing about upcoming fights between the White House and Congress over Chuck Hagel, the debt ceiling and the sequester, a reminder that the two branches were designed to challenge each other. To be sure, this is a frustrating process— and one that has resulted in less than ideal outcomes. Voters say they like the idea of divided government, but they don’t like the reality of it. “THIS WEEK” REWIND: MCCONNELL: THE TAX ISSUE IS FINISHED. As President Obama and Republicans slowly approach the next round of deficit-reduction talks, Senate Minority Leader Mitch McConnell drew a line in the sand, in his interview with ABC’s George Stephanopoulos: no more tax increases. McConnell: “The tax issue is finished, over, completed. That’s behind us. Now the question is, what are we going to do about the biggest problem confronting our country and our future? And that’s our spending addiction. It’s time to confront it. The president surely knows that. I mean, he has mentioned it both publicly and privately. The time to confront it is now.” http://abcn.ws/Xbz4uz HEITKAMP: GUNG-CONTROL PROPOSALS ‘WAY IN EXTREME.’ After The Washington Post reported that Vice President Biden’s working group will press a broad gun-control agenday, newly elected Democratic Sen. Heidi Heitkamp, N.D., told ABC’s George Stephanopoulos those proposals would go to far. Heitkamp: “Let’s start addressing the problem. And to me, one of the issues that I think comes — screams out of this is the issue of mental health and the care for the mentally ill in our country, especially the dangerously mentally ill. And so we need to have a broad discussion before we start talking about gun control. … I think you need to put everything on the table, but what I hear from the administration — and if the Washington Post is to be believed — that’s way — way in extreme of what I think is necessary or even should be talked about. And it’s not going to pass.” GRETA VAN SUSTEREN GOES ON THE RECORD (WITH ABC NEWS): Fox News’ Greta Van Susteren has interviewed some of the biggest names in U.S. politics on her show, “On The Record,” but you’ll never guess who her dream guest dream political guest is. Van Susteren, who appeared on the “This Week” roundtable Sunday, answered viewer questions from Facebook and Twitter for an “All Politics is Social” web exclusive hosted by ABC’s Kaye Foley. About that dream guest, here’s her answer: “Bo, the first dog. I love animals. I’d love to be on Animal Planet. On Animal Planet you aren’t dealing with death and destruction and people fighting with each other all the time. To the extent that Bo is a part of politics, I’d love to interview Bo. Plus, I love the fact that he looks like he’s wearing white knee socks. Bo is my favorite.” WATCH the full interview: http://abcn.ws/13bVdfF THE BUZZ: with ABC’s Chris Good (@c\_good) SCOTUS RETURNS: GAY MARRIAGE, AFFIRMATIVE ACTION, VOTING RIGHTS. The Supreme Court returns to the bench today, and ABC’s Ariane de Vogue reports: The justices will hear two potentially blockbuster cases in March concerning gay marriage. One of the cases–Hollingsworth v. Perry–addresses whether there is a fundamental right to same-sex marriage. The other–Windsor v. United States–deals with the federal law that defines marriage as between a man and a woman. In both cases, the court will hear arguments on potential procedural obstacles that could stop it from getting to the core constitutional questions. The court will also hear a case challenging a key provision of the Voting Rights Act. Section 5 of the law says that certain states with a history of voter discrimination must clear any changes to their election laws with federal officials in Washington. Lawyers for Shelby County, Ala., are challenging the constitutionality of Section 5. The case, called Shelby County v. Holder, will be argued Feb. 27. The day before, the court will hear arguments in Maryland v. King, a case about whether Maryland officials can collect DNA from someone who has been arrested but not convicted of a crime. http://abcn.ws/WD3Fir SANDY AND THE CLIFF: WILL PAUL RYAN’S VOTES HAUNT HIM IN 2016? Paul Ryan voted in favor of the “fiscal cliff” tax deal but against a Hurricane Sandy relief bill that would add $9.7 billion in debt. ABC’s Shushannah Walshe reports on the potential implications for 2016: The two votes four years from now may mean nothing or could haunt Ryan if he decides to run for president in 2016, depending on who is battling for the nomination. The fiscal cliff vote could become an issue, particularly if his opponent is Florida Sen. Marco Rubio who could highlight the fact that Ryan voted for the measure while Rubio voted against it. The Sandy vote could also be resurrected if his rival is New Jersey Gov. Chris Christie who blasted members of his own party this week when Boehner decided not to vote on a $60 billion Sandy relief package after assuring lawmakers from the affected he states he would. … Will Ryan be more vocal on the looming battle to raise the debt ceiling? It will be one to watch. http://abcn.ws/Sb0YZE OBAMA’S VACATION BY THE NUMBERS. With President Obama returning from a nine-day vacation in Hawaii with family and friends, ABC’s Mary Bruce reports: Obama played FIVE rounds of golf with SEVEN different partners, spending roughly THIRTY hours on TWO different courses on Oahu. The president made FIVE early morning trips to the gym at the nearby Marine Base at Kaneohe Bay. … The Obamas ventured out for dinner with friends FOUR times, leaving their Kailua vacation home for gourmet Japanese meals at Nobu and Morimoto … The president interrupted his vacation for SIX days to negotiate the “fiscal cliff” in Washington. All told, he will have spent roughly FORTY hours on Air Force One flying between D.C. and Hawaii. http://abcn.ws/WA0xUx PELOSI: MORE TAXES IN NEXT CLIFF DEAL. The fiscal cliff isn’t quite over, and House Speaker Nancy Pelosi says tax revenues must be on the table as President Obama and congressional Republicans negotiate over how to avert budget sequestration. The Hill’s Mike Lillis reports: “‘In this legislation we had $620 billion, very significant … changing the high-end tax rate to 39.6 percent. But that is not enough on the revenue side,’ Pelosi told CBS’s Bob Schieffer in an interview taped Friday. Without offering many specifics, the California Democrat said she wants to scour the tax code for unnecessary loopholes and ‘unfair’ benefits that help those–either companies or individuals–who don’t need it.” http://bit.ly/WnUi5y CHUCK HAGEL: LET THE SNIPING BEGIN. Rumblings on Capitol Hill, already, are not good. Politico’s Scott Wong and Manu Raju report: “Sen. Lindsey Graham (R-S.C.), an Air Force reservist who serves on the Armed Services Committee that will consider the nod, said Hagel would hold the ‘most antagonistic’ views toward Israel of any defense secretary in U.S. history. … ‘It is a strange signal for the White House to send that they are willing to fight for Hagel but not Rice,’ one Senate Democratic aide said Sunday. ‘Democrats are not currently unified behind Hagel, and it will take some real work by the administration to get them there, if it’s even possible.’ ‘I can’t imagine why [Obama] would choose to burn his political capital on this nomination. For what? There is no constituency for Chuck Hagel,’ one senior GOP aide said. ‘Obama will expend every ounce of political capital he has to get him across the finish line. Dems will hate this.” <http://politi.co/VFMgc7>

#### Hagel is key to a soft landing on a laundry list of critical military transitions that are key to prevent global conflict

Jessie Daniels (Truman National Security Project Fellow, worked in the US Senate) January 7, 2013 “Chuck Hagel Nomination: A Look At the Security Threats He Will Face” http://www.policymic.com/articles/21946/chuck-hagel-would-be-a-defense-secretary-for-the-21st-century

As President Obama heads into his second term, and a new cabinet comes into shape, attention now focuses on the leading choice for Secretary of Defense: Chuck Hagel. As the Chairman of the Atlantic Council, and former Nebraska GOP Senator, Hagel certainly has the policy chops and political bona fides to take over the reins from the current Secretary Leon Panetta. The next secretary of defense will immediately be faced with managing American commitments and new priorities. The Pentagon will continue its rebalance — or "pivot" — toward the Asia-Pacific, where the U.S. has already been bolstering its presence in the region. At the same time, the next secretary of defense will preside over a transition in Afghanistan that insiders say appears harder than anticipated — both politically and operationally. Then there's the Middle East at large, which presents a separate set of challenges: Egypt's rocky political transitions, an intransigent Iran, and escalating violence in Syria. Key in managing the U.S. role in each and all of these situations is recognizing the limits of American power and influence. Fortunately, Hagel gets how complex the picture is, and would be committed to ensuring that the U.S. military does not become overextended yet again. America's commitments will also be shaped by Pentagon budget reforms. The Defense Department is scheduled to trim $487 billion in spending over the next decade. If the sequester cuts eventually do go into effect — the fiscal cliff deal only delayed them by two months — the Pentagon will face an additional $500 billion in cuts. If confirmed as the next secretary of defense, Hagel would already come into the position with the mindset that the Defense budget is "bloated." Moreover, his political experience on Capitol Hill would prove useful in guiding the department through reforms that, though necessary, are likely to be highly politicized and contentious. Aside from these near-term challenges, the next secretary of defense will also need to prepare for 21st century threats. Tomorrow's threats could just as easily come from non-state actors or take place in cyberspace. Issues once unconnected to national security — such as the environment — now play critical roles for America's military, as resource insecurity (like water or energy) can escalate the risk of conflict. During his time in the Senate and now at the Atlantic Council, Hagel has been a strategic thinker who understands the interconnectedness of an array of threats. He has demonstrated the ability to understand the terrain of these new battlefields, and would be well-prepared shape the military as it prepares for this new security environment. Considering the overall breadth and depth of his experience, Chuck Hagel would bring many relevant strengths to the table — which is all the more important, since the next Pentagon chief will find a full plate of challenges upon arrival.

### 3

#### The United States Supreme Court should rule restrictions on the production of crude oil in the United States as specified by the Agreement between the United States of America and the United Mexican States Concerning Transboundary Hydrocarbon Reservoirs in the Gulf of Mexico.

#### Courts can invalidate restrictions on oil

Simon 7 [Christopher A. Simon - Director, Master of Public Administration, Political Science Department, University of Utah, Professor, Political Science, “Alternative Energy: Political, Economic, and Social Feasibility”]

THE COURTS

The institutional power of the federal courts regarding energy policy is not ex- plicit in Article III. The role of energy and the intra- and interstate transporta- tion of fuels and electricity in the United States is, for the most part, a late nine- teenth- and early twentieth-century phenomenon. Early energy policy-related cases were argued within the confines of the judiciary’s narrowly defined enu- merated powers. In the late nineteenth century, the court system remained timid in terms of taking energy and material related cases. Post-Loehner (1905). the judiciary showed itself more willing to enter into disputes between state government and citizens. Although the case had nothing to do with en- ergy policy, the Supreme Court—by taking the case—opened the doors to the expansion of one of its enumerated Article III powers in a way that more di- rectly scrunitized policymaking at the state and local levels and de facto ex- panded the notion that federal court decisions were linked to the national gov- ernment’s supremacy. The 1937 case West Coast Hotel u Parrish confirmed the judiciary’s interest in scrutinizing public policy at all levels of government. Constitutionally, legal theory was now open to an enlarged analysis of the in- terchange between national regulatory powers and policymaking authority and state and local powers. In essence, the Court more fully disclosed acceptance of judicial positivism in method and decision making rather than a strict con- structionist approach.

Over the years, the courts have had a significant role in energy policy. The Court has been particularly interested in regulation of safety with regard to energy policy, as safety issues are central to the public good aspect of energy. While not directly related to energy policy. New Jersey Steam Navigation Company v. Merchants' Bank of Boston 47 U.S. 344 (1848) does illustrate the Court's particular and early interest in issues related to energy safety. The case involved the destruction by fire of a steam-operated commercial boat. In the end, the Court sided with the plaintiffs and the decision of a lower court to award damages. The case ultimately turned on the issue of fuel safety as the boat was fitted for wood-burning energy production, but was burning a much hotter “modem” fuel for boats of the time—anthracite coal. Although other deficiencies had been noted in terms of safety equipment that ultimately tied to the issue of the federal court's “admirality jurisdiction,” the case provides early evidence that the Court saw a role for itself in re- viewing aspects of energy safety, particularly in terms of transportation safety—albeit tangentially and quite possibly with little emphasis beyond the nature of the case.

The Court, however, tightened its level of scrutiny in term of energy- related safety issues in Champlin Refining Co. v. Corporation Commission of Oklahoma et al. 286 U.S. 210 (1932). In this case, one of the earliest cases involving the regulation of safety issues related to petroleum refinement, the Court dismissed broadly defined environmental restrictions on the extraction and refining of petroleum. In essence, the Court demonstrated that an early state-level effort to protect the environment from the impact of oil drilling and processing could only occur if statutes were written narrowly and were essentially based on scientific principles related to environmental safety. One could argue that by taking the case and deciding it, the Court opened further the door to national regulation of environmental policy as is most di- rectly related to the issue of energy resource development, processing, and distribution.

The 1970s, a decade in which the petroleum-based energy paradigm expe- rienced a major shock, saw the Court dealing with two prominent cases re- lated to energy safety issues. In Vermont Yankee Nuclear Power Corp. v. Nat- ural Resources Defense Council, Inc., et alia 435 U.S. 519 (1978), the Court dealt with questions related to “the proper scope of judicial review of the Atomic Energy Commission’s procedures with regards to the licensing of nu- clear power plants.” In lower court decisions, the commission's rule-making procedures related to nuclear energy fuel management and safety issues were overturned through court decision. In essence, this would have opened the door to further court scrutiny of the nuclear energy process in terms of safety. In a unanimous decision, the late William Rehnquist wrote that the Court of Appeals has improperly developed its own conception of safe reactor process and remanded the case to a lower court to scrutinize the commission’s regu- latory clarity. The case is significant because it effectively maintained nuclear energy policy as viable as long as rule making and regulatory processes gov- erning this form of alternative energy were rationally constructed and com- plete. The Court looked to administrative solutions to any lack of clarity or completeness first but was fairly definitive in removing the judicial system from the process or filling in areas of vagueness or rewriting significant por- tions of regulation and process-related nuclear energy policy.

In the same year, the Court decided the so-called trans-Alaska pipeline rate cases. The Court sought to clarify rate change policies related to the shipment of crudc oil and natural gas. In essence, the Court solidified the authority of Interstate Commerce Commission (ICC) in its efforts to manage the pipeline. The commission’s ability to adjust rates for rational economic reasons and to require pipeline operators to refund excess rate charges to customers was rec- ognized by the Court. The pipeline cases were critical to the legitimacy of the commission’s authority over the transportation of petroleum from Alaska. In a broader sense, the Court established precedence of the ICC to regulate pe- troleum transportation. Appellate court decision has further solidified its po- sition on pipeline rates in BP West Coast Products, LLC v. Federal Energy Regulatory Commission 376 F. 3d 1223 (2004). The Court was careful to bal- ance this decision in relation to the states’ power to regulate intrastate energy policy issues.

In Exxon Corp. et alia v. Governor of Maryland et alia 437 U.S. 117 (1978), the Court recognized the power of state government to regulate gaso- line markets within its borders. The Court found that neither the interstate commerce clause nor the due process clause of the Fourteenth Amendment were violated by Maryland's regulations on petroleum producers’ ability to establish gas stations and policy efforts to ensure equity within the gasoline market across various corporate concerns operating fueling station in-state. In essence, the Court established a balance between the interests of the national government in regulating energy transportation and use and the interests of the state in advancing goals not inconsistent with national constitutional in- terpretation and national policy priorities.

#### 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

### 3

#### 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.

#### Offshore drilling sacrifices the oceans on the altar of free market economics

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The fusion of energy security and environmental protection concerns has since the energy and environmental crises of the 1970s forged a policy aimed at creating environmentally safe extraction and production processes. The emphasis on cheap energy resources, however, has come into contradiction with requirements of costly regulation and oversight practices that are thought to better ensure environmental security. The attempt to reconcile offshore drilling with concerns about environmental protection during the Nixon and Carter years was torn asunder by the hostility to regulation during the Reagan and Clinton years. As a result, a heated debate developed between proponents of offshore oil drilling who argue that (unregulated) offshore oil drilling — and expanded domestic oil production in general — ensures energy security by making the United States energy independent and opponents of offshore oil drilling who do not contest the goal of energy independence but who argue that this should not be at the expense of the protection of marine ecosystems and coastal economies from the destructive effects of offshore drilling, regulated or not. The debate, in other words, developed into a debate between a dominant discourse of energy security and a counter discourse of environmental security — at the core of it were questions of regulation as well as competing commercial interests. Though there are various actors and interests within each of these discourses, the primary tension between proponents and opponents of offshore oil drilling tends to reproduce the tensions embodied in the larger discourses of energy security and environmental security at different geographical scales. One of the main arguments of this thesis is that the credence given to either one of these two security discourses at any given time is the result of broader socio-political forces and the changing ideologies within which they operate. Underlying both seemingly opposed discourses, however, is a common logic that informs the path they take and the language they use to establish legitimacy — the logic of the commodity — an abstract representation of space that supports this logic. This space, as Lefebvre (2007: 53) points out, “includes the ‘world of commodities’, its ‘logic’ and its worldwide strategies, as well as the power of money and that of the political state”. As will be shown in the following chapters, each of these competing discourses has organized its arguments around the logics of capitalism to gain public support and federal and local state protections. This is not an arbitrary association but rather the result of specific political developments in the US that have shaped environmental concerns, and the environment, according to free market principles. Prior to the injection of neoliberal policies of deregulation and privatization into the environment and discourses on the environment under the Reagan Administration, the Nixon and Carter Administrations were caught between an environmental movement, which attempted to create a new perspective from which human activity could be viewed in light of its often negative impacts on the environment – especially offshore oil drilling as a result of the 1969 Santa Barbara oil spill – and the volatility of the international oil market which threatened oil imports. The Nixon and Carter strategies attempted to balance the two agendas through the expansion of domestic oil production in tandem with regulations and oversight that would monitor the offshore oil industry’s compliance with environmental standards. This was thought and presented as a temporary measure. Ultimately the aim was to create alternative fuels in the not too distant future to replace oil, in light of evidence and concern that both the production and consumption of oil were proving to be detrimental to the environment which humans depended on for their own survival. Neoliberal restructuring under the Reagan Administration, however, promoted a market-based discourse of energy security above, or more precisely against the discourse of environmental security, advocating reduction of state oversights and reliance on market signals instead as the more efficient means to regulate offshore drilling. Environmental security, in the form of government oversight, became a threat to the accumulation of wealth — a source of insecurity. Instead, environmental security could be entrusted to the multiple interests operating in the free market. The argument rested on the neoliberal mantra that the government was not as efficient as private owners and the market in managing and protecting the environment. As a result, offshore oil drilling activity has since enjoyed lax regulatory oversight, while day-to-day oil pollution continues to disrupt various ecological and economic activities that share ocean space.

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

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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

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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.

### 4

#### The relevant executive agencies of the United States should communicate to the Mexican government that it will engage in annual consultations with the Mexican government over energy resources in the trans-boundary region of the Gulf of Mexico. This should include sharing geological and seismic information as well as new information regarding reservoir discovery. It should also include cooperation over any plans to develop wells in the area.

#### Solves the aff

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The treaty is a framework agreement that establishes the terms under which the two federal governments will allow their licensed operators to operate through the execution of a unitisation agreement. On the US side, the company in question will be any party licensed to explore or develop a block that shares a reservoir within the delimitation line; on the Mexican side, it will be Pemex-Exploracion y Producción (PEP), Mexico's exclusive licensee. The treaty provides for the following:¶ an annual consultation system to enable the parties to inform each other's government about exploration and exploitation activities within three statute miles of the delimitation line, including the sharing of relevant geological information;¶ the obligation to notify:¶ the existence of a transboundary reservoir within 60 days of the party becoming aware of the likely existence or detection of hydrocarbons during drilling operations within three statute miles of the delimitation line;¶ an exploration plan within 60 days of the party approving such a plan or receiving a plan for approval from its licensee; and¶ a plan for the collection of seismic data, a development or production plan for an area, or a plan to drill a well (the wellhead or borehole or any portion lying within three statute miles of the delimitation line) within 30 days of the party approving such a plan or receiving a plan for approval from its licensee;¶ a system for the determination of a transboundary reservoir by both countries - this includes a provision for forming a joint commission of representatives of the two governments to make such determination in the event of deadlock;¶ the approval of the unitisation agreement proposed by the other party's licensee, provided that such agreement complies with the minimum terms and conditions required under the treaty, including the designation of the unit operator (which could be a joint venture company in which Pemex or any licensee may participate) and the proposed allocation and redetermination of production, on the understanding that both governments have agreed to prepare model unitisation agreements; and¶ inspection rights pursuant to terms to be established by the parties.¶ Income arising from the exploitation of a transboundary reservoir that is attributable to either PEP or the US licensee and the unit operator shall be taxed in accordance with each country's own legislation and the US-Mexico double tax treaty.¶ The new hydrocarbons treaty provides for standard dispute settlement mechanisms for international treaties (including provisions on independent experts, mediation, consultation and arbitration) and the right to early termination of the treaty with 180 days' notice.

### 5

#### Oil prices will stabilize now – prices will stick above exporter break-even levels without significant changes

Irina Rogovaya August 2012; writer for Oil and Gas Eurasia, Oil Price Changes: Everyone Wants Stability <http://www.oilandgaseurasia.com/articles/p/164/article/1875/>

According to the current base forecast for the Eurozone prepared by Oxford Economics, within the next two years oil prices will continue to drift lower, but not beyond the bounds of the “green” corridor for the world economy – $80-100 per barrel. This forecast coincides with the expectations of the World Bank (see Fig. 4). Meanwhile, S&P analysts presented three scenarios for the energy market in June. In the base scenario, oil will remain at $100 per barrel. S&P calculates that the likelihood of a stressful scenario in which the price of oil drops below $60 per barrel (the bottom in 2009) is 1:3. Analysts believe that given today’s state of economic and geopolitical affairs, strong political will would be needed to force the price of oil below $70-80 (the current level of effective production). So far, that will is nowhere to be seen. Recent events have shown that nobody is interested in the Eurozone breaking apart. And nobody wants a war in the Persian Gulf. Furthermore, nobody today intends to force the production of less valuable oil. At least that is what OPEC leaders promised during the recent summit. “Stability on the market should be at the center of our attention,” General Secretary Abdalla El-Badri said. Even Saudi Arabia, which consistently violates OPEC discipline in over-producing its quotas, announced at the beginning of July that it would review its margins to determine a higher price for Saudi supplies ordered on August contracts. Analysts noted that the average price of oil supplied to Europe and Asia had jumped (by $0.85 and $0.66 per barrel respectively), a fact which could be seen as proof that the collective members of the cartel will not let prices fall under $100 per barrel.

#### New global supply would drop prices below petrostate break-even points

Steve A. Yetiv and Lowell Feld September 2007; Yetiv, Professor of political science at Old Dominion University; Feld, senior international oil markets analyst at the U.S. Energy Information Administration “America’s Oil Market Power The Unused Weapon Against Iran” World Policy Journal 2007 24: 53, Sage Journals

Today, there is strong reason to believe that an increase in world spare oil produc- tion capacity would cause oil prices to de- cline once again (if not to the same dramatic degree). Imagine that the United States cut its oil consumption from currently projected levels of 24 MMBD by 2020 by 3 MMBD over the next decade.1Eventually, the American cut in consumption would in- crease world spare capac- ity from its current level of around 2 MMBD (al-most all of which is in Saudi Arabia and Kuwait) to more than 5 MMBD. This would return world spare oil production capacity to levels not seen since late 1998 and early 1999, when oil prices plummeted to $10 per barrel. True, it is unlikely that we will see $10 per barrel again, but with a major reduction in the trajectory of U.S. oil demand and a con- comitant increase in world spare capacity, we would likely see a sharp decrease from the $80–100 per barrel prices we are currently experiencing.2

#### High prices are key to the Russian economy and domestic stability

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But Vladimir Putin is not one of them. The economy that the Russian President has built not only runs on oil, but runs on oil priced extremely high. Falling oil prices means rising problems for Russia – both for the strength of its economic performance, and possibly, the strength of Putin himself. Despite the fact that Russia has been labeled one of the world’s most promising emerging markets, often mentioned in the same breath as China and India, the Russian economy is actually quite different from the others. While India gains growth benefits from an expanding population, Russia, like much of Europe, is aging; while economists fret over China’s excessive dependence on investment, Russia badly needs more of it. Most of all, Russia is little more than an oil state in disguise. The country is the largest producer of oil in the world (yes, bigger even than Saudi Arabia), and Russia’s dependence on crude has been increasing. About a decade ago, oil and gas accounted for less than half of Russia’s exports; in recent years, that share has risen to two-thirds. Most of all, oil provides more than half of the federal government’s revenues. What’s more, the economic model Putin has designed in Russia relies heavily not just on oil, but high oil prices. Oil lubricates the Russian economy by making possible the increases in government largesse that have fueled Russian consumption. Budget spending reached 23.6% of GDP in the first quarter of 2012, up from 15.2% four years earlier. What that means is Putin requires a higher oil price to meet his spending requirements today than he did just a few years ago. Research firm Capital Economics figures that the government budget balanced at an oil price of $55 a barrel in 2008, but that now it balances at close to $120. Oil prices today have fallen far below that, with Brent near $100 and U.S. crude less than $90. The farther oil prices fall, the more pressure is placed on Putin’s budget, and the harder it is for him to keep spreading oil wealth to the greater population through the government. With a large swath of the populace angered by his re-election to the nation’s presidency in March, and protests erupting on the streets of Moscow, Putin can ill-afford a significant blow to the economy, or his ability to use government resources to firm up his popularity. That’s why Putin hasn’t been scaling back even as oil prices fall. His government is earmarking $40 billion to support the economy, if necessary, over the next two years. He does have financial wiggle room, even with oil prices falling. Moscow has wisely stashed away petrodollars into a rainy day fund it can tap to fill its budget needs. But Putin doesn’t have the flexibility he used to have. The fund has shrunk, from almost 8% of GDP in 2008 to a touch more than 3% today. The package, says Capital Economics, simply highlights the weaknesses of Russia’s economy: This cuts to the heart of a problem we have highlighted before – namely that Russia is now much more dependent on high and rising oil prices than in the past… The fact that the share of ‘permanent’ spending (e.g. on salaries and pensions) has increased…creates additional problems should oil prices drop back (and is also a concern from the perspective of medium-term growth)…The present growth model looks unsustainable unless oil prices remain at or above $120pb.

#### Russian economic collapse causes global nuclear war

Steven David, January/February 1999;Professor of International Relations and Associate Dean of Academic Affairs at the Johns Hopkins University, FOREIGN AFFAIRS, **,** http://www.foreignaffairs.org/19990101faessay955/steven-r-david/saving-america-from-the-coming-civilwars.html

If internal war does strike Russia, economic deterioration will be a prime cause. From 1989 to the present, the GDP has fallen by 50 percent. In a society where, ten years ago, unemployment scarcely existed, it reached 9.5 percent in 1997 with many economists declaring the true figure to be much higher. Twenty-two percent of Russians live below the official poverty line (earning less than $ 70 a month). Modern Russia can neither collect taxes (it gathers only half the revenue it is due) nor significantly cut spending. Reformers tout privatization as the country's cure-all, but in a land without well-defined property rights or contract law and where subsidies remain a way of life, the prospects for transition to an American-style capitalist economy look remote at best. As the massive devaluation of the ruble and the current political crisis show, Russia's condition is even worse than most analysts feared. If conditions get worse, even the stoic Russian people will soon run out of patience.  A future conflict would quickly draw in Russia's military. In the Soviet days civilian rule kept the powerful armed forces in check. But with the Communist Party out of office, what little civilian control remains relies on an exceedingly fragile foundation -- personal friendships between government leaders and military commanders. Meanwhile, the morale of Russian soldiers has fallen to a dangerous low. Drastic cuts in spending mean inadequate pay, housing, and medical care. A new emphasis on domestic missions has created an ideological split between the old and new guard in the military leadership, increasing the risk that disgruntled generals may enter the political fray and feeding the resentment of soldiers who dislike being used as a national police force. Newly enhanced ties between military units and local authorities pose another danger. Soldiers grow ever more dependent on local governments for housing, food, and wages. Draftees serve closer to home, and new laws have increased local control over the armed forces. Were a conflict to emerge between a regional power and Moscow, it is not at all clear which side the military would support.  Divining the military's allegiance is crucial, however, since the structure of the Russian Federation makes it virtually certain that regional conflicts will continue to erupt. Russia's 89 republics, krais, and oblasts grow ever more independent in a system that does little to keep them together. As the central government finds itself unable to force its will beyond Moscow (if even that far), power devolves to the periphery. With the economy collapsing, republics feel less and less incentive to pay taxes to Moscow when they receive so little in return. Three-quarters of them already have their own constitutions, nearly all of which make some claim to sovereignty. Strong ethnic bonds promoted by shortsighted Soviet policies may motivate non-Russians to secede from the Federation. Chechnya's successful revolt against Russian control inspired similar movements for autonomy and independence throughout the country. If these rebellions spread and Moscow responds with force, civil war is likely.  Should Russia succumb to internal war, the consequences for the United States and Europe will be severe. A major power like Russia -- even though in decline -- does not suffer civil war quietly or alone. An embattled Russian Federation might provoke opportunistic attacks from enemies such as China**.** Massive flows of refugees would pour into central and western Europe. Armed struggles in Russia could easily spill into its neighbors. Damage from the fighting, particularly attacks on nuclear plants, would poison the environment of much of Europe and Asia. Within Russia, the consequences would be even worse. Just as the sheer brutality of the last Russian civil war laid the basis for the privations of Soviet communism, a second civil war might produce another horrific regime.

### Adv 1

#### Macroeconomic factors and political stability are improving – and current growth is sustainable

Joseph Hogue 5-30-2012; provides investment research and analysis through his firm, Efficient Alpha. He has appeared as a guest on BloombergTV for his analysis of Latin American securities and holds the Chartered Financial Analyst (CFA) designation.Mexican economy in contrast to its negative stereotypes http://emergingmoney.com/mexico/mexican-economy-eww/

The diverse Mexican economy has been growing at a sustainable pace of 3.5-5.5% over the past three years. The political mood seems to be shifting incrementally in the direction of further liberalization. Ties to relatively strong neighbors – the U.S. and the rest of Latin America – position the Mexican economy well relative to other emerging markets more dependent on floundering Europe or slowing China. The drug killings may even simmer down with the expected return to power this July of the Institutional Revolutionary Party (PRI). U.S. investors willing to look past stereotypes will find a range of modern industries in Mexico issuing easily tradable American Depository Receipts (ADRs). The composition of the iShares MSCI Mexico Investable Market ETF (EWW, quote) offers a snapshot of the Mexican economy excluding oil, which remains largely nationalized. Consumer staples account for 32% of the ETF’s holdings, telecommunications 24% and materials 15%.A number of large transportation firms are also publicly traded. The macroeconomic and political outlooks for Mexico are both positive**.** This means the Mexican economy should outperform other emerging markets over the next 12 months, though probably underperforming the Andean region of Latin America. Inflation was running at 3.5% annually as of April 2012, near the bottom of Mexico’s historical range. That means the usually conservative central bank is considering stimulus measures if global growth weakens further. The expected victory of the PRI in the July presidential poll (and return to power after a lame-duck period in December) also looks positive for investors. The PRI’s 70-year rule was interrupted under charges of widespread corruption in 2000. The party’s roots are socialist, but it has in recent decades embraced market reforms and moved to the center. Its presidential candidate, Enrique Peña Nieto, has run on a platform of reforms including partial privatization of state oil monopoly PEMEX, along the lines of Brazil’s Petrobras. Nieto also supports liberalizing employment laws. While the full extent of promised reforms is doubtful, Nieto’s pro-market rhetoric is welcome. Opening the oil sector to more private contractors could increase capital spending on infrastructure and accelerate GDP growth for the Mexican economy. The caveat is that these effects will be longer-term, while equity performance over the next year remains more dependent on growth in the United States and global headline risks.

#### No production decline – Mexico has plenty in reserves

Robert Campbell, 5-22-2012; Reuters Market Analyst, Mexico is no longer an oil basketcase: Campbell http://www.petroleumworld.com/storyt12052302.htm

The following may be taken as heresy by oil perma-bulls but let's get it out in the open: it's time to scrap, or at the very least rigorously question, the assumption that Mexican oil production will dramatically fall sometime this decade. A predicted sharp fall in Mexican oil output has long underpinned part of one of the bullish theses behind strong oil prices: non-OPEC crude oil output is weak and getting weaker. Of course, Mexico is not the only part of the non-OPEC supply picture. But it is a big player. The country remains one of the world's biggest oil producers and exporters. The decline of nearly 25 percent in Mexican crude oil production capacity between 2004 and 2008 was a watershed event for oil supplies. But the problem is that analysts still assume that similar declines must inevitably come in the future. A glance at market balances uniformly assume sharp declines in Mexican oil output over the next decade, projecting forward a rerun of the dramatic fall in production experienced by Mexico between 2006-08 onto the future. Consider the facts. Mexican crude oil production, while still a far cry from its peak, has been fairly stable, oscillating between 2.5 million and 2.6 million barrels per day since mid-2009. Total liquids production, which adds condensates and natural gas liquids to crude output, has edged down, to just over 2.9 million bpd, but is off only 40,000 bpd from 2010 levels. Yet forecasters still assume steep drops in Mexican output. For instance, the 2010 Annual Energy Outlook published by the U.S. Energy Information Administration forecast Mexican liquids production would be only 2.31 million bpd in 2012.The EIA's 2011 forecast revised these views, but still assumes a decline in Mexican liquids output. The reference case calls for 2012 production to fall to 2.7 million bpd, or 2.8 million bpd in the high oil price scenario. Yet looking forward in the 2011 EIA forecast, steep declines are still projected, with output falling below 2 million bpd by 2019. The 2012 forecast again revises its view of Mexican output higher, in some cases sharply, but the medium-term forecast still calls for steep declines. The EIA is not alone. Similar forecasts have been made (and revised) in recent years by the International Energy Agency and private oil market analysts. OUT OF INTENSIVE CARE At least for now, the narrative on Mexico remains the same. Whatever state oil monopoly Pemex has done to keep production flat for the last three years is really just a pause in the inevitable decline. Of course this is not to say that all is well in Mexico's oil industry. Pemex remains grossly overstaffed, inefficient, bureaucratic and subject to political interference. Proven oil reserves continue to decline, albeit at a far slower pace than a few years ago.

#### Partial privatization solves PEMEX reform

Joao Peixe 7-15-2012; writer for Oilprice.com Can Enrique Peña Nieto's Energy Reforms Make Mexico a Major Oil Exporter? http://oilprice.com/Latest-Energy-News/World-News/Can-Enrique-Pea-Nietos-Energy-Reforms-Make-Mexico-a-Major-Oil-Exporter.html

All oil reserves are state property, and Mexico has huge potential, however, the only company, Petróleos Mexicanos (PEMEX), with the rights for exploration, processing, and selling of the oil, do not have the resources to maximise extraction. Since 2004 Mexican oil output has fallen by 25%, which is a problem as the government receives nearly a third of its revenue from the oil industry. Peña Nieto has decided to encourage growth in the sector by opening it up to foreign investors, specifically Brazil’s Petrobras. In an interview with the Financial Times back in 2011 he said that PEMEX “can achieve more, grow more and do more through alliances with the private sector.” In order to open the industry to private investors such as Petrobras, Peña Nieto must pass a reform agenda through the nation’s congress; a congress where his party does not hold a majority. This means that he will rely upon support from opposition parties to gain the necessary two-thirds vote that he needs to achieve his plans.

#### Ongoing PEMEX reform opens up shale and deepwater oil to exploration – that solves production issues

Eric Martin and Carlos Manuel Rodriguez, 7-13-2012; reporters for Bloomberg Businessweek in Mexico City, Mexico May Finally Get a Modern Oil Industry http://interamericansecuritywatch.com/mexico-may-finally-get-a-modern-oil-industry/

Opening up the oil sector may boost gross domestic product by as much as 0.8 percent a year, according to research firm Capital Economics. Combined with the discovery of significant amounts of shale gas in northern Mexico, tapping deepwater oil could create an era of low energy costs for the country. Inviting outsiders to invest in Pemex could also transform the psychology of business in Mexico. To change Pemex, Peña Nieto will have to challenge entrenched interests, from the unions to local officials, who have all benefited from Pemex’s largesse. If he succeeds he could tackle other monopolies and duopolies in power generation, telecom, and cable television that make life so expensive for Mexicans.

#### High oil prices overcome revenue shortfalls

Market News International 5-9-2011; High Oil Prices Lift Pemex Profits, Challenges Remain http://imarketnews.com/node/30466

MEXICO CITY (MNI) - State oil company Petroleos Mexicanos (Pemex) is reaping huge earnings due to rising world oil prices, but analysts and company officials agree that steep challenges remain due to the government's tax take, meeting promised production increases, money losing subsidiaries and attracting companies via its new contract model. Mexico's basket of oil sold at $110.86 late last week, up from $80.60 at the end of last year, and $71.45 in early May 2010. But the increase was largely caused by factors which have little to do with Mexico. Investors are stampeding into commodities as low interest rates allow them to borrow in developed economies and park the money in appreciating goods. Meanwhile, the Pemex quarterly report released last week showed production, at 2.57 million barrels per day actually fell 1% compared with the first quarter of 2010, although average exports rose 10% to 1.37 million bpd. Still, with prices on the rise, the company posted net earnings of 4.2 billion in the first quarter, up from 1 billion during the same period year earlier.

#### Alt cause to Mexico instability—migration barriers

**Littlefield 2009** (Edward, Council on Hemispheric Affairs, "As Mexico’s Problems Mount: The Impact of the Economic Recession on Migration Patterns from Mexico")

As migration from, and remittances to, Mexico have decreased as a result of the current recession, the Mexican economy ominously worsens - Migration, remittances, and the national economy should be considered as integral components in the debate over whether Mexico deserves to be classified as a “failed state,” and what should be United States policy The Mexican economy and many of its national institutional structures may be on the brink of collapse. While drug war violence has dominated the recent news about the possible irreversible status as a society beyond remediation, the topic of immigration has been either marginalized or used to further promote fears that the conflict may spread to the United States. Drugs, national security, and economic recession have replaced immigration reform on the United States’ policy agenda. However, the current financial crisis, and its impact south of the border, is intricately linked to matters of immigration, security, and Mexico’s very cohesion.

#### No impact to Mexican instability

**Seelee and Shirt, 10** – **\***director of theMexicoInstitute at the Woodrow Wilson International Center for Scholars AND \*\* fellow at the center and an associate professor at the University of San Diego (Andrew Selee, David Shirk, 3/27/10, " Five myths about Mexico's drug war ", Washington Post, http://www.washingtonpost.com/wp-dyn/content/article/2010/03/26/AR2010032602226.html)

The country has certainly seen a big rise in drug violence, with cartels fighting for control of major narcotics shipment routes -- especially at the U.S. border and near major seaports and highways -- and branching into kidnapping, extortion and other illicit activities. Ciudad Juarez, in particular, has been the scene of major battles between two crime organizations and accounted for nearly a third of drug-linked deaths last year.

But the violence is not as widespread or as random as it may appear. Though civilians with no evident ties to the drug trade have been killed in the crossfire and occasionally targeted, drug-related deaths are concentrated among the traffickers. (Deaths among military and police personnel are an estimated 7 percent of the total.) A major reshuffling of leaders and alliances is occurring among the top organized crime groups, and, partly because of government efforts to disrupt their activities, violence has jumped as former allies battle each other. The bloodshed is also geographically concentrated in key trafficking corridors, notably in the states of Sinaloa, Chihuahua and Tamaulipas.

While the violence underscores weaknesses in the government's ability to maintain security in parts of the country, organized crime is not threatening to take over the federal government. Mexico is not turning into a failed state.

#### No impact to Latin American instability

**Hartzell 2000** (Caroline A., 4/1/2000, Middle Atlantic Council of Latin American Studies Latin American Essays, “Latin America's civil wars: conflict resolution and institutional change.” http://www.accessmylibrary.com/coms2/summary\_0286-28765765\_ITM)

Latin America has been the site of fourteen civil wars during the post-World War II era, thirteen of which now have ended. Although not as civil war-prone as some other areas of the world, Latin America has endured some extremely violent and destabilizing intrastate conflicts. (2) The region's experiences with civil wars and their resolution thus may prove instructive for other parts of the world in which such conflicts continue to rage. By examining Latin America's civil wars in some depth not only might we better understand the circumstances under which such conflicts are ended but also the institutional outcomes to which they give rise. More specifically, this paper focuses on the following central questions regarding Latin America's civil wars: Has the resolution of these conflicts produced significant institutional change in the countries in which they were fought? What is the nature of the institutional change that has taken place in the wake of these civil wars? What are the factors that are responsible for shaping post-war institutional change?

#### No Asia war—multiple safeguards and reversible tensions

**Feng 10 –** professor at the Peking University International Studies [Zhu, “An Emerging Trend in East Asia: Military Budget Increases and Their Impact”, http://www.fpif.org/articles/an\_emerging\_trend\_in\_east\_asia?utm\_source=feed]

As such, the surge of defense expenditures in East Asia does not add up to an arms race. No country in East Asia wants to see a new geopolitical divide and spiraling tensions in the region. The growing defense expenditures powerfully illuminate the deepening of a regional “security dilemma,” whereby the “defensive” actions taken by one country are perceived as “offensive” by another country, which in turn takes its own “defensive” actions that the first country deems “offensive.” As long as the region doesn’t split into rival blocs, however, an arms race will not ensue. What is happening in East Asia is the extension of what Robert Hartfiel and Brian Job call “competitive arms processes.” The history of the cold war is telling in this regard. Arm races occur between great-power rivals only if the rivalry is doomed to intensify. The perceived tensions in the region do not automatically translate into consistent and lasting increases in military spending. Even declared budget increases are reversible. Taiwan’s defense budget for fiscal year 2010, for instance, will fall 9 percent. This is a convincing case of how domestic constraints can reverse a government decision to increase the defense budget. Australia’s twenty-year plan to increase the defense budget could change with a domestic economic contraction or if a new party comes to power. China’s two-digit increase in its military budget might vanish one day if the type of regime changes or the high rate of economic growth slows. Without a geopolitical split or a significant great-power rivalry, military budget increases will not likely evolve into “arms races.” The security dilemma alone is not a leading variable in determining the curve of military expenditures. Nor will trends in weapon development and procurement inevitably induce “risk-taking” behavior. Given the stability of the regional security architecture—the combination of U.S.-centered alliance politics and regional, cooperation-based security networking—any power shift in East Asia will hardly upset the overall status quo. China’s military modernization, its determination to “prepare for the worst and hope for the best,” hasn’t yet led to a regional response in military budget increases. In contrast, countries in the region continue to emphasize political and economic engagement with China, though “balancing China” strategies can be found in almost every corner of the region as part of an overall balance-of-power logic. In the last few years, China has taken big strides toward building up asymmetric war capabilities against Taiwan. Beijing also holds to the formula of a peaceful solution of the Taiwan issue except in the case of the island’s de jure declaration of independence. Despite its nascent capability of power projection, China shows no sign that it would coerce Taiwan or become **militarily** assertive over contentious territorial claims ranging from the Senkaku Islands to the Spratly Islands to the India-China border dispute. 

### Adv 2

#### Their only internal link evidence to global spillover says that fishing, overconsumption, and Cuba are alt-causes

**Brenner ‘8 –**

(Jorge Brenner, “Guarding the Gulf of Mexico’s valuable resources”, SciDevNet, 3-14-2008, http://www.scidev.net/en/opinions/guarding-the-gulf-of-mexico-s-valuable-resources.html)

The economic embargo is widely considered as the main barrier to international marine research and conservation programmes in the Gulf. But, given that the Gulf is enclosed by three countries, an integrated view of governance of common resources should prevail over the political strategies of the individual countries.

This common responsibility is often overlooked. We have abused the region's ecological resources in treating them as a source of wealth while failing to share responsibility for their conservation. In my opinion, this misunderstanding of the concept of the commons — owned by everyone and no one — has probably caused more damage than the economic embargo imposed on almost self-sufficient Cuba.

**<their card begins>**

Rich in biodiversity and habitats

The Gulf of Mexico is rich in biodiversity and unique habitats, and hosts the only known nesting beach of Kemp's Ridley, the world's most endangered sea turtle.

The Gulf's circulation pattern gives it biological and socioeconomic importance: water from the Caribbean enters from the south through the Yucatan Channel between Cuba and Mexico and, after warming in the basin, leaves through the northern Florida Strait between the United States and Cuba to form the Gulf Stream in the North Atlantic that helps to regulate the climate of western Europe.

**<their card ends>**

About one-third of the Gulf is a broad continental shelf, which provides a wealth of fisheries. Intensive fishing is the biggest factor interfering with the Gulf's environment, and is an area where the three governments should cooperate in managing this international resource.

#### Individual ecosystems are resilient

**Ridder 2008** – PhD, School of Geography and Environmental Studies, University of Tasmania (Ben, Biodiversity And Conservation, 17.4, “Questioning the ecosystem services argument for biodiversity conservation”) \*ES = environmental services

That the low resilience assumption is largely false is apparent in the number of examples of species extinctions that have not brought about catastrophic ecosystem collapse and decline in ES, and in the generally limited ecosystem influence of species on the cusp of extinction. These issues have been raised by numerous authors, although given the absence of systematic attempts to verify propositions of this sort, the evidence assembled is usually anecdotal and we are forced to trust that an unbiased account of the situation has been presented. Fortunately a number of highly respected people have discussed this topic, not least being the prominent conservation biologist David Ehrenfeld. In 1978 he described the ‘conservation dilemma’, which “arises on the increasingly frequent occasions when we encounter a threatened part of Nature but can find no rational reason for keeping it” (Ehrenfeld 1981, p. 177). He continued with the following observation:

Have there been permanent and significant ‘resource’ effects of the extinction, in the wild, of John Bartram’s great discovery, the beautiful tree Franklinia alatamaha, which had almost vanished from the earth when Bartram first set eyes upon it? Or a thousand species of tiny beetles that we never knew existed before or after their probable extermination? Can we even be certain than the eastern forests of the United States suffer the loss of their passenger pigeons and chestnuts in some tangible way that affects their vitality or permanence, their value to us? (p. 192)

Later, at the first conference on biodiversity, Ehrenfeld (1988) reflected that most species “do not seem to have any conventional value at all” and that the rarest species are “the ones least likely to be missed… by no stretch of the imagination can we make them out to be vital cogs in the ecological machine” (p. 215). The appearance of comments within the environmental literature that are consistent with Ehrenfeld’s—and from authors whose academic standing is also worthy of respect—is uncommon but not unheard of (e.g., Tudge 1989; Ghilarov 1996; Sagoff 1997; Slobodkin 2001; Western 2001).

#### If they beat our resiliency claims, then legal remedies can’t solve oil spills – paradigm shift key

**Craig 11** [“Legal Remedies for Deep Marine Oil Spills and Long-Term Ecological Resilience: ¶ A Match Made in Hell”, Robin Kundis Craig, Professor of Law and Associate Dean for Environmental Programs, Florida State University College of Law, 12/20/2011, BRIGHAM YOUNG UNIVERSITY LAW REVIEW]

176¶ The Deepwater Horizon Commission had several other ¶ recommendations for governance reforms, although it largely chose ¶ to hew close to existing law and policy, tinkering with existing ¶ structures rather than promoting a different and more precautionary ¶ philosophical approach.¶ 177¶ More important for purposes of this ¶ Article, however, is the Commission’s unquestioned assumption of ¶ the Gulf’s continuing ability to recover from massive oil spills ¶ (resilience in the first sense). In particular, its environmental ¶ recommendations seek to ensure, inter alia, that “[t]he environment ¶ and the economy of the Gulf region recovers as completely and as ¶ quickly as possible, not only from the direct impacts of the spill, but ¶ from the decades of degradation that proceeded it.”¶ 178¶ ¶ This is natural resources law’s first-sense resilience dependence in ¶ action—an unwarranted assumption that human actions are unlikely ¶ to push ecosystems over ecosystem thresholds into different ¶ structures and functions that, generally, will have significantly ¶ reduced value to the humans that depend on the current ecological ¶ state. As William C. Clark, Dixon D. Jones, and C.S. Holling have ¶ noted, “A system which is globally stable is admirable for blind trialand-error experimentation: it will always recover from any ¶ perturbation. It is this paradigm of an infinitely forgiving Nature that ¶ has been assumed implicitly in the past . . . .”¶ 179¶ Nevertheless, as a ¶ result of this first-sense resilience dependence, the laws and policies ¶ governing offshore oil drilling (and many other kinds of natural ¶ resource management) base their regulatory and liability regimes on ¶ the assumption that violators can in fact “make the public and the ¶ environment whole.”¶ 180¶ What would happen instead if we incorporated full resilience ¶ theory into our laws? As Brian Walker and David Salt have discussed ¶ at length, “Resilience thinking presents an approach to managing ¶ natural resources that embraces human and natural systems as ¶ complex systems continually adapting through cycles of change.”¶ 181¶ In addition to adopting a systems perspective on ecosystem ¶ management, resilience thinking fully incorporates the implications ¶ of resilience in the second sense (potential ecological regime shifts)— ¶ the recognition that “[s]ocio-ecological systems can exist in more ¶ than one kind of stable state. If a system changes too much, it ¶ crosses a threshold and begins behaving in a different way, with ¶ different feedbacks between its component parts and a different ¶ structure.”¶ 182¶ Resilience thinking therefore seeks not—as is true ¶ under current management paradigms—to tweak the operations of ¶ an ecosystem in order to optimize particular products or functions¶ 183¶ (for example, oil production in the Gulf). Rather, it seeks to more ¶ humbly recognize that “[t]he complexity of the many linkages and ¶ feedbacks that make up a socio-ecological system is such that we can ¶ never predict with certainty what the exact response will be to any ¶ intervention in the system.”¶ 184¶ In other words, resilience thinking ¶ acknowledges what is particularly true with respect to marine ¶ ecosystems: most of the time, we have only the most simplistic of ¶ understandings of what our actions do to the ecosystems that we ¶ both impact and depend upon.¶ 185¶ Operationalizing resilience thinking is not easy, especially given ¶ current natural resources management norms and paradigms. ¶ However, some of the ways in which it might make a difference to ¶ our current laws governing offshore oil drilling are: ¶  Comprehensive ecosystem surveys should precede resource ¶ development and exploitation rather than follow them. ¶ While resilience thinking teaches us that we will never¶ completely understand the complex functioning, ¶ interactions, and responses of ecosystems—for example, ¶ Clark, Jones, and Holling consider management ¶ “surprises” inevitable¶ 186¶ —that acknowledgement of ¶ human limitation should not become an excuse for ¶ operating completely blindly. Indeed, the process of ¶ learning, often embodied in the inclusion of adaptive ¶ management, is generally considered a critical component ¶ of resilience thinking and management.

#### Too many alt causes

**Pynn 7** (Larry, staff writer at The Vancouver Sun, “Global warming not biggest threat: expert,” The Vancouver Sun, http://www2.canada.com/vancouversun/news/story.html?id=6e2988da-31ab-4697-810d-7a008306d571&p=1)

"We all worry about climate change, as we should, but it doesn't mean we shouldn't worry about protecting habitat," says James Grant, a biology professor at Concordia University in Montreal and co-author of a new report on threats to endangered species in Canada. "The really immediate causes right now for many species are things like farming, urbanization and habitat loss caused by the direct things we do." Research by Grant and his pupils shows the biggest threat is habitat loss at 84 per cent, overexploitation 32 per cent, native species interactions 31 per cent, natural causes 27 per cent, pollution 26 per cent, and introduced species 22 per cent. On average, species are threatened by at least two of the six categories. Human activities representing the biggest source of habitat loss and pollution are not industrial resource extraction, but agriculture at 46 per cent and urbanization at 44 per cent. "Farming is huge," Grant said in an interview. "The Prairies are one of the most affected habitats in the world. We've turned them into wheat fields." The southern Okanagan-Similkameen is another example, home to about one-third of species at risk in B.C. as well as a thriving agricultural industry, including vineyards, and increased urban development.

#### Litany of alt causes

**Bruno 10,** associate professor UNC Chapel Hill, [John F., May 3, “[Biodiversity Loss Continues Unabated Despite International Efforts](http://www.huffingtonpost.com/john-f-bruno/biodiversity-loss-continu_b_561699.html)”, <http://www.huffingtonpost.com/john-f-bruno/biodiversity-loss-continu_b_561699.html>]

Betting on biodiversity loss is a pretty sure thing. The earth'splant and animal species are disappearing at a sobering rate due to pressures including habitat loss, climate change, pollution and over-harvesting. Despite a few success stories and steps in the right direction, we are falling far short of stemming these losses. [Biodiversity](http://www.unep.org/iyb/about_iyb.asp#biodiv) is the entire range of biological variety in the world, including the diversity of genotypes, species and ecosystems. It can be measured on levels from DNA molecules all the way up to broad taxonomic categories such as families and phyla. Monitoring the fate of any of these aspects of biodiversity at a global scale is a daunting task. Thus, we know little about the rates and patterns of biodiversity loss or the effectiveness of global mitigation plans such as the [2002 Convention on Biological Diversity.](http://www.iucn.org/iyb/iucn/convention_on_biological_diversity/)  [Dr. Stuart Butchart](http://www.unep-wcmc.org/latenews/PressRelease.htm) of the [UNEP World Conservation Monitoring Centre](http://www.unep-wcmc.org/) and [BirdLife International](http://www.birdlife.org/)tackled the problem by assembling aninternational team of conservation scientists (that I was part of) to calculate trends in global biodiversity. The idea was to assemble several dozen indices that we had sound, long term data for including population trends for birds and other vertebrates and the loss of habitats such as forests, seagrass beds and coral reefs. As we recently reported in Science magazine, our analysis indicates that biodiversity has continued to decline over the past four decades with no detectable abatement for most indices. This is largely due to increased pressures resulting from human population growth, economic development and globalization but it also seems clear that our international response to the biodiversity crisis has been inadequate. Every aspect of biodiversity on earth is unique. The species that we have already driven extinct, from the [Dodo](http://en.wikipedia.org/wiki/Dodo) to the [Tasmanian Tiger](http://en.wikipedia.org/wiki/Thylacine), can never be resurrected or replaced. As a field ecologist, I have been lucky to experience and work on some truly wondrous examples of the earth's biodiversity from the tide pools of the Pacific Northwest to rainforests in Costa Rica to alpine habitats in the Rocky Mountains. The downside of my otherwise fantastic job is that I witness the degradation of nature firsthand. The coral reefs of the Florida Keys of today bear little resemblance to the underwater jungles patrolled by large sharks that I snorkeled over as a kid 35 years ago. Over the last two decades I have observed and documented striking biodiversity losses even on isolated and seemingly untouched reefs.