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## Off

### Their Text:

The United States Federal Government should require Congressional authorization through a policy trial prior to the introduction of United States Armed Forces into armed conflict, unless to repel attacks.

### 1

#### T RESTRICTIONS

#### A. Restrictions are prohibitions on action --- excludes conditions

Jean Schiedler-Brown 12, Attorney, Jean Schiedler-Brown & Associates, Appellant Brief of Randall Kinchloe v. States Dept of Health, Washington, The Court of Appeals of the State of Washington, Division 1, http://www.courts.wa.gov/content/Briefs/A01/686429%20Appellant%20Randall%20Kincheloe%27s.pdf

3. The ordinary definition of the term "restrictions" also does not include the reporting and monitoring or supervising terms and conditions that are included in the 2001 Stipulation.

Black's Law Dictionary, 'fifth edition,(1979) defines "restriction" as;

A limitation often imposed in a deed or lease respecting the use to which the property may be put. The term "restrict' is also cross referenced with the term "restrain." Restrain is defined as; To limit, confine, abridge, narrow down, restrict, obstruct, impede, hinder, stay, destroy. To prohibit from action; to put compulsion on; to restrict; to hold or press back. To keep in check; to hold back from acting, proceeding, or advancing, either by physical or moral force, or by interposing obstacle, to repress or suppress, to curb.

In contrast, the terms "supervise" and "supervisor" are defined as; To have general oversight over, to superintend or to inspect. See Supervisor. A surveyor or overseer. . . In a broad sense, one having authority over others, to superintend and direct. The term "supervisor" means an individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but required the use of independent judgment.

Comparing the above definitions, it is clear that the definition of "restriction" is very different from the definition of "supervision"-very few of the same words are used to explain or define the different terms. In his 2001 stipulation, Mr. Kincheloe essentially agreed to some supervision conditions, but he did not agree to restrict his license.

#### B. Vote negative, they explode limits and make the topic bidirectional because the plan can tinker with the worst aspect of a topic area and say that makes everything else legitimate

### 2

#### EAST ASIA DA

#### **The Executive is using threats of force to dissuade arms racing in East Asia now---solves stability---assumes Syria**

Waxman 12/3/13 (Professor of Law, Colombia, “The Constitutional Power to Threaten War,” @SSRN, pg 24)

Although the Obama administration pulled back from this rhetoric and placed greater emphasis on international institutions, it has continued to rely on threatened force as a key pillar of its strategy with regard to deterring threats (such as aggressive Iranian moves), intervening in humanitarian crises (as in Libya), and reassuring allies.111 With regard to East Asia, for example, the credible threat of U.S. military force is a significant element of U.S. strategy for deterring Chinese and North Korean aggression as well as reassuring other Asian powers of U.S. protection, to avert a destabilizing arms race.112 In justifying possible military force against Syria in response to its government’s use of chemical weapons, President Obama emphasized the credible threat of U.S. military action as necessary to dissuade states and terrorist organizations from acquiring or using WMD.113

The plan guts treaty commitments to East Asia---specifically South Korea---invites war and fractures the alliance---executive authority is the key signal

Rapp-Hooper 9/13/13 (Mira is a Stanton Nuclear Security Fellow at the Council on Foreign Relations and a PhD candidate at Columbia University. “Do Chemical Weapons Threaten US Extended Deterrence in Asia?,” http://thediplomat.com/2013/09/do-chemical-weapons-threaten-us-extended-deterrence-in-asia/)

Prior to President Obama’s decision to delay the Congressional vote on military intervention in Syria, top administration officials told Congress that a failure to punish Bashar al-Assad’s chemical weapons use would reverberate with allies in East Asia. "North Korea is hoping for ambivalence from the Congress," Secretary of State John Kerry told the House Foreign Affairs Committee last week. Similarly, Secretary of Defense Chuck Hagel suggested that South Korea was gravely concerned about the North’s WMD capacity, and argued that the DPRK could be emboldened to use chemical weapons if the U.S. failed to uphold the norm of chemical weapons non-use. With military action on “pause” as the administration evaluates the prospects of a chemical weapons handover by Assad, it is worth contemplating this question: If the United States fails to take punitive action against Syria for chemical weapons use, will allies (and South Korea in particular) doubt the United States’ commitment to defend them from the same? On one hand, there is a strong case to be made that Syria and South Korea are apples and oranges: A decision not to intervene militarily to uphold an internationally accepted chemical weapons taboo hardly suggests that the United States would fail to come to the aid of a close treaty ally if it were the victim of a chemical attack. Syria is not party to the Chemical Weapons Convention, and though it is a signatory to the Geneva Protocol, which outlaws the use of poison gas in interstate war, that treaty has no formal enforcement mechanism. The United States’ decision to intervene in Assad’s horrendous gassing of his own people would be out of a desire to reinforce a norm, rather than out of any specific, positive legal obligation. Contrast this to the U.S.-ROK relationship. In 1953, the United States and South Korea signed a Mutual Defense Treaty, which states that an attack on either ally in the Pacific region will be treated as a threat to the peace and security of the other. Since that document was signed, the United States has deployed tens of thousands of troops on South Korean soil, participated in a joint military command structure with its ally, and coordinated action to respond to countless provocations by North Korea. Moreover, in recent years, as the United States has reduced the role of nuclear weapons in its overall deterrence posture, it has taken great care to account for South Korea’s concerns about a chemical or biological attack from the North. The 2010 Nuclear Posture Review strengthened its negative security assurances and circumscribed the United States’ willingness to use nuclear weapons to respond to chemical or biological attacks unless the attacker possessed nuclear weapons and was out of compliance with its NPT (read: North Korea). The United States has therefore retained the right to respond to a chemical attack on South Korea from the North using nuclear weapons. Given this forceful and carefully crafted declaratory policy, it is difficult to imagine that Washington would ever abandon Seoul if it were the victim of a brutal gas attack. On the other hand, the decision-making process over intervention in Syria has proceeded in a way that may be deeply disquieting to allies, treaties and declaratory policies aside. The President’s decision to turn to Congress “in the absence of a direct of imminent threat,” suggests that the United States may delay military action even if the Commander-in-Chief deems it necessary. While, once again, South Korea is no Syria, the credibility of U.S. security guarantees not only requires the United States to convince its allies that it will provide them with military support, but that it will do so promptly in their hour of need. In an age of massively destructive weapons and long-range delivery vehicles, these promises have generally been associated with the centralization of war powers in the executive branch. The decision to pause to consider Congress’s views may stoke allies’ fears that their security could be held hostage to checks and balances. Indeed, most of the United States’ defense treaties state that it will “act to meet the common danger in accordance with its constitutional processes.” In the last week and a half, said constitutional processes can’t look pretty if you’re sitting in Seoul. Given the often-cacophonous messaging of the last several weeks, assurances to treaty allies like South Korea must be made clear. Specifically, the U.S. should state clearly that an attack on its allies, be it conventional, chemical, or anything else, is an “imminent threat,” and that protecting them is a vital U.S. interest. Whether or not North Korea is hoping for ambivalence, the South should get nothing of the sort.

Nuclear war

Hayes and Green 10 (Peter, Professor of International Relations – Royal Melbourne Institute of Technology and Director – Nautilus Institute, and Michael Hamel, Victoria University, “The Path Not Taken, the Way Still Open: Denuclearizing the Korean Peninsula and Northeast Asia”, Nautilus Institute Special Report, 1-5, http://www.nautil us.org/fora/security/10001HayesHamalGreen.pdf)

At worst, there is the possibility of nuclear attack1, whether by intention, miscalculation, or merely accident, leading to the resumption of Korean War hostilities. On the Korean Peninsula itself, key population centres are well within short or medium range missiles. The whole of Japan is likely to come within North Korean missile range. Pyongyang has a population of over 2 million, Seoul (close to the North Korean border) 11 million, and Tokyo over 20 million. Even a limited nuclear exchange would result in a holocaust of unprecedented proportions. But the catastrophe within the region would not be the only outcome. New research indicates that even a limited nuclear war in the region would rearrange our global climate far more quickly than global warming. Westberg draws attention to new studies modelling the effects of even a limited nuclear exchange involving approximately 100 Hiroshima-sized 15 kt bombs2 (by comparison it should be noted that the United States currently deploys warheads in the range 100 to 477 kt, that is, individual warheads equivalent in yield to a range of 6 to 32 Hiroshimas).The studies indicate that the soot from the fires produced would lead to a decrease in global temperature by 1.25 degrees Celsius for a period of 6-8 years.3 In Westberg’s view: That is not global winter, but the nuclear darkness will cause a deeper drop in temperature than at any time during the last 1000 years. The temperature over the continents would decrease substantially more than the global average. A decrease in rainfall over the continents would also follow…The period of nuclear darkness will cause much greater decrease in grain production than 5% and it will continue for many years...hundreds of millions of people will die from hunger…To make matters even worse, such amounts of smoke injected into the stratosphere would cause a huge reduction in the Earth’s protective ozone.4 These, of course, are not the only consequences. Reactors might also be targeted, causing further mayhem and downwind radiation effects, superimposed on a smoking, radiating ruin left by nuclear next-use. Millions of refugees would flee the affected regions. The direct impacts, and the follow-on impacts on the global economy via ecological and food insecurity, could make the present global financial crisis pale by comparison. How the great powers, especially the nuclear weapons states respond to such a crisis, and in particular, whether nuclear weapons are used in response to nuclear first-use, could make or break the global non proliferation and disarmament regimes. There could be many unanticipated impacts on regional and global security relationships5, with subsequent nuclear breakout and geopolitical turbulence, including possible loss-of-control over fissile material or warheads in the chaos of nuclear war, and aftermath chain-reaction affects involving other potential proliferant states. The Korean nuclear proliferation issue is not just a regional threat but a global one that warrants priority consideration from the international community.

### 3

Plan but only conventional, non-nuclear military forces

The United States Federal Government should require Congressional authorization through a policy trial prior to the introduction of conventional non-nuclear United States Armed Forces into armed conflict, unless to repel attacks.

The United States Federal Government should declare that the United States retains nuclear weapons solely to respond to nuclear attacks against ourselves, our forces, or our allies.

The plan limits the presidents authority to first strike with nuclear weapons

Lobel 8 – Jules Lobel, Professor at University of Pittsburgh Law School, “War Powers for the 21st Century: The Constitutional Perspective”, Testimony Before the Subcommittee on International Organizations, Human Rights and Oversight Committee on Foreign Affairs U.S. House of Representatives, 4-10, http://democrats.foreignaffairs.house.gov/110/lob041008.htm

Finally, it is important to note that the President’s Commander in Chief power to repel sudden attacks is an independent but not preclusive emergency authority. The President has the independent constitutional authority to use American forces in self defense until Congress can meet and decide what to do, but that independent power is not a sole, exclusive power which Congress cannot limit or restrict. Congress can limit the President’s “repel attack” authority to a certain time period. Congress also could have prohibited the President from responding with nuclear weapons to a Soviet attack on American forces in Europe, or from attacking China in response to an attack on U.S. forces in Korea. The President’s Commander in Chief power to repel attacks allows him to act in self defense, independent of congressional authorization where Congress is silent, but not to act in disregard of affirmative restrictions that Congress enacts.

#### Congressional pre delegation squashes nuclear deterrence

Moore 86 (John, Professor of Law @ the University of Virginia, “The Constitution, Foreign Policy and Deterrence: The Separation of Powers in a Dangerous World,” pg 6, dsg)

Now in addition to these examples, we should be aware that there are many proposals being seriously urged for additional constraints on the presidential authority in national security settings. For example, Dr. Jeremy Stone, a supporter of a nuclear "no-first-use" policy for NATO, has suggested one in a much publicized article in the Fall 1984 issue of Foreign Policy and held at least one substantial conference sponsored by the Federation of American Scientists (of which he is director) in November 1985 to discuss it. Stone proposes that, with certain possible exceptions, no nuclear weapons could be employed by the President in a NATO defense emergency absent prior approval by Congress or a specially created congressional committee. Dr. Stone has also suggested in a nonlawyer statement of bad constitutional law that his proposal is constitutionally required. Needless to say, this proposal is not constitutionally required and could, if adopted, severely undercut deterrence—already strained in the NATO area. The separation of powers is an important principle of the American democratic system. It is important, however, that, whatever the precise constitutional parameters of the foreign affairs powers, Congress should exercise its power with a realistic understanding of the rationale strongly favoring executive control of foreign policy. Too often we approach these issues solely as a matter of constitutional line drawing with the usual indeterminate answers at the edges. We also must begin to appraise congressional action—even if clearly within congressional competence—by a broad standard of contribution to an effective American foreign policy. In this connection, it is particularly important that we appraise the effect of congressional actions on deterrence. That, after all, is the key issue if we truly wish to avoid war.

#### Requiring congressional authorization is equivalent to a No First Use policy

Ullman 72 (Richard H. Ullman, Professor of International Relations, Princeton University, “NO FIRST USE OF NUCLEAR WEAPONS,” Foreign Affairs, July 1972 vol. 50)

An alternative to a fiat "no-first-use" declaration, at least for the United States, might come through congressional legislation stipulating that the President, as Commander in Chief of the armed forces, may not initiate the use of nuclear weapons without receiving prior congressional authorization. Congress now has before it so-called War Powers legislation stipulating that in the absence of a formal declaration of war the President may not engage the armed forces in military operations for more than 30 days without specific congressional authorization. This draft legislation is premised upon the assumption that the "collective judgment" of Congress and the President should apply to the "initiation" and the "continuation" of hostilities. Senator Fulhright, Congressman Dellums, and others (including the Federation of American Scientists, one of the most active lobhying groups in the arms-control area) have pointed out that just as Congress should be concerned to limit the power of the President to sustain hostilities without its approval, so it should also limit his power to escalate them across the threshold from conventional to nuclear weapons. They are seeking to amend the War Powers legislation to that effect." In many respects the effects of this proposed legislation would be similar to those of an orthodox commitment to "no first use." Nuclear threats would be inappropriate. Force deployments might reflect the assumption that the United States would not initiate the use of nuclear weapons. Just as in the case of a "nofirst-use" commitment, U.S. ability to respond to a nuclear attack, and therefore the efficacy of the U.S. nuclear deterrent, would be undiminished. The granting of congressional authorization, should it take place, would be equivalent to a formal announcement rescinding a prior "no-first-use" commitment, unilateral or multilateral. Such authorization (or the rescinding of a prior "no-first-use" commitment) would, in fact, constitute in itself an important diplomatic instrument. It would convey to an adversary the seriousness with which Washington viewed a threat, and its willingness to risk nuclear war in response. In this respect congressional authorization (or the public rescinding of "no first use") would be akin to the "demonstration use" which figures in some war-fighting scenarios, when one party to a conflict explodes a nuclear weapon in a manner which inflicts no damage but nevertheless conveys resolve.

#### NFU makes nuclear primacy inoperative – first-strike threats define primacy

**Lieber and Press, Notre Dame and Dartmouth political science professors, 2006**

(Keir and Daryl, “The Rise of U.S. Nuclear Primacy”, Foreign Affairs, March/April, ebsco, ldg)

During the Cold War, Washington relied on its nuclear arsenal not only to deter nuclear strikes by its enemies but also to deter the Warsaw Pact from exploiting its conventional military superiority to attack Western Europe. It was primarily this latter mission that made Washington rule out promises of "no first use" of nuclear weapons. Now that such a mission is obsolete and the United States is beginning to regain nuclear primacy, however, Washington's continued refusal to eschew a first strike and the country's development of a limited missile-defense capability take on a new, and possibly more menacing, look. The most logical conclusions to make are that a nuclear-war-fighting capability remains a key component of the United States' military doctrine and that nuclear primacy remains a goal of the United States.

Perception o

Loss of credible nuclear deterrence is the only existential threat

Kallberg 13 (Jan PhD, Assistant Professor, Homeland Security at Arkansas Tech University “Nuclear deterrence in a Second Obama Term,” *International Security* http://cftni.org/Nuclear%20Deterrence%20in%20a%20Second%20Obama%20Term.pdf)

In the months prior to the 2012 presidential election in the United states, members of the obama administration and sympathetic organizations inside the Beltway began floating the idea that the administration would pursue – after an obama victory – further reductions in the Us nuclear arsenal. With the ink still wet on the new stARt treaty, efforts to reduce the American arsenal to 1000 operationally deployed strategic nuclear weapons or, as some suggest, 500, is certainly premature. these efforts illustrate a poor understanding of nuclear deterrence theory and practice and the ramifications of a United states that lacks a credible nuclear deterrent. For those advocates of rushing headlong into an ever smaller nuclear arsenal, it may be time for a refresher on the role of the United states’ nuclear arsenal. Back to basics the first recorded example of deterrence illustrates that the concept dates to the earliest days of mankind. According to the book of Genesis, after creating the world, God planted the Garden of eden and created man to dwell in it. to quote Genesis chapter 2 verses 16 and 17, “And the Lord God commanded the man saying, ‘of every tree in the garden you may freely eat; but of the tree of the knowledge of good and evil you shall not eat. For in the day that you eat of it, you shall surely die.’” today, the concept is defined by the Department of Defense Dictionary of military and Associated terms as “the prevention of action by the credible threat of unacceptable counteraction and/or belief that the cost of action outweighs the perceived benefits.” According to Dr. strangelove, “Deterrence is the art of producing in the mind of the enemy the fear to attack.” Deterrence’s success or failure is often determined by a simple formula. Credibility equals capability plus will. In the earlier example, God was capable of carrying out his coercive threat, yet Adam ignored God’s warning because he doubted his will to carry out that threat. thus, deterrence failed. the spirit of deterrence is best encapsulated in the words of the Roman strategist Vegetius who wrote, “si vis pacem para bellum.” If you desire peace, prepare for war. While the desire to deter adversaries and allies from taking undesirable actions is an old concept, it is all too often associated with the more recent advent of the atomic bomb. In 1946, Bernard Brodie observed, “the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.” Brodie was among the first strategists to understand that nuclear weapons ushered in a new era of deterrence thinking and practice. No longer could great powers engage in total warfare because of the potential for a conventional conflict to escalate to nuclear war. over the decades that followed, leading strategic thinkers at the RAnD Corporation, like Bernard Brodie, thomas schelling, herman Kahn, and others, devoted their careers to contemplating how best to deter the use of nuclear weapons. By the 1960s, two clear schools of thought emerged. thomas schelling advocated a stable balance of terror in which both the United states and the soviet Union were capable of launching a retaliatory strike should the other side attack first. By creating mutually assured destruction, proponents believed that neither side would attack. thus, deterrence would succeed. herman Kahn, on the other hand, advocated the creation of a clear American advantage. this meant developing systems that could limited the damage caused by a soviet attack. hardened shelters, missile defenses, and a range of additional capabilities were required to achieve Kahn’s vision. In the end, the financial costs of Kahn’s approach were too great. this gave schelling the greatest influence in defense policy. thus, when Schelling wrote, “Deterrence rests today on the threat of pain and extinction, not just on the threat of military defeat,” he was absolutely correct. Whether schelling or Kahn offered a superior approach to strategic deterrence is largely unimportant. What is more important is the fact that strategic deterrence between the United states and the soviet Union never failed. For half a century, two superpowers avoided a direct confrontation because they feared a conventional conflict would spiral out of control and lead to nuclear holocaust. In the end, the United states won the Cold War because soviet socialism was no match for Western free market capitalism. Peace was kept because of the efforts of American and european Airmen, sailors, and soldiers who provided a credible nuclear deterrent. The fact is simple; nuclear weapons are responsible for ending great power war. this is not a point of limited significance. As Admiral Richard mies, former head of Us strategic Command, is fond of pointing out, between 1600 and 1945 an average of 1-2% of the world’s population perished each year because of war. since 1945, that number has declined to 0.3%. this represents a 70-90% reduction in the number of conflict-related deaths. to be even more specific, between 1900 and 1945, 200 million people perished due to conflicts. since 1945, 20 million have suffered a similar fate. that reduction is conflict related deaths is nothing to dismiss. the point is an important one. over the last sixty-five years, tens of millions of lives have been saved because of the strategic deterrent the United states provides north America and europe. the nuclear arsenal’s role in the continued promotion of peace is something Americans and europeans, beneficiaries of extended deterrence, should never take for granted. though many Americans understood the role of strategic deterrence as an aspect of national security strategy during the Cold War, once the Wall fell and the soviet Union collapsed, all too many citizens lost sight of the nuclear arsenal’s continued relevance. seeing an opportunity, the same nuclear abolitionists who marched in the streets of Washington decades earlier – demanding disarmament – reinvigorated their efforts to eliminate the greatest tool of peace ever created. With the dramatic shift in the strategic environment that resulted from the soviet Union’s collapse, there was good reason to resize the arsenal, but no reason to eliminate it. since 1991, the nuclear arsenal has declined by more than 90%. soon, the United states will field 1,550 operationally deployed strategic nuclear warheads as part of an agreement with the Russians under the new stARt treaty. When nuclear abolitionists like Ivo Daalder and Jan Lodal write, “the reality has yet to sink in. Us nuclear policies remain stuck in the Cold War, even as the threats the United states faces have changed dramatically,” they are illustrating that it is they, not the military, who have yet to move beyond the Cold War. ongoing efforts, such as the Deterrence operations-Joint operating Concept, clearly demonstrate that the services are actively engaged in revising deterrence strategy to address current and future threats. no organization better understands the evolution of nuclear deterrence than the Us Air Force. In examining the efforts of Us strategic Command, Air Force Global strike Command, and headquarters Air Force, it is clear that these organizations are actively reexamining and updating the intellectual foundations of their strategic thinking. however, the unending attacks on the utility of the arsenal have had their desired effect. thus, some readers may not appreciate exactly how important the nuclear arsenal is to the preservation of American sovereignty, the nation’s vital interests, and the security of NATO. Yes, the current fight is focused on violent Islamic fundamentalism, but al Qaeda and other organizations like it do not pose an existential threat to America. Only nuclear armed states like Russia, China, north Korea – and a nuclear armed Iran – can do so. Not only do American Airmen and sailors ensure that these countries dare not attack the United states or its allies, but they ensure that nuclear powers carefully consider every potentially provocative action they may desire to undertake. Let us reiterate a central point. Nuclear weapons are not only designed to deter the use of other nuclear weapons, but they are also effective in deterring and limiting conventional conflict. This is a point too many seeking to influence American foreign policy in the coming years seem to forget. In part, it is because of the success of nuclear weapons that the worst threat NATO countries face comes from non-state actors like al Qaeda, who must resort to terrorism – a tactic employed by our weakest adversaries. We should be thankful al Qaeda is our problem. the threat was once much greater. When a colleague from the Us Air Force Academy recently said that the least desirable career fields for graduating cadets were those related to the nuclear enterprise, it was shocking and disappointing. Admittedly, broad support for the arsenal has declined within the intelligentsia of Boston, Washington, D.C., and on Capitol hill. the focus on terrorism over the past decade has left nuclear forces neglected and in need of both intellectual reinvigoration and platform recapitalization. this is unlikely to change dramatically over the next few years. With difficult economic times facing the nation, the nuclear enterprise will find it difficult to obtain the fiscal resources required to refurbish and replace their systems. Congressional staffers and Air Force senior leaders offer reason for both concern and optimism. on the downside, nuclear weapons are an unpopular topic of discussion in Congress – even for those who support the arsenal. Unfortunately, the arsenal largely generates apathy among the majority in Congress. this is a result of the arsenal’s success at providing a tangible peace. thus, proponents do not have the critical mass of support required to ensure the nuclear complex receives the modernization funding the obama administration and senate Republicans agreed upon as part of the deal they struck to ensure passage of the new stARt treaty. on the upside, senate Republicans will neither support further reductions in operationally deployed strategic nuclear weapons, nor will they ratify the Comprehensive test Ban treaty. In the case of the former, this is because the proposed funding cuts to modernization violate their agreement with the administration. In the case of the latter, as the former head of Us strategic Command, General Kevin Chilton, once said of nuclear weapons, “…when you set one off, it’s a high energy physics experiment. It’s pretty hard to understand and explain in models…” not surprisingly, many in the senate are unwilling to trade the United states’ right to future nuclear tests for computer models that may be accurate. And, while nuclear issues are an unpopular topic of discussion, there is a majority in the house and senate – Democrats and Republicans – who are committed to ensuring that the United states maintains the most capable arsenal of any nuclear weapons state. the Us Air Force leadership, which remains committed to a modern and capable nuclear force, is carefully navigating turbulent skies balancing support for the arsenal with the administration’s desire to reduce and eventually eliminate nuclear weapons. Where the Air Force has fallen short is in effectively explaining to cadets at the Air Force Academy and the American public why strategic deterrence remains a core national security requirement. thus, support for the arsenal has waned giving “global zero” advocates a legitimate chance to achieve their objectives. Perhaps it is time for the Us Air Force to take a lesson from the past. When, by the late 1970s, public support for the nuclear mission had ebbed, the UsAF commissioned First strike, a documentary that explained the role of nuclear forces in defending the nation. that documentary, albeit forgotten today, helped rebuild public confidence in the nuclear mission. It is certainly time for a twenty-first century remake of First strike both for an American public and the citizenry of nAto allies. this time, however, the number of potential threats is greater. Not only does Russia maintain an arsenal comparable to the American arsenal, but China is expanding its arsenal and developing both new warheads and more advanced delivery systems. North Korea, a clear adversary continues to launch small scale conventional attacks against south Korea, while also threatening Korean and American vital interests. Iran, another adversary, may soon possess nuclear weapons, which it is likely to deploy on an array of ballistic missiles. there is nothing about the geostrategic environment of today or of the likely future that suggests nuclear weapons are less relevant to the defense of the United states and its allies than in the past. Contrary to the prevailing view, the nation’s nuclear forces are likely to increase in their importance to national security in coming decades. As the current economic crisis in europe – and Japan’s lost decade – illustrate, neither can a country borrow its way to prosperity nor can it maintain both a large warfare and welfare state.

### 4

#### Fast Track DA

#### Fast Track fight is on the top of the agenda-Strong push from Obama is key-Failure collapses global trade momentum

Good-Farm Policy-12/31/13

The FarmPolicy.com News Summary

HEADLINE: Farm Bill; Ag Economy; and, Biofuels- Tuesday

And with respect to trade, the Chicago Tribune editorial board[18] noted yesterday that, 'President Barack Obama wants the power to negotiate free-trade treaties on a fast track. With Trade Promotion Authority, he would have a good chance of clinching huge trade pacts now being hammered out with Europe and Asia. Yet Congress may not give him that authority — for all the wrong reasons.' The Tribune opinion item stated that, 'Within months the White House hopes to finish talks on a proposed Trans-Pacific Partnership with a group of Asia-Pacific nations. Talks with the European Union on the planned Transatlantic Trade and Investment Partnership are progressing too. Those deals would eliminate barriers and promote economic activity between the U.S. and key allies. The upside is huge: Billions of dollars in new business would be generated if these pacts come to pass. 'Yet given the special interests that oppose free trade, neither deal stands much of a chance in Congress without TPA. Consider farm tariffs, one of the most frustrating roadblocks to any free-trade pact with Europe or Asia. The agriculture lobby here and abroad has long succeeded in imposing some of the least competitive public policies of any industry. Although farm protectionism hurts the vast majority of the world's citizens, standing up to clout-heavy constituencies such as U.S. sugar magnates requires extraordinary political courage. TPA is essential for overcoming the inevitable fight against vested interests that are determined to advance themselves at the expense of the nation's good. 'Federal lawmakers and the president have to make their case with much more gusto than we have seen so far. Congress could OK a Trade Promotion Authority bill in the first few months of 2014. But that won't happen without leadership on Capitol Hill and, especially, from the White House. Now's the time.'

#### Congressional debate over the plan tanks agenda

Kriner, 10

(Douglas, Assistant professor of poly sci at Boston University, “After the

Rubicon: Congress, Presidents, and the Politics of Waging War”, University of Chicago Press, Dec

1, 2010)

While congressional support leaves the president’s reserve of political capital intact,¶ congressional criticism saps energy from other initiatives on the home front by forcing the¶ president to expend energy and effort defending his international agenda. Political capital spent shoring up support for a president’s foreign policies is capital that is unavailable for his future policy initiatives. Moreover, any weakening in the president’s political clout may have¶ immediate ramifications for his reelection prospects, as well as indirect consequences for congressional races.59¶ Indeed, Democratic efforts to tie congressional Republican incumbents to President George W. Bush and his war policies paid¶ immediate political dividends in the 2006 midterms, particularly in states, districts, and counties that had suffered the highest¶ casualty rates in the Iraq War. 60 In addition to boding ill for the president’s perceived political capital¶ and reputation, such partisan losses in Congress only further imperil his programmatic¶ agenda, both international and domestic. Scholars have long noted that President Lyndon¶ Johnson’s dream of a Great Society also perished in the rice paddies of Vietnam. Lacking the requisite¶ funds in a war-depleted treasury and the political capital needed to sustain his legislative vision, Johnson¶ gradually let his domestic goals slip away as he hunkered down in an effort first to win and¶ then to end the Vietnam War. In the same way, many of President Bush’s highest second-term¶ domestic proprieties, such as Social Security and immigration reform, failed perhaps in large part because¶ the administration had to expend so much energy and effort waging a rear-guard action¶ against congressional critics of the war in Iraq.61 When making their cost-benefit calculations,¶ presidents surely consider these wider political costs of congressional opposition to their¶ military policies. If congressional opposition in the military arena stands to derail other¶ elements of his agenda, all else being equal, the president will be more likely to judge the benefits¶ of military action insufficient to its costs than if Congress stood behind him in the¶ international arena.

TPA key to trade leadership and global security

Riley-Senior Analyst Trade Policy, Heritage-4/16/13

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Senior Analyst in Trade Policy

Trade Promotion Authority (TPA) has been a critical tool for advancing free trade and spreading its benefits to a greater number of Americans. TPA, also known as “fast track” authority, is the legislative power Congress grants to the President to negotiate reciprocal trade agreements. Provided the President observes certain statutory obligations under TPA, Congress agrees to consider implementing those trade pacts without amending them. More than a decade has passed since TPA was last renewed in 2002, and its authority expired in 2007. Reinstituting TPA may well be the most important legislative action on trade for both Congress and the President in 2013 given the urgency of restoring America’s credibility in advancing open markets and securing greater benefits of two-way trade for Americans. As the case for timely reinstallation of an effective and practical TPA is stronger than ever, the quest for renewing TPA should be guided by principles that enhance trade freedom, a vital component of America’s economic freedom. Emerging TPA Renewal Debates Both House Ways and Means Committee chairman David Camp (R–MI) and Senate Finance Committee chairman Max Baucus (D–MT) have announced plans to pursue TPA legislation. However, many lawmakers have correctly pointed out that a proactive push from President Obama is critical, given that trade bills have been a thorny issue for many Democrats in recent years. Historically, it has been common practice, although not formally required, to have the President request that Congress provide renewed TPA. In fact, except for President Obama, every President since Franklin Roosevelt has either requested or received trade negotiating authority.[1] After four years of informing Congress it would seek TPA at “the appropriate time,” early this year the Obama Administration finally indicated its interest in working with Congress to get TPA done. The President’s 2013 trade agenda offered the Administration’s most forward-leaning language yet, specifying that “to facilitate the conclusion, approval, and implementation of market-opening negotiating efforts, we will also work with Congress on Trade Promotion Authority.”[2] In the 2002 Bipartisan Trade Promotion Authority Act, Congress—whose role in formulating U.S. trade policy includes defining trade negotiation objectives—made it clear that [t]he expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity.… Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.[3]

#### Free trade prevents multiple scenarios for world war and WMD Terrorism

Panzner 2008

Michael, faculty at the New York Institute of Finance, 25-year veteran of the global stock, bond, and currency markets who has worked in New York and London for HSBC, Soros Funds, ABN Amro, Dresdner Bank, and JPMorgan Chase “Financial Armageddon: Protect Your Future from Economic Collapse,” pg. 136-138

Continuing calls for curbs on the flow of finance and trade will inspire the United States and other nations to spew forth protectionist legislation like the notorious Smoot-Hawley bill. Introduced at the start of the Great Depression, it triggered a series of tit-for-tat economic responses, which many commentators believe helped turn a serious economic downturn into a prolonged and devastating global disaster. But if history is any guide, those lessons will have been long forgotten during the next collapse. Eventually, fed by a mood of desperation and growing public anger, restrictions on trade, finance, investment, and immigration will almost certainly intensify. Authorities and ordinary citizens will likely scrutinize the cross-border movement of Americans and outsiders alike, and lawmakers may even call for a general crackdown on nonessential travel. Meanwhile, many nations will make transporting or sending funds to other countries exceedingly difficult. As desperate officials try to limit the fallout from decades of ill-conceived, corrupt, and reckless policies, they will introduce controls on foreign exchange. Foreign individuals and companies seeking to acquire certain American infrastructure assets, or trying to buy property and other assets on the cheap thanks to a rapidly depreciating dollar, will be stymied by limits on investment by noncitizens. Those efforts will cause spasms to ripple across economies and markets, disrupting global payment, settlement, and clearing mechanisms. All of this will, of course, continue to undermine business confidence and consumer spending. In a world of lockouts and lockdowns, any link that transmits systemic financial pressures across markets through arbitrage or portfolio-based risk management, or that allows diseases to be easily spread from one country to the next by tourists and wildlife, or that otherwise facilitates unwelcome exchanges of any kind will be viewed with suspicion and dealt with accordingly. The rise in isolationism and protectionism will bring about ever more heated arguments and dangerous confrontations over shared sources of oil, gas, and other key commodities as well as factors of production that must, out of necessity, be acquired from less-than-friendly nations. Whether involving raw materials used in strategic industries or basic necessities such as food, water, and energy, efforts to secure adequate supplies will take increasing precedence in a world where demand seems constantly out of kilter with supply. Disputes over the misuse, overuse, and pollution of the environment and natural resources will become more commonplace. Around the world, such tensions will give rise to full-scale military encounters, often with minimal provocation. In some instances, economic conditions will serve as a convenient pretext for conflicts that stem from cultural and religious differences. Alternatively, nations may look to divert attention away from domestic problems by channeling frustration and populist sentiment toward other countries and cultures. Enabled by cheap technology and the waning threat of American retribution, terrorist groups will likely boost the frequency and scale of their horrifying attacks, bringing the threat of random violence to a whole new level. Turbulent conditions will encourage aggressive saber rattling and interdictions by rogue nations running amok. Age-old clashes will also take on a new, more heated sense of urgency. China will likely assume an increasingly belligerent posture toward Taiwan, while Iran may embark on overt colonization of its neighbors in the Mideast. Israel, for its part, may look to draw a dwindling list of allies from around the world into a growing number of conflicts. Some observers, like John Mearsheimer, a political scientist at the University of Chicago, have even speculated that an “intense confrontation” between the United States and China is “inevitable” at some point. More than a few disputes will turn out to be almost wholly ideological. Growing cultural and religious differences will be transformed from wars of words to battles soaked in blood. Long-simmering resentments could also degenerate quickly, spurring the basest of human instincts and triggering genocidal acts. Terrorists employing biological or nuclear weapons will vie with conventional forces using jets, cruise missiles, and bunker-busting bombs to cause widespread destruction. Many will interpret stepped-up conflicts between Muslims and Western societies as the beginnings of a new world war.

### 5

#### Text

The Executive branch of the United States should issue an executive order mandating the following:   
-preclude the President from initiating warfare without a prior policy trial prior to the introduction of United States Armed Forces into armed conflict

-an accompanying Fact Sheet explaining the administration’s rationale includes abiding by international law and the law of armed conflict  
-make enforcement of the order subject to judicial review.

#### Executive orders avoid politics, have the force of law, and are rarely overturned

Cooper-prof public administration Portland State- 2 [Phillip, By Order of the President: The Use and Abuse of Executive Direct Action” p.59

Executive orders are often used because they are quick, convenient, and relatively easy mechanisms for moving significant policy initiatives. Though itis certainly true that executive orders are employed for symbolic purposes, enough has been said by now to demonstrate that they are also used for serious policymaking or to lay the basis for important actions to be taken by executive branch agencies under the authority of the orders. Unfortunately, as is true of legislation, it is not always possible to know from the title of orders which are significant and which are not, particularly since presidents will often use an existing order as a base for action and then change it in ways that make it far more significant than its predecessors.¶ The relative ease of the use of an order does not merely arise from the fact that presidents may employ one to avoid the cumbersome and time consuming legislative process. They may also use this device to avoid some times equally time-consuming administrative procedures, particularly the rulemaking processes required by the Administrative Procedure Act.84 Because those procedural requirements do not apply to the president, it is tempting for executive branch agencies to seek assistance from the White House to enact by executive order that which might be difficult for the agency itself to move through the process. Moreover, there is the added plus from the agency's perspective that it can be considerably more difficult for potential adversaries to obtain standing to launch a legal challenge to the president's order than it is to move an agency rule to judicial review. There is nothing new about the practice of generating executive orders outside the White House. President Kennedy's executive order on that process specifically pro­vides for orders generated elsewhere.

### 6

The United States Congress should withdrawal its offers and pressures for arms sales agreements with East Asian contries.

## Case

### 1NC China

#### Obama will resist the plan-fights over war powers create intractable national diversions and impairs military decision making

**Lobel, Pittsburgh law professor, 2008**

(Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War”, Ohio State Law Journal, vol 69, lexis, ldg)

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the congressional restriction makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly embolden the President to ignore Congress’s strictures. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to ignore and violate legislative wartime enactments whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53 The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—wartime reality often favors a strong President who will overwhelm both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and ignore legislative enactments that seek to restrict their wartime authority. Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an intractable dispute over the statute’s constitutionality that saps the nation’s energy, diverts focus from the political issues in dispute, and endangers the rule of law. Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary. If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the crisis, chaos, and stalemate that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute. Moreover, the adoption of a contextual, realist approach will undermine rather than aid the cooperation and compromise between the political branches that is so essential to success in wartime. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, modern social science research suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This self-serving bias hardens each side’s position and allows the dispute to drag on, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

#### Crisis pressure and information asymmetry means Congress will defer to the executive

**Posner et al., Chicago law professor, 2011**

(Eric, The Executive Unbound, pg 7-10, ldg)

Having defined our terms as far as possible, our main critical thesis is that liberal legalism has proven unable to generate meaningful constraints on the executive. Two problems bedevil liberal legalism: delegation and emergencies. The first arises when legislatures enact statutes that grant the executive authority to regulate or otherwise determine policy, the second when external shocks require new policies to be adopted and executed with great speed. Both situations undermine the simplest version of liberal legalism, in which legislatures themselves create rules that the executive enforces, subject to review by the courts. Delegation suggests that the legislature has ceded lawmaking authority to the executive, de facto if not de jure,14 while in emergencies, only the executive can supply new policies and real-world action with sufficient speed to manage events. The two problems are related in practice. When emergencies occur, legislatures acting under real constraints of time, expertise, and institutional energy typically face the choice between doing nothing at all or delegating new powers to the executive to manage the crisis. As we will see, legislatures often manage to do both things; they stand aside passively while the executive handles the first wave of the crisis, and then come on the scene only later, to expand the executive's de jure powers, sometimes matching or even expanding the de facto powers the executive has already assumed. A great deal of liberal legal theory is devoted to squaring delegation and emergencies with liberal commitments to legislative governance. Well before World War I, the Madisonian framework of separated powers began to creak under the strain of the growing administrative state, typically thought to have been inaugurated by the creation of the Interstate Commerce Commission in 1887. For Madisonian theorists, delegation threatened the separation of powers by effectively combining lawmaking and law-execution in the same hands, and emergencies threatened legislative primacy by requiring the executive to take necessary measures without clear legal authorization, and in some cases in defiance of existing law. (We refer to the Madisonian tradition as it has developed over time and as it exists today, not to Madison himself, whose views before the founding were less legalistic than they would become during the Washington and Adams administrations.) As to both delegation and emergencies, Madisonian liberals have repeatedly attempted to compromise with the administrative state, retreating from one position to another and attempting at every step to limit the damage. In one prominent strand of liberal legal theory and doctrine, which has nominally governed since the early twentieth century, delegation is acceptable as long as the legislature supplies an "intelligible principle"15 to guide executive policymaking ex ante; this is the so-called "nondelegation doctrine." This verbal formulation, however, proved too spongy to contain the administrative state. During and after the New Deal, under strong pressure to allow executive policymaking in an increasingly complex economy, courts read the intelligible principle test so capaciously as to allow statutes delegating to the president and agencies the power to act in the "public interest," nowhere defined.'6 Before 1935, the U.S. Supreme Court mentioned nondelegation in dictum but never actually applied it to invalidate any statutes; in 1935, the Court invalidated two parts of the National Industrial Recovery Act on nondelegation grounds;" since then, the Court has upheld every challenged delegation. Subsequently, liberal legal theorists turned to the hope that legislatures could create administrative procedures and mechanisms of legislative and judicial oversight that would enforce legal constraints on the executive ex post, as a second-best substitute for the Madisonian ideal. In American administrative law, a standard account of the Administrative Procedure Act (APA), the framework statute for the administrative state, sees it as an attempt to translate liberal legalism into a world of large-scale delegation to the executive, substituting procedural controls and judicial review for legislative specification of policies. The APA applies to administrative action in a broad range of substantive areas, but does not apply to presidential action, so Congress has also enacted a group of framework statutes that attempt to constrain executive action in particular areas. Examples are the War Powers Resolution, which regulates the presidential commitment of armed forces abroad, the National Intelligence Act, which structures the intelligence agencies and attempts to require executive disclosure of certain intelligence matters to key congressional committees, and the Inspector General Act, which installs powerful inspectors general throughout the executive branch. As to emergencies, starting at least with John Locke's discussion of executive "prerogative," liberal political and constitutional theorists have struggled to reconcile executive primacy in crises with the separation of powers or the rule of law or both. Such questions have become all the more pressing in the twentieth and twenty-first centuries, when a series of wars, economic emergencies, and other crises have multiplied examples in which the executive proceeded with dubious legal authority or simply ignored the laws. Here too, the response has been a series of legal constraints, such as the APA's restrictions on emergency administrative action, and framework statutes such as the National Emergencies Act, which regulates the president's ability to invoke grants of emergency powers granted under other laws. One of our main claims is that these approaches are palliatives that have proven largely ineffective, and that fail to cure the underlying ills of liberal legalism. The same institutional and economic forces that produce the problems of delegation and emergencies also work to undermine legalistic constraints on the executive. The complexity of policy problems, especially in economic domains, the need for secrecy in many matters of security and foreign affairs, and the sheer speed of policy response necessary in crises combine to make meaningful legislative and judicial oversight of delegated authority difficult in the best of circumstances. In emergencies, the difficulties become insuperable—even under the most favorable constellation of political forces, in which the independently elected executive is from a different party than the majority of the Congress. Liberal legalism, in short, has proven unable to reconcile the administrative state with the Madisonian origins of American government. The constitutional framework and the separation-of-powers system generate only weak and defeasible constraints on executive action. Madisonian oversight has largely failed, and it has failed for institutional reasons. Both Congress and the judiciary labor under an informational deficit that oversight cannot remedy, especially in matters of national security and foreign policy, and both institutions experience problems of collective action and internal coordination that the relatively more hierarchical executive can better avoid. Moreover, political parties, uniting officeholders within different institutions, often hobble the institutional competition on which Madisonian theorizing relies.'8 Congressional oversight does sometimes serve purely political functions—legislators, particularly legislators from opposing parties, can thwart presidential initiatives that are unpopular—but as a legal mechanism for ensuring that the executive remains within the bounds of law, oversight is largely a failure. The same holds for statutory constraints on the executive—unsurprisingly, as these constraints are the product of the very Madisonian system whose failure is apparent at the constitutional level. In the terms of the legal theorist David Dyzenhaus, the APA creates a series of legal "black holes" and "grey holes" that either de jure or de facto exempt presidential and administrative action from ordinary legal requirements, and hence from (one conception of) the rule of law.19 The scope of these exemptions waxes and wanes with circumstances, expanding during emergencies and contracting during normal times, but it is never trivial, and the administrative state has never been brought wholly under the rule of law; periodically the shackles slip off altogether.

#### No Taiwan impact

**Wu, China Foundation for International Studies Center for American Studies executive director, 2013**

(Zurong, “China and America’s Innate Goal: Avoiding War Forever”, 7-30, <http://watchingamerica.com/News/217271/china-and-americas-innate-goal-avoiding-war-forever/>, ldg)

China and the U.S. are currently constructing a new kind of relationship between major powers, with several aims. One intrinsic aim is especially worthy of attention, namely that China and the U.S. will not go to war today, nor in the future, and will forever maintain a peaceful association. The Chinese and American governments and people are striving toward this goal unceasingly because it is in the best interests of the people of China, America and the whole world. To avoid conflict, to keep from fighting, to be mutually respectful and to embark upon a path of mutual cooperation — acting in these ways would benefit everyone. First of all, the globalization of the economy, information and other essential factors have created a global village, and the U.S. and China live and work together within this community; their interests are intertwined and neither can break the inseparable bond each has with the other. The global financial crisis of 2007 once again made clear the great extent to which the Chinese and American economies are linked and mixed, for when one sinks into a recession or depression, it is almost impossible for the other to recover and flourish alone. When it comes to international security, climate change, energy, counterterrorism, oceans and all sorts of other unprecedented areas, China and the U.S. share more common interests every day, and cooperative negotiations are unceasingly strengthened. Within this sort of atmosphere, discussing whether the U.S. and China want to go to war seems a little bit untimely and excessive. Second, the current period is fundamentally different than the era of the Cold War, for the development of peace is the theme of the present. People from countries around the world are all concentrating their energy on revitalizing the economy and improving quality of life. After the end of the Cold War, America launched several localized wars in smaller countries under the banner of the fight against terrorism, in the process bringing upon itself a heavy financial and economic burden. Perhaps it was upon consideration of the fact that large-scale conflicts could yield a level of suffering and destruction that would be difficult to endure that America has not launched any wars against the great powers that are in possession of nuclear arms. Even in the Cold War, during the Cuban missile crisis of 1962, America and the Soviet Union did not go to war. The experience of history tells us that the inherent goal of this new form of Sino-U.S. relations will have the support of the strength of the entire ranks of the world’s great powers; thus as long as both China and the U.S. have unflagging perseverance, it can be achieved. Third, for over 40 years, China and the U.S. have promoted a strategy of mutual trust, of the expansion of cooperation, of controlling differences of opinion. These lessons from experience are the U.S. and China’s most valuable treasure. Since Nixon visited the Chinese, Sino-American relations have gone through wind and rain but have always developed onward; moreover, the speed, breadth and depth of the development have far exceeded everyone’s expectations. Indeed, Sino-U.S. relations enjoy a great vitality. And since the foundations were laid fairly recently, Sino-U.S. relations continually make significant progress. The highest leaders communicate freely and military leaders exchange visits often. The two militaries are in the process of issuing plans for Chinese troops to participate in the 2014 Pacific Rim joint military exercises. Both sides have decided to actively investigate significant military activities, report mechanisms to each other and continue to research matters of security and issues regarding standards of conduct, which are relevant to the Chinese and American navies and air forces. These collaborations will give rise to a significant and far-reaching influence on world peace and international security and will vigorously promote the actualization of the inherent goal of the new form of Sino-U.S. great power relations.

#### No war in senkakus

**Thayer, New South Wales emeritus professor, 2013**

(Carlyle, “Why China and the US won’t go to war over the South China Sea”, 5-13, <http://www.eastasiaforum.org/2013/05/13/why-china-and-the-us-wont-go-to-war-over-the-south-china-sea/>, ldg)

China’s increasing assertiveness in the South China Sea is challenging US primacy in the Asia Pacific. Even before Washington announced its official policy of rebalancing its force posture to the Asia Pacific, the United States had undertaken steps to strengthen its military posture by deploying more nuclear attack submarines to the region and negotiating arrangements with Australia to rotate Marines through Darwin.Since then, the United States has deployed Combat Littoral Ships to Singapore and is negotiating new arrangements for greater military access to the Philippines. But these developments do not presage armed conflict between China and the United States. The People’s Liberation Army Navy has been circumspect in its involvement in South China Sea territorial disputes, and the United States has been careful to avoid being entrapped by regional allies in their territorial disputes with China. Armed conflict between China and the United States in the South China Sea appears unlikely. Another, more probable, scenario is that both countries will find a modus vivendi enabling them to collaborate to maintain security in the South China Sea. The Obama administration has repeatedly emphasised that its policy of rebalancing to Asia is not directed at containing China. For example, Admiral Samuel J. Locklear III, Commander of the US Pacific Command, recently stated, ‘there has also been criticism that the Rebalance is a strategy of containment. This is not the case … it is a strategy of collaboration and cooperation’. However, a review of past US–China military-to-military interaction indicates that an agreement to jointly manage security in the South China Sea is unlikely because of continuing strategic mistrust between the two countries. This is also because the currents of regionalism are growing stronger. As such, a third scenario is more likely than the previous two: that China and the United States will maintain a relationship of cooperation and friction. In this scenario, both countries work separately to secure their interests through multilateral institutions such as the East Asia Summit, the ASEAN Defence Ministers’ Meeting Plus and the Enlarged ASEAN Maritime Forum. But they also continue to engage each other on points of mutual interest. The Pentagon has consistently sought to keep channels of communication open with China through three established bilateral mechanisms: Defense Consultative Talks, the Military Maritime Consultative Agreement (MMCA), and the Defense Policy Coordination Talks. On the one hand, these multilateral mechanisms reveal very little about US–China military relations. Military-to-military contacts between the two countries have gone through repeated cycles of cooperation and suspension, meaning that it has not been possible to isolate purely military-to-military contacts from their political and strategic settings. On the other hand, the channels have accomplished the following: continuing exchange visits by high-level defence officials; regular Defense Consultation Talks; continuing working-level discussions under the MMCA; agreement on the ‘7-point consensus’; and no serious naval incidents since the 2009 USNS Impeccable affair. They have also helped to ensure continuing exchange visits by senior military officers; the initiation of a Strategic Security Dialogue as part of the ministerial-level Strategic & Economic Dialogue process; agreement to hold meetings between coast guards; and agreement on a new working group to draft principles to establish a framework for military-to-military cooperation. So the bottom line is that, despite ongoing frictions in their relationship, the United States and China will continue engaging with each other. Both sides understand that military-to-military contacts are a critical component of bilateral engagement. Without such interaction there is a risk that mistrust between the two militaries could spill over and have a major negative impact on bilateral relations in general. But strategic mistrust will probably persist in the absence of greater transparency in military-to-military relations. In sum, Sino-American relations in the South China Sea are more likely to be characterised by cooperation and friction than a modus vivendi of collaboration or, a worst-case scenario, armed conflict.

#### China relations are resilient

**Paal, Carnegie studies vice president, 2012**

(Douglas, “U.S.-China Ties Survive Stress Test”, 5-11, <http://thediplomat.com/2012/05/11/u-s-china-ties-survive-stress-test/?all=true>, ldg)

China’s relative flexibility in the negotiations over the fate of Chen, when it could have escalated allegations of the U.S. embassy violating the Vienna Convention through inappropriate activity at its diplomatic posts, additionally indicates Beijing doesn’t want trouble with the United States now or during this political year. Why has Beijing been so restrained and relatively cooperative? The possibility can’t be ruled out that the strife within China’s leadership ranks, though almost invisible to non-participants, is so delicate and tricky that it’s easier and conceivably safer for the leaders to compartmentalize the U.S. relationship and insulate it from Chinese politics. Still, U.S. missions in China have been so directly involved in those politics that it’s hard to imagine some elements, possibly the security forces, wouldn’t want to play the “U.S. card” to defend their interests. Indeed, there may be a mountain of magma building that we can’t now detect. Further, the consequences of the fall of Bo may have thrown the balance of vested interests in the ruling Politburo Standing Committee out of kilter. Under the nine-member body, consensus became the watchword and possibly a major impediment to new directions in policy. In the Chen affair, President Hu Jintao and Premier Wen Jiabao could well have found themselves able to make decisions quickly, with the S&ED calendar pressing them to act, without laborious consensus building. The speech Hu made to the S&ED suggests a context of considerable self-confidence and articulated a long-term constructive approach to relations with the United States. And of course, traditional clumsy handling of the Chen case would have undermined Hu’s campaign to build China’s “soft power.” On present evidence the more likely explanation is that the Obama administration’s diplomatic initiative in September 2010 – when tensions were rising between China and the United States and several of China’s neighbors – to create a positive agenda of interaction and cooperation between the two countries’ leaders is now paying dividends. Reciprocal visits by their presidents and vice presidents, and regular communications between the secretary of state and national security advisor and their Chinese counterparts have reduced suspicions about the other’s intent. When, for example, Secretary of State Hillary Clinton appealed privately to her opposite number in the S&ED, Dai Bingguo, for flexibility in disposing of the case of Chen, Beijing resisted what must have been a temptation to toy with the Americans over their diplomatic missteps and changing requests. Beijing made a simple declaration that Chen was a free citizen and welcome to study abroad, and so far hasn’t permitted that plan to be impeded and reportedly has sent a government official to help Chen prepare. If this analysis is correct, the recent episodes illuminate the value of constructive diplomacy of a personal nature at the top levels, even between countries with such different political systems and cultures. It suggests that it should prove durable for the remainder of this year, even in the face of further tough tests. This is a remarkable achievement in light of the widespread belief that distrust between the two countries and their leaders is deepening.

### 1NC Iran

#### Iran prolif won’t spread

**Oswald, Global Security Newswire, 2013**

(Rachel, “Saudi Arabia Unlikely to Pursue Nuke: Experts”, 2-21, <http://www.nti.org/gsn/article/saudi-arabia-unlikely-pursue-nuke-should-iran-first-acquire-capability-experts/>, ldg)

Saudi Arabia is not likely to respond to a nuclear-armed Iran by pursuing a corresponding deterrent, but would instead look to boost its conventional military capabilities and acquire an outside nuclear defense guarantee, according to a new report by the Center for a New American Security. The United States and partner nations have warned that Tehran's suspected aim to develop a nuclear-weapon capability could lead to an atomic "domino effect" in the Middle East. A rich Persian Gulf nation with a long-running rivalry with Iran, Saudi Arabia is often cited as the Arab state most likely to pursue a nuclear arsenal. “The Saudis fear that Iran’s acquisition of nuclear weapons would tip the balance of regional leadership decisively in Tehran’s favor,” states the report, whose lead author, CNAS senior fellow Colin Kahl, served as deputy assistant Defense secretary for the Middle East from 2009 to 2011. “Saudi leaders also worry that a nuclear deterrent would enable Iran’s coercive diplomacy, allowing Tehran to run higher risks and more effectively push Arab states to accommodate Iranian interests.” The other two countries most frequently cited as likely to pursue domestic nuclear deterrents to counter Iran -- Egypt and Turkey -- are even less likely to do so than Saudi Arabia, the report says. Egypt lacks the resources to initiate a weapons program and is much less focused on the Iranian nuclear threat than Riyadh, the analysts found. Turkey, meanwhile, is already covered by the NATO nuclear guarantee. Senior Saudi officials have for years dropped hints that their kingdom might pursue a nuclear deterrent. Former Saudi intelligence chief and royal family member Turki al-Faisal early last year warned Riyadh would have to “study carefully all the options, including the option of acquiring weapons of mass destruction” in order to maintain balance with a nuclear-armed Iran. Tehran says its nuclear program has no military aspect. The 49-page report does not discount entirely the possibility that Riyadh might open a nuclear weapons production program or alternatively purchase a ready-made capability from Pakistan. It concludes, though, that the famously deliberative House of Saud would ultimately be steered away from these two scenarios for a number of reasons including not wanting to face punitive international sanctions and the possibility of coming under a neutralizing pre-emptive attack by Israel, which in past years has carried out airstrikes on known or suspected nuclear reactors in Iraq and Syria. There is also the fear of causing critical harm to Riyadh’s decades-long security relationship with Washington. “If Riyadh were to seek nuclear weapons, Saudi leaders would have to expect that U.S. security assistance would be dramatically curtailed. …Because the kingdom relies heavily on U.S. contracts for maintenance and spare parts, this would severely undermine the Saudi military’s ability to function and protect the kingdom from internal and external threats. The effect on core Saudi security interests would be immediate and severe,” concludes the report. Saudi Arabia at present does not have much in the way of nuclear capabilities though it is aggressively pursuing an atomic energy program with support from a number of foreign nations. The oil-rich state is in early talks with the Obama administration on a civilian atomic collaboration agreement that would allow Riyadh to gain access to U.S. nuclear materials and technology “for use in medicine, industry and power generation.” Kahl, and report co-authors Melissa Dalton and Matthew Irvine, indicated they do not think much of Saudi Arabia’s chances of acquiring an indigenous nuclear weapons capability in anything less than a decade, if at all. “Even if the kingdom’s technical prowess grows over time, any Saudi attempt to develop nuclear weapons would be complicated by significant bureaucratic and managerial challenges. Put bluntly, the Saudi bureaucracy lacks the human capital, managerial expertise, safety culture and regulatory, technical and legal structures necessary to nurture and sustain a robust domestic nuclear program,” the report reads. Purchasing an outside capability from Pakistan is also unlikely, according to the report. After coming under widespread international condemnation for the nuclear proliferation ring managed for years by lead Pakistani nuclear weapons scientist A.Q. Khan, Islamabad has had to fight hard to regain lost global trust it is obeying nonproliferation rules. Rather than risk coming under renewed international scorn and isolation for selling nuclear weapons technology to Saudi Arabia, Islamabad is more likely to agree to publicly extend a strategic security guarantee over the nation, the experts said.

#### Recent tightening of existing sanctions angered Iran but didn’t collapse the deal –new sanctions is the real risk

**Sorcher, 12/16/13** - Sara Sorcher is National Journal's national security correspondent. You can find her in the halls of the Pentagon, State Department and Congress covering defense, military and foreign policy issues (“The Iran Deal Hasn't Collapsed” <http://www.defenseone.com/politics/2013/12/iran-deal-hasnt-collapsed/75530/?oref=d-channelriver>)

Accusing the U.S. of violating "the spirit" of last month's interim deal, Iran stopped negotiations with world powers in Vienna over how to curb its nuclear program—just one day after Washington announced new sanctions against companies and individuals found supporting Tehran's nuclear ambitions.

Diplomats are downplaying Tehran's decision to end the talks. According to Reuters, diplomats stressed the "inconclusive outcome" of the Vienna discussions about how to implement the deal, meant to curtail the most dangerous aspects of Iran's nuclear program in exchange for about $7 billion in sanctions relief, and said this did not mean the deal was in "serious trouble." Discussions, they say, are expected to resume soon.

However, the news, which comes as the Obama administration has launched a charm offensive to persuade skeptical members of Congress to give diplomacy a chance and avoid levying new sanctions on Iran, does raise the possibility of two separate outcomes:

1) The Nov. 23 deal is fragile, and Iran is not a guaranteed player. The Obama administration worries new sanctions from Congress would unravel the sensitive nuclear negotiations, but to prevent members from taking action, it must prove it can and will keep the economic pressure on Tehran. Thursday's sanctions announcement, just hours before senior State and Treasury Department officials testified on Capitol Hill—was a strong step in that direction.

That Tehran is hesitant to concretely commit to more talks after the sanctions is a sign Iranian officials may not be bluffing when they warn new sanctions would derail a deal. The nuclear deal was considered a major diplomatic breakthrough and a solid chance to end the decadelong nuclear dispute. So, after Friday's spat, those members of Congress inclined to give talks a chance may have more ammunition to convince their colleagues not to call Iran's bluff.

2) However, that the Iranian delegation returned to Tehran after the U.S. simply demonstrated it would enforce its existing sanctions is not necessarily an encouraging sign that the country—which is obviously familiar with the international vise around its economy—is serious.

There's no chance Washington will lift all its sanctions at once, just as there's virtually no chance Iran will dismantle all of its nuclear program immediately. Everyone knows some form of pressure must remain for negotiations to continue. If Iran breaks off—or extensively pauses—nuclear talks now because it is angry about sanctions that are already in force, impatient congressional hawks are virtually certain to move forward with new measures to cripple Iran's economy and test its resolve. And in that case, very likely, the deal would be kaput.

#### Uncertainty over war powers keeps Iran at the table. Obama needs to be perceived as having independent authority

**Zeisberg, Michigan political science professor, 9-25-13**

(Mariah, “Debate over War Powers may yield positive outcome”,

<http://blog.constitutioncenter.org/2013/09/debate-over-war-powers-resolution-may-yield-positive-outcome/>)

Uncertainty about what the Constitution requires is thick: even as President Obama called for legislative authorization to bolster the legitimacy of strikes, and even as he now appeals to the UN for a resolution authorizing military sanctions if Syria does not comply with the U.S.-Russia agreement for destroying its chemical weapons, the president nevertheless maintains that he has the authority to commit the U.S. to hostilities in Syria without Congressional (or UN) authorization. Robert Gates criticized the president for running a risk of looking “weak” if Congress did not authorize military action, and agreed with Leon Panetta that the president obviously has all power needed for strikes in Syria. On the other hand, constitutional scholars Louis Fisher, Stephen Griffin, and Sandy Levinson have argued that Obama’s constitutional grounding for independent strikes is either non-existent or extremely weak. Congress itself has been divided over whether authorization is necessary for a presidential strike in Syria. While the Constitution tells us that Congress has the power to “declare war,” the text nowhere defines what kinds of hostilities count as war – which has enabled some opportunism in the Obama administration, and in many other presidential administrations too. Even the War Powers Resolution restricts “hostilities” without defining the term, and there, too, Obama has been willing to press language to (or beyond) its absolute limit. Constitutional and statutory text that does not define the meaning of the key words that separate one institution’s authority from another necessarily insert some measure of uncertainty into the branches’ war powers regime. What to make of these tensions and ambiguities? Has the Constitution failed in its task to provide a definitive legal framework that can guide decision-makers about important questions such as which institution has the power to take the country to war? Isn’t the point of a Constitution to resolve this kind of conflict? If it is so pervasively difficult to read our political culture and know which branch has war authority, then does that mean that the Constitution has failed to do its job – or worse, that we are witnessing an epidemic of reckless infidelity to the Constitution’s mandates? In fact, I think that uncertainty as to the meaning of the Constitution’s war powers regime in Syria is not catastrophic but may actually carry benefits. As diplomacy around Syria unfolds, I want to draw attention to a few of the intersections between domestic constitutional debates and the conditions for effective international action. First, it is arguably the threat of intervention which moved Russia into high gear in negotiations with Syria. But President Obama needed a plausible claim of independent presidential empowerment for such a claim to be credible. At the same time, such a claim, unresisted, raises the specter of undefined aims, mission creep, costly wars without broad public support, unconsidered policy complexities, and troubling bellicose precedent that are a hallmark of presidentialism in war. This is, in part, why congressional mobilization to defend its institutional prerogatives has been so welcomed by some prominent war powers scholars. Obama’s subsequent willingness to back down, to accommodate claims to legislative empowerment – derided by many as a weak or vacillating choice — seems in turn to have created time and space for a diplomatic process to unfold in the place of a military one. Recent developments in that process include not only a Russian-brokered plan to confiscate all chemical weapons from the Assad regime but also statements by the Ayatollah Khamenei signaling openness to diplomacy and by President Rouhani that Iran would not develop a nuclear weapon. And now Obama is moving this technique of vacillating red lines up to the level of global institutions. On the one hand he is pressing the UN to back up the U.S.-Russia agreement with sanctions, but at the same time says that he reserves the power to act outside the UN, and has argued that “without a credible military threat, the Security Council had demonstrated no inclination to act at all.” We have yet to see what kind of domestic or international push-back would await him if he tried to translate this rhetorical willingness to act outside the UN into concrete action. Obama’s constitutional “vacillations” may end up being productive in sundering the Assad regime from its chemical weapons. Only time will tell. For constitutional scholars, it is worth noting the positive role that uncertainty and textual ambiguity can create in generating good international outcomes.

#### Israel derails the deal

Einhorn 11/14/13

Robert, Senior Fellow, Foreign Policy, Center for 21st Century Security and Intelligence, Arms Control and Non-Proliferation Initiative, “Despite The Hiccup In Geneva, Iran Nuclear Talks Still On Track,” <http://www.brookings.edu/blogs/iran-at-saban/posts/2013/11/14-einhorn-iran-nuclear-talks-on-track>

Dealing effectively with Israel will be just as important for the administration as dealing effectively with the U.S. Congress. Indeed, **the two are related.** In the last couple of weeks, Prime Minister Netanyahu has gone from warning against pursuing a bad deal to railing **publicly and vehemently** against a specific deal that he has not yet seen and indeed does not yet exist, **calling it a mistake of historic proportions**. But his frontal assault on the emerging agreement seems based on huge misconceptions — for example, the assertion by Strategic Affairs Minister Yuval Steinitz that the sanctions easing package being offered to Iran would be worth $40 billion, whereas the relief likely to be offered in a first-step agreement would actually be a very small fraction of that. Netanyahu is no doubt motivated **entirely** by what he believes is best for **the security of Israel**. But the Israeli government should hold off on its anti-agreement full-court press until it has a better understanding of what the deal contains and its implications. And it should bear in mind that what it is currently doing not only **risks a major rupture with Israel’s best friend**; **it also could eliminate the most promising non-military means of preventing an Iranian nuclear bomb**, which would leave Israel with a very difficult choice at a time when the world would see Israel as having undercut negotiations and would not be expected to support any tough decisions Israeli leaders might feel compelled to make. Instead of fighting an agreement per se, Israeli officials should work with the United States and its P5+1 partners to try to ensure that any first-step deal and any final-stage agreement protect Israeli interests. The **shrill and alarmist rhetoric** we’ve heard from Israeli officials of late **does not provide confidence** that **Israel is prepared to work closely and constructively with the U**nited **S**tates on an agreement that can serve what is undoubtedly the shared goal of the U.S. and Israeli governments — preventing Iran from getting nuclear weapons.

#### No impact to a deal and too many obstacles

**Hibbs, Carnegie Nuclear Policy Program senior associate, 12-30-13**

(Mark, “A Year of Too-Great Expectations for Iran”, <http://carnegieendowment.org/2013/12/30/year-of-too-great-expectations-for-iran/gxbv>, ldg)

If all goes according to plan, sometime during 2014 Iran will sign a comprehensive final agreement to end a nuclear crisis that, over the course of a decade, has threatened to escalate into a war in the Middle East. But in light of the unresolved issues that must be addressed, it would be unwise to bet that events will unfold as planned. Unrealistic expectations about the Iran deal need to be revised downward. In Geneva on November 24, Iran and the five permanent members of the United Nations Security Council—China, France, Russia, the United Kingdom, and the United States—plus Germany agreed to a Joint Plan of Action. For good reason, the world welcomed this initial agreement because it squarely put Iran and the powers on a road to end the crisis through diplomacy. The deal calls for Tehran and the powers to negotiate the “final step” of a two-stage agreement inside six months. In the best case, the two sides will with determination quickly negotiate that final step. Iran will demonstrate to the International Atomic Energy Agency (IAEA) that its nuclear program is wholly dedicated to peaceful uses and agree to verified limits on its sensitive nuclear activities for a considerable period of time. In exchange, sanctions against Iran will be lifted. An effective final deal could emerge. But Iran and the West will continue to have major differences whether or not there is a final nuclear pact. Residual mutual suspicion is significant, and the United States and Iran have competing hardwired security commitments in the region. The United States will not pivot away from Israel and the Arab states in the Persian Gulf, and Iran will not abandon the Alawites in Syria and push Hezbollah to renounce force. The November deal will not lead to a transformation of the West’s relations with Iran, and the act of signing a deal will not mean Washington and Tehran have somehow overcome their multiple fundamental differences and become partners, as some observers either hope or fear. THE CLOCK IS TICKING U.S. Secretary of State John Kerry knew what he was talking about when he announced in Geneva that the initial step of the Iran nuclear deal had been agreed to and warned that “now the really hard part begins.” The Joint Plan of Action says that Iran and the powers “aim to conclude” the final agreement in “no more than one year.” But the issues that remain to be resolved and the amount of work that needs to be done could delay agreement on the final step for many months. The main problem is not that Iran will refuse to implement what it agreed to in the initial deal. It will almost certainly stop producing and installing more uranium-enrichment centrifuges, limit that enrichment to no more than 5 percent U-235 (enriching to higher levels would bring Iran closer to weapons-grade material), and convert its enriched uranium gas inventory to less-threatening oxide. It is also likely to halt essential work on the Arak heavy-water reactor project, where Iran is developing the capability to produce plutonium, which can be used for making nuclear weapons. Tehran has every incentive to comply with these measures. Were it to cheat, Iran’s adversaries, convinced that Iran cannot be trusted, would be vindicated and would gain leverage to add sanctions or use force. Iran knows this. Instead, the potential showstoppers looming before the parties concern matters that the negotiation of the final step itself must resolve. Crucially, the Joint Plan of Action left open how Iran, the powers, and the IAEA would resolve two critical matters: unanswered questions about sensitive and potentially embarrassing past and possibly recent Iranian nuclear activities, and unfulfilled demands by the UN Security Council that Iran suspend its uranium-enrichment program. Since 2006, Tehran has refused to comply with the Security Council’s suspension orders, and since 2008, it has refused to address allegations leveled by the IAEA that point to nuclear weapons research and development by Iran. The Joint Plan of Action is deliberately vague about how to handle these issues, not because Western diplomats were naive but in part because the powers intended the initial deal to build confidence. That means that groundbreaking and dealmaking were paramount, inviting bold statements, not nitty-gritty outlines. Also leading to this outcome is the fact that when the United States revved up the negotiation this fall in direct bilateral talks with Iran, what was originally a four-step road map became a two-step process featuring an initial step and a final step, with the fine print of steps two and three in the original scheme left to be worked out. If the parties do not work out the two major challenges they face, the negotiation may fail. If differences result in a stalemate, Iran’s hardliners could gain the upper hand, continue pursuing unfettered nuclear development, and eventually terminate the initial accord. Alternatively, U.S. lawmakers could respond to a lack of progress by adding to Iran’s sanctions burden, which would likewise doom the negotiation. There is much at stake.

#### Giving Congress the ability to say no will tank negotiations by emboldening hardliners – this triggers Israeli strikes

**Ross, Washington Institute for Near East Policy counselor, 9-9-13**

(Dennis, “Blocking action on Syria makes an attack on Iran more likely”, <http://www.washingtonpost.com/opinions/blocking-action-on-syria-makes-an-attack-on-iran-more-likely/2013/09/09/dd655466-1963-11e3-8685-5021e0c41964_story.html>)

Still, for the opponents of authorization, these arguments are portrayed as abstractions. Only threats that are immediate and directly affect us should produce U.S. military strikes. Leaving aside the argument that when the threats become immediate, we will be far more likely to have to use our military in a bigger way and under worse conditions, there is another argument to consider: should opponents block authorization and should the president then feel he cannot employ military strikes against Syria, this will almost certainly guarantee that there will be no diplomatic outcome to our conflict with Iran over its nuclear weapons. I say this for two reasons. First, Iran’s President Rouhani, who continues to send signals that he wants to make a deal on the nuclear program, will inevitably be weakened once it becomes clear that the U.S. cannot use force against Syria. At that point, paradoxically, the hard-liners in the Iranian Revolutionary Guard Corps and around the Supreme Leader will be able to claim that there is only an economic cost to pursuing nuclear weapons but no military danger. Their argument will be: Once Iran has nuclear weapons, it will build its leverage in the region; its deterrent will be enhanced; and, most importantly, the rest of the world will see that sanctions have failed, and that it is time to come to terms with Iran. Under those circumstances, the sanctions will wither. What will Rouhani argue? That the risk is too high? That the economic costs could threaten regime stability? Today, those arguments may have some effect on the Ayatollah Ali Khamenei precisely because there is also the threat that all U.S. options are on the table and the president has said he will not permit Iran to acquire nuclear weapons. Should he be blocked from using force against Syria, it will be clear that all options are not on the table and that regardless of what we say, we are prepared to live with an Iran that has nuclear arms. Israel, however, is not prepared to accept such an eventuality, and that is the second reason that not authorizing strikes against Syria will likely result in the use of force against Iran. Indeed, Israel will feel that it has no reason to wait, no reason to give diplomacy a chance and no reason to believe that the United States will take care of the problem. Prime Minister Benjamin Netanyahu sees Iran with nuclear weapons as an existential threat and, in his eyes, he must not allow there to be a second Holocaust against the Jewish people. As long as he believes that President Obama is determined to deal with the Iranian threat, he can justify deferring to us. That will soon end if opponents get their way on Syria. Ironically, if these opponent succeed, they may prevent a conflict that President Obama has been determined to keep limited and has the means to do so. After all, even after Israel acted militarily to enforce its red line and prevent Syria’s transfer of advanced weapons to Hezbollah in Lebanon, Assad, Iran and Hezbollah have been careful to avoid responding. They have little interest in provoking Israeli attacks that would weaken Syrian forces and make them vulnerable to the opposition. For all the tough talk about what would happen if the United States struck targets in Syria, the Syrian and Iranian interest in an escalation with the United States is also limited. Can the same be said if Israel feels that it has no choice but to attack the Iranian nuclear infrastructure? Maybe the Iranians will seek to keep that conflict limited; maybe they won’t. Maybe an Israeli strike against the Iranian nuclear program will not inevitably involve the United States, but maybe it will — and maybe it should.

#### Iran hardliners will block a deal

**Field, Berkeley Institute for International Studies visiting scholar, 1-2-14**

(Scott, “Khamenei's dilemma”, <http://america.aljazeera.com/opinions/2014/1/khamenei-iran-politicsusnegotiations.html>, ldg)

But behind this euphoria, sober realities of Iranian politics, which may hinder a genuine U.S.-Iranian rapprochement, pose a dilemma for Khamenei. The most obvious obstacles to a full-fledged normalization of relations are Khamenei’s intense mistrust of the U.S.’s motivations as well as his need to placate the regime’s die-hard and ideologically committed supporters. Ultimately, four main factors may set a ceiling on how far the Iranian regime is willing to bend to normalize relations with Western powers. First, given Tehran’s bitter experiences with previous attempts at reconciliation, Khamenei has a deep and abiding distrust of the United States. There is no doubt that Rouhani’s attempts at resolving the nuclear dispute, overcoming Iran’s international isolation and bringing about the gradual dismantling of suffocating sanctions has Khamenei’s backing. For example, without Khamenei’s support, Zarif’s unexpected return to the political scene would not have been approved by the Majlis, Iran’s parliament. A reviled figure among conservatives, Zarif was removed from his position as Iranian ambassador to the United Nations in 2007 and was even prevented from teaching at Iranian public universities. But the Rouhani-Zarif charm offensive places only a veneer of congeniality over the supreme leader’s visceral and heartfelt mistrust of the U.S. Beyond suspicions buttressed by strategic and ideological considerations, Khamenei believes that experience informs his deep distrust. In 1995, after Iran granted a $1 billion contract to develop an Iranian oilfield to the American oil company Conoco and pressured Hezbollah to release American hostages, then-President Bill Clinton canceled the contract, and Congress passed the Iran and Libya Sanctions Act, which called for the imposition of sanctions on entities that invested more than $20 million in the Iranian petroleum industry. In 2001, President George W. Bush inducted Iran into the “axis of evil,” along with Iraq and North Korea, after Tehran collaborated with the U.S. to oust the Taliban and engaged constructively on the future of Afghanistan at the Bonn Conference, which devised a plan for governing Afghanistan after the removal of the Taliban regime. Two years later, the Bush administration scuttled Iran’s grand-bargain offer on Middle East politics, conveyed to U.S. authorities through the Swiss Embassy. Iran’s voluntary suspension of its enrichment program from 2003 to 2005 was rewarded with what the Islamic Republic viewed as a set of insignificant and insulting inducements, consisting of a U.S. offer to withdraw its refusal to allow Iran into the World Trade Organization and to remove prohibitions on the sale of spare parts to Iranian civilian aircraft companies in exchange for Tehran’s abandonment of what it has consistently heralded as its inalienable right (as a signatory to the Nuclear Non-Proliferation Treaty) to enrich uranium on its soil. To the extent that Khamenei expects a better deal from the current negotiations, it is only because of Iran’s mastery of the capacity to enrich uranium and the desire of the U.S. and its European allies to avoid another devastating war in the Middle East. The second factor is the conflict of interest from the ideological dispositions of Khamenei’s allies in the Islamic Revolutionary Guard Corps (IRGC) and the sanctions’ impact on their material benefits. The IRGC controls the majority of key smuggling routes, and decades of sanctions have led to the entrenchment of its interests in the black-market economy. It is a vast and diverse organization that does not speak with a single voice. But Khamenei has disciplined the IRGC tightly not to oppose Rouhani’s November accord with the P5+1 (the five permanent members of the U.N. Security Council plus Germany) over the nuclear issue, and its members have — some of them reluctantly — fallen in line. Its emergence as one of the dominant players in the Iranian economy has positioned members of the IRGC as the key beneficiaries of sanctions relief and Iran’s integration into the global economy. However, the issue is also ideological. The upper echelons of the guards were handpicked by Khamenei on the basis of their ideological opposition to and deep suspicion of the United States. Therefore, if serious advances are made toward normalization of relations between the two countries, significant pushback from some within the guards’ ranks is expected. The third factor is a growing fear among government elites that the removal of sanctions and a momentum toward international integration may empower the Iranian middle class at their expense. Years of suffocating sanctions and then-President Mahmoud Ahmadinejad’s economic mismanagement have reduced a once vibrant Iranian middle class to a shadow of its former self. Despite near-unanimous consensus on the need to curb, if not eliminate, the powers of Iran’s unelected supervisory Council of Guardians, the middle class lacks the strength and resilience to sustain a successful challenge, as demonstrated by the quelling of the 2008 Green movement protests. But if the economy improves, the middle class will inevitably start demanding reforms and challenge the Council of Guardians’ iron grip on the Islamic Republic. The middle class has consistently shown disdain for the thwarting of popular will by those who claim to represent the will of the Almighty. The core middle class hopes that, over time, Iran’s gradual integration into the global economy would embolden the cohort. It is no accident that the two icons of the Green movement, Mir Hossein Mousavi and Mehdi Karrubi, along with Mousavi’s wife, Zahra Rahnavard, remain under house arrest despite Rouhani’s campaign promises of political reform. The regime has another, even more ominous wild card to worry about. The traditionally loyal working class has been severely affected by the economic decline during Ahmadinejad’s eight years in office and the crippling sanctions. There are fears that resentment among the working class could find synergy with the grievances of the middle class. This could lead to a nightmarish scenario of a truly broad-based revolt against the regime. While improvement in the economy from sanctions relief will undoubtedly lessen their discontents, Khamenei has to operate with extreme caution the political levers that could lead to economic and political empowerment of both groups. Finally, Khamenei is acutely aware that the current regime’s power base — loyalists within the working class — is deeply rooted in anti-U.S. sentiment. While the conscripted rank-and-file members of the IRGC may back a popular public call for reform, the same cannot be said of the Basij, Iran’s volunteer militia force. Khamenei has indoctrinated the regime’s ardent and passionate supporters, who are essential to its survival, to view themselves as the embodiment of pure Muhammadan Islam engaged in a cosmic struggle against the “great Satan.” To maintain their loyalty, Khamenei has to keep them energized. He has consistently maintained that normalization of ties with the U.S. would be detrimental to Iran. He is wary that U.S. agents will infiltrate Iran’s most sensitive institutions, as they did during the shah’s regime, while sullying the minds of the nation’s impressionable youth. This is why conciliatory gestures from Rouhani send shivers through the conservative establishment and its supporters. We should not be surprised, then, if Khamenei and his allies rein in Rouhani sharply, should further progress be made toward U.S.-Iran rapprochement beyond a minimally acceptable accord designed to transform the interim P5+1 agreement into a genuine deal resolving the nuclear dispute and resulting in the gradual lifting of sanctions. The real issue at stake is not whether the new Iranian president is a “wolf in sheep’s clothing,” as Israeli Prime Minister Benjamin Netanyahu called him, but rather whether the exigencies of Iranian domestic politics can be finessed in such a way that they do not derail the negotiations — or, should negotiations prove successful, in such a way that they result in a broader normalization of ties with the U.S. While Khamenei may agree to a deal to resolve the nuclear dispute, he will have a much harder time consenting to a broader normalization of ties with the U.S.

### 1NC SOP

#### Congress can authorize preventive action-Iraq proves-means the plan is insufficient.

#### Social science proves no modeling- US signals are dismissed

**Zenok, CFR fellow, 2013**

(Micah, “The Signal and the Noise”, 2-2, [www.foreignpolicy.com/articles/2013/02/20/the\_signal\_and\_the\_noise](http://www.foreignpolicy.com/articles/2013/02/20/the_signal_and_the_noise), ldg)

Later, Gen. Austin observed of cutting forces from the Middle East: "Once you reduce the presence in the region, you could very well signal the wrong things to our adversaries." Sen. Kelly Ayotte echoed his observation, claiming that President Obama's plan to withdraw 34,000 thousand U.S. troops from Afghanistan within one year "leaves us dangerously low on military personnel...it's going to send a clear signal that America's commitment to Afghanistan is going wobbly." Similarly, during a separate House Armed Services Committee hearing, Deputy Secretary of Defense Ashton Carter ominously warned of the possibility of sequestration: "Perhaps most important, the world is watching. Our friends and allies are watching, potential foes -- all over the world." These routine and unchallenged assertions highlight what is perhaps the most widely agreed-upon conventional wisdom in U.S. foreign and national security policymaking: the inherent power of signaling. This psychological capability rests on two core assumptions: All relevant international audiences can or will accurately interpret the signals conveyed, and upon correctly comprehending this signal, these audiences will act as intended by U.S. policymakers. Many policymakers and pundits fundamentally believe that the Pentagon is an omni-directional radar that uniformly transmits signals via presidential declarations, defense spending levels, visits with defense ministers, or troop deployments to receptive antennas. A bit of digging, however, exposes cracks in the premises underlying signaling theories. There is a half-century of social science research demonstrating the cultural and cognitive biases that make communication difficult between two humans. Why would this be any different between two states, or between a state and non-state actor? Unlike foreign policy signaling in the context of disputes or escalating crises -- of which there is an extensive body of research into types and effectiveness -- policymakers' claims about signaling are merely made in a peacetime vacuum. These signals are never articulated with a precision that could be tested or falsified, and thus policymakers cannot be judged misleading or wrong. Paired with the faith in signaling is the assumption that policymakers can read the minds of potential or actual friends and adversaries. During the cycle of congressional hearings this spring, you can rest assured that elected representatives and expert witnesses will claim to know what the Iranian supreme leader thinks, how "the Taliban" perceives White House pronouncements about Afghanistan, or how allies in East Asia will react to sequestration. This self-assuredness is referred to as the illusion of transparency by psychologists, or how "people overestimate others' ability to know them, and...also overestimate their ability to know others." Policymakers also conceive of signaling as a one-way transmission: something that the United States does and others absorb. You rarely read or hear critical thinking from U.S. policymakers about how to interpret the signals from others states. Moreover, since U.S. officials correctly downplay the attention-seeking actions of adversaries -- such as Iran's near-weekly pronouncement of inventing a new drone or missile -- wouldn't it be safer to assume that the majority of U.S. signals are similarly dismissed? During my encounters with foreign officials, few take U.S. government pronouncements seriously, and instead assume they are made to appease domestic audiences.

#### Obama is not signaling aggression now

**Aziz, Center for International and Defense Policy researcher, 2013**

(Omer, “The Obama Doctrine's Second Term”, 2-5, <http://www.project-syndicate.org/blog/the-obama-doctrine-s-second-term--by-omer-aziz>)

The Obama Doctrine’s first term has been a remarkable success. After the $3 trillion boondoggle in Iraq, a failed nation-building mission in Afghanistan, and the incessant saber-rattling of the previous Administration, President Obama was able to reorient U.S. foreign policy in a more restrained and realistic direction. He did this in a number of ways. First, an end to large ground wars. As Defense Secretary Robert Gates put it in February 2011, anyone who advised future presidents to conduct massive ground operations ought “to have [their] head examined.” Second, a reliance on Secret Operations and drones to go after both members of al Qaeda and other terrorist outfits in Pakistan as well as East Africa. Third, a rebalancing of U.S. foreign policy towards the Asia-Pacific — a region neglected during George W. Bush's terms but one that possesses a majority of the world’s nuclear powers, half the world’s GDP, and tomorrow’s potential threats. Finally, under Obama's leadership, the United States has finally begun to ask allies to pick up the tab on some of their security costs. With the U.S. fiscal situation necessitating retrenchment, coupled with a lack of appetite on the part of the American public for foreign policy adventurism, Obama has begun the arduous process of burden-sharing necessary to maintain American strength at home and abroad. What this amounted to over the past four years was a vigorous and unilateral pursuit of narrow national interests and a multilateral pursuit of interests only indirectly affecting the United States. Turkey, a Western ally, is now leading the campaign against Bashar al-Assad’s regime in Syria. Japan, Korea, India, the Philippines, Myanmar, and Australia all now act as de facto balancers of an increasingly assertive China. With the withdrawal of two troop brigades from the continent, Europe is being asked to start looking after its own security. In other words, the days of free security and therefore, free riding, are now over. The results of a more restrained foreign policy are plentiful. Obama was able to assemble a diverse coalition of states to execute regime-change in Libya where there is now a moderate democratic government in place. Libya remains a democracy in transition, but the possibilities of self-government are ripe. What’s more, the United States was able to do it on the cheap. Iran’s enrichment program has been hampered by the clandestine cyber program codenamed Olympic Games. While Mullah Omar remains at large, al Qaeda’s leadership in Afghanistan and Pakistan has been virtually decimated. With China, the United States has maintained a policy of engagement and explicitly rejected a containment strategy, though there is now something resembling a cool war — not yet a cold war — as Noah Feldman of Harvard Law School puts it, between the two economic giants. The phrase that best describes the Obama Doctrine is one that was used by an anonymous Administration official during the Libya campaign and then picked up by Republicans as a talking point: Leading From Behind. The origin of the term dates not to weak-kneed Democratic orthodoxy but to Nelson Mandela, who wrote in his autobiography that true leadership often required navigating and dictating aims ‘from behind.’ The term, when applied to U.S. foreign policy, has a degree of metaphorical verity to it: Obama has led from behind the scenes in pursuing terrorists and militants, is shifting some of the prodigious expenses of international security to others, and has begun the U.S. pivot to the Asia-Pacific region. The Iraq War may seem to be a distant memory to many in North America, but its after-effects in the Middle East and Asia tarnished the United States' image abroad and rendered claims to moral superiority risible. Leading From Behind is the final nail in the coffin of the neoconservatives' failed imperial policies.

#### We won’t start wars just because we can

**Brooks, Dartmouth government professor, 2012**

(Stephen, “Don’t Come Home America: The Case Against Retrenchment”, International Security, 37.3, lexis, ldg)

temptation. For many advocates of retrenchment, the mere possession of peerless, globe-girdling military capabilities leads inexorably to a dangerous expansion of U.S. definitions of national interest that then drag the country into expensive wars. 64 For example, sustaining ramified, long-standing alliances such as NATO leads to mission creep: the search for new roles to keep the alliance alive. Hence, critics allege that NATO’s need to “go out of area or out of business” led to reckless expansion that alienated Russia and then to a heedless broadening of interests to encompass interventions such as those in Bosnia, Kosovo, and Libya. In addition, peerless military power creates the temptation to seek total, non-Clausewitzian solutions to security problems, as allegedly occurred in Iraq and Afghanistan. 65 Only a country in possession of such awesome military power and facing no serious geopolitical rival would fail to be satisfied with partial solutions such as containment and instead embark on wild schemes of democracy building in such unlikely places. In addition, critics contend, the United States’ outsized military creates a sense of obligation to use it if it might do good, even in cases where no U.S. interests are engaged. As Madeleine Albright famously asked Colin Powell, “What’s the point of having this superb military you’re always talking about, if we can’t use it?” Undoubtedly, possessing global military intervention capacity expands opportunities to use force. If it were truly to “come home,” the United States would be tying itself to the mast like Ulysses, rendering itself incapable of succumbing to temptation. Any defense of deep engagement must acknowledge that it increases the opportunity and thus the logical probability of U.S. use of force compared to a grand strategy of true strategic disengagement. Of course, if the alternative to deep engagement is an over-the-horizon intervention stance, then the temptation risk would persist after retrenchment. The main problem with the interest expansion argument, however, is that it essentially boils down to one case: Iraq. Sixty-seven percent of all the casualties and 64 percent of all the budget costs of all the wars the United States has fought since 1990 were caused by that war. Twenty-seven percent of the causalities and 26 percent of the costs were related to Operation Enduring Freedom in Afghanistan. All the other interventions—the 1990–91 Persian Gulf War, the subsequent airstrike campaigns in Iraq, Somalia, Bosnia, Haiti, Kosovo, Libya, and so on—account for 3 percent of the casualties and 10 percent of the costs. 66 Iraq is the outlier not only in terms of its human and material cost, but also in terms of the degree to which the overall burden was shouldered by the United States alone. As Beckley has shown, in the other interventions allies either spent more than the United States, suffered greater relative casualties, or both. In the 1990–91 Persian Gulf War, for example, the United States ranked fourth in overall casualties (measured relative to population size) and fourth in total expenditures (relative to GDP). In Bosnia, European Union (EU) budget outlays and personnel deployments ultimately swamped those of the United States as the Europeans took over postconflict peacebuilding operations. In Kosovo, the United States suffered one combat fatality, the sole loss in the whole operation, and it ranked sixth in relative monetary contribution. In Afghanistan, the United States is the number one financial contributor (it achieved that status only after the 2010 surge), but its relative combat losses rank fifth. 67 In short, the interest expansion argument would look much different without Iraq in the picture. There would be no evidence for the United States shouldering a disproportionate share of the burden, and the overall pattern of intervention would look “unrestrained” only in terms of frequency, not cost, with the debate hinging on whether the surge in Afghanistan was recklessly unrestrained. 68 How emblematic of the deep engagement strategy is the U.S. experience in Iraq? The strategy’s supporters insist that Iraq was a Bush/neoconservative aberration; certainly, there are many supporters of deep engagement who strongly opposed the war, most notably Barack Obama. Against this view, opponents claim that it or something close to it was inevitable given the grand strategy. Regardless, the more important question is whether continuing the current grand strategy condemns the United States to more such wars. The Cold War experience suggests a negative answer. After the United States suffered a major disaster in Indochina (to be sure, dwarfing Iraq in its human toll), it responded by waging the rest of the Cold War using proxies and highly limited interventions. Nothing changed in the basic structure of the international system, and U.S. military power recovered by the 1980s, yet the United States never again undertook a large expeditionary operation until after the Cold War had ended. All indications are that Iraq has generated a similar effect for the post–Cold War era. If there is an Obama doctrine, Dominic Tierney argues, it can be reduced to “No More Iraqs.” 69 Moreover, the president’s thinking is reflected in the Defense Department’s current strategic guidance, which asserts that “U.S. forces will no longer be sized to conduct large-scale, prolonged stability operations.” 70 Those developments in Washington are also part of a wider rejection of the Iraq experience across the American body politic, which political scientist John Mueller dubbed the “Iraq Syndrome.” 71 Retrenchment advocates would need to present much more argumentation and evidence to support their pessimism on this subject.

## 2nc

## DA

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#### Nuclear deterrence is the underpinning of global stability, more important than preventative norms, the real reason there is no war is because of the impact of punishment, all the wars in the 1AC will be inevitable after the plan because the threat of force would be shattered, that’s Moore,Perception of declining U.S. deterrence causes fast, global great power nuclear war

**Caves, NDU senior fellow, 2010**

(John, “Avoiding a Crisis of Confidence in the U.S. Nuclear Deterrent”, <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=112063>, ldg)

Perceptions of a compromised U.S. nuclear deterrent as described above would have profound policy implications, particularly if they emerge at a time when a nuclear-armed great power is pursuing a more aggressive strategy toward U.S. allies and partners in its region in a bid to enhance its regional and global clout. A dangerous period of vulnerability would open for the United States and those nations that depend on U.S. protection while the United States attempted to rectify the problems with its nuclear forces. As it would take more than a decade for the United States to produce new nuclear weapons, ensuing events could preclude a return to anything like the status quo ante. The assertive, nuclear-armed great power, and other major adversaries, could be willing to challenge U.S. interests more directly in the expectation that the United States would be less prepared to threaten or deliver a military response that could lead to direct conflict. They will want to keep the United States from reclaiming its earlier power position. Allies and partners who have relied upon explicit or implicit assurances of U.S. nuclear protection as a foundation of their security could lose faith in those assurances. They could compensate by accommodating U.S. rivals, especially in the short term, or acquiring their own nuclear deterrents, which in most cases could be accomplished only over the mid- to long term. A more nuclear world would likely ensue over a period of years. Important U.S. interests could be compromised or abandoned, or a major war could occur as adversaries and/or the United States miscalculate new boundaries of deterrence and provocation. At worst, war could lead to state-on-state employment of weapons of mass destruction (WMD) on a scale far more catastrophic than what nuclear-armed terrorists alone could inflict.

### Nucs---DA---1NC

#### Congressional pre delegation squashes nuclear deterrence

Moore 86 (John, Professor of Law @ the University of Virginia, “The Constitution, Foreign Policy and Deterrence: The Separation of Powers in a Dangerous World,” pg 6, dsg)

Now in addition to these examples, we should be aware that there are many proposals being seriously urged for additional constraints on the presidential authority in national security settings. For example, Dr. Jeremy Stone, a supporter of a nuclear "no-first-use" policy for NATO, has suggested one in a much publicized article in the Fall 1984 issue of Foreign Policy and held at least one substantial conference sponsored by the Federation of American Scientists (of which he is director) in November 1985 to discuss it. Stone proposes that, with certain possible exceptions, no nuclear weapons could be employed by the President in a NATO defense emergency absent prior approval by Congress or a specially created congressional committee. Dr. Stone has also suggested in a nonlawyer statement of bad constitutional law that his proposal is constitutionally required. Needless to say, this proposal is not constitutionally required and could, if adopted, severely undercut deterrence—already strained in the NATO area. The separation of powers is an important principle of the American democratic system. It is important, however, that, whatever the precise constitutional parameters of the foreign affairs powers, Congress should exercise its power with a realistic understanding of the rationale strongly favoring executive control of foreign policy. Too often we approach these issues solely as a matter of constitutional line drawing with the usual indeterminate answers at the edges. We also must begin to appraise congressional action—even if clearly within congressional competence—by a broad standard of contribution to an effective American foreign policy. In this connection, it is particularly important that we appraise the effect of congressional actions on deterrence. That, after all, is the key issue if we truly wish to avoid war.

The plan limits the presidents authority to first strike with nuclear weapons

Lobel 8 – Jules Lobel, Professor at University of Pittsburgh Law School, “War Powers for the 21st Century: The Constitutional Perspective”, Testimony Before the Subcommittee on International Organizations, Human Rights and Oversight Committee on Foreign Affairs U.S. House of Representatives, 4-10, http://democrats.foreignaffairs.house.gov/110/lob041008.htm

Finally, it is important to note that the President’s Commander in Chief power to repel sudden attacks is an independent but not preclusive emergency authority. The President has the independent constitutional authority to use American forces in self defense until Congress can meet and decide what to do, but that independent power is not a sole, exclusive power which Congress cannot limit or restrict. Congress can limit the President’s “repel attack” authority to a certain time period. Congress also could have prohibited the President from responding with nuclear weapons to a Soviet attack on American forces in Europe, or from attacking China in response to an attack on U.S. forces in Korea. The President’s Commander in Chief power to repel attacks allows him to act in self defense, independent of congressional authorization where Congress is silent, but not to act in disregard of affirmative restrictions that Congress enacts.

#### Requiring congressional authorization is equivalent to a No First Use policy

Ullman 72 (Richard H. Ullman, Professor of International Relations, Princeton University, “NO FIRST USE OF NUCLEAR WEAPONS,” Foreign Affairs, July 1972 vol. 50)

An alternative to a fiat "no-first-use" declaration, at least for the United States, might come through congressional legislation stipulating that the President, as Commander in Chief of the armed forces, may not initiate the use of nuclear weapons without receiving prior congressional authorization. Congress now has before it so-called War Powers legislation stipulating that in the absence of a formal declaration of war the President may not engage the armed forces in military operations for more than 30 days without specific congressional authorization. This draft legislation is premised upon the assumption that the "collective judgment" of Congress and the President should apply to the "initiation" and the "continuation" of hostilities. Senator Fulhright, Congressman Dellums, and others (including the Federation of American Scientists, one of the most active lobhying groups in the arms-control area) have pointed out that just as Congress should be concerned to limit the power of the President to sustain hostilities without its approval, so it should also limit his power to escalate them across the threshold from conventional to nuclear weapons. They are seeking to amend the War Powers legislation to that effect." In many respects the effects of this proposed legislation would be similar to those of an orthodox commitment to "no first use." Nuclear threats would be inappropriate. Force deployments might reflect the assumption that the United States would not initiate the use of nuclear weapons. Just as in the case of a "nofirst-use" commitment, U.S. ability to respond to a nuclear attack, and therefore the efficacy of the U.S. nuclear deterrent, would be undiminished. The granting of congressional authorization, should it take place, would be equivalent to a formal announcement rescinding a prior "no-first-use" commitment, unilateral or multilateral. Such authorization (or the rescinding of a prior "no-first-use" commitment) would, in fact, constitute in itself an important diplomatic instrument. It would convey to an adversary the seriousness with which Washington viewed a threat, and its willingness to risk nuclear war in response. In this respect congressional authorization (or the public rescinding of "no first use") would be akin to the "demonstration use" which figures in some war-fighting scenarios, when one party to a conflict explodes a nuclear weapon in a manner which inflicts no damage but nevertheless conveys resolve.

#### NFU makes nuclear primacy inoperative – first-strike threats define primacy

**Lieber and Press, Notre Dame and Dartmouth political science professors, 2006**

(Keir and Daryl, “The Rise of U.S. Nuclear Primacy”, Foreign Affairs, March/April, ebsco, ldg)

During the Cold War, Washington relied on its nuclear arsenal not only to deter nuclear strikes by its enemies but also to deter the Warsaw Pact from exploiting its conventional military superiority to attack Western Europe. It was primarily this latter mission that made Washington rule out promises of "no first use" of nuclear weapons. Now that such a mission is obsolete and the United States is beginning to regain nuclear primacy, however, Washington's continued refusal to eschew a first strike and the country's development of a limited missile-defense capability take on a new, and possibly more menacing, look. The most logical conclusions to make are that a nuclear-war-fighting capability remains a key component of the United States' military doctrine and that nuclear primacy remains a goal of the United States.

Perception o

Loss of credible nuclear deterrence is the only existential threat

Kallberg 13 (Jan PhD, Assistant Professor, Homeland Security at Arkansas Tech University “Nuclear deterrence in a Second Obama Term,” *International Security* http://cftni.org/Nuclear%20Deterrence%20in%20a%20Second%20Obama%20Term.pdf)

In the months prior to the 2012 presidential election in the United states, members of the obama administration and sympathetic organizations inside the Beltway began floating the idea that the administration would pursue – after an obama victory – further reductions in the Us nuclear arsenal. With the ink still wet on the new stARt treaty, efforts to reduce the American arsenal to 1000 operationally deployed strategic nuclear weapons or, as some suggest, 500, is certainly premature. these efforts illustrate a poor understanding of nuclear deterrence theory and practice and the ramifications of a United states that lacks a credible nuclear deterrent. For those advocates of rushing headlong into an ever smaller nuclear arsenal, it may be time for a refresher on the role of the United states’ nuclear arsenal. Back to basics the first recorded example of deterrence illustrates that the concept dates to the earliest days of mankind. According to the book of Genesis, after creating the world, God planted the Garden of eden and created man to dwell in it. to quote Genesis chapter 2 verses 16 and 17, “And the Lord God commanded the man saying, ‘of every tree in the garden you may freely eat; but of the tree of the knowledge of good and evil you shall not eat. For in the day that you eat of it, you shall surely die.’” today, the concept is defined by the Department of Defense Dictionary of military and Associated terms as “the prevention of action by the credible threat of unacceptable counteraction and/or belief that the cost of action outweighs the perceived benefits.” According to Dr. strangelove, “Deterrence is the art of producing in the mind of the enemy the fear to attack.” Deterrence’s success or failure is often determined by a simple formula. Credibility equals capability plus will. In the earlier example, God was capable of carrying out his coercive threat, yet Adam ignored God’s warning because he doubted his will to carry out that threat. thus, deterrence failed. the spirit of deterrence is best encapsulated in the words of the Roman strategist Vegetius who wrote, “si vis pacem para bellum.” If you desire peace, prepare for war. While the desire to deter adversaries and allies from taking undesirable actions is an old concept, it is all too often associated with the more recent advent of the atomic bomb. In 1946, Bernard Brodie observed, “the chief purpose of our military establishment has been to win wars. From now on its chief purpose must be to avert them.” Brodie was among the first strategists to understand that nuclear weapons ushered in a new era of deterrence thinking and practice. No longer could great powers engage in total warfare because of the potential for a conventional conflict to escalate to nuclear war. over the decades that followed, leading strategic thinkers at the RAnD Corporation, like Bernard Brodie, thomas schelling, herman Kahn, and others, devoted their careers to contemplating how best to deter the use of nuclear weapons. By the 1960s, two clear schools of thought emerged. thomas schelling advocated a stable balance of terror in which both the United states and the soviet Union were capable of launching a retaliatory strike should the other side attack first. By creating mutually assured destruction, proponents believed that neither side would attack. thus, deterrence would succeed. herman Kahn, on the other hand, advocated the creation of a clear American advantage. this meant developing systems that could limited the damage caused by a soviet attack. hardened shelters, missile defenses, and a range of additional capabilities were required to achieve Kahn’s vision. In the end, the financial costs of Kahn’s approach were too great. this gave schelling the greatest influence in defense policy. thus, when Schelling wrote, “Deterrence rests today on the threat of pain and extinction, not just on the threat of military defeat,” he was absolutely correct. Whether schelling or Kahn offered a superior approach to strategic deterrence is largely unimportant. What is more important is the fact that strategic deterrence between the United states and the soviet Union never failed. For half a century, two superpowers avoided a direct confrontation because they feared a conventional conflict would spiral out of control and lead to nuclear holocaust. In the end, the United states won the Cold War because soviet socialism was no match for Western free market capitalism. Peace was kept because of the efforts of American and european Airmen, sailors, and soldiers who provided a credible nuclear deterrent. The fact is simple; nuclear weapons are responsible for ending great power war. this is not a point of limited significance. As Admiral Richard mies, former head of Us strategic Command, is fond of pointing out, between 1600 and 1945 an average of 1-2% of the world’s population perished each year because of war. since 1945, that number has declined to 0.3%. this represents a 70-90% reduction in the number of conflict-related deaths. to be even more specific, between 1900 and 1945, 200 million people perished due to conflicts. since 1945, 20 million have suffered a similar fate. that reduction is conflict related deaths is nothing to dismiss. the point is an important one. over the last sixty-five years, tens of millions of lives have been saved because of the strategic deterrent the United states provides north America and europe. the nuclear arsenal’s role in the continued promotion of peace is something Americans and europeans, beneficiaries of extended deterrence, should never take for granted. though many Americans understood the role of strategic deterrence as an aspect of national security strategy during the Cold War, once the Wall fell and the soviet Union collapsed, all too many citizens lost sight of the nuclear arsenal’s continued relevance. seeing an opportunity, the same nuclear abolitionists who marched in the streets of Washington decades earlier – demanding disarmament – reinvigorated their efforts to eliminate the greatest tool of peace ever created. With the dramatic shift in the strategic environment that resulted from the soviet Union’s collapse, there was good reason to resize the arsenal, but no reason to eliminate it. since 1991, the nuclear arsenal has declined by more than 90%. soon, the United states will field 1,550 operationally deployed strategic nuclear warheads as part of an agreement with the Russians under the new stARt treaty. When nuclear abolitionists like Ivo Daalder and Jan Lodal write, “the reality has yet to sink in. Us nuclear policies remain stuck in the Cold War, even as the threats the United states faces have changed dramatically,” they are illustrating that it is they, not the military, who have yet to move beyond the Cold War. ongoing efforts, such as the Deterrence operations-Joint operating Concept, clearly demonstrate that the services are actively engaged in revising deterrence strategy to address current and future threats. no organization better understands the evolution of nuclear deterrence than the Us Air Force. In examining the efforts of Us strategic Command, Air Force Global strike Command, and headquarters Air Force, it is clear that these organizations are actively reexamining and updating the intellectual foundations of their strategic thinking. however, the unending attacks on the utility of the arsenal have had their desired effect. thus, some readers may not appreciate exactly how important the nuclear arsenal is to the preservation of American sovereignty, the nation’s vital interests, and the security of NATO. Yes, the current fight is focused on violent Islamic fundamentalism, but al Qaeda and other organizations like it do not pose an existential threat to America. Only nuclear armed states like Russia, China, north Korea – and a nuclear armed Iran – can do so. Not only do American Airmen and sailors ensure that these countries dare not attack the United states or its allies, but they ensure that nuclear powers carefully consider every potentially provocative action they may desire to undertake. Let us reiterate a central point. Nuclear weapons are not only designed to deter the use of other nuclear weapons, but they are also effective in deterring and limiting conventional conflict. This is a point too many seeking to influence American foreign policy in the coming years seem to forget. In part, it is because of the success of nuclear weapons that the worst threat NATO countries face comes from non-state actors like al Qaeda, who must resort to terrorism – a tactic employed by our weakest adversaries. We should be thankful al Qaeda is our problem. the threat was once much greater. When a colleague from the Us Air Force Academy recently said that the least desirable career fields for graduating cadets were those related to the nuclear enterprise, it was shocking and disappointing. Admittedly, broad support for the arsenal has declined within the intelligentsia of Boston, Washington, D.C., and on Capitol hill. the focus on terrorism over the past decade has left nuclear forces neglected and in need of both intellectual reinvigoration and platform recapitalization. this is unlikely to change dramatically over the next few years. With difficult economic times facing the nation, the nuclear enterprise will find it difficult to obtain the fiscal resources required to refurbish and replace their systems. Congressional staffers and Air Force senior leaders offer reason for both concern and optimism. on the downside, nuclear weapons are an unpopular topic of discussion in Congress – even for those who support the arsenal. Unfortunately, the arsenal largely generates apathy among the majority in Congress. this is a result of the arsenal’s success at providing a tangible peace. thus, proponents do not have the critical mass of support required to ensure the nuclear complex receives the modernization funding the obama administration and senate Republicans agreed upon as part of the deal they struck to ensure passage of the new stARt treaty. on the upside, senate Republicans will neither support further reductions in operationally deployed strategic nuclear weapons, nor will they ratify the Comprehensive test Ban treaty. In the case of the former, this is because the proposed funding cuts to modernization violate their agreement with the administration. In the case of the latter, as the former head of Us strategic Command, General Kevin Chilton, once said of nuclear weapons, “…when you set one off, it’s a high energy physics experiment. It’s pretty hard to understand and explain in models…” not surprisingly, many in the senate are unwilling to trade the United states’ right to future nuclear tests for computer models that may be accurate. And, while nuclear issues are an unpopular topic of discussion, there is a majority in the house and senate – Democrats and Republicans – who are committed to ensuring that the United states maintains the most capable arsenal of any nuclear weapons state. the Us Air Force leadership, which remains committed to a modern and capable nuclear force, is carefully navigating turbulent skies balancing support for the arsenal with the administration’s desire to reduce and eventually eliminate nuclear weapons. Where the Air Force has fallen short is in effectively explaining to cadets at the Air Force Academy and the American public why strategic deterrence remains a core national security requirement. thus, support for the arsenal has waned giving “global zero” advocates a legitimate chance to achieve their objectives. Perhaps it is time for the Us Air Force to take a lesson from the past. When, by the late 1970s, public support for the nuclear mission had ebbed, the UsAF commissioned First strike, a documentary that explained the role of nuclear forces in defending the nation. that documentary, albeit forgotten today, helped rebuild public confidence in the nuclear mission. It is certainly time for a twenty-first century remake of First strike both for an American public and the citizenry of nAto allies. this time, however, the number of potential threats is greater. Not only does Russia maintain an arsenal comparable to the American arsenal, but China is expanding its arsenal and developing both new warheads and more advanced delivery systems. North Korea, a clear adversary continues to launch small scale conventional attacks against south Korea, while also threatening Korean and American vital interests. Iran, another adversary, may soon possess nuclear weapons, which it is likely to deploy on an array of ballistic missiles. there is nothing about the geostrategic environment of today or of the likely future that suggests nuclear weapons are less relevant to the defense of the United states and its allies than in the past. Contrary to the prevailing view, the nation’s nuclear forces are likely to increase in their importance to national security in coming decades. As the current economic crisis in europe – and Japan’s lost decade – illustrate, neither can a country borrow its way to prosperity nor can it maintain both a large warfare and welfare state.

### AT: Funding Thumper---2NC

#### Funding cuts area myth arsenal is adequate

Washington Post 8/31 (“The GOP is wrong to say Obama cut nuclear weapons budget,” http://www.washingtonpost.com/opinions/republicans-mislead-on-obamas-nuclear-spending/2012/08/31/f0ec910a-f2e7-11e1-a612-3cfc842a6d89\_story.html)

THE REPUBLICAN PARTY platform includes some scare talk. “The United States is the only nuclear power not modernizing its nuclear stockpile,” the platform warns. “It took the current administration just one year to renege on the President’s commitment to modernize the neglected infrastructure of the nuclear weapons complex — a commitment made in exchange for approval of the New Start treaty.” These statements are wrong and misleading. President Obama has increased the budget for nuclear weapons and the weapons complex. The president doesn’t like to talk about it as much — he prefers the lofty speech about a world free of nuclear weapons — but the truth is that in this realm he’s a big spender. On the nuclear stockpile, the National Nuclear Security Administration, a part of the Energy Department, is undertaking a 20-year, multi­billion-dollar effort, known as the Life Extension Programs, to prolong the life of four types of nuclear warheads and bombs. Just one of them, the B-61 gravity bomb, is facing enormous new cost estimates. While the president has said he won’t build new nuclear weapons, the existing arsenal is getting a massive and costly overhaul. More broadly, the United States is modernizing the triad: the land-sea-air combination of planes, submarines and missiles that delivers the nuclear bombs and warheads. While some have suggested it may be overkill two decades after the Cold War ended, the president decided to keep the triad intact. The modernization of the Minuteman III intercontinental ballistic missile and the Trident II submarine-launched ballistic missile is underway, and the Navy is planning to replace the Ohio-class ballistic missile submarines. Not a sign of weakness there. Congressional Republicans have been griping lately that Mr. Obama broke faith with a 10-year spending projection for nuclear weapons activities laid out when the New Start treaty was submitted for Senate ratification in 2010. In fact, led by House Republicans, Congress last year cut back the president’s proposed spending for nuclear weapons. Mr. Obama’s proposed 2013 budget is just slightly below the original top line of the 10-year plan — $7.58 billion, compared with $7.95 billion — because of the congressional cuts and the growing pressure on spending. This minor dip is not bad faith, “reneging” or unilateral disarmament; rather, it is how Congress and government work. Mr. Obama’s nuclear weapons budgets are still sizably above those left by President George W. Bush. The president made a commitment in a letter to the Senate in February 2011 to accelerate, “to the extent possible,” the design and engineering of a new plutonium facility, the Chemical and Metallurgy Research Replacement building at the Los Alamos National Laboratory in New Mexico. But after escalating costs and budget cuts by Congress, the administration decided that it could not sustain this project and another multibillion-dollar uranium plant in Tennessee. So the president made choices and proposed in his 2013 budget to defer work on the plutonium facility for five years. Again, a reasonable response to changing ­circumstances. It is wrong for Republicans to turn these fiscal hiccups into campaign broadsides. The United States has the most accurate, powerful and modern nuclear force in the world. Unfortunately, too much of the nuclear weapons argument is still trapped in a Cold War mind-set, as if the Soviet Union were still around. What we need now is a thorough going debate on the role of nuclear deterrence in the 21st century and what arsenal will most properly and effectively meet the ­challenge.

## CP

### Overview---Solvency---2NC

#### Have a high bar for a solvency deficit; their evidence is all in reference to putting troops on the ground or doing air raids---this doesn’t prove their competition arguments, it shows they wrote their plan poorly.

Every aff example is about entanglements with troops not nuclear conflicts

Lobel card proves

Lobel 8 – Jules Lobel, Professor at University of Pittsburgh Law School, “War Powers for the 21st Century: The Constitutional Perspective”, Testimony Before the Subcommittee on International Organizations, Human Rights and Oversight Committee on Foreign Affairs U.S. House of Representatives, 4-10, http://democrats.foreignaffairs.house.gov/110/lob041008.htm

One could, of course, hypothesize a myriad of situations where the nation might want the Executive to use force to respond to an emergency which did not constitute an attack on U.S. territories, troops or citizens. But the actual Executive uses of armed force in the decades since 1973 do not support the exceptions that various Administrations have claimed are necessary to protect national security. Can one think of any case in the past several decades where the President launched an armed action against another nation or terrorist organization but had no time to secure advance authorization from Congress? The air strikes against Libya in 1986, Baghdad in 1993 and again in 1998, Afghanistan and Sudan in 1998 and Yugoslavia in 1999 all could have been authorized by Congress in a timely manner before they were initiated. Military effectiveness merely required that the details and timing of the operation be secret—but there was sufficient time for Congress to decide whether to authorize those actions. The Panamanian and Haitian invasions were threatened for months and involved long-standing tensions. The Panamanian and Libyan operations were discussed for many months before they were actually launched. The Grenada invasion was arguably time driven, but only if you accept the implausible and factually inaccurate proposition that the operation was a direct response to the threat that American medical students would be taken hostage. Both of our attacks on Iraq in 1991 and 2003 took place after many months of military buildup and threats to invade, and after congressional authorization. Moreover, launching a surprise attack against a nation that has not attacked us ought not be a reasonable justification for avoiding the constitutional process. The phrase “repel sudden attacks” simply cannot, with any rationality, be turned into a justification for “launching sudden attacks.”

\*Framing issue\* Their ex post punishments won’t matter for a nuclear conflict; no chance the plan will be effective in a crisis

Miller and Cox 86 (“Congress, the Constitution, and First Use of Nuclear Weapons,” The Review of Politics / Volume 48 / Issue 03 / Summer 1986 pp 424-455.)

Should Congress wish to do so, it could retrieve its power over nuclear weapons simply by repealing the delegation to the presi- dent and substituting another in which congressional control is spelled out. This, no doubt, would have to be done, as was the War Powers Resolution of 1973, over a presidential veto. Another avenue for Congress is that of conditioning appropriations to for- bid first use or first strike of nuclear weapons. Still another would be a flat prohibition of the use of nuclear weapons except for de- fensive purposes. Each of these would easily pass constitutional muster.'06 But as long as nuclear weapons exist, these checks on executive power may be meaningless. The tools - the thousands of nuclear bombs now in the American arsenal--belong to the per- son who has them and, as Napoleon said, "who can use them"; 07 legislative proscription of the use of some tools cannot ensure that they will not be used. The history of presidential resort to the pre- rogative (accompanied, it must be noted, in the usual instance with applause from Congress) does not augur well for the congressional will to be followed. Daniel Ford discusses the ques- tion of what would happen under the present system should the president and senior military officers disagree. "Senior military officials are reluctant to talk about their capability to veto Presidential orders, or to take any independent actions"'108 Should Congress decide to change the system of control, a similar situation may result. After all, if the revered President Abraham Lincoln could flout the formal constitution during the early months of the Civil War, and get Supreme Court approval for his actions,"09 no one should believe that a modern chief executive would hesitate to follow the Lincolnian precedent. President Lyndon Johnson as- serted that he did not believe that the Gulf of Tonkin Resolution was necessary to continue the Vietnam war; President Richard Nixon, citing both Lincoln and President Franklin Roosevelt, as- serted an inherent unilateral power to "authorize actions in the in- terests of the security of this country"; and President Gerald Ford, in the face of the War Powers Resolution, seized the Mayaguez- re- lying on unnamed inherent executive powers as well as his author- ity as commander in chief."? It is, accordingly, clear beyond doubt that Congress can re- trieve its formal constitutional powers over nuclear weapons. But it is not at all certain, should Congress do so, that it would make much difference in the status quo. Something more is required

#### More evidence---the part we pick out of is meaningless for their solvency

Marius 10 (Marius is a government attorney for a jurisdiction in the New York metropolitan area, “WEAPONS-GRADE SEPARATION OF POWERS: WAS JOHN YOO RIGHT?,” http://acandidworld.com/2010/02/24/weapons-grade-separation-of-powers-was-john-yoo-right/)

This reading is neither liberal nor conservative; it’s just accurate, the way the commander-in-chief was meant to function (read over Federalist #70), and perfectly in line with our history. As the Founders recognized, wars are not to be waged by committee. Every significant post-federal military activity in our history — from the Gettysburg campaign, through the Normandy invasion & Hiroshima, and even to the Cuban Missile Crisis — has been debated, decided, and implemented exclusively at the Cabinet level or above. How could it be otherwise? It’s true that this line of argumentation leads to the conclusion that, in and probably out of war too, a single man or woman sitting behind a single desk could initiate Armageddon, with no legal check or balance. This needn’t be too scary, though: given the speed at which wartime decisions must be made, especially when the decisions involve nuclear weapons, any legal limit would be purely illusory anyways. No federal court would convene to litigate a preliminary injunction restraining the President’s use of weapons (who would have standing, anyways?), and no Congress would sit in emergency session to decide how to respond to plausible reports of an impending nuclear first strike against the United States. In some isolated cases, democracy implies a complete and perfect trust in the man or woman we’ve chosen to act in all of our names. The President’s authority to use nuclear weapons is one of those cases.

### AT: Perm-Sole Purpose + Plan

#### Requiring congressional approval blurs the lines and creates doctrinal confusion which collapses deterrence

Goldstein 88 (Yonkel Goldstein J.D., 1988, Stanford Law School, “NOTE: The Failure of Constitutional Controls Over War Powers in the Nuclear Age: The Argument for a Constitutional Amendment,” Lexis)

A second approach to the control of nuclear weapons lies at the intersection of the following two ideas: First, congressional action is necessary to authorize first-use of nuclear arms; and second, the speed with which a first-use decision must be made is such that, in many scenarios, the appropriate use of nuclear weapons (and their deterrent value) would be precluded by requiring the entire Congress to meet, debate, and authorize their use. 242 Such thinking led to a proposal endorsed by the Federation of American Scientists (FAS). That proposal provides that the President may not order a first-use of nuclear weapons, without obtaining the agreement of a majority of a committee composed of the Speaker and minority leader of the House, the majority and minority leaders of the Senate, and the chair and the ranking member of each of the House and Senate committees on Armed Services, the Senate Committee on Foreign Relations, and the House Committee on International Relations. The proposal allows Congress, however, in declaring war, to suspend operation of the above provision. 243¶ This proposal implicates several issues. For example, many proponents maintain that the first-use of nuclear weapons falls into a broad category over which the Framers clearly intended Congress to have policy-making authority. The fact that the Framers contemplated neither a standing army nor navy limits the applicability of original conceptions of executive military powers to modern situations. 244¶ [\*1581] Proponents of this proposal aver that because the use of nuclear weapons would be so catastrophic, such an event is the functional equivalent of commencing a new war, and thus it requires a congressional declaration. This claim is partly supported by the raw destructive power of even the smallest nuclear warheads in the American arsenal, and the assessment, made by other experts, that a first-use of American nuclear power would most likely result in nuclear retaliation, inflicting grave damage to the United States and its allies. 245 Although, the specific decision to employ nuclear weapons was certainly not contemplated by the Framers, it clearly is the kind of major policy determination they had in mind when they assigned Congress the authority to declare war. 246¶ A second issue concerning the legality of the FAS proposal is whether Congress is precluded from making decisions regarding the use of nuclear weapons because such decisions entail tactical military choices solely within the President's commander-in-chief powers. The source of congressional authority in this area is Article I, Section 8 of the Constitution, which grants Congress the power "[t]o make rules for the government and regulation of the land and naval forces." Historically, Congress has, in the absence of presidential consent or notification, ordered the military to take certain actions 247 and placed part of the military under the authority of a variety of civilians, including judges, customs agents, state governors, and others. 248 On one occasion, Congress even directed that a naval and marine detachment serve a foreign nation, Haiti. 249 Congress has also limited the President's control over the military, disabling him from issuing direct orders to the lower levels of the military. 250 Thus, an order prescribing the procedure to be used with respect to nuclear weapons would seem to be well within the bounds Congress has historically occupied. Of course, historical practice does not mean that such congressional actions are constitutional. However, historical practice coupled with the article 1, section 8 language granting Congress the power to govern and regulate the armed forces, make it very difficult to argue that Congress should be precluded from this area of decisionmaking.¶ The third issue this proposal implicates concerns whether Congress may delegate powers vested in Congress as a whole to a congressional [\*1582] committee. The argument in favor of such delegation maintains that the Constitution clearly contemplates congressional participation in decisions to use the military in foreign disputes. Technological reality, however, dictates that if there is to be any congressional participation, it must be through some kind of crisis committee that can act quickly and secretly. 251 This proposal comes as close as possible to enacting the intent of the Constitution in a nuclear age.¶ As the above discussion suggests, this proposal has significant merit, but it is laden with difficulties which make it impractical. For example, the proposal comes close to the limits of Chadha. 252 In addition to the ambiguities of the nondelegation doctrine mentioned in the discussion of Chadha above, 253 advocates of the FAS proposal have raised two additional points to distinguish the proposal from the situation that the Court found unconstitutional in Chadha. First, the FAS proposal does not allow for a legislative veto. The congressional committee's actions would empower the President -- they would not restrain his exercise of some previously granted statutory power. 254 The second distinction upon which supporters rely focuses on bicameralism and the importance of its serving as a counterbalance to the threat of an "imperial presidency" in the area of nuclear defense. In Chadha, the greater threat was that of legislative, not executive tyranny. 255¶Even if this proposal passes constitutional muster, it nonetheless raises two pragmatic concerns. First, can it work given time requirements inherent in a nuclear scenario? Second, can Congress maintain the requisite secrecy? With respect to the issue of time constraints, advocates of the FAS proposal point out that the NATO treaty obligates member states to consult with each other when their security is threatened. 256 Surely, supporters contend, domestic consultation is as feasible as international consultation. Proponents also cite recent incidents such as the seizure of the Mayaguez, the shooting down of Korean Airlines Flight 007, and the invasion of Grenada, when ample time existed for the Executive to consult with Congress before taking action. 257 Regarding the congressional ability to maintain secrecy, advocates of the FAS proposal respond to fears that members of Congress will be unable to maintain secrecy by pointing to both the generally favorable record of the Senate Select Committee in dealing with [\*1583] sensitive intelligence issues and the lack of a logical reason why members of Congress would be more prone to leak information than members of the Executive. 258 Of course, there may be ideological differences between congressional and administrative officials, creating a situation in which the former would have incentives to leak information. The FAS proposal has two major flaws. First, it is too limited in scope. Even if adopted in its entirety, it would not apply at all where a colorable case for retaliation could be made. Imagine, for example, that an enemy attacked United States naval forces in the Persian Gulf. Although the use of nuclear weapons in response could be considered retaliatory, it would be appropriate for Congress to have a voice in determining what the American response should be. The FAS proposal does not guarantee this. More importantly, the FAS proposal is subject to definitional difficulties. For example, it is unclear whether the use of nuclear weapons in one extremely important scenario -- after radar indicates that an attack has been launched, but before nuclear weapons have exploded in United States or allied territory -- should be categorized a first-use or a retaliation. 259 Thus, the FAS proposal is subject to the same type of definitional difficulties that plague the War Powers Resolution -- indeed, the term "first-use" seems to be no less ambiguous than the term "imminent hostilities." The second problem with the FAS proposal is that if it does not run afoul of the nondelegation doctrine, it certainly comes close to the limit. Thus, it cannot provide the kind of clear guidelines essential to an efficient response in crisis situations. The disagreements concerning congressional authority to pass such a law seem substantial enough to guarantee disobedience in a crisis.

### SP S

#### Sole Purpose declaration provides critical reassurance to North Korea and Iran and gives a boost to the NPT

David Shorr 10, program officer at the Stanley Foundation since 2000, 1-6-2010, (Nuclear) War, What Is It Good For?, TPM – Talking Points Memo, http://tpmcafe.talkingpointsmemo.com/2010/01/06/nuclear\_war\_what\_is\_it\_good\_for/?ref=c3

When the question of building a new generation of nuclear weapons came up at a fundraiser for Al Franken in mid-2007, his former Saturday Night Live colleague Jane Curtin quipped, "but we never used the old ones," reacting as if her son or daughter were asking for a new scooter. Strictly speaking, we actually did use the really old ones, but as Paul Richter reported in Monday's LA Times, the question of when the United States might use its current arsenal of weapons is being hotly debated within the US government. Having written before about the importance of the impending results of the Nuclear Posture Review and the need to sharply curtail the purpose and function of nuclear weapons, I want to flag some persuasive ideas from New America Foundation's Jeffrey Lewis over at Arms Control Wonk.

The upshot of Jeffrey's argument is that a pledge that the US won't be the first to launch nuclear weapons in any confrontation might not be the best way to limit their military role. He argues that the declaration of our posture should focus on the reasons for having these weapons rather than the scenarios for their use. Trying to make categorical statements about when you would or wouldn't mount a nuclear attack only leads to tortured discussions of exceptional and implausible scenarios. I recommend reading Jeffrey's entire post, but here's his key point:

As for talking about nuclear use scenarios -- well, the only way to win is not play! Look, you can always come up with an artificial, hypothetical that would compel the first use of a nuclear weapon against a kindergarten. (The kindergarten is sitting on top of a deeply buried bunker containing the Andromeda strain and there isn't enough time to evacuate...)

No good can come of speculating on such hypothetical scenarios because the deck is stacked against you. Moreover, there is no reason to play these games, because such unlikely scenarios are irrelevant to our nuclear policy, force structure or posture. ...

It's much better to state that neither of these cases -- nor the truly weird cases like asteroids -- have anything to do with why the United the States maintains a nuclear deterrent. United States nuclear policies, forces and posture are not shaped by the need to deter biological weapons or deflect asteroids. That's the implicit meaning of the President's statement that the United States seeks the security of a world without nuclear weapons: That all plausible non-nuclear threats can be met with conventional forces.

So if it's better to make a declaration about the rationale for our nuclear arsenal, what should such a declaration say? To answer this, Lewis cites his colleague Mort Halperin's contribution to an interchange on no-first-use sparked by Scott Sagan in the journal Survivial. Halperin's proposed basic formulation would be:

The United States maintains nuclear weapons to deter and, if necessary, respond to nuclear attacks against ourselves, our forces, or our friends and allies.

Halperin also advocates a declaration that would give so-called negative security assurances to non-nuclear weapon nations that are parties in good standing to the Non-proliferation Treaty.

The United States will not use nuclear weapons against non-nuclear-weapon state-parties to the Treaty on the Nonproliferation of Nuclear Weapons that are in compliance with their nuclear nonproliferation obligations.

This would not only respond to the need for the US to provide reassurance in the negotiations with Iran and North Korea, it would also reaffirm the central importance of the NPT. The one perplexing point in the Halperin piece concerns the relationship between the no-first-use issue and potential Senate ratification of the Comprehensive Test Ban Treaty (CTBT). Halperin offers a good analysis of the pressures and objections from conservative Republicans as they relate to the crowded nuclear policy agenda and particularly the sequencing for the Senate's legislative agenda. He says that CTBT ratification must come before the no-first-use issue. As a matter of priorities, I suppose that's true. But as a matter of the calendar and basing the policy on sound strategic footing, I don't see how it can be. Even with the current delays, the Nuclear Posture Review is bound to precede debate over the CTBT, and if the nuclear posture fudges the issue of a narrow role for the weapons, doesn't that strengthen arguments against the test ban? Either way, it points to the need to synch up the posture with the treaty ratification push.

\*\*[ELLIPSES IN ORIGINAL]

**Adopting a ‘sole purpose’ declaration solves the whole case and avoids the negative perceptions of NFU**

**Takubo 9** – Masa Takubo, independent analyst on nuclear issues living in Japan and operator of the nuclear information Web site Kakujoho, November 2009, “The Role of Nuclear Weapons: Japan, the U.S., and “Sole Purpose.,”” Arms Control Today, online: http://armscontrol.org/act/2009\_11/Takubo#6

On September 22, a day before President Barack Obama met with Japanese Prime Minister Yukio Hatoyama in New York, 13 nongovernmental U.S. security experts released an open letter calling on the two leaders “to support a U.S. policy declaring that the only purpose of nuclear weapons is to deter, and if necessary respond to, the use of nuclear weapons by other countries.”[1]

The letter was prompted in part by the coincidence of two events: the U.S. Nuclear Posture Review (NPR), which is supposed to be completed by December and delivered to Congress shortly after, and the victory of the Democratic Party of Japan (DPJ) in August. The nuclear policies of the DPJ appear to be markedly different from those of its predecessor, the Liberal Democratic Party, which dominated Japanese politics for more than 50 years.

A key element of the Japanese-U.S. security relationship has been the U.S. pledge to protect Japan against any attack. That pledge has been understood by the Japanese government as an offer of a “nuclear umbrella,” or extended nuclear deterrence, covering attacks on Japan with conventional, chemical, or biological weapons, as well as nuclear weapons.

The security experts’ letter called for a policy of limiting the role of nuclear weapons to deterrence of only nuclear attacks.[2] The letter explained:

This policy would be consistent with President Obama’s [April 5] statement in Prague that he will **reduce the role of nuclear weapons** in U.S. national security strategy, and urge other countries to do the same.

Such a change in U.S. policy will also **strengthen the** Nuclear **N**on-**P**roliferation **T**reaty—a goal of both nations—by reinforcing the negative security assurances the nuclear weapons states have made not to use nuclear weapons against states without nuclear weapons. It will also reduce the incentive for more countries to acquire nuclear weapons.[3]

The current Japanese-U.S. arrangement has come to function as a barrier to global nuclear nonproliferation and disarmament. Because of a fear in the United States and elsewhere of the perceived prospect that Japan might acquire its own nuclear arsenal if it came to regard the nuclear umbrella as unreliable, the arrangement in effect gives Japan significant leverage. It allows Japan to put pressure on the United States to avoid taking any significant steps to reduce the salience of nuclear weapons in its security and military doctrines and thus impedes progress on freeing the world of nuclear weapons. Those in the United States who oppose narrowing the role of nuclear weapons could also use Japan’s position as an excuse for not changing the current U.S. policy.

Former Secretary of Defense William Perry, one of the four authors of Wall Street Journal op-eds calling for a world free of nuclear weapons, said in a recent meeting in Tokyo that he has also been calling on Obama to adopt a policy declaring that the “sole purpose” of U.S. nuclear weapons is to deter the use of such weapons by others.[4] He said this “sole purpose” declaration would amount to a no-first-use declaration but that **the latter is not acceptable in the U**nited **S**tates **because the concept is tarnished by its abuse during the Cold War**, when the Soviet Union advocated no-first-use while, as was later discovered, it was preparing for first use.[5] Thus, in discussions today, the sole purpose, or “only purpose,” declaration is usually interpreted as a euphemistic substitute for a no-first-use declaration.[6]

## Case

### Circ

#### Obama will resist the plan-fights over war powers create intractable national diversions and impairs military decision making

**Lobel, Pittsburgh law professor, 2008**

(Jules, “Conflicts Between the Commander in Chief and Congress: Concurrent Power over the Conduct of War”, Ohio State Law Journal, vol 69, lexis, ldg)

The critical difficulty with a contextual approach is its inherent ambiguity and lack of clarity, which tends to sharply shift the balance of power in favor of a strong President acting in disregard of congressional will. For example, the application of the Feldman and Issacharoff test asking whether the congressional restriction makes realistic sense in the modern world would yield no coherent separation of powers answer if applied to the current Administration’s confrontation with Congress. It would undoubtedly embolden the President to ignore Congress’s strictures. The President’s advisors would argue that the McCain Amendment’s ban on cruel and inhumane treatment, or FISA’s requirement of a warrant, does not make realistic sense in the context of the contemporary realities of the war on terror in which we face a shadowy, ruthless nonstate enemy that has no respect for laws or civilized conduct, a conclusion hotly disputed by those opposed to the President’s policies. Focusing the debate over whether Congress has the power to control the treatment of detainees on the President’s claim that the modern realities of warfare require a particular approach will merge the separation of powers inquiry of who has the power with the political determination of what the policy ought to be. Such an approach is likely to encourage the President to ignore and violate legislative wartime enactments whenever he or she believes that a statute does not make realistic sense—that is, when it conflicts with a policy the President embraces. 53 The contextual approach has a “zone of twilight” quality that Justice Jackson suggested in Youngstown. 54 Often constitutional norms matter less than political realities—wartime reality often favors a strong President who will overwhelm both Congress and the courts. While it is certainly correct— as Jackson noted—that neither the Court nor the Constitution will preserve separation of powers where Congress is too politically weak to assert its authority, a fluid contextual approach is an invitation to Presidents to push beyond the constitutional boundaries of their powers and ignore legislative enactments that seek to restrict their wartime authority. Moreover, another substantial problem with a contextual approach in the war powers context is that the judiciary is unlikely to resolve the dispute. 55 The persistent refusal of the judiciary to adjudicate the constitutionality of the War Powers Resolution strongly suggests that courts will often refuse to intervene to resolve disputes between the President and Congress over the constitutionality of a statute that a President claims impermissibly interferes with her conduct of an ongoing war. 56 This result leaves the political branches to engage in an intractable dispute over the statute’s constitutionality that saps the nation’s energy, diverts focus from the political issues in dispute, and endangers the rule of law. Additionally, in wartime it is often important for issues relating to the exercise of war powers to be resolved quickly. Prompt action is not usually the forte of the judiciary. If, however, a constitutional consensus exists or could be consolidated that Congress has the authority to check the President’s conduct of warfare, that consensus might help embolden future Congresses to assert their power. Such a consensus might also help prevent the crisis, chaos, and stalemate that may result when the two branches assert competing constitutional positions and, as a practical matter, judicial review is unavailable to resolve the dispute. Moreover, the adoption of a contextual, realist approach will undermine rather than aid the cooperation and compromise between the political branches that is so essential to success in wartime. In theory, an unclear, ambiguous division of power between the branches that leaves each branch uncertain of its legal authority could further compromise and cooperation. However, modern social science research suggests that the opposite occurs. 57 Each side in the dispute is likely to grasp onto aspects or factors within the ambiguous or complex reality to support its own self-serving position. This self-serving bias hardens each side’s position and allows the dispute to drag on, as has happened with the ongoing, unresolved dispute over the constitutionality of the War Powers Resolution. Pg. 407-409

#### Crisis pressure and information asymmetry means Congress will defer to the executive

**Posner et al., Chicago law professor, 2011**

(Eric, The Executive Unbound, pg 7-10, ldg)

Having defined our terms as far as possible, our main critical thesis is that liberal legalism has proven unable to generate meaningful constraints on the executive. Two problems bedevil liberal legalism: delegation and emergencies. The first arises when legislatures enact statutes that grant the executive authority to regulate or otherwise determine policy, the second when external shocks require new policies to be adopted and executed with great speed. Both situations undermine the simplest version of liberal legalism, in which legislatures themselves create rules that the executive enforces, subject to review by the courts. Delegation suggests that the legislature has ceded lawmaking authority to the executive, de facto if not de jure,14 while in emergencies, only the executive can supply new policies and real-world action with sufficient speed to manage events. The two problems are related in practice. When emergencies occur, legislatures acting under real constraints of time, expertise, and institutional energy typically face the choice between doing nothing at all or delegating new powers to the executive to manage the crisis. As we will see, legislatures often manage to do both things; they stand aside passively while the executive handles the first wave of the crisis, and then come on the scene only later, to expand the executive's de jure powers, sometimes matching or even expanding the de facto powers the executive has already assumed. A great deal of liberal legal theory is devoted to squaring delegation and emergencies with liberal commitments to legislative governance. Well before World War I, the Madisonian framework of separated powers began to creak under the strain of the growing administrative state, typically thought to have been inaugurated by the creation of the Interstate Commerce Commission in 1887. For Madisonian theorists, delegation threatened the separation of powers by effectively combining lawmaking and law-execution in the same hands, and emergencies threatened legislative primacy by requiring the executive to take necessary measures without clear legal authorization, and in some cases in defiance of existing law. (We refer to the Madisonian tradition as it has developed over time and as it exists today, not to Madison himself, whose views before the founding were less legalistic than they would become during the Washington and Adams administrations.) As to both delegation and emergencies, Madisonian liberals have repeatedly attempted to compromise with the administrative state, retreating from one position to another and attempting at every step to limit the damage. In one prominent strand of liberal legal theory and doctrine, which has nominally governed since the early twentieth century, delegation is acceptable as long as the legislature supplies an "intelligible principle"15 to guide executive policymaking ex ante; this is the so-called "nondelegation doctrine." This verbal formulation, however, proved too spongy to contain the administrative state. During and after the New Deal, under strong pressure to allow executive policymaking in an increasingly complex economy, courts read the intelligible principle test so capaciously as to allow statutes delegating to the president and agencies the power to act in the "public interest," nowhere defined.'6 Before 1935, the U.S. Supreme Court mentioned nondelegation in dictum but never actually applied it to invalidate any statutes; in 1935, the Court invalidated two parts of the National Industrial Recovery Act on nondelegation grounds;" since then, the Court has upheld every challenged delegation. Subsequently, liberal legal theorists turned to the hope that legislatures could create administrative procedures and mechanisms of legislative and judicial oversight that would enforce legal constraints on the executive ex post, as a second-best substitute for the Madisonian ideal. In American administrative law, a standard account of the Administrative Procedure Act (APA), the framework statute for the administrative state, sees it as an attempt to translate liberal legalism into a world of large-scale delegation to the executive, substituting procedural controls and judicial review for legislative specification of policies. The APA applies to administrative action in a broad range of substantive areas, but does not apply to presidential action, so Congress has also enacted a group of framework statutes that attempt to constrain executive action in particular areas. Examples are the War Powers Resolution, which regulates the presidential commitment of armed forces abroad, the National Intelligence Act, which structures the intelligence agencies and attempts to require executive disclosure of certain intelligence matters to key congressional committees, and the Inspector General Act, which installs powerful inspectors general throughout the executive branch. As to emergencies, starting at least with John Locke's discussion of executive "prerogative," liberal political and constitutional theorists have struggled to reconcile executive primacy in crises with the separation of powers or the rule of law or both. Such questions have become all the more pressing in the twentieth and twenty-first centuries, when a series of wars, economic emergencies, and other crises have multiplied examples in which the executive proceeded with dubious legal authority or simply ignored the laws. Here too, the response has been a series of legal constraints, such as the APA's restrictions on emergency administrative action, and framework statutes such as the National Emergencies Act, which regulates the president's ability to invoke grants of emergency powers granted under other laws. One of our main claims is that these approaches are palliatives that have proven largely ineffective, and that fail to cure the underlying ills of liberal legalism. The same institutional and economic forces that produce the problems of delegation and emergencies also work to undermine legalistic constraints on the executive. The complexity of policy problems, especially in economic domains, the need for secrecy in many matters of security and foreign affairs, and the sheer speed of policy response necessary in crises combine to make meaningful legislative and judicial oversight of delegated authority difficult in the best of circumstances. In emergencies, the difficulties become insuperable—even under the most favorable constellation of political forces, in which the independently elected executive is from a different party than the majority of the Congress. Liberal legalism, in short, has proven unable to reconcile the administrative state with the Madisonian origins of American government. The constitutional framework and the separation-of-powers system generate only weak and defeasible constraints on executive action. Madisonian oversight has largely failed, and it has failed for institutional reasons. Both Congress and the judiciary labor under an informational deficit that oversight cannot remedy, especially in matters of national security and foreign policy, and both institutions experience problems of collective action and internal coordination that the relatively more hierarchical executive can better avoid. Moreover, political parties, uniting officeholders within different institutions, often hobble the institutional competition on which Madisonian theorizing relies.'8 Congressional oversight does sometimes serve purely political functions—legislators, particularly legislators from opposing parties, can thwart presidential initiatives that are unpopular—but as a legal mechanism for ensuring that the executive remains within the bounds of law, oversight is largely a failure. The same holds for statutory constraints on the executive—unsurprisingly, as these constraints are the product of the very Madisonian system whose failure is apparent at the constitutional level. In the terms of the legal theorist David Dyzenhaus, the APA creates a series of legal "black holes" and "grey holes" that either de jure or de facto exempt presidential and administrative action from ordinary legal requirements, and hence from (one conception of) the rule of law.19 The scope of these exemptions waxes and wanes with circumstances, expanding during emergencies and contracting during normal times, but it is never trivial, and the administrative state has never been brought wholly under the rule of law; periodically the shackles slip off altogether.

#### They assume Congress will pass very specific authorization-instead they are going to pass ambiguous statutes that let the President do whatever he wants

**Mitchell, GMU law professor, 2009**

(Jonathan, “Legislating Clear-Statement Regimes in National-Security Law”, January, <http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=jonathan_mitchell>, ldg)

The executive branch’s interpretive theories were far-reaching, and its approach to constitutional avoidance and implied repeal were irreconcilable with the Supreme Court’s precedents. But they provided some political cover for the President by giving his actions a veneer of legality, and may even have protected executive-branch employees from the fear of criminal liability or political reprisals.22 To prevent the executive from continuing to evade Congress’s codified clear-statement requirements in this manner, many proposals have sought to provide more narrow and explicit clear statement requirements in Congress’s framework legislation as well as provisions that withhold funding from activities that Congress has not specifically authorized. For example, Senator Arlen Specter proposed new provisions to FISA stating that no provision of law may repeal or modify FISA unless it “expressly amends or otherwise specifically cites this title,” and that “no funds appropriated or 23 otherwise made available by any Act” may be expended for electronic surveillance conducted outside of FISA. Congress failed 24 to enact Senator Specter’s proposal, but it did enact an amendment to FISA that made the clear-statement regime more explicit, specifying that “[o]nly an express statutory authorization for electronic surveillance” may authorize electronic surveillance outside of FISA’s procedures. And numerous commentators have 25 argued for new provisions in the War Powers Resolution that would withhold funds from military ventures that Congress has not specifically authorized. Yet such proposals are unable to counter 26 the executive branch’s aggressive interpretive doctrines. Executive branch lawyers will remain able to concoct congressional “authorization” from vague statutory language by repeating their assertions that codified clear-statement requirements “bind future Congresses” or that ambiguous language in later-enacted statutes implicitly repeals restrictions in Congress’s framework legislation. Future legislators will continue to acquiesce to the President’s unilateralism when it is politically convenient to do so. And the 27 federal courts’ willingness to enforce clear-statement regimes against the President in national-security law bears no relationship to the codified clear-statement requirements in framework legislation or treaties.28 Congress could produce more effective clear-statement regimes if it precommitted itself against enacting vague or ambiguous legislation from which executive-branch lawyers might claim implicit congressional “authorization” for certain actions. Rather than merely enacting statutes that instruct the executive not to construe ambiguous statutory language as authorizing military hostilities or warrantless electronic surveillance, Congress could establish point-of-order mechanisms that impose roadblocks to enacting such vague legislation in the first place. A point-of-order 29 mechanism would empower a single legislator to object to legislation that authorizes military force, or that funds the military or intelligence agencies. But the point of order would be valid only if the legislation fails to explicitly prohibit or withhold funding for military hostilities beyond sixty days, or warrantless electronic surveillance, unless the bill includes the specific authorizing language that Congress’s framework legislation requires. This device would reduce the likelihood of Congress ever enacting vague or ambiguous legislation that the executive might use to claim “authorization” for extended military hostilities or warrantless electronic surveillance. It would also induce legislators to confront presidents who act without specific congressional authorization by empowering a single legislator to object to legislation necessary to fund the President’s unauthorized endeavors. Yet the political branches have never established such an enforcement mechanism for the clear-statement requirements in national-security legislation, even though they have established such point-of-order devices to enforce precommitments in framework legislation governing the federal budget process. The result is a regime of 30 faint-hearted clear-statement regimes in national-security law—framework legislation that codifies strongly worded clearstatement rules but that lacks any mechanism to induce compliance by future political actors. This may be a calculated choice of members of Congress, or it may reflect the President’s influence in the legislative process. But no one should think that simply legislating more narrow or explicit clear-statement requirements, or adding funding restrictions to Congress’s framework legislation, will prevent the executive from continuing to infer congressional authorization from vague or ambiguous statutory language.

#### There’s no political cost because congress can’t exact it

Kriner, Boston political science professor, 2010

(Douglas, After the Rubicon: Congress, Presidents, and the Politics of Waging War, p. 41-2, ldg)

However, if Congress can exert influence over military policymaking only by taking a leading role and exercising these formal legislative mechanisms to mandate its preferred policy course, then **there are reasons to be skeptical of its ultimate influence.** Throughout American history, presidents have deployed American military forces across the globe to pursue a variety of policy objectives. Yet, in all but the rarest of cases, Congress has failed to avail itself of any of these tools to limit the president's authority as commander in chief. When presidents request a congressional authorization to use force, **it is almost always forthcoming**. When they act unilaterally without prior congressional assent, they almost always **evade legislative sanction**. Congress has invoked the War Powers Resolution's withdrawal clock only once, and even then it simultaneously authorized an eighteen-month deployment for the Marine mission in Lebanon. And, as recent debates concerning the war in Iraq have demonstrated, in almost every case of interbranch conflict over military policy, the power of the purse has proven to be a blunt instrument whose costs, both strategic and political, have virtually precluded its successful use.5 Given this record of congressional acquiescence to presidential initiatives and the reality that when members of Congress do rise up against the president's policies they consistently fail to write their preferences into law, why would presidents ever adjust their military policies in response to or anticipation of congressional opposition? What costs can the legislature impose on the president to dissuade him from pursuing his chosen policy course, regardless of legislative unease? If the only way in which Congress can affect the president's strategic calculus in the military arena is by legally compelling him to abandon his preferred policies, then Congress is indeed all but impotent in military affairs. **A host of factors** combine to hinder Congress from acting legislatively to constrain the commander in chief. Collective-action problems necessarily plague any effort by 535 atomized, individual ac tors to protect their institutional prerogatives as legislators in military affairs.6 More importantly, the partisan incentives of many members of Congress to support a president of their own party often overwhelm their interest in maintaining the power stakes of their institution. This reality, coupled with a legislative process riddled with transaction costs and supermajoritarian requirements, virtually precludes Congress from building the requisite majorities, or in some cases supermajorities, needed to chart a military course independent of the president.' Finally, the courts have long been reticent to intervene and protect legislative prerogatives in war powers that Congress itself is loath to assert.8 For all of these reasons, presidents act in the military arena secure in the knowledge that they can operate as they please with little risk of Congress exercising its constitutional and statutory prerogatives to compel them to do otherwise. If Congress does retain any influence in the military arena, it must be able to affect presidents' decision calculus through other, more indirect means.

#### They assume Congress wants to assert themselves-they don’t.

**Nzelibe, Northwestern law professor, 2007**

(Jide, “Are Congressionally Authorized Wars Perverse?”, Stanford Law Review, lexis, ldg)

These assumptions are all questionable. As a preliminary matter, there is not much causal evidence that supports the institutional constraints logic. As various commentators have noted, Congress's bark with respect to war powers is often much greater than its bite. Significantly, skeptics like Barbara Hinckley suggest that any notion of an activist Congress in war powers is a myth and members of Congress will often use the smokescreen of "symbolic resolutions, increase in roll calls and lengthy hearings, [and] addition of reporting requirements" to create the illusion of congressional participation in foreign policy.' 0 Indeed, even those commentators who support a more aggressive role for Congress in initiating conflicts acknowledge this problem," but suggest that it could be fixed by having Congress enact more specific legislation about conflict objectives and implement new tools for monitoring executive behavior during wartime. 12 Yet, even if Congress were equipped with better institutional tools to constrain and monitor the President's military initiatives, it is not clear that it would significantly alter the current war powers landscape. As Horn and Shepsle have argued elsewhere: "[N]either specificity in enabling legislation ... nor participation by interested parties is necessarily optimal or self-fulfilling; therefore, they do not ensure agent compliance. Ultimately, there must be some enforcement feature-a credible commitment to punish ....Thus, no matter how much well-intentioned and specific legislation Congress passes to increase congressional oversight of the President's military initiatives, it will come to naught if members of Congress lack institutional incentives to monitor and constrain the President's behavior in an international crisis. Various congressional observers have highlighted electoral disincentives

that members of Congress might face in constraining the President's military initiatives. 14 Others have pointed to more institutional obstacles to congressional assertiveness in foreign relations, such as collective action problems. 15 Generally, lawmaking is a demanding and grueling exercise. If one assumes that members of Congress are often obsessed with the prospect of reelection, 16 then such members will tend to focus their scarce resources on district-level concerns and hesitate to second-guess the President's response in an international crisis. 17 Even if members of Congress could marshal the resources to challenge the President's agenda on national issues, the payoff in electoral terms might be trivial or non-existent. Indeed, in the case of the President's military initiatives where the median voter is likely to defer to the executive branch's judgment, the electoral payoff for members of Congress of constraining such initiatives might actually be negative. In other words, regardless of how explicit the grant of a constitutional role to Congress in foreign affairs might be, few members of Congress are willing to make the personal sacrifice for the greater institutional goal. Thus, unless a grand reformer is able to tweak the system and make congressional assertiveness an electorally palatable option in war powers, calls for greater congressional participation in war powers are likely to fall on deaf ears. Pg. 912-913

#### They assume Congress is on the same page-they aren’t.

**Devins, William and Mary government professor, 2009**

(Neal, “Presidential Unilateralism and Political Polarization: Why Today's Congress Lacks the Will and the Way to Stop Presidential Initiatives”, <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1025&context=facpubs>, ldg)

In highlighting differences between the Watergate-era Congress and the modem Congress, Part III will examine the profound role that political polarization has played in defining today's Congress. Initially, I will call attention to how political polarization makes it impossible for Democrats and Republicans in Congress to work together. I will then extend that lesson to the highly partisan impeachment of President Clinton and, more importantly, to the ways in which modem day Presidents have assumed more and more power through unilateral action. Making matters worse (at least if you think Congress should stand as a check to presidential unilateralism), members of Congress see little personal gain in standing together to assert Congress's institutional prerogatives. On national security matters, today's Congress-unlike the post-1969 Viet Nam era Congress-sees little benefit in asserting legislative prerogatives. Put another way: Today's Congress, unlike the Watergate-era, has neither the will nor the way to check presidential initiatives

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