# 1AC

## 1AC — Shipping (KU HW, Shirley)

### 1AC — Mega Ships

#### Advantage 1 is Mega Ships —

#### The international shipping industry is immune from antitrust suits which creates carrier alliances

O’Shea 17, an attorney who works on transportation and infrastructure issues, (Sean, October 3, 2017, Congress Must Stop Foreign Ocean Carriers From Harming U.S. Economy, https://morningconsult.com/opinions/congress-must-stop-foreign-ocean-carriers-from-harming-u-s-economy/)

Currently, U.S. ports and shippers are exposed to foreign ocean carrier cartels that band together to protect their financial interests while squashing port profits and stifling competition. Over the past several years, these ocean carriers have largely consolidated into three alliances that represent such a large share of the market that they can threaten to steer substantial amounts of cargo away from U.S. ports that balk at fees the alliance offers. Under normal circumstances, the whole scheme likely would run afoul of the Sherman Anti-Trust Act, which Congress adopted at the end of the 19th century in response to oil, steel and sugar trusts that attempted this same kind of market manipulation. But in the Shipping Act of 1916, Congress created an exemption from antitrust laws for alliances approved by the Federal Maritime Commission. When Congress revisited the law in 1984, it added a provision that allows a carrier alliance to go into effect automatically, providing antitrust immunity to its member lines, unless the FMC obtains a court injunction within 45 days. Even then, the only acceptable grounds for issuing an injunction are when a proposed alliance will impair shippers. The court cannot consider the potential harm to ports, dock workers or other waterfront service providers. The law further says that only the FMC, and not the Department of Justice, may file such lawsuits, and private parties are expressly barred from intervening in any case the FMC does bring. This special treatment in the current law gives foreign containership lines a virtual antitrust immunity when dealing with U.S. marine terminals, stevedores, tug and towing companies, and other equipment and service providers. This has created an environment in which U.S. laws favor the interests of big foreign vessel operators at the expense of American port terminal companies, shippers and workers. Today, exactly zero U.S. ship owners participate in the three ocean carrier alliances recognized by the FMC. This means our laws now do more to shield foreign carriers from being sued for antitrust violations than it does to promote the domestic shipping industry.

#### Those alliances are causing an adoption of megaships

Merk et al 18, Associate Professor at the Urban School of the Institute for Political Science (Sciences Po) in Paris and leader of port and shipping work at the International Transport Forum (ITF) of the Organisation for Economic Co-operation and Development (OECD). (Olaf, with Lucie Kirstein and Filip Salamitov, 2018, The Impact of Alliances in Container Shipping, <https://www.itf-oecd.org/sites/default/files/docs/impact-alliances-container-shipping.pdf>.)

Economies of scale: mega-ships and overcapacity Alliances have made it possible for smaller players to get access to big ships that they would otherwise not have had. Shipping alliances have greatly encouraged the deployment of large container ships and large-vessel deployment can be identified after the formation of the first strategic alliances in container shipping (Slack et al., 2002; Fusillo, 2004). The link between vessel size and the attractiveness of alliances is clear from research on the propensity to cooperate: carriers with the highest average vessel size had the lowest propensity to cooperate – and the largest carriers where less inclined to cooperate than medium-sized ones (Parola et al., 2014). At the same time, the benefit a carrier experiences by collaborating increases with the network size and the fleet capacity of the partnering carriers (Houghtalen et al., 2011). Another indication that global alliances facilitate the development of ever larger ships: alliance services generally deploy the largest-capacity ships, since the emergence of alliances: e.g. the services of the Grand, New World and United Alliances in the early 2000s were provided by ships that were larger than the average size of the fleets of individual carriers (Slack et al., 2002). The practice that the largest ships are deployed in alliance services continues until today. There are mega-ship orders that seem to have been coordinated within the same alliance. The determining characteristic of liner shipping is its regularity: the majority of container services is offered on a weekly basis. In order to be able to offer a weekly frequency, a carrier needs a set of ships, e.g. around 10-11 ships for a weekly Asia-Europe service, taking into account the time needed for a ship to make the roundtrip. The cost of eleven ultra large container ships could easily reach USD1.5 billion, which might be difficult to finance for smaller carriers. For this reason, carriers in the same alliance have coordinated their mega-ship orders, so that they could pool similar-sized vessels for an alliance service. This seems to have been the case for carriers in the G6 Alliance (Box 4).Intra-alliance competition might also contribute to orders of new mega-ships. The idea behind this is that the carrier with the largest fleet and the largest ships will be the dominant carrier in an alliance. As the latest generation of alliances all consist of at least two carriers of similar size, this constellation is more prone to intra-alliance competition than earlier generations of alliances, in which there was mostly one dominant carrier partnering with several clearly smaller carriers. The announced mega-ship order of CMA CGM in Autumn 2017 seems to be a direct consequence of this intra-alliance competition, in particular the expansion of alliance partner Cosco that made it of similar size to CMA CGM. Mega-ships have driven overcapacity in the sector. Ships with a capacity over 17 000 TEUs represented around a third of the new-build container capacity during 2015-2018 (Figure 2).Considering sustained overcapacity in container shipping since 2009, the mega-ship orders have increased the oversupply of container ship capacity, despite substantial dismantling of older ships that has moderated overcapacity somewhat over the last years. Overcapacity – and a net growth rate of ship capacity that exceeds the growth rates of global containerised trade - is one of the main causes of the lack of profitability of container shipping. The demand of global containerised trade was negatively affected by the global financial and economic crisis that started in 2008. However, the ship overcapacity cannot be considered to be a result of the crisis, but rather the lack of restraint in ship orders since 2009, which resulted in a growing divergence between demand and supply. Global alliances have exacerbated the problem of excess investment and overcapacity (Higashida, 2015), which is one of the main causes of the lack of profitability of container shipping. It has been frequently observed that there is a prisoner’s dilemma related to capacity investment in container shipping, where the strategic behaviour by each individual company (to expand capacity)can lead to mutually destructive effects and overcapacity in the shipping supply (Kou and Luo, 2016).Container shipping – like shipping in general – is highly cyclical (Stopford, 2008). The increasing dominance of alliances in the aftermath of the global economic crisis that started in 2008 has disrupted this cyclicality: instead of the decline of ship capacity it resulted in capacity growth that was completely disconnected from demand for containerised transport capacity (Figure 3). Alliances made it possible for smaller carriers to follow market leaders in their ordering of mega-ships. Without alliances, this would not have occurred and container shipping capacity would likely have been closer to equilibrium with demand.

#### The size of those megaships are about to explode, drastically shaking up the entire industry

Fickling 21, Reporter for The Print. (David, March 30, 2021, Get ready for future, giant next-gen cargo vessels will make ‘Ever Given’ look like bath toy, <https://theprint.in/opinion/get-ready-for-future-giant-next-gen-cargo-vessels-will-make-ever-given-look-like-bath-toy/630839/>)

If you think the ultimate reason the Suez Canal got blocked last week is because container ships are getting too big, get ready for the future. The next few generations of cargo vessels are going to make the Ever Given look like a bath toy. Big enough to carry 20,124 twenty-foot equivalent units, or TEUs — the standard measure for cargo, representing a single shipping container — the Ever Given was one of the world’s largest such vessels when it was launched in 2018. The first container ship to break the 20,000 TEU mark had been at sea for less than a year. One famed 1999 study, written at a time when the largest boats carried less than 8,000 TEUs, argued it would prove impossible to build craft bigger than 18,000 TEUs. The Ever Given, finally floating on its way again, is now distinctly in the second class of mega freighters. There are nearly 100 ships carrying more than 20,000 TEUs on the seas or under construction, and the bigger vessels being assembled in Chinese and South Korean shipyards are mostly around the 24,000 TEU mark. A quarter of the capacity moved by the world’s largest container line, AP Moller-Maersk A/S, is on boats above the 17,500 TEU mark. That’s unlikely to be the end of it. Chinese shipyard Hudong-Zhonghua Shipbuilding Group Co. has already registered designs for a 25,000 TEU vessel, and it has become relatively commonplace to predict that 30,000 TEU monsters will be plowing the oceans before the decade is out. Such enormous hulls may cause problems that will put the Ever Given’s mishap into the shade. At Rotterdam, the largest ships already have to arrive at high tide to ensure there’s enough clearance for them to get through the channel, according to a 2019 study by Nam Kyu Park of South Korea’s Tongmyong University. Larger vessels will soon be unable to berth at Shanghai, Busan and Hong Kong even at high tide, unless channels are dredged out further, Park wrote. There are similar problems with infrastructure on dry land. Modern ports are astonishingly efficient at unloading, and can turn around a fully laden 20,000 TEU vessel in a couple of days. But the time spent waiting for a berth can cut deep into the wafer-thin economics of a container line. Longer quays may have to be built to accommodate the larger ships, as well as cranes that can reach across wider decks, larger loading yards for tens of thousands of containers, and faster rail and road terminals to take cargo to its next destination. Current vessels are already at the limits of what can fit along major shipping lanes. The Ever Given is too bulky to squeeze through the Panama Canal, where boats must be lifted over its mountainous spine with massive lock gates. At 24 meters (79 feet) deep, the Suez Canal has more capacity — but it’s roughly as deep as the Straits of Malacca and Singapore, so dredging it further to accommodate bigger ships won’t help much. The binding constraint on East-West trade at this point isn’t engineering, but geology. Extending 15.7 meters below the water line, the Ever Given shouldn’t, on paper, have trouble making it through any of those channels, which typically require 3.5 meters of clearance from the bottom. Next-generation ships with a 20-meter draught, on the other hand, would be at constant risk of grounding. How have container ships managed to defy expectations that their size would hit fundamental limits? A large part of it is because the economies of scale are so compelling. Bigger vessels use more fuel, but relative to the number of boxes stacked on their decks they’re far more efficient. They can also turn around a larger number of containers at a time and serve a wider array of feeder ports, ensuring they can defray their massive capital costs quicker. There’s little sign that this is about to change. New International Maritime Organization regulations against the burning of sulfur-intensive fuel oil introduced last year mean current ships are using costlier diesel, putting more pressure on naval architects to come up with yet more efficient designs. Beyond that, the IMO now has plans to reduce carbon dioxide emissions by 40% in 2030 compared with 2008, and by 70% by 2050. Even with a switch to cheaper, less polluting liquefied natural gas as the main fuel, that’s going to mean further drastic improvements in efficiency, not to mention propulsion technologies that don’t exist yet. To date, the best way to chip away at fuel consumption and emissions is by increasing size. It’s hard to know how the industry is going to cope with this. Perhaps Suez, Malacca and Singapore can be dredged to accommodate even bigger vessels. Perhaps shipyards will find ways to squeeze a few more inches out of existing channels. If not, alternative routes around the Cape of Good Hope and through the deeper Straits of Sunda and Lombok between Indonesia’s islands may prove the only viable way to accommodate such massive boats. Should that happen, those economies of scale will have to be drastically larger to make up for the longer sailing time. We’ve seen container ships leap from 10,000 TEUs to 24,000 TEUs. Don’t be shocked to see 50,000 TEU vessels plying the sea in your lifetime.

#### That forces massive, unwanted port expansions that ensures constant environmental destruction around the world

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According to (Baik, 2017), mega ships can impact the port infrastructure in many ways. As a brief example: The berth of a port determines what vessels can dock, larger vessels require larger berths and quays to support the length, weight, and height of the vessels. Large vessels also require larger gantry cranes to support the loading and unloading of cargo in large volumes. The cranes are required to be large and therefore are heavy with longer reach but this then requires the piers to be reinforced and expanded in order to support the weight and size. Yap & Loh (2019) informs that all these changes are caused by the size and length of a vessel which goes to show the vast amount of investment that is needed to make the port accessible to mega ships. “The bigger the ship is, the larger the risk is”, larger vessels also add a lot of risk regarding port congestion and can have heavy impacts on the environment if an accident were to occur in the port (Baik, 2017). According to Park & Suh (2019), if in the future a mega container ship with a volume capacity of 30,000 TEU is in operation then ports need to dredge and increase the water depth by more than 20 m and that will have to be the new standard for ports and container terminals.

#### Those port expansions destroy global biodiversity and entire ecosystems — ports are the lynchpin

Chua 21, Charmaine Chua is Assistant Professor of Global Studies at the University of California, Santa Barbara. (Charmaine, The Ever Given and the Monstrosity of Maritime Capitalism, Boston Review, <https://bostonreview.net/class-inequality-politics/charmaine-chua-ever-given-and-monstrosity-maritime-capitalism>)

From Megaships to Megaports These monstrous ships are perhaps most perverse in the way they meet their victims on shore. As more and more megaships lumber through the world’s oceans, more infrastructure is required to cope with mounting cargo on land. When companies such as Evergreen make new megaship orders, they rarely consult with port authorities, rail carriers, or other actors along the supply chain. Terminals originally built to discharge cargo from an earlier era of ship sizes (5,000 TEUs and under) now struggle to handle cargo with capacities five times as large. Shippers used to select ports on the basis of their strategic geographical location (as was the case in the establishment of the port of Aden, Malta, and other colonial entrêpots at key points in imperial trade routes). But ports today increasingly act as substitutes for each other, pawns in a game of commerce that is global in scale. All ports fear being replaced by the quicker, more efficient passage, so they invest heavily in upgrading their fixed infrastructure. Building a megaport is a mammoth task, both financially and spatially. Construction requires empty, flat land and expensive outlays of public finance. Channels must be dredged to make way for a deepwater harbor—not only once, but endlessly, to counter the tides and currents. Cranes must be raised or replaced by larger ones altogether. Dockyards must expand to support the higher volumes of containers. In the hinterland, highways and railroad corridors must support the concentration of cargo entering the city. These infrastructural modifications, made repeatedly as megaships have continued to grow, require the massive dispossession and manipulation of environments and ecologies. As Khalili details, there is something “extravagantly modernist” about shaping the ecologies and geologies of land and sea to suit the circuits of market exchange. The god-like desire to manipulate space, to extract and excavate without regard to geological impediments, reflect what Alfred Sohn-Rethel calls the “absolute historical timelessness and universality” of exchange, according to which “the entire empirical reality . . . by which one moment and locality of time and space is distinguishable from one another is wiped out.” Khalili recalls visiting the port of Khor Fakkan and talking to a British terminal manager. Pointing to a hill in the distance, he said plaintively that he could “move that mountain” if he needed. For him, Khalili reflects, “shaping the land, reclaiming it or flattening it, or whittling away at it, was no matter.” The ecological effects of such human hubris have been devastating. When the Suez Canal joined the Red Sea to the Mediterranean in 1869, marine species migrated along the waterway, allowing invasive species from venomous jellyfish to rabbitfish to make their way north, causing untold damage to biodiverse eco-systems. So significant were these effects that they have been termed “Lessepsian” after the developer of the canal, Ferdinand de Lesseps. As massive infrastructural developments chase giant ships, they destroy entire ecosystems, and ports and canals have come to epitomize the intensification and expansion of capital’s supply lines, cutting gashes across the earth to chase supply chain profits.

#### Biodiversity loss causes extinction

Joe McCarthy 18, a Staff Writer at Global Citizen, Nov 8 2018, "Humans Could Face Extinction if We Don't Protect Biodiversity: UN", Global Citizen, <https://www.globalcitizen.org/en/content/biodiversity-loss-human-extinction/>

As the sixth mass extinction event accelerates around the world, engulfing thousands of animal and plant species, humans risk facing a similar fate unless drastic interventions are made, according to Cristiana Pașca Palmer, the United Nations biodiversity chief, who recently spoke with the Guardian.

Palmer said that within the next two years, countries have to develop an ambitious plan to conserve land, protect animals, and stop practices that are harming wildlife. This effort is equally as urgent as the Paris climate agreement’s goal of mitigating climate change, she said.

“The loss of biodiversity is a silent killer,” she told the Guardian. “It’s different from climate change, where people feel the impact in everyday life. With biodiversity, it is not so clear but by the time you feel what is happening, it may be too late.”

Next month, countries will meet in Sharm el Sheikh, Egypt, to begin mapping out what such a plan would like. Palmer hopes that a final version will be formalized in Beijing in 2020.

If a binding global treaty fails to materialize, then humanity faces an uncertain future, she said. Past efforts to stop the loss of biodiversity have not proved successful, according to the Guardian.

In recent years, evidence of this staggering loss has begun accumulating.

Wild animal populations have declined by 60% since 1970, more than 26,000 plants and animals are close to extinction, nearly two-thirds of the world’s wetlands and half of all rainforests have been destroyed, more than 87% of the world’s ocean area is dying, and the planet needs an estimated 5 million years to recover from the biodiversity loss it has already sustained.

“We are sleepwalking towards the edge of a cliff,” Mike Barrett, executive director of science and conservation at WWF, recently told the Guardian. “If there was a 60% decline in the human population, that would be equivalent to emptying North America, South America, Africa, Europe, China, and Oceania. That is the scale of what we have done.”

“This is far more than just being about losing the wonders of nature, desperately sad though that is,” he said. “This is actually now jeopardising the future of people. Nature is not a ‘nice to have’ — it is our life-support system.”

The benefits of biodiversity are hard to overstate. The food chain, climate systems, atmospheric conditions, natural resources, and much more depend on the delicately structured interactions of ecosystems around the world.

The truly wild places in the world, meanwhile, are crucial to generating, cleaning, and distributing water around the world, and could help to mitigate the looming water crisis. These landscapes and marine environments also clean the air and act as carbon sinks, stabilize the global environment, and protect countries from natural disasters.

#### Megaships independently cause port access disparities and expansions that triggers Southeast Asian conflict

Iyer 19, Fellow with the ORF Maritime Policy Initiative. She tracks ocean governance policies and international maritime trade sustainability for global development. (Gayathri, Mega-ships in the Indian Ocean: Evaluating the impact and exploring littoral cooperation, https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/)

The emergence of mega-ships and mega-ports necessitates that governments respond to several traditional and non-traditional maritime security threats and vulnerabilities. Securing maritime supply chains against disruption presents an enormous challenge. The increased size of ships increases the safety, security and rescue concerns at ports proportionally as mega-ships generate larger and more concentrated flows of containers in docks, stores and the hinterland. Mega-ships also increase the concentration of risk in the transit choke points that can have severe global food and energy security implications.[41] While more cargo on ships implies less number of ships, the supply chain becomes less resilient due to the large volume of goods on decreasing number of vessels.[42] The potential threat to international commerce by naval mines makes mega-ships most vulnerable near geographical bottlenecks, especially on routes that carry large oil and food supply. Destabilising any one choke point could not only lead to massive losses of goods, it may have considerable economic and even life-safety repercussions around the globe. Experts have already identified the growing threat of naval mines in the Strait of Mandeb that ties the Red Sea to the Gulf of Aden.[43] The joint naval mine countermeasure and clearing exercise off the coast of Bahrain in 2012—which saw participation from 30 states from six continents—[44] drew attention to the need for greater clarity on the law governing the use of naval mines in times of both peace and war. The 1907 Hague VIII Convention, which is the only treaty that expressly governs naval mines in international law, is expressly limited to contact mines.[3] Since larger container vessels can ply only in limited sea-lanes of communications and dock only in a few mega-ports, they are aggravating the disparity among maritime trade regions and stakeholders. There are inequalities arising in some littorals because of being left out of the direct port calls and the changes in the traditional sea-lanes of communication. These rapid changes in sea-lanes of communication can catalyse conditions for the rise of non-state actors. They can disrupt maritime supply chains and threaten the global economy. Unplanned port expansion activities impact urban crime and human rights violation patterns. With the exception of India, the bulk of Asia’s population of 3.5 billion is coastal or near-coastal. Over 60 percent — 2.1 billion people — live within 400 kilometres of a coast. Such population clusters along coasts commonly results in serious conflicts over shared resources including water and land, unplanned urbanisation, and continued pollution of coastal waters.[45] The current coastal population growth is not being managed equitably, reflecting these concerns.[46] Port developments may also produce tensions based on historical development and socio-cultural composition. The social composition of most ports has been influenced by centuries of migration. Ports serve as entry and exit points for migration and act as employment hubs; as a result, port demographics change continually over time. This has given them distinct advantages in promoting social interaction, intellectual tolerance, and religious exchanges. At the same time, however, the complex distribution of communities that has developed as a result of successive phases of migration can lead to security threats in locations where human development is compromised. Mega-port development and expansion represents an unprecedented scale of intervention in an otherwise organically constituted settlement. This in turn can lead to the relocation of people, or trigger tribal, cultural, economic, and even religious conflict.[47] Since the Indian Ocean littoral has always been vulnerable to criminals and anti-national activities[48]—some internal and localised[49] and others of global significance[50]— state policies need to move towards balancing development of human capital with physical capital to create sustainable solutions. The expansions required to accommodate mega-ships are problematic for other reasons. They are mostly unplanned—with short-term gains in mind—aggravating existing issues of urban congestion and related crime. Karachi seaport in Pakistan is cited as a prime example of a well-located international trading port asset that grapples with unplanned port expansions, population overflow, complex urban demography, urban poverty, and violent crime.[51] It is a key geopolitical asset in South Asian international trades as the largest warm water deep-seaport in South Asia, and owing to its proximity to the Strait of Hormuz. Singapore, by contrast, has been able to leverage its human capital to create wider economic benefits for its people by planning its port expansion activities. Successfully planned port development has played a significant role in the country’s development and trade competitiveness.[[52]](https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/" \l "_edn52),[[4]](https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/" \l "_ftn4) As the example of Karachi shows (and inversely, Singapore implies), most of developing Asia lacks the political motivation, expertise, or money to introduce comprehensive coastal management plans at individual country level. It is thus important for these countries to select best practices and introduce joint policies for port expansion and development that examine ways of permitting economic growth while ensuring a better quality of life for all coastal dwellers. The highest rate of urban land conversion (increased urban extension) in the coastal zone, is taking place in China and Southwest Asia.[[53]](https://www.orfonline.org/research/mega-ships-in-the-indian-ocean-evaluating-the-impact-and-exploring-littoral-cooperation-53235/" \l "_edn53) Trade flows between the two regions through the Indian Ocean account for almost 30 percent of world trade. The trends of urban land and population expansion rates in these and Southeast Asian coastal zones is expected to continue or even increase into the future if countries are pushed into expanding ports rapidly to accommodate mega-ships. Since littorals support intricate maritime infrastructure including ports, harbours, oil and gas terminals, and rail/road systems, they can create favourable conditions for illegal activities. Their governance can be a major challenge for civil security agencies if they are socially dysfunctional due to economic or resource disparities. It is therefore important to consider policy frameworks that examine port expansion plans taking into account not only economic development but the planning required to address issues including increasing crime, human rights violations, ethnic conflicts, and the dislocation of people.

**Instability escalates---Southeast Asia is a flashpoint.**

Ei Sun **Oh 16**, Senior Fellow, Singapore Institute of International Affairs / Principal Adviser, Pacific Research Center, Malaysia, 9-20-17, Say ‘No’ To Balkanization – The Manila Times, Manila Times, https://www.manilatimes.net/2017/09/20/opinion/analysis/say-no-balkanization/351621/351621/

There are those who bluntly question what is the point of having Asean (Association of South East Asian Nations) at all if it were not to take a proactive role in regional matters, especially those of strategic importance? The answer to this question is, alas, perhaps an existentialist one. For indeed what would Southeast Asia be if we do not at least have a regional organization in the form of Asean? Well, one possible outlook would be that we are Balkanized. And what does that mean? The Balkan Peninsula, which roughly comprises the former Yugoslavia and Albania, has been one of the world’s most ethnically and religiously diverse and thus tense regions. Within a small confine of rather rugged terrain, there live side by side Orthodox Serbs, Muslim Bosnians and Catholic Croats, to name but a few of the Balkan tribes. Their incessant bickering led to the assassination of the Austro-Hungarian heir to the throne and thus the onset of the First World War a century ago. Yugoslavians were ruled with an iron fist under the communist dictator Tito for nearly half a century after the Second World War and thus maintained a forced peace. But all hell broke loose in the 1990s, with the various former component republics of Yugoslavia at war with each other and often within themselves too, culminating in many different horrible tales of genocide, war crimes and crimes against humanity. The relative peace there now can at best be described as temporary. And at least in theory we the various nations in Southeast Asia have the comparable “ingredients” that could have led to the same, if not higher degree of havoc, as the Balkans. There are Muslims, Christians and Buddhists (and even some Hindus) among us, and we are each fiercely proud of our respective ethnic backgrounds. So, we could have each staked our claim to our pride and “greatness” and assumed a rival posture to our neighbors, instigating war at the first hint of insult. Even just as an individual commentator on regional affairs, I myself have not immune to attack but subject to that sort of war cry from a neighboring country due only to a well-meaning media comment of mine, albeit at a civil-society level. So, things could have gone the Balkan way from way back during the early days of our independence from our respective colonial yokes. And we were almost there. Right before and after Malaysia’s formation, for example, the so-called “Confrontation” was launched to oppose it, with skirmishes taking place for a few years. But wiser heads prevailed, and all our former leaders decided not to go down that mutually destructive path toward total annihilation. Instead, we decided to set aside or overlook our cultural and political differences, great that they may be, and form Asean to bring us closer together, but only to a degree of closeness that we are all comfortable with. And that degree of comfort is essential for Asean’s long-term survival as a regional platform for peace and hopefully also security, but peace with each other first and foremost. In the early days of Asean, when the Vietnam War was raging, there was a perceived “common enemy” in the likelihood of communist insurgency flipping many Southeast Asian countries red in a domino effect, so the founding members of Asean understandably came very close together in security concerns, although even then there was not an explicit military alliance forged. As the Vietnam War receded, Asean members felt that it was time to focus on their collective and respective economic development, and so the whole focus of Asean switched to that of promoting economic cooperation and coordination. Ambitious socioeconomic frameworks were envisioned and enacted, such as the various Asean free trade agreements with the major trading powers of the world, culminating in Asean’s own free-trade-plus framework, the Asean Economic Community which is supposed to promote the free flow of goods, services and many more across Asean members’ boundaries. We live in very turbulent and dangerous times, with nationalism and its attendant jingoistic sentiments on the rise across the globe, including in some of the most advanced countries. My own personal negative experience above, although only encountered online, has persuaded me that if left unchecked, such negative trends would only serve to destroy ourselves and our neighbors. Therefore, I think that while we should not presume Asean to force its member states to abandon their various nationalistic characteristics in favor of a common Southeast Asian one, as some accuse the European Union of accentuating the European nature of its various members in lieu of their various national ones, we should nevertheless wait for Asean to take the lead in promoting further, deeper and broader understanding of each other’s history, needs and even fears. There are no significantly entrenched misunderstandings among us, so there is nothing to paper over. But sometimes it is very important for all of us to listen to each other’s aspirations in a peaceful manner.

#### They also massively inflate the risk of biological and nuclear terror attacks

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Mega-port hubs close to such small island sanctuaries or transnational crime centres can be susceptible to the potential threat of containers being used by terrorists as a delivery vehicle for chemical, biological, radiological, or nuclear weapons. The hub-and-spoke model[5] of transport chains adopted by mega-ports increases their vulnerability. This is due to the coordination required in security links across multiple industries, regulatory agencies, modes, operating systems, liability regimes, and legal frameworks to fill a single large vessel. Most ports use existing security frameworks to protect containers from terrorist activity. However, most international and bilateral security initiatives—as codified in the Safety of Life at Sea Convention[60] and the International Ship and Port Facility Security Code[61]—have been focused on the larger actors and the middle of the chain ports and maritime transport. There is a lack of international frameworks for security checks at inland transport or the outer edges of the chain. Since the hub-and-spoke model adopted by mega-ships is characterised by complex simultaneous movement of containers on the outer edge of a port over feeder channels and inner edges in the form of large swathes of trucks and rails, the security threat increases. Vulnerabilities in the container environment are highest in rail yards, road stops, and parking and shipping/loading terminal facilities. The hub-and-spoke model increases the necessity to speed up operations while tightening margins, aggravating the security risk. The loading or unloading of very large vessels becomes more complicated. Amidst the chaos that ensues, terrorists targeting the container transport chain can intercept a legitimate consignment by hijacking it or may develop a legitimate trading identity to use Trojan horses for dangerous consignments. Measures to mitigate such threats involve container scanning and container screening. Experts point out that while 100 percent container screening is possible, it is not practical with current technologies.[62] Security inspections are time- and space-consuming, and expensive. Since the mega-ship and mega-port models primarily aim to reduce costs, few ports may invest in enough space and resources to adequately conduct these activities unless an international governance mechanism makes it mandatory. There is a potential risk of non-state actors abusing loopholes in cyber security to target vessels and specific ports. Hackers can infiltrate cyber systems in a port to locate specific containers loaded with illegal drugs or completely shut port activities for some hours or days. No state is equipped to unilaterally handle the rising challenges in the digital security or physical security domain. Further, lack of unanimity in understanding the magnitude of the threat distorts physical security priorities of ships and ports. Navy-to-navy cooperation among nations also has to go beyond periodical exercises for effective control of regional terrorism and transnational activists. In the case of mega-ports and mega-ships, emphasis should be placed on terrorism or cyber-attacks not because governments have a clear and informed view of the threats, or their vulnerabilities, but rather because the rapid evolution in size of ships and unplanned port expansions preclude a clear view of any potential threat.

#### The threat is empirically proven

CORDIS 21, CORDIS is the Community Research and Development Information Service. It is the European Commission's primary public repository and portal to disseminate information on all EU-funded research projects. (June 3, 2021, CBRNE Detection in Containers, https://cordis.europa.eu/project/id/786945}

The threat of CBRNE (Chemical, Biological, Radiological, Nuclear and Explosives) components used by terrorists is major concerns for EU and worldwide security. Today there is a major security gap in the existing security flow that can be used by terrorists to hide and smuggle CBRNE materials inside containers and vehicles. The challenge of improving container and vehicles border crossing and critical infrastructure entrance security checks is of great importance in fighting terrorist threats, theft and smuggling. Improvised Nuclear Device (IND) could be detonated using nuclear weapon components, modified nuclear weapons, or a self-made device and Radiological Dispersal Device (RDD) could be designed to disperse radioactive materials through an explosion (or ‘dirty bomb’).It was also reported that since 1998, in the US alone, there have been more than 1,300 reported incidents of lost, stolen, or abandoned devices containing sealed radioactive sources, an average of about 250 per year. Chemical and Biological are in use by terrorists. Report of Wm. Robert Johnston summarizes the “historical attacks using chemical or biological weapons” with 23 attacks since 1994, while all the recent attacks were done mainly by terrorists and the Syrian militants. The attacks demonstrating the attempts and capability of terrorists to acquire chemical and biological materials (chlorine, mustard, sarin, etc) and to prepare chemical or biological bombs. COSMIC system plans to bridge the major security gap for fast inspection of large number of containers and vehicles in sea port and in crossing borders for CBRNE materials. COSMIC’s technology can be adapted also to air containers.

#### Extinction

Matthew Bunn & Nickolas Roth 17. \*Professor of practice at the Harvard Kennedy School. \*\*Research associate at the Belfer Center’s Project on Managing the Atom at Harvard University and research fellow at the Center for International and Security Studies at the University of Maryland. “The effects of a single terrorist nuclear bomb.” Bulletin of the Atomic Scientists, http://thebulletin.org/effects-single-terrorist-nuclear-bomb11150

The escalating threats between North Korea and the United States make it easy to forget the “nuclear nightmare,” as former US Secretary of Defense William J. Perry put it, that could result even from the use of just a single terrorist nuclear bomb in the heart of a major city. At the risk of repeating the vast literature on the tragedies of Hiroshima and Nagasaki—and the substantial literature surrounding nuclear tests and simulations since then—we attempt to spell out here the likely consequences of the explosion of a single terrorist nuclear bomb on a major city, and its subsequent ripple effects on the rest of the planet. Depending on where and when it was detonated, the blast, fire, initial radiation, and long-term radioactive fallout from such a bomb could leave the heart of a major city a smoldering radioactive ruin, killing tens or hundreds of thousands of people and wounding hundreds of thousands more. Vast areas would have to be evacuated and might be uninhabitable for years. Economic, political, and social aftershocks would ripple throughout the world. A single terrorist nuclear bomb would change history. The country attacked—and the world—would never be the same. The idea of terrorists accomplishing such a thing is, unfortunately, not out of the question; it is far easier to make a crude, unsafe, unreliable nuclear explosive that might fit in the back of a truck than it is to make a safe, reliable weapon of known yield that can be delivered by missile or combat aircraft. Numerous government studies have concluded that it is plausible that a sophisticated terrorist group could make a crude bomb if they got the needed nuclear material. And in the last quarter century, there have been some 20 seizures of stolen, weapons-usable nuclear material, and at least two terrorist groups have made significant efforts to acquire nuclear bombs. Terrorist use of an actual nuclear bomb is a low-probability event—but the immensity of the consequences means that even a small chance is enough to justify an intensive effort to reduce the risk. Fortunately, since the early 1990s, countries around the world have significantly reduced the danger—but it remains very real, and there is more to do to ensure this nightmare never becomes reality. Brighter than a thousand suns. Imagine a crude terrorist nuclear bomb—containing a chunk of highly enriched uranium just under the size of a regulation bowling ball, or a much smaller chunk of plutonium—suddenly detonating inside a delivery van parked in the heart of a major city. Such a terrorist bomb would release as much as 10 kilotons of explosive energy, or the equivalent of 10,000 tons of conventional explosives, a volume of explosives large enough to fill all the cars of a mile-long train. In a millionth of a second, all of that energy would be released inside that small ball of nuclear material, creating temperatures and pressures as high as those at the center of the sun. That furious energy would explode outward, releasing its energy in three main ways: a powerful blast wave; intense heat; and deadly radiation. The ball would expand almost instantly into a fireball the width of four football fields, incinerating essentially everything and everyone within. The heated fireball would rise, sucking in air from below and expanding above, creating the mushroom cloud that has become the symbol of the terror of the nuclear age. The ionized plasma in the fireball would create a localized electromagnetic pulse more powerful than lightning, shorting out communications and electronics nearby—though most would be destroyed by the bomb’s other effects in any case. (Estimates of heat, blast, and radiation effects in this article are drawn primarily from Alex Wellerstein’s “Nukemap,” which itself comes from declassified US government data, such as the 660-page government textbook The Effects of Nuclear Weapons.) At the instant of its detonation, the bomb would also release an intense burst of gamma and neutron radiation which would be lethal for nearly everyone directly exposed within about two-thirds of a mile from the center of the blast. (Those who happened to be shielded by being inside, or having buildings between them and the bomb, would be partly protected—in some cases, reducing their doses by ten times or more.) The nuclear flash from the heat of the fireball would radiate in both visible light and the infrared; it would be “brighter than a thousand suns,” in the words of the title of a book describing the development of nuclear weapons—adapting a phrase from the Hindu epic the Bhagavad-Gita. Anyone who looked directly at the blast would be blinded. The heat from the fireball would ignite fires and horribly burn everyone exposed outside at distances of nearly a mile away. (In the Nagasaki Atomic Bomb Museum, visitors gaze in horror at the bones of a human hand embedded in glass melted by the bomb.) No one has burned a city on that scale in the decades since World War II, so it is difficult to predict the full extent of the fire damage that would occur from the explosion of a nuclear bomb in one of today’s cities. Modern glass, steel, and concrete buildings would presumably be less flammable than the wood-and-rice-paper housing of Hiroshima or Nagasaki in the 1940s—but many questions remain, including exactly how thousands of broken gas lines might contribute to fire damage (as they did in Dresden during World War II). On 9/11, the buildings of the World Trade Center proved to be much more vulnerable to fire damage than had been expected. Ultimately, even a crude terrorist nuclear bomb would carry the possibility that the countless fires touched off by the explosion would coalesce into a devastating firestorm, as occurred at Hiroshima. In a firestorm, the rising column of hot air from the massive fire sucks in the air from all around, creating hurricane-force winds; everything flammable and everything alive within the firestorm would be consumed. The fires and the dust from the blast would make it extremely difficult for either rescuers or survivors to see. The explosion would create a powerful blast wave rushing out in every direction. For more than a quarter-mile all around the blast, the pulse of pressure would be over 20 pounds per square inch above atmospheric pressure (known as “overpressure”), destroying or severely damaging even sturdy buildings. The combination of blast, heat, and radiation would kill virtually everyone in this zone. The blast would be accompanied by winds of many hundreds of miles per hour. The damage from the explosion would extend far beyond this inner zone of almost total death. Out to more than half a mile, the blast would be strong enough to collapse most residential buildings and create a serious danger that office buildings would topple over, killing those inside and those in the path of the rubble. (On the other hand, the office towers of a modern city would tend to block the blast wave in some areas, providing partial protection from the blast, as well as from the heat and radiation.) In that zone, almost anything made of wood would be destroyed: Roofs would cave in, windows would shatter, gas lines would rupture. Telephone poles, street lamps, and utility lines would be severely damaged. Many roads would be blocked by mountains of wreckage. In this zone, many people would be killed or injured in building collapses, or trapped under the rubble; many more would be burned, blinded, or injured by flying debris. In many cases, their charred skin would become ragged and fall off in sheets. The effects of the detonation would act in deadly synergy. The smashed materials of buildings broken by the blast would be far easier for the fires to ignite than intact structures. The effects of radiation would make it far more difficult for burned and injured people to recover. The combination of burns, radiation, and physical injuries would cause far more death and suffering than any one of them would alone. The silent killer. The bomb’s immediate effects would be followed by a slow, lingering killer: radioactive fallout. A bomb detonated at ground level would dig a huge crater, hurling tons of earth and debris thousands of feet into the sky. Sucked into the rising fireball, these particles would mix with the radioactive remainders of the bomb, and over the next few hours or days, the debris would rain down for miles downwind. Depending on weather and wind patterns, the fallout could actually be deadlier and make a far larger area unusable than the blast itself. Acute radiation sickness from the initial radiation pulse and the fallout would likely affect tens of thousands of people. Depending on the dose, they might suffer from vomiting, watery diarrhea, fever, sores, loss of hair, and bone marrow depletion. Some would survive; some would die within days; some would take months to die. Cancer rates among the survivors would rise. Women would be more vulnerable than men—children and infants especially so. Much of the radiation from a nuclear blast is short-lived; radiation levels even a few days after the blast would be far below those in the first hours. For those not killed or terribly wounded by the initial explosion, the best advice would be to take shelter in a basement for at least several days. But many would be too terrified to stay. Thousands of panic-stricken people might receive deadly doses of radiation as they fled from their homes. Some of the radiation will be longer-lived; areas most severely affected would have to be abandoned for many years after the attack. The combination of radioactive fallout and the devastation of nearly all life-sustaining infrastructure over a vast area would mean that hundreds of thousands of people would have to evacuate. Ambulances to nowhere. The explosion would also destroy much of the city’s ability to respond. Hospitals would be leveled, doctors and nurses killed and wounded, ambulances destroyed. (In Hiroshima, 42 of 45 hospitals were destroyed or severely damaged, and 270 of 300 doctors were killed.) Resources that survived outside the zone of destruction would be utterly overwhelmed. Hospitals have no ability to cope with tens or hundreds of thousands of terribly burned and injured people all at once; the United States, for example, has 1,760 burn beds in hospitals nationwide, of which a third are available on any given day. And the problem would not be limited to hospitals; firefighters, for example, would have little ability to cope with thousands of fires raging out of control at once. Fire stations and equipment would be destroyed in the affected area, and firemen killed, along with police and other emergency responders. Some of the first responders may become casualties themselves, from radioactive fallout, fire, and collapsing buildings. Over much of the affected area, communications would be destroyed, by both the physical effects and the electromagnetic pulse from the explosion. Better preparation for such a disaster could save thousands of lives—but ultimately, there is no way any city can genuinely be prepared for a catastrophe on such a historic scale, occurring in a flash, with zero warning. Rescue and recovery attempts would be impeded by the destruction of most of the needed personnel and equipment, and by fire, debris, radiation, fear, lack of communications, and the immense scale of the disaster. The US military and the national guard could provide critically important capabilities—but federal plans assume that “no significant federal response” would be available for 24-to-72 hours. Many of those burned and injured would wait in vain for help, food, or water, perhaps for days. The scale of death and suffering. How many would die in such an event, and how many would be terribly wounded, would depend on where and when the bomb was detonated, what the weather conditions were at the time, how successful the response was in helping the wounded survivors, and more. Many estimates of casualties are based on census data, which reflect where people sleep at night; if the attack occurred in the middle of a workday, the numbers of people crowded into the office towers at the heart of many modern cities would be far higher. The daytime population of Manhattan, for example, is roughly twice its nighttime population; in Midtown on a typical workday, there are an estimated 980,000 people per square mile. A 10-kiloton weapon detonated there might well kill half a million people—not counting those who might die of radiation sickness from the fallout. (These effects were analyzed in great detail in the Rand Corporation’s Considering the Effects of a Catastrophic Terrorist Attack and the British Medical Journal’s “Nuclear terrorism.”) On a typical day, the wind would blow the fallout north, seriously contaminating virtually all of Manhattan above Gramercy Park; people living as far away as Stamford, Connecticut would likely have to evacuate. Seriously injured survivors would greatly outnumber the dead, their suffering magnified by the complete inadequacy of available help. The psychological and social effects—overwhelming sadness, depression, post-traumatic stress disorder, myriad forms of anxiety—would be profound and long-lasting. The scenario we have been describing is a groundburst. An airburst—such as might occur, for example, if terrorists put their bomb in a small aircraft they had purchased or rented—would extend the blast and fire effects over a wider area, killing and injuring even larger numbers of people immediately. But an airburst would not have the same lingering effects from fallout as a groundburst, because the rock and dirt would not be sucked up into the fireball and contaminated. The 10-kiloton blast we have been discussing is likely toward the high end of what terrorists could plausibly achieve with a crude, improvised bomb, but even a 1-kiloton blast would be a catastrophic event, having a deadly radius between one-third and one-half that of a 10-kiloton blast. These hundreds of thousands of people would not be mere statistics, but countless individual stories of loss—parents, children, entire families; all religions; rich and poor alike—killed or horribly mutilated. Human suffering and tragedy on this scale does not have to be imagined; it can be remembered through the stories of the survivors of the US atomic bombings of Hiroshima and Nagasaki, the only times in history when nuclear weapons have been used intentionally against human beings. The pain and suffering caused by those bombings are almost beyond human comprehension; the eloquent testimony of the Hibakusha—the survivors who passed through the atomic fire—should stand as an eternal reminder of the need to prevent nuclear weapons from ever being used in anger again. Global economic disaster. The economic impact of such an attack would be enormous. The effects would reverberate for so far and so long that they are difficult to estimate in all their complexity. Hundreds of thousands of people would be too injured or sick to work for weeks or months. Hundreds of thousands more would evacuate to locations far from their jobs. Many places of employment would have to be abandoned because of the radioactive fallout. Insurance companies would reel under the losses; but at the same time, many insurance policies exclude the effects of nuclear attacks—an item insurers considered beyond their ability to cover—so the owners of thousands of buildings would not have the insurance payments needed to cover the cost of fixing them, thousands of companies would go bankrupt, and banks would be left holding an immense number of mortgages that would never be repaid. Consumer and investor confidence would likely be dramatically affected, as worried people slowed their spending. Enormous new homeland security and military investments would be very likely. If the bomb had come in a shipping container, the targeted country—and possibly others—might stop all containers from entering until it could devise a system for ensuring they could never again be used for such a purpose, throwing a wrench into the gears of global trade for an extended period. (And this might well occur even if a shipping container had not been the means of delivery.) Even the far smaller 9/11 attacks are estimated to have caused economic aftershocks costing almost $1 trillion even excluding the multi-trillion-dollar costs of the wars that ensued. The cost of a terrorist nuclear attack in a major city would likely be many times higher. The most severe effects would be local, but the effects of trade disruptions, reduced economic activity, and more would reverberate around the world. Consequently, while some countries may feel that nuclear terrorism is only a concern for the countries most likely to be targeted—such as the United States—in reality it is a threat to everyone, everywhere. In 2005, then-UN Secretary-General Kofi Annan warned that these global effects would push “tens of millions of people into dire poverty,” creating “a second death toll throughout the developing world.” One recent estimate suggested that a nuclear attack in an urban area would cause a global recession, cutting global Gross Domestic Product by some two percent, and pushing an additional 30 million people in the developing world into extreme poverty. Desperate dilemmas. In short, an act of nuclear terrorism could rip the heart out of a major city, and cause ripple effects throughout the world. The government of the country attacked would face desperate decisions: How to help the city attacked? How to prevent further attacks? How to respond or retaliate? Terrorists—either those who committed the attack or others—would probably claim they had more bombs already hidden in other cities (whether they did or not), and threaten to detonate them unless their demands were met. The fear that this might be true could lead people to flee major cities in a large-scale, uncontrolled evacuation. There is very little ability to support the population of major cities in the surrounding countryside. The potential for widespread havoc and economic chaos is very real. If the detonation took place in the capital of the nation attacked, much of the government might be destroyed. A bomb in Washington, D.C., for example, might kill the President, the Vice President, and many of the members of Congress and the Supreme Court. (Having some plausible national leader survive is a key reason why one cabinet member is always elsewhere on the night of the State of the Union address.) Elaborate, classified plans for “continuity of government” have already been drawn up in a number of countries, but the potential for chaos and confusion—if almost all of a country’s top leaders were killed—would still be enormous. Who, for example, could address the public on what the government would do, and what the public should do, to respond? Could anyone honestly assure the public there would be no further attacks? If they did, who would believe them? In the United States, given the practical impossibility of passing major legislation with Congress in ruins and most of its members dead or seriously injured, some have argued for passing legislation in advance giving the government emergency powers to act—and creating procedures, for example, for legitimately replacing most of the House of Representatives. But to date, no such legislative preparations have been made. In what would inevitably be a desperate effort to prevent further attacks, traditional standards of civil liberties might be jettisoned, at least for a time—particularly when people realized that the fuel for the bomb that had done such damage would easily have fit in a suitcase. Old rules limiting search and surveillance could be among the first to go. The government might well impose martial law as it sought to control the situation, hunt for the perpetrators, and find any additional weapons or nuclear materials they might have. Even the far smaller attacks of 9/11 saw the US government authorizing torture of prisoners and mass electronic surveillance. And what standards of international order and law would still hold sway? The country attacked might well lash out militarily at whatever countries it thought might bear a portion of responsibility. (A terrifying description of the kinds of discussions that might occur appeared in Brian Jenkins’ book, Will Terrorists Go Nuclear?) With the nuclear threshold already crossed in this scenario—at least by terrorists—it is conceivable that some of the resulting conflicts might escalate to nuclear use. International politics could become more brutish and violent, with powerful states taking unilateral action, by force if necessary, in an effort to ensure their security. After 9/11, the United States led the invasions of two sovereign nations, in wars that have since cost hundreds of thousands of lives and trillions of dollars, while plunging a region into chaos. Would the reaction after a far more devastating nuclear attack be any less?

### 1AC — Alliances

#### Advantage 2 is Alliances —

#### The shipping alliances are artificially restricting supply and jacking up prices — class action suits can solve but current law prohibits those suits

Savvides 21, Reporter for The Loadstar. (Nick, Jan 8, 2021, Box lines ignore contracts and 'collude' to force shippers onto inflated spot market, https://theloadstar.com/colluding-box-lines-are-exploiting-shippers-claims-bco-in-formal-complaint/)

MCS argues that “foreign-owned” shipping lines have: “Unjustly and unreasonably exploited customers, vastly increasing their profitability at the expense of shippers and the US public generally, which bears increased freight cost in the form of inflation.” According to the suit, beneficial cargo owners (BCOs) operating to and from the US ordinarily pay for the shipments of cargo through bilaterally negotiated contracts with shipping lines, while spot rates are reserved for smaller shippers or one-time cargo movements. However, MCS claims that, with the onset of the Covid-19 pandemic, shipping lines began to collude to manipulate the market. The shipper told the FMC: “Global ocean carriers began taking parallel and strikingly similar actions to prop up ocean carriage pricing and improve their profitability at the expense of shippers and the public.” These actions, it added, included blanking sailings, which had the effect of reducing capacity by creating an “artificial scarcity and boosting prices on the spot market” as demand increased. Moreover, MCS claims that even as demand returned, the carriers did not return to pre-pandemic methods of working, but rather “doubled down” on the “manipulation” of the market, artificially keeping prices high. A container load shipped from China to the US west coast in 2019 would have cost $2,700, but today that same container voyage would be priced in excess of $15,000, said MCS. The shipper alleges it has first-hand experience of carrier “misconduct”, with the lines refusing to discuss these issues when approached by MCS. The filing claims: “In a stark break from pre-pandemic practice, several ocean carriers refused to negotiate or provide service contracts to MCS, and those that did provide such service contracts, including the respondents named herein, refused to provide more than a fraction of the cargo capacity that MCS requested and needs, despite the fact that the respondents overall have continued to operate at or near pre-pandemic capacity.” According to MCS, Cosco offered just 1.6% of the capacity it was contractually obliged to make available, while MSC fared better, offering 35% of contracted cargo space. “By definition, the service contracts required respondents to “commit to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features,” says the complaint. And, in an alleged escalation of their failure to meet their contractual obligations, the shipping lines, including Cosco and MSC, then “forced” MCS to buy space on the vastly inflated spot market. The carriers were able to renege on their contracts, claims MCS, because the lines were able to organise themselves into alliances which control 90% of the transpacific trade, and it is this alliance structure which allowed carriers to act in unison, forcing shippers onto more expensive spot rates, rather than transporting cargo at much lower, contracted rates. According to MCS the shipping lines have “obliterated” the stable structure of the ocean freight transport industry. In a first reaction to the news that MCS had filed a formal complaint, Global Shippers’ Forum executive James Hookham said the organisation would be “watching the developments closely”, and the case would “test the mettle” of the FMC and the regulatory structure in the US. He went on to say that parties would consider whether the action revealed any gaps in proposed amendments to the Shipping Act. In addition, the fact that MCS would have to act alone in the bringing of this case would also come under scrutiny. According to Mr Hookham, current legislation prevents shippers from entering into a powerful class action agreement that would bring in other complainants.

#### That artificial price inflation creates fake container shortages

Maritime Gateway 9/7/21, (Sept 7, 2021, Exporters complain on shipping companies forming cartels, <https://www.maritimegateway.com/exporters-complain-on-shipping-companies-forming-cartels/>

A crisis is staring exporters in the face with high freight rates and few ships and containers. These two factors are expected to spoil the upcoming Christmas season. Alleging that shipping companies are forming cartels, various industry players have approached the government, seeking its intervention and the setting up of a large shipping company under its guidance to break the international monopoly. A major point the exporters are raising as proof of this is the performance of the top 10 shipping companies in the world in the past one year. For these top 10 companies (no Indian companies on the list), the average operating profit increased 12-fold, revenue 66 per cent, the margin 27 per cent, and net profit 19,754 per cent in 2021, against 2020. This was on account of a low base, rise in volumes, and increase in freight rates. This is likely to go up this financial year. In a meeting with the Ministry of Shipping last week, representatives of the spices exports sector had highlighted that at least six of the top 10 shipping lines posted a net profit of over 30-fold in the past one year. “The top shipping lines seem to have formed a cartel and are controlling freight rates as they know this shortage and crisis will continue until the first quarter of 2023. We want the government to form a big shipping company or scale up the Shipping Corporation of India, or maybe even join hands with private sector players like Essar and Great Eastern Shipping. This will ensure ship availability for India,” Hitesh Gutka, president of the Indian Spices and Foodstuff Exporters’ Association, told Business Standard.

#### That artificial inflation massively drives up food prices

BMPA 20, British Meat Processors Association, (May 13, 2020, Spiraling freight costs threaten global food prices, <https://britishmeatindustry.org/industry-news/spiraling-freight-costs-threaten-global-food-prices/>

Evidence of a doubling and in some cases nearly tripling of maritime freight costs over the last month from exporters across the food supply chain has raised a red flag for food prices. The British Meat Processors Association, along with other food industry bodies, have been receiving alarming reports showing costs of a refrigerated shipping container to China, in the worst cases, rocketing almost 200% from £1200 to £3500, often with a new £500 ‘fuel surcharge’ included. We’ve also heard of new $1000+ ‘congestion taxes’ now being levied at ports in China and the Philippines. While some increase may be understandable due to difficulty filling ships for return journeys, the current price hikes which have persisted from early March are starting to look like opportunistic exploitation by a small group of large global companies which control that market. As early as mid March, reports were coming in that the congestion in Chinese ports had eased, with terminal operations returning to more normal working conditions. Indeed Shanghai, the world’s largest container port by volume had expanded its capacity for handling and storage of refrigerated containers by 40%. Back in early March, Frank Madsen from Danish freight forwarder Blue Water Shipping was quoted as saying: ‘There’s both a space and equipment issue that we think could continue for four to eight weeks’, however, the return to more normal volumes of activity in China hasn’t yet been reflected in the spot freight cost. Instead, shipping companies are somehow managing to maintain prices at hugely inflated levels. While one might think this is just affecting big businesses, the reality is that these price hikes will end up being passed on to consumers who can least afford it, both here in the UK and in poorer countries like the Philippines.

#### That drives massive food shortages

Murray et al 21, reporters for Bloomberg. (Brendon, with Isis Almeida, Ann Koh and Michael Hirtzer, Feb 3, 2021, Container crunch upends global food trade while ships queue at U.S. ports, https://www.japantimes.co.jp/news/2021/02/03/world/food-shipping-global-economy-covid-19-u-s-china/)

Food is piling up in all the wrong places, thanks to carriers hauling empty shipping containers. Global competition for the ribbed steel containers means that Thailand can’t ship its rice, Canada is stuck with peas and India can’t offload its mountain of sugar. Shipping empty boxes back to China has become so profitable that even some American soybean shippers are having to fight for containers to supply hungry Asian buyers. Strikes in Argentina have also boosted Asian demand for U.S. agriculture products, adding to competition for boxes. “People aren’t getting their goods where they need them,” said Steve Kranig, director of logistics at IM-EX Global Inc., a freight forwarder that handles cargoes including rice, bananas and dumplings from Asia to the U.S. “One of my customers ships 8 to 10 containers of rice every week from Thailand to Los Angeles. But he can only ship 2 to 3 containers a week right now.” China has recovered faster from COVID-19, so has revved up its export economy and is paying huge premiums for containers — making it far more profitable to send them back empty than to refill them. There are also signs the soaring freight rates are boosting the cost of some foods. White sugar prices surged to a three-year high last month, and delays in food-grade soybean shipments from the U.S. could mean higher tofu and soy milk costs for consumers in Asia, said Eric Wenberg, executive director of the Specialty Soya and Grains Alliance. While it’s not entirely uncommon for containers to transit back empty after a voyage, carriers usually try to backfill them to profit from shipping rates in both directions. But the cost of carrying goods from China to the U.S. is almost 10 times higher than the opposite journey, prompting liners to favor empty boxes instead of loading them, Freightos data showed. ‘Shortage of everything’ At the port of Los Angeles, the U.S.’s biggest for container cargo, three in every four boxes going back to Asia are traveling empty compared with the normal 50% rate, said Executive Director Gene Seroka. In Vancouver, terminals have shortened the time to transport the stuffed boxes onto ships from three days to as little as seven hours, said Jordan Atkins, vice president of WTC Group. “It’s not possible to get the amount of volume we have here in Vancouver to return containers in those tight windows,” said Atkins. “Pulses in general are struggling getting on the ships,” he said, referring to crops like peas and lentils. Canada is the world’s second-largest producer of pulses. India, the world’s second-largest sugar producer, exported only 70,000 metric tons in January, less than a fifth of the volume shipped a year earlier, said Ravi Gupta, president of Shree Renuka Sugars Ltd., the nation’s top refiner. Vietnam, the largest producer of the robusta coffee beans used to make instant drinks and espresso, is also struggling to export. Shipments dropped more than 20% in November and December, said Le Tien Hung, chairman of Simexco Dak Lak, Vietnam’s No. 2 exporter. Around the world, some foodstuff buyers are waiting while others have halted purchases altogether, traders say. “It’s been like that since December,” said Kranig of IM-EX Global. “You’re going to get not only a shortage of food but a shortage of everything. I would not be surprised to hear some beneficial cargo owners’ freight rates for 2021-2022 shipping season double from previous years.” If that prediction bears out, once the bulk of North Americans and Europeans are vaccinated, some of those high freight rates could be passed on to them as they return to cafes, restaurants and office towers. The container crunch comes just as American shippers are trying to boost exports of everything from soybeans to grain meals to Asia. China is scooping up American crops to feed a hog herd that’s recovering from a deadly pig disease faster than most expected. The situation is so dire that some buyers are canceling contracts, opting for bulk shipping methods, the most common for feed products, or delaying purchases to avoid high freight costs.

#### Which becomes a global risk

Gold 21, is a Senior Reporter based in Washington. (Shabtai, June 10, 2021, Low-income countries hit hardest by spike in global food prices <https://www.devex.com/news/low-income-countries-hit-hardest-by-spike-in-global-food-prices-100119>)

Global food prices have been sharply rising as part of a broader increase in commodity prices, and the inflationary pressures could have serious consequences for the world’s poor, according to data from the World Bank and the United Nations. In the latest edition of its biannual “Global Economic Prospects” report, released Tuesday, the World Bank said low-income countries are likely to be hit hardest by higher food prices for the remainder of this year. “The [COVID-19] pandemic not only reversed gains in global poverty reduction for the first time in a generation but also deepened the challenges of food insecurity and rising food prices for many millions of people,” the report said. “This is particularly prevalent among the poorest countries and populations, where higher prices of food can devastate discretionary incomes.” By the end of the year, some 100 million people in emerging market and developing economies “will have fallen back into extreme poverty,” the report said, warning that income losses in three-quarters of fragile and conflict-affected low-income countries will not be fully recovered by next year. Global food prices in May spiked the most in over a decade, according to the Food and Agriculture Organization. The 40% year-on-year jump is causing alarm that inflation will have further devastating impacts on the world’s poorest, as staple food costs soar.

#### Which goes nuclear — stable prices are key to stabilizing the globe

Castellaw 17—Lieutenant General, former President of the non-profit Crockett Policy Institute (John, “Opinion: Food Security Strategy Is Essential to Our National Security,” https://www.agri-pulse.com/articles/9203-opinion-food-security-strategy-is-essential-to-our-national-security, dml)

The United States faces many threats to our National Security. These threats include continuing wars with extremist elements such as ISIS and potential wars with rogue state North Korea or regional nuclear power Iran. The heated economic and diplomatic competition with Russia and a surging China could spiral out of control. Concurrently, we face threats to our future security posed by growing civil strife, famine, and refugee and migration challenges which create incubators for extremist and anti-American government factions. Our response cannot be one dimensional but instead must be a nuanced and comprehensive National Security Strategy combining all elements of National Power including a Food Security Strategy.

An American Food Security Strategy is an imperative factor in reducing the multiple threats impacting our National wellbeing. Recent history has shown that reliable food supplies and stable prices produce more stable and secure countries. Conversely, food insecurity, particularly in poorer countries, can lead to instability, unrest, and violence.

Food insecurity drives mass migration around the world from the Middle East, to Africa, to Southeast Asia, destabilizing neighboring populations, generating conflicts, and threatening our own security by disrupting our economic, military, and diplomatic relationships. Food system shocks from extreme food-price volatility can be correlated with protests and riots. Food price related protests toppled governments in Haiti and Madagascar in 2007 and 2008. In 2010 and in 2011, food prices and grievances related to food policy were one of the major drivers of the Arab Spring uprisings. Repeatedly, history has taught us that a strong agricultural sector is an unquestionable requirement for inclusive and sustainable growth, broad-based development progress, and long-term stability.

The impact can be remarkable and far reaching. Rising income, in addition to reducing the opportunities for an upsurge in extremism, leads to changes in diet, producing demand for more diverse and nutritious foods provided, in many cases, from American farmers and ranchers. Emerging markets currently purchase 20 percent of U.S. agriculture exports and that figure is expected to grow as populations boom.

Moving early to ensure stability in strategically significant regions requires long term planning and a disciplined, thoughtful strategy. To combat current threats and work to prevent future ones, our national leadership must employ the entire spectrum of our power including diplomatic, economic, and cultural elements. The best means to prevent future chaos and the resulting instability is positive engagement addressing the causes of instability before it occurs.

This is not rocket science. We know where the instability is most likely to occur. The world population will grow by 2.5 billion people by 2050. Unfortunately, this massive population boom is projected to occur primarily in the most fragile and food insecure countries. This alarming math is not just about total numbers. Projections show that the greatest increase is in the age groups most vulnerable to extremism. There are currently 200 million people in Africa between the ages of 15 and 24, with that number expected to double in the next 30 years. Already, 60% of the unemployed in Africa are young people.

Too often these situations deteriorate into shooting wars requiring the deployment of our military forces. We should be continually mindful that the price we pay for committing military forces is measured in our most precious national resource, the blood of those who serve. For those who live in rural America, this has a disproportionate impact. Fully 40% of those who serve in our military come from the farms, ranches, and non-urban communities that make up only 16% of our population.

Actions taken now to increase agricultural sector jobs can provide economic opportunity and stability for those unemployed youths while helping to feed people. A recent report by the Chicago Council on Global Affairs identifies agriculture development as the core essential for providing greater food security, economic growth, and population well-being.

Our active support for food security, including agriculture development, has helped stabilize key regions over the past 60 years. A robust food security strategy, as a part of our overall security strategy, can mitigate the growth of terrorism, build important relationships, and support continued American economic and agricultural prosperity while materially contributing to our Nation’s and the world’s security.

#### Independently, shipping cartels undermine all efforts to solve shipping emissions — self-regulations fail

Alger et al 21, global environmental politics scholar at the University of British Columbia. (Justin, with Jane Lister a Senior Research Fellow and Associate Director of the Centre for Transportation Studies at the Sauder School of Business, University of British Columbia, and Peter Dauvergne is Professor of International Relations at the University of British Columbia, Feb 18, 2021, Corporate Governance and the Environmental Politics of Shipping, https://brill.com/view/journals/gg/27/1/article-p144\_7.xml?language=en

. Of course, the problem is that any gains in efficiency are more than offset by the industry’s rapid growth. As projected, shipping emissions roughly doubled from 1970 to 2018.15 The IMO also projects that shipping carbon emissions will rise between 50 and 250 percent by 2050 under a business-as-usual scenario.16 Fuel efficiency matters for minimizing the environmental impact of shipping, but any gains risk being overshadowed by rising aggregate emissions. There is a similar challenge with emissions reduction efforts in ports. Despite regulatory efforts in many cities to reduce air pollution from ports, the IMO projects that port emissions are still likely to quadruple by 2050.17 The 100 most polluted ports alone affect approximately 230 million people.18 Building larger, more fuel-efficient ships is not enough to address these threats to the environment and human health. Focusing strictly on carbon emissions also risks neglecting the myriad of other environmental impacts of the shipping industry. As ships burn the lowest-grade heavy fuel oil (bunker fuel), the emissions include not just carbon but also sulfur dioxide, hydrocarbons, and various forms of nitrogen oxide, all of which have substantial environmental and human health effects. Low-grade marine fuel contains, for example, 3,500 times more sulfur than road diesel.19 According to one study, 30 percent of atmospheric sulfur aerosol around major shipping routes is directly attributable to shipping, contributing to the occurrence of acid rain and more intense storms.20 Other threats include oil spills, invasive species, disposal of hazardous material, and noise, among others. These environmental threats from global shipping have all grown since the 1970s despite progress in reducing emission rates. These trends point to a global shipping industry that looks much different today than it did in the 1970s. Transnational regulation and governance are an increasingly pervasive feature of both world affairs and scholarly analysis. An analysis of global shipping in the twenty-first century needs to account for the growing influence of corporations in global governance. Corporations, in many ways, now exert greater influence than states over global issues of stability, equity, and efficiency. This is especially true within the shipping industry. 3 The Roots of Industry Authority The shipping industry is the oldest transnational business and the transmission belt of the global economy. Historically, shipping and geopolitical power have gone hand in hand. In the past, it has been in the interest of states to limit regulations on the high seas to facilitate open competition and economies of scale in trade. The prevailing norm for high seas governance has been freedom of the seas—a norm that shipping companies have worked to reinforce in their efforts to avoid state regulation and consolidate their position. The industry’s privileged position in the global economy has made it especially effective in influencing its own governance. The freedom of the seas norm is central to why the shipping industry continues to be so difficult for states to regulate.21 This difficulty is partly the result of state design. Historically, states have advocated for minimal regulations at sea in pursuit of their strategic and economic interests. The legal justification for freedom of the seas dates back to 1609, when Dutch jurist Hugo Grotius made the case that shipping routes and ocean resources were inexhaustible resources and therefore should be available to all states equally—an important geostrategic priority for the then Dutch Republic.22 Grotius naturally could not predict the scale of extractive activity centuries later, but his legal basis for freedom of access to shipping routes largely endures today. The norm featured prominently throughout the ten-year negotiations for the UN Convention on the Law of the Sea (UNCLOS) adopted in 1982. As the world’s preeminent maritime powers throughout the nineteenth and twentieth centuries, the United Kingdom and United States viewed freedom of the seas as essential to the health of their economies. They used their collective power to enshrine it in international law. The evolution of the shipping regime since—around issues such as jurisdictional rights, damage control, and technical barriers—similarly reflects the prerogative of states to ensure free movement of ships and commerce. The historical state-based governance of shipping has, in short, worked toward enhancing industry autonomy in the name of geopolitics and commerce. States actively promoting industry autonomy gave major industry players a lot of leeway over how to organize, through their own banks and insurance companies, and most notably through loosely regulated industry “conferences” (essentially cartels).23 These conferences coordinated on maintaining control over certain shipping routes, often deliberately deploying ships on the same schedules as non-members to push them out of the market.24 Pushing smaller competitors out of the market allowed these conferences to fix prices at a higher rate, among other predatory business practices. The conference system would not endure, however. The emergence of containerization in the latter half of the twentieth century reduced shipping costs, making the market more competitive for smaller companies.25 New antitrust laws targeting conferences in Europe and the United States at the beginning of the twenty-first century followed, further undermining their viability. These regulations were intended to break up what was increasingly an unfair, oligopolistic market, but they had the unanticipated effect of providing the impetus for the further centralization of authority in the industry. This centralization of power has taken two forms: an increase in mergers and acquisitions, and the formation of shipping alliances. The high fixed-variable cost ratio of the shipping industry makes consolidation an imperative for major shipping countries.26 With the benefits of coordinating routes and prices through conferences increasingly restricted by governments, major industry players have resorted to strategic mergers and acquisitions to achieve greater economies of scale. Figure 2 depicts the sharp rise in these mergers and acquisitions in the 1990s that has continued steadily since. Some of these mergers reflect a dramatic shift in industry composition. For example, the merger of COSCO and China Shipping in 2016—China’s two largest state-owned shipping conglomerates—made COSCO Shipping the world’s fourth-largest shipping company at the time (it has since risen to third). Strategic alliances also emerged to replace conferences, and these now dominate the shipping landscape. The market share of the major alliances leaped from 30 percent in 2011 to 80 percent in 2018, depicted in Figure 3. Just three alliances—Ocean Alliance, The Alliance, and 2M Alliance—now account for 80 percent of global capacity. Formed in 2017 following a reshuffling, these three alliances allow major carriers to coordinate to enhance their global service coverage and optimize operational costs by sharing resources. The major distinction between these alliances and the conferences of old is that alliance partners do not share commercial information, including pricing. But in practice, these alliances allow a select few large shipping companies to dominate the industry even further. Minimal government antitrust efforts and lingering liner shipping block exemptions from competition policy have enabled the ongoing formation of an oligopoly in global shipping—driven by the advent of megaships and by the steady increase in industry consolidation through mergers, acquisitions, and alliances that began in the 1990s.27 The industry has, in short, been highly effective in avoiding regulation or in finding creative ways to limit its efficacy. There is perhaps no clearer instance of this than the “flags of convenience” model, by which ships can choose which country’s flag to fly. This model allows ships to fly the flag of a country of its choice, including those with minimal safety and environmental regulatory requirements. Countries that ignore IMO resolutions have an outsized ability to undermine new standards. Rather than adhering to new rules—environmental or otherwise—ships often can simply switch flags and ignore them altogether. This system has endured because it benefits all parties: flag states get more traffic, non-flag states get cheaper shipping costs, and shipping companies get increased profits.28 One possible solution is for governments to adopt an exclusion model that prohibits port access to ships that fly flags of convenience.29 But progress has been slow. In 2017, the five largest shipping fleets by flag of registration were Panama, Liberia, the Marshall Islands, Hong Kong, and Singapore.30 This model continues to allow ships to pick and choose which country’s regulations to adhere to, vastly undermining the ability of the IMO and national governments to set standards.31 The freedom of the seas norm that states have long sought to reinforce has had perverse effects on global shipping governance. Mergers and acquisitions, conferences, alliances, and flags of convenience all contribute to an industry structure that has systematically reinforced the power of major corporations. For their part, states have struggled to identify the right balance between the geopolitical and commercial importance of freedom of the seas and the need to regulate the industry (environmental or otherwise). Even when states do introduce new rules, they tend to have unintended consequences. Antitrust efforts helped break up shipping conferences, but led to today’s structure of powerful alliances. From price fixing to alliances to regulatory evasion, major corporations have significantly enhanced their market dominance and, by extension, their political power over global shipping—an outcome with perhaps unexpected consequences for the environmental governance of the industry. 4 Environmental Governance of Global Shipping The consolidation of the industry since the 1970s and the freedom of the seas approach to shipping governance have allowed major companies to exert substantial influence over their environmental governance. Consolidation can benefit states looking to better regulate industry by, most notably, making it easier to design and target regulations in an industry with fewer larger firms. But consolidation also means a few firms have substantial market power that they can leverage to shape the content of state regulation, or oppose it outright. The industry has used that leverage in tangible ways to shape the environmental governance of shipping. Historically, that influence has translated into efforts to avoid environmental regulation. The shipping industry was one of only two industries exempted from emissions cuts in the 2015 Paris Agreement on climate change—a trend that continues its similar exemption from the 1997 Kyoto Protocol. Shipping is responsible for approximately 3 percent of global carbon emissions, which would put it in the top ten global emitters if considered a country, so its exemption is a major blow to the climate regime. Environmentalists lamented the shipping exception, decrying the “corporate capture” of the IMO and UN by shipping and air transport lobbyists. But the global shipping industry has been nigh untouchable for states looking to curb the sector’s climate change impact. This untouchable status is partly by design. In addition to an embedded freedom of the seas norm, the industry further benefits from the norm of liberal environmentalism, which emerged out of the negotiations and compromises leading up to the 1992 UN Conference on Environment and Development (UNCED), often referred to as the Rio Earth Summit.32 In Rio, states confirmed the need to better protect the global environment, but with the major caveat that efforts should not interfere with economic growth and development. Ever since, this compromise has defined the state-led governance of environmental issues from climate change to deforestation to biodiversity loss. The maritime industry agreed to support the Rio agenda only as long as it could set its own regulatory agenda.33 As the transmission belt of the global economy, it was simply too essential to all countries to risk disruption. Exemptions in Paris and Kyoto, and the so-called corporate capture of the IMO, therefore merely reflect the application of this norm to global shipping and its centrality in the global economy. That is not to say that state-led governance of shipping has not been strong and successful at times. For example, states took action on oil spills by imposing stricter spill prevention standards on the industry. Oil spills can seriously damage corporate reputation, much more so than diffuse, long-term environmental impacts such as emissions. They have a lasting, visible impact, and generate public outcry. The industry has therefore been responsive to tougher IMO resolutions and technical guidelines for oil spill prevention.34 Despite the cost of implementing stricter safety standards in ship design, the industry sees the value in ceding authority on certain issues to external organizations such as the IMO. Adhering to best practices, as defined by outside governance bodies, has led to a sharp reduction in spills since the 1970s, as depicted in Figure 4. But it also provides the industry with a scapegoat in the event of a spill. Rather than a focus on internal malpractice, many oil spills become a lightning rod for reviewing the international standards set by the IMO. Oil spills can be reduced in number and their impact mitigated, but they are an inevitability of ship bunkering (refueling) and oil transport. By ceding authority on oil spills, the industry has effectively deflected the burden of responsibility to governments and international bodies on a high-profile, potentially market-damaging issue. Similarly, in 2008 the IMO adopted a sulfur cap of 0.5 percent of fuel composition to come into effect on 1 January 2020—a sizable decrease from the previous 3.5 percent limit. This regulation applies to all new and existing ships, generally requiring that ships substitute cleaner, more expensive fuel, but also requiring retrofitting of tanks and engines in many older ships. Individual flag states are still responsible for sanctions in the event of noncompliance, but the IMO has adopted a particularly aggressive stance on sulfur emissions, raising its profile as an environmental priority and effectively ratcheting up pressure on industry. Given the pressure, major industry players are expected to comply, with a projected cost for the container shipping industry of between $ 5 billion and $ 30 billion, depending on market rates for fuel.35 Regulations such as those for oil spills and the sulfur cap demonstrate that state-led governance of shipping can be effective with industry buy-in, often gained through political pressure. States can and have put limitations on certain activities with real consequences for the industry. But new safety designs, ship retrofitting, and cleaner fuels are costly. Given the potential cost of new regulations, major shipping companies have not sat idly by, instead taking the initiative to better shape the environmental governance of their industry through self-regulation. 5 Environmental Self-Governance Following the lead of their big brand customers like Coca-Cola, IKEA, Walmart, and countless others, the major shipping companies are seeking to control their regulatory fate through self-governance and CSR initiatives. By voluntarily committing to sustainability, these companies can simultaneously reduce the impetus for government-led regulation, while setting the terms of debate for future regulation.36 When companies environmentally self-regulate, even with unambitious goals, they tend to dissuade voters, activists, and government officials alike from supporting more robust regulations.37 They also create benchmarks for the rest of the industry to follow and they influence the agenda for state-led governance. In doing so, the companies enhance their autonomy from government-imposed regulation, allowing them to shape the future of the industry and protect their profitability. Put simply, through CSR major shipping companies gain political authority to decide which environmental issues to address, and how to address them in a way that will not have an oversized effect on their bottom line. The cost of these self-imposed initiatives is a price well worth paying to avoid the potential losses associated with a rigorous state-led regulatory regime. One such example was the approach that the International Chamber of Shipping (ICS) took to IMO-imposed greenhouse gas emissions reductions. Just as the IMO was advancing with a 2017–2023 road map for reducing greenhouse gases, the ICS submitted an alternative proposal to the IMO that voluntarily permitted the organization to impose reductions beginning in 2023. The ICS proposal did not specify any reduction targets. The IMO accepted the industry proposal, feeling that industry buy-in was important for compliance. But the cost of this buy-in was high. The proposal marginalized and delayed action, with the IMO ultimately setting an intensity target for 2030 while pushing back the absolute emission reduction target to 2050—letting industry off the hook in the short term. The ICS effectively co-opted the IMO reductions targets. Their watered-down proposal was representative of many CSR initiatives—weak, voluntary industry commitments that fail to adequately address the environmental problem in question.38 In this case and others, the industry used its bargaining power to supplant a more ambitious, IMO-driven plan. To the IMO—an organization that struggles with compliance—having industry on board was more important than rigorous emissions targets. In this instance, small and large firms unified through the ICS to undermine the IMO plan but, increasingly, just a few firms are able to go it alone to similar result. More recently, major industry players are moving toward greater environmental self-governance, as exemplified by green ship certification schemes. Spearheaded by industry leaders, these voluntary CSR programs, such as RightShip, Clean Cargo, Green Award, Green Ship of the Future, Environmental Ship Index, and the Clean Shipping Index, establish benchmark criteria to assess vessels on their environmental performance. They mainly measure carbon emissions and fuel efficiency. Ships that pass the mark receive a positive ranking and green seal of approval that qualifies the vessel for market incentives such as reduced port fees and better slot allocation at port. These ratings also bestow a market advantage to companies with certified vessels by allowing them to appeal to cargo customers seeking more environmentally responsible transport. More importantly, the voluntary standards are providing the industry with the opportunity to shape environmental rules. Container shipping companies representing approximately 85 percent of the world’s ocean container shipping volume, for example, participate in the Clean Cargo Program, which includes a business Climate Call to Action agenda. 6 Environmental Self-Governance at Maersk Beyond industry-led certification, there are a select few companies that are proactively pushing for better environmental regulation, most notably Maersk (or what is more formally known as A.P. Møller—Mærsk A/S). Maersk’s sustainability initiatives and its advocacy for better environmental performance by the industry have earned it a positive reputation, even among industry critics. InfluenceMap’s report on corporate capture of the IMO, for example, specifically lauds Maersk for its transparency and progressive voice in an otherwise scathing report.39 As Maersk CEO Søren Skou puts it, “Companies can no longer stay on the sidelines when it comes to global issues.”40 Maersk has been proactive on environmental governance, and its efforts are transforming not only the company but the industry itself. Other companies and associations concentrated in Northern European countries are already starting to follow suit and support environmental action such as through the Trident Alliance lobby for strong sulfur fuel regulation and enforcement. Beyond gaining political influence, there is a powerful business case for Maersk’s support for stronger environmental governance. The business value, we argue, goes beyond the standard CSR “eco-business” from enhancing environmental efficiencies, reducing waste, and gaining more control of supply chains.41 Given the nature of the global shipping industry, higher environmental standards are giving Maersk a significant competitive advantage. New environmental regulations tend to raise the costs of shipping in an industry with already low profit margins, especially for smaller carriers that cannot take advantage of economies of scale. Companies such as Maersk that benefit from the cost savings of megaships and alliances are much better positioned to absorb these kinds of financial shocks than smaller companies. Maersk wields substantial power as the market leader in an increasingly centralized industry, allowing it to pressure governments and ports to make new environmental standards compulsory and ensure “level-playing-field” enforcement to guard their competitive margins. The inevitable outcome of rising operating costs is further industry consolidation through mergers and acquisitions, smaller companies put out of business, and rising barriers to entry for aspiring companies. By escalating environmental requirements and, therefore, risks and costs on its competitors, Maersk solidifies its industry dominance. Maersk’s position on sulfur emission limits in the Port of Hong Kong exemplifies how a powerful company exerts its influence to push for stronger environmental regulations to give it a competitive advantage. In 2012, the Port of Hong Kong cut port fees in half for ships that used fuel with no more than 0.5 percent sulfur content. Maersk, along with seventeen other companies, took advantage of the program. But in 2013 Maersk threatened to switch back to cheaper, dirtier fuel if the port did not make the cleaner fuel mandatory for all. Maersk claimed the cleaner fuel cost an additional $ 2 million per year, only 40 percent of which was made up by cost savings from reduced port fees. This increased cost, Maersk argued, put it at a competitive disadvantage relative to its major competitors in East Asia.42 Maersk, however, was already using low-sulfur content fuel on its ships in part because it needed to abide by European standards. Its threat to switch to dirtier fuel was therefore somewhat hollow, as was its calculation of the additional cost to Maersk. Maersk’s incentive was certainly to level the playing field and it did so by pushing the Port of Hong Kong to adopt the same standards Maersk was already using internally. Bowing to Maersk, its largest customer, the Port of Hong Kong made the reduced-sulfur content fuel mandatory on all ships in 2015. Maersk is used here as an illustrative example, but Nordic shipping companies in particular are increasingly employing tactics similar to Maersk’s pressuring of the Port of Hong Kong. While the majority of shipping companies, often represented by the International Chamber of Shipping, remain silent on environmental issues, some of the largest shipping companies have been anything but. There are two key reasons why some of the major players like Maersk are becoming more environmentally conscious.43 The first is that they are more inclined to long-term planning. They see competitive advantage in being ahead of the curve on environmental performance, allowing them to attract environmentally conscious customers. As IKEA, Nike, Walmart, and others commit to sustainable supply chains, their public image increasingly depends on reducing the environmental cost of shipping. The CEO s of companies like Amazon, Cargill, and Walmart consistently rank in the top 100—and frequently the top 20—in lists of the most influential people in global shipping. Transnational retailers are increasingly looking to shipping emissions as one way of reducing their environmental footprints and enhancing their sustainability credentials. Large shipping companies are therefore using their strong market positions to capitalize on this growing demand for green shipping. Maersk, for example, has established “carbon pacts” with its major suppliers, notably Tetra Pak, BMW, and AkzoNobel, to meet the growing demand for greener ocean transport. Such pacts are also, however, a highly strategic means to lock customers into a long-term business relationship. The second reason is that companies such as Maersk tend to be more technologically advanced than their competition. The better environmental performance of these companies is due in large part to this technological prowess. This prowess not only includes their ability to design and build more fuel-efficient megaships, but also to conduct industry-leading research and development into the low- or zero-emissions vessels of the future. Many of these vessels will use cleaner fuels such as liquefied natural gas (LNG) and hydrogen, while others use advanced battery, fuel cell, wind, and solar technology. Whereas most shipping companies focus on operational measures such as improved maintenance and slow steaming for better fuel efficiency to address sustainability, the major industry sustainability leaders are pursuing fundamentally new ship designs. Being ahead of the curve with these advancements gives the big players an incentive to push for stricter environmental standards. Any new environmental regulations would have a greater impact on competitors lagging behind on these technologies. While the main target of these tactics may be major competitors (i.e., large Chinese shipping companies), the increased costs to smaller shipping companies are, at best, collateral damage. At worst, they represent systematic efforts by the world’s largest shipping companies to force their smaller competitors out of the market. The efforts of Maersk to use sustainability to enhance its market position is increasingly common in environmental governance. Corporations regularly look to co-opt environmental governance to set the terms for it.44 But as Strange noted in 1976, global shipping is unique in its geopolitical and commercial importance in the international system. The industry’s Paris exemption, as noted above, is perhaps the clearest indication of its exceptional status. The source of Maersk’s power is not just market dominance, but specifically market dominance in an industry that is essential to the majority of global commerce. The ongoing trend toward greater industry consolidation, particularly over the past decade, has only heightened the influence of major players. Put simply, major players such as Maersk are leveraging the industry’s status as well as their market dominance to dictate the direction and scope of environmental governance, significantly enhancing their competitiveness along the way. 7 Conclusion: The Path to Sustainability? The elephant in the room is whether, on balance, industry-driven governance is an effective mechanism for improving the overall environmental performance of the container shipping industry. It certainly is leading to short-term incremental improvements, but the answer is murkier with respect to strategic long-run advances. The progressive stance of companies such as Maersk on reducing greenhouse gas emissions is an important normative shift within the industry. It is certainly desirable that some of the largest companies in the world’s oldest transnational industry are acknowledging their environmental impacts. Such efforts are certainly better than avoidance and obfuscation, as has been common in the past. In addition, many of the technological advances in shipping are helping to decrease environmental consequences. The shipping industry is not going anywhere, so these advances are necessary if it is to become more sustainable. Yet we need to keep in mind that corporate self-governance of environmental matters is further consolidating power and authority within the shipping industry. Concentration is happening on two fronts. First, industry self-governance is co-opting governance from state-led processes. Industry increasingly decides which problems to address and how to address them. These decisions tend to lead to marginal, incremental steps that benefit business by minimizing any impact on profitability. Fuel efficiency gains, for example, do not compensate for rapid growth in global shipping. On aggregate, the environmental impact of the industry is rising despite better efficiency. As noted, international shipping currently accounts for 3 percent of global greenhouse gas emissions. One European Union study predicts that this percentage will rise to 17 percent by 2050, if left unregulated.45 Private governance alone is not enough to reduce this impact meaningfully. The problem is compounded because shipping is a derived demand industry, so its impact also depends on unregulated global consumption levels and supply chains.46 The current industry-led approach nonetheless risks being a linear solution to an exponential problem. Second, major industry players in container shipping are using environmental regulation as a tool to enhance their market dominance, leading to even greater consolidation of the industry. It is not necessarily problematic for industry leaders like Maersk to raise the bar of environmental performance and force laggards to follow suit. But as noted above, this could be problematic for global shipping because smaller companies cannot keep up in an already centralized industry with low profit margins, aggravating already existing inequities common across the international political economy. Sustainability has become, in part, a competitive tool for some corporate players to make the industry even less democratic. It can raise costs that are more easily absorbed by large companies, put a premium on economies of scale, and increase barriers to entry: all further enhancing the power and authority of major companies to dictate governance. Industry sustainability initiatives are, unexpectedly, hastening global shipping’s march toward becoming a global oligopoly, if it is not already there. We could arguably consider this trade-off between consolidation and a commitment to environmental self-governance a good thing for the industry’s performance. If it meant sustainability in global shipping, then perhaps the case could be made that a less democratic industry is an acceptable cost. The prevailing question is whether a few large container shipping companies, increasingly self-regulating, will be willing to make greater sacrifices for sustainability to prevent the bleaker projections of the industry’s environmental impact from becoming reality.

#### Ports are hotspots for future climate investment

UNEP 21, United Nations Environmental Programme (August 5, 2021, 5 EXAMPLES OF BEST PRACTICE TO SUSTAINABLY FINANCE THE PORT SECTOR, <https://www.unepfi.org/news/themes/ecosystems/5-examples-of-best-practice-to-sustainably-finance-the-port-sector/>

The blue (ocean) economy offers many opportunities for private finance to lend and invest in a sustainable and nature-positive way. Here we look at some of the leading examples of best practice in social and environmental sustainability across the port sector which banks, insurers and investors can seek out. Ports are gateways for development, global trade and maritime innovation, and being located at sea level, they are on the front lines of climate change. Ports are also clusters of companies and hubs of economic activity. With strong scale and scope advantages they are ideal hubs for sustainable maritime innovation and have become a key part of development strategies employed by many nations (Rodrigue and Notteboom 2020). To further encourage the sustainable development of the sector, we have listed 5 examples of innovative best practice in ports that you might not know about. Check out Turning the Tide, UNEP FI’s detailed guidance on financing for the sustainable blue economy for more examples and how they may be material to your institution. The guide also includes an overview of activities to challenge or to avoid financing altogether, based on their sustainability credentials and overall risk. The recommendation may be to challenge certain activities, even where best practice is present in other areas. 1. Green transport Ports are the gateways between land and sea, and can offer opportunities for linking the blue economy with the green economy. Seek out ports or companies that provide green port-hinterland connections that are less reliant on additional travel or offer alternatives like rail terminal development. 2. Green technology Ports can be a hub for sustainable innovation and a centre for spinning off new business opportunities. Seek out ports that have skills and systems available to support green port technologies, for example in funding green technology development, as in the case of the Maritime and Port Authority of Singapore’s Maritime Decarbonisation Centre. Another green port initiative in Singapore is led by ship management company Eastern Pacific Shipping (EPS) and entrepreneur network Techstars. The duo announced a joint-venture project to launch a global start-up accelerator, the “EPS MaritimeTech Accelerator Powered by Techstars”. Digital technology is transforming the maritime space, making it possible to advance and monitor sustainability goals in everything from port operations to fuel efficiency and sustainable fishing. A shortlist of start-up companies was chosen for an intensive three-month programme of research and development, mentorship, and collaboration. The companies then pitched their business to an audience of venture capitalists, corporate innovation leaders and industry experts (Port Technology 2019). “The maritime world has traditionally lagged behind other sectors when it comes to embracing and leveraging the power of digital solutions and new technology,” says Dhritiman Hui, the new managing director of the mentorship-driven Techstars accelerator program. “Now, the confluence of new regulation, an influx of tech-savvy entrepreneurs interested in the space, and large, deep-pocketed VC funds, intrigued by the size and the possibilities of the maritime sector, are threatening to shift that paradigm.” 3. Spatial management Ports are heavily trafficked areas with vessels arriving and departing throughout the day. This can cause impacts on wildlife and habitats. Seek out ports with policies and practices in place that protect vulnerable species and habitats and adapt to known animal aggregation migration routes – for example along the California coast annual incentives are offered for vessels to reduce speed in and around ports to avoid fatal collisions with whales and reduce noise pollution. 4. Supply chains How ports are powered and supplied carries significant environmental impacts, and when done sustainably can set an example for their hinterlands and associated ecosystem of businesses. Focusing on renewable energy, utilising waste heat, carbon capture and storage as well as improving energy efficiency are all steps that can be taken, as demonstrated by the Port of Rotterdam. Seek out ports or associated companies using green supply chains for renewable energy, waste management, and sustainable sourcing. 5. Emissions incentives Ports can incentivise their visiting ships to move towards best practice on e.g. carbon emissions, for example by offering incentives for good emission ratings through discounted port fees as done by a number of ports worldwide through the Environmental Ship Index. Seek out ports that offer lower fees or other incentives to attract ships with good emissions ratings.

#### Warming causes extinction

Kareiva 18, Ph.D. in ecology and applied mathematics from Cornell University, director of the Institute of the Environment and Sustainability at UCLA, Pritzker Distinguished Professor in Environment & Sustainability at UCLA, et al. (Peter, “Existential risk due to ecosystem collapse: Nature strikes back,” *Futures*, 102)

In summary, six of the nine proposed planetary boundaries (phosphorous, nitrogen, biodiversity, land use, atmospheric aerosol loading, and chemical pollution) are unlikely to be associated with existential risks. They all correspond to a degraded environment, but in our assessment do not represent existential risks. However, the three remaining boundaries (climate change, global freshwater cycle, and ocean acidification) do pose existential risks. This is because of intrinsic positive feedback loops, substantial lag times between system change and experiencing the consequences of that change, and the fact these different boundaries interact with one another in ways that yield surprises. In addition, climate, freshwater, and ocean acidification are all directly connected to the provision of food and water, and shortages of food and water can create conflict and social unrest. Climate change has a long history of disrupting civilizations and sometimes precipitating the collapse of cultures or mass emigrations (McMichael, 2017). For example, the 12th century drought in the North American Southwest is held responsible for the collapse of the Anasazi pueblo culture. More recently, the infamous potato famine of 1846–1849 and the large migration of Irish to the U.S. can be traced to a combination of factors, one of which was climate. Specifically, 1846 was an unusually warm and moist year in Ireland, providing the climatic conditions favorable to the fungus that caused the potato blight. As is so often the case, poor government had a role as well—as the British government forbade the import of grains from outside Britain (imports that could have helped to redress the ravaged potato yields). Climate change intersects with freshwater resources because it is expected to exacerbate drought and water scarcity, as well as flooding. Climate change can even impair water quality because it is associated with heavy rains that overwhelm sewage treatment facilities, or because it results in higher concentrations of pollutants in groundwater as a result of enhanced evaporation and reduced groundwater recharge. Ample clean water is not a luxury—it is essential for human survival. Consequently, cities, regions and nations that lack clean freshwater are vulnerable to social disruption and disease. Finally, ocean acidification is linked to climate change because it is driven by CO2 emissions just as global warming is. With close to 20% of the world’s protein coming from oceans (FAO, 2016), the potential for severe impacts due to acidification is obvious. Less obvious, but perhaps more insidious, is the interaction between climate change and the loss of oyster and coral reefs due to acidification. Acidification is known to interfere with oyster reef building and coral reefs. Climate change also increases storm frequency and severity. Coral reefs and oyster reefs provide protection from storm surge because they reduce wave energy (Spalding et al., 2014). If these reefs are lost due to acidification at the same time as storms become more severe and sea level rises, coastal communities will be exposed to unprecedented storm surge—and may be ravaged by recurrent storms. A key feature of the risk associated with climate change is that mean annual temperature and mean annual rainfall are not the variables of interest. Rather it is extreme episodic events that place nations and entire regions of the world at risk. These extreme events are by definition “rare” (once every hundred years), and changes in their likelihood are challenging to detect because of their rarity, but are exactly the manifestations of climate change that we must get better at anticipating (Diffenbaugh et al., 2017). Society will have a hard time responding to shorter intervals between rare extreme events because in the lifespan of an individual human, a person might experience as few as two or three extreme events. How likely is it that you would notice a change in the interval between events that are separated by decades, especially given that the interval is not regular but varies stochastically? A concrete example of this dilemma can be found in the past and expected future changes in storm-related flooding of New York City. The highly disruptive flooding of New York City associated with Hurricane Sandy represented a flood height that occurred once every 500 years in the 18th century, and that occurs now once every 25 years, but is expected to occur once every 5 years by 2050 (Garner et al., 2017). This change in frequency of extreme floods has profound implications for the measures New York City should take to protect its infrastructure and its population, yet because of the stochastic nature of such events, this shift in flood frequency is an elevated risk that will go unnoticed by most people. 4. The combination of positive feedback loops and societal inertia is fertile ground for global environmental catastrophes Humans are remarkably ingenious, and have adapted to crises throughout their history. Our doom has been repeatedly predicted, only to be averted by innovation (Ridley, 2011). However, the many stories of human ingenuity successfully addressing existential risks such as global famine or extreme air pollution represent environmental challenges that are largely linear, have immediate consequences, and operate without positive feedbacks. For example, the fact that food is in short supply does not increase the rate at which humans consume food—thereby increasing the shortage. Similarly, massive air pollution episodes such as the London fog of 1952 that killed 12,000 people did not make future air pollution events more likely. In fact it was just the opposite—the London fog sent such a clear message that Britain quickly enacted pollution control measures (Stradling, 2016). Food shortages, air pollution, water pollution, etc. send immediate signals to society of harm, which then trigger a negative feedback of society seeking to reduce the harm. In contrast, today’s great environmental crisis of climate change may cause some harm but there are generally long time delays between rising CO2 concentrations and damage to humans. The consequence of these delays are an absence of urgency; thus although 70% of Americans believe global warming is happening, only 40% think it will harm them (http://climatecommunication.yale.edu/visualizations-data/ycom-us-2016/). Secondly, unlike past environmental challenges, the Earth’s climate system is rife with positive feedback loops. In particular, as CO2 increases and the climate warms, that very warming can cause more CO2 release which further increases global warming, and then more CO2, and so on. Table 2 summarizes the best documented positive feedback loops for the Earth’s climate system. These feedbacks can be neatly categorized into carbon cycle, biogeochemical, biogeophysical, cloud, ice-albedo, and water vapor feedbacks. As important as it is to understand these feedbacks individually, it is even more essential to study the interactive nature of these feedbacks. Modeling studies show that when interactions among feedback loops are included, uncertainty increases dramatically and there is a heightened potential for perturbations to be magnified (e.g., Cox, Betts, Jones, Spall, & Totterdell, 2000; Hajima, Tachiiri, Ito, & Kawamiya, 2014; Knutti & Rugenstein, 2015; Rosenfeld, Sherwood, Wood, & Donner, 2014). This produces a wide range of future scenarios. Positive feedbacks in the carbon cycle involves the enhancement of future carbon contributions to the atmosphere due to some initial increase in atmospheric CO2. This happens because as CO2 accumulates, it reduces the efficiency in which oceans and terrestrial ecosystems sequester carbon, which in return feeds back to exacerbate climate change (Friedlingstein et al., 2001). Warming can also increase the rate at which organic matter decays and carbon is released into the atmosphere, thereby causing more warming (Melillo et al., 2017). Increases in food shortages and lack of water is also of major concern when biogeophysical feedback mechanisms perpetuate drought conditions. The underlying mechanism here is that losses in vegetation increases the surface albedo, which suppresses rainfall, and thus enhances future vegetation loss and more suppression of rainfall—thereby initiating or prolonging a drought (Chamey, Stone, & Quirk, 1975). To top it off, overgrazing depletes the soil, leading to augmented vegetation loss (Anderies, Janssen, & Walker, 2002). Climate change often also increases the risk of forest fires, as a result of higher temperatures and persistent drought conditions. The expectation is that forest fires will become more frequent and severe with climate warming and drought (Scholze, Knorr, Arnell, & Prentice, 2006), a trend for which we have already seen evidence (Allen et al., 2010). Tragically, the increased severity and risk of Southern California wildfires recently predicted by climate scientists (Jin et al., 2015), was realized in December 2017, with the largest fire in the history of California (the “Thomas fire” that burned 282,000 acres, https://www.vox.com/2017/12/27/16822180/thomas-fire-california-largest-wildfire). This catastrophic fire embodies the sorts of positive feedbacks and interacting factors that could catch humanity off-guard and produce a true apocalyptic event. Record-breaking rains produced an extraordinary flush of new vegetation, that then dried out as record heat waves and dry conditions took hold, coupled with stronger than normal winds, and ignition. Of course the record-fire released CO2 into the atmosphere, thereby contributing to future warming. Out of all types of feedbacks, water vapor and the ice-albedo feedbacks are the most clearly understood mechanisms. Losses in reflective snow and ice cover drive up surface temperatures, leading to even more melting of snow and ice cover—this is known as the ice-albedo feedback (Curry, Schramm, & Ebert, 1995). As snow and ice continue to melt at a more rapid pace, millions of people may be displaced by flooding risks as a consequence of sea level rise near coastal communities (Biermann & Boas, 2010; Myers, 2002; Nicholls et al., 2011). The water vapor feedback operates when warmer atmospheric conditions strengthen the saturation vapor pressure, which creates a warming effect given water vapor’s strong greenhouse gas properties (Manabe & Wetherald, 1967). Global warming tends to increase cloud formation because warmer temperatures lead to more evaporation of water into the atmosphere, and warmer temperature also allows the atmosphere to hold more water. The key question is whether this increase in clouds associated with global warming will result in a positive feedback loop (more warming) or a negative feedback loop (less warming). For decades, scientists have sought to answer this question and understand the net role clouds play in future climate projections (Schneider et al., 2017). Clouds are complex because they both have a cooling (reflecting incoming solar radiation) and warming (absorbing incoming solar radiation) effect (Lashof, DeAngelo, Saleska, & Harte, 1997). The type of cloud, altitude, and optical properties combine to determine how these countervailing effects balance out. Although still under debate, it appears that in most circumstances the cloud feedback is likely positive (Boucher et al., 2013). For example, models and observations show that increasing greenhouse gas concentrations reduces the low-level cloud fraction in the Northeast Pacific at decadal time scales. This then has a positive feedback effect and enhances climate warming since less solar radiation is reflected by the atmosphere (Clement, Burgman, & Norris, 2009). The key lesson from the long list of potentially positive feedbacks and their interactions is that runaway climate change, and runaway perturbations have to be taken as a serious possibility. Table 2 is just a snapshot of the type of feedbacks that have been identified (see Supplementary material for a more thorough explanation of positive feedback loops). However, this list is not exhaustive and the possibility of undiscovered positive feedbacks portends even greater existential risks. The many environmental crises humankind has previously averted (famine, ozone depletion, London fog, water pollution, etc.) were averted because of political will based on solid scientific understanding. We cannot count on complete scientific understanding when it comes to positive feedback loops and climate change.

### 1AC — Plan

#### The United States federal government should increase prohibitions on anticompetitive practices in container shipping expanding the authority of the Federal Maritime Commission and maritime industry to pursue legal remedies.

### 1AC — Solvency

#### Finally, Solvency —

#### Removing immunity from international shipping is key

O’Shea 17, an attorney who works on transportation and infrastructure issues, (Sean, October 3, 2017, Congress Must Stop Foreign Ocean Carriers From Harming U.S. Economy, https://morningconsult.com/opinions/congress-must-stop-foreign-ocean-carriers-from-harming-u-s-economy/)

It is long past time for Congress to update the Shipping Act to give the FMC the power it needs to bring lawsuits to block foreign carriers from colluding to set unfair prices and service terms. At the same time, lawmakers also must allow U.S. port service providers to demonstrate in court how these anticompetitive practices by the foreign cartels are harming their businesses and workers. Currently, their interests are barred from being considered in antitrust actions against foreign ocean carriers. Absent reform of this outdated regulatory environment, ports will be unable to make critical infrastructure upgrades that will allow the U.S. maritime industry to continue serving as vital economic engine for the country. Ports currently support 23 million jobs and generate more than $320 billion in tax revenue each year. And if current growth projections hold, they will become even more indispensable. By 2030, America’s trade volume is expected to quadruple, including tremendous growth in the amount of freight bound for export. Within 20 years, 60 percent of the U.S. economy is expected to depend upon port-related activity. But America’s maritime industry will not be able to continue to attract private investors and lenders to build infrastructure to meet this future economic demand unless Congress takes action now to end price-fixing and other anticompetitive practices by foreign ocean carriers that stifle industry profits, put jobs at risk and stifle private investment in much-needed port infrastructure upgrades. In particular, carriers immunized from antitrust regulation are also ordering enormous, new 22,000-container ships that will require new cranes and shore facilities, but they will not provide long-term volume guarantees necessary for ports to finance these capital improvements through regular commercial markets. Aside from this obvious legislative restoration of reasonable balance to enable private industry to meet demands, the two equally unacceptable outcomes are to do without the infrastructure and pay the economic penalty when bottlenecks occur, or look to taxpayer-funded solutions. Many lawmakers in Congress have talked about the need for modernizing regulations that constrain U.S. economic and job growth. They now have the perfect opportunity to reform U.S. maritime laws so they protect America’s shipping industry and port workers instead of lining the wallets of foreign competitors. And these reforms must begin with giving the FMC and the American maritime industry the power to take legal action to block unfair, anticompetitive actions by foreign cartels.

#### That empowers private antitrust action that is necessary to deter international collusion

Lande 16, Professor of Law at the University of Baltimore School of Law, Director of the American Antitrust Institute. {Robert; Spring 2016; Antitrust, “Class Warfare: Why Antitrust Class Actions Are Essential for Compensation and Deterrence,” <https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2019&context=all_fac>)

OUR RECENT EMPIRICAL STUDIES demonstrate five reasons why antitrust class action cases are essential: (1) class actions are virtually the only way for most victims of antitrust violations to receive compensation; (2) most successful class actions involve collusion that was anticompetitive; (3) class victims’ compensation has been modest, generally less than their damages; (4) class actions deter significant amounts of collusion and other anticompetitive behavior; and (5) anticompetitive collusion is underdeterred, a problem that would be exacerbated without class actions. Recent court decisions undermine class action cases, thus preventing much effective and important antitrust enforcement.1 Class Actions Are Virtually the Only Way for Most Victims of Federal Antitrust Violations to Receive Compensation The antitrust statutes provide that violations result in automatic treble damages for the victims.2 The legislative history 3 and case law indicate that compensation of victims is a goal, perhaps the dominant goal, of antitrust law’s damages remedy.4 Class actions play an essential role in ensuring that the treble damages remedy serves its intended function of “protecting consumers from overcharges resulting from price fixing.”5 As the Supreme Court noted, “[C]lass actions . . . may enhance the efficacy of private [antitrust] actions by permitting citizens to combine their limited resources to achieve a more powerful litigation posture.”6 Accordingly, “courts have repeatedly found antitrust claims to be particularly well suited for class actions . . . .”7 Without class actions, cartels and other antitrust violators that inflict widespread economic harm would have little to fear from the treble damages remedy. This is because, as a practical matter, class action cases are virtually the only way for most victims of anticompetitive behavior to receive compensation.8 A 2013 study that Professor Joshua Davis and I conducted documents the benefits of private enforcement by analyzing 60 of the largest recent successful private U.S. antitrust cases (defined as suits resolved since 1990 that recovered at least $50 million in cash for the victims9 ). These actions returned a total of $33.8–$35.8 billion in cash to victims of anticompetitive behavior.10 These figures do not include products, discounts, coupons, or the value of injunctive relief or precedent—only cash.11 Consequently, these totals significantly understate the actual benefits of this litigation to the victims involved. And, of course, this study covered only 60 suits (albeit 60 of the largest private recoveries) out of the many hundreds of private cases filed in the United States during this period. Of these 60 large private cases, 49 were class action suits.12 These cases recovered a total of $19.4–$21.0 billion—the majority of the amount analyzed in our study.13 Since these were among the largest private actions ever filed, specific conclusions based upon these results may not generalize perfectly to all class action cases. They do suggest, however, that without class action cases, effective and significant victim compensation would be reduced dramatically. Most Successful Class Actions Involve Collusion that Was Anticompetitive Almost every private antitrust case that results in a remedy does so through a settlement,14 so the underlying merits of the plaintiffs’ claims usually have not been definitively assessed by a court or jury. Critics sometimes use this fact to support assertions that class actions usually are meritless, that plaintiffs often receive huge sums from cases not involving anticompetitive conduct, and that private antitrust actions often amount to legalized blackmail or extortion.15 Antitrust class actions arise in widely varied market and factual settings, and views about the merits of specific cases and the litigation risks involved vary as well. This makes it extremely difficult to draw objective conclusions about the merits of settlements. Nevertheless, there are good reasons to believe that the vast majority of class action cases in the Davis/Lande study involved legitimate claims. Forty-one of the 49 class actions involved allegations of collusion,16 and the same conduct supporting the settlements gave rise to criminal penalties in 20 cases; to civil relief by the FTC or DOJ in 8 cases; to civil relief by a state or other governmental unit in 9 cases; to a trial that the defendants lost and that was not overturned on appeal in 7 cases; to a class being certified in 22 cases; and to plaintiffs surviving or prevailing at summary judgment in 12 cases.17 Overall, 44 of the 49 class action suits (90 percent) exhibited at least one of these forms of legal validation as to their merits. (The 5 actions that did not have at least one of these indicia settled too early for a substantive evaluation of their merits).18 These results are broadly consistent with a finding that Professor John Connor derived from an analysis of 130 private recoveries worldwide in international cartel cases for which he could obtain the necessary data.19 He found that of the 50 largest worldwide settlements, measured by their monetary recoveries in constant dollars, 49 had been filed against international cartels.20 Of these, 51 percent were follow-ups to successful DOJ prosecutions, and another 8 percent were filed after fines by the EC or other non-U.S. antitrust authorities.21 Using a different data set, Connor and I found that 36 of 71 (also 51 percent) successful U.S. class action recoveries followed successful DOJ criminal cases.22 This data does not prove that these or any other specific class action cases involved anticompetitive conduct. But critics who assert that most antitrust class actions are little more than legalized blackmail rely only on anecdotes, hypotheticals, and opinions (often of defendants in the cases), without support from studies, and with no reliable empirical evidence that the actions lack merit or that settlement amounts are excessive compared to the anticompetitive harm.23 To be fair, one should compare the above indicia of validity to the absence of any systematic evidence underpinning the critics’ charges. Critics also sometimes assert that remedies typically secured in class action settlements are at best dubious and often are completely worthless, consisting of useless coupons, meaningless discounts, and obsolete products. They argue with regard to cash payments (without providing even a single anecdote) that “issuing [class members] a check is often so expensive that administrative costs swallow the entire recovery.”24 According to many critics the only ones to benefit from private enforcement are the attorneys involved.25 The critics who make these charges, however, never offer evidence beyond opinions, hypotheticals, and occasional anecdotes. Indeed, for the 49 antitrust class action cases that Davis and I studied, the data show that, overall, only a total of approximately 20 percent of the recoveries went for attorney fees (14.3 percent) or claims administration expenses (4.1 percent).26 The rest was returned to the victims. This result is consistent with older estimates of legal fees in antitrust class action cases in the 6.5 to 21 percent range.27 Critics also sometimes examine what happened in other areas of law and assert that these outcomes occur in contemporary antitrust class action suits as well. But they never offer systematic evidence from antitrust cases to support their opinions.28 Interestingly, only one of the lawsuits in the Davis/Lande study involved a coupon remedy—the Auction Houses cases. However, those coupons were fully redeemable for cash if they were not used for five years.29 The actions Davis and I studied were among the largest antitrust class actions ever brought and therefore might not be representative of class action cases in general. Abuses surely occur from time to time in class action cases, as they do almost everywhere in the legal system. But a majority of the critics’ most egregious examples are from other areas of law or are quite old.30 No one has ever presented reliable evidence showing that such examples occur frequently or are typical of contemporary antitrust class action cases.31 Class Victims’ Compensation Has Been Modest, Generally Less than Their Damages Even though the $19.4–$21.0 billion that Davis and I showed had been returned to victims in 49 class action cases is a significant figure when viewed in absolute terms, it probably was not nearly enough to fully compensate all of the victims involved. To ascertain “Recovery Ratios” (the percentage of the illegal overcharges that was obtained in the form of monetary payments to victims in private actions), Professor Connor and I assembled a sample consisting of every completed private case against cartels discovered from 1990 to mid-2014 for which we could find the necessary information. For each of these 71 cases we assembled neutral scholarly estimates of affected commerce and overcharges and compared these estimates to the damages secured in the private actions filed against these cartels.32 The victims of only 14 of the 71 cartels (20 percent) recovered their damages (or more) in settlement. Only seven (10 percent) received more than double damages. The rest— the victims in 57 cases—received less than their damages. In four cases, the victims received less than 1 percent of damages, and in 12 cases they received less than 10 percent of damages. Overall, the median average settlement was 37 percent of single damages. The unweighted mean settlement (a figure that gives equal weights to the cartels that operated in large and small markets) was 66 percent. The mean and median average Recovery Ratios are higher (81 percent and 52 percent, respectively), for the 36 cases that were follow-ups to DOJ prosecutions that imposed criminal sanctions.33 Because these Recovery Ratios do not include any valuations of products, discounts, coupons, or the value of injunctive relief or precedent, the actual worth of these remedies to the victims is greater than the figures reported above. Nevertheless, it fairly can be concluded that antitrust class action cases often return important recoveries to victims that are significant in absolute terms, but usually are modest when measured against the sizes of the overcharges involved. Class Actions Deter Significant Amounts of Collusion and Other Anticompetitive Behavior Private class action cases serve to deter a substantial amount of anticompetitive activity, perhaps even more than the highly acclaimed anti-cartel program of the U.S. Department of Justice, which often results in prison sentences for cartel participants.34 Virtually every contemporary analysis of antitrust enforcement assumes that deterrence is an important purpose of the private treble damages remedy provision.35 The Supreme Court has underscored this point. For example, in Reiter v. Sonotone Corp., the Court explained: Congress created the treble-damages remedy of § 4 precisely for the purpose of encouraging private challenges to antitrust violations. These private suits provide a significant supplement to the limited resources available to the Department of Justice for enforcing the antitrust laws and deterring violations.36 The government, however, cannot be expected to do all of the necessary enforcement for a number of reasons, including budgetary constraints, “undue fear of losing cases; lack of awareness of industry conditions; overly suspicious views about complaints by ‘losers’ that they were in fact victims of anticompetitive behavior; higher turnover among government attorneys; and the unfortunate, but undeniable, reality that government enforcement (or non-enforcement) decisions are, at times, politically motivated.”37 A recent study highlights the deterrence benefits of private enforcement by comparing the likely deterrent effects of private antitrust enforcement to that of criminal anti-cartel enforcement by the Antitrust Division.38The surprising result is that private enforcement—and even just antitrust class action cases considered separately—probably deters more anticompetitive behavior. From 1990 through 2011 the total of DOJ corporate antitrust fines, individual fines, and restitution payments totaled $8.2 billion. (Dis)valuing a year of prison or house arrest at $6 million39 adds another $3.6 billion in total deterrence from the DOJ’s anti-cartel cases, yielding a total of approximately $11.8 billion. This is a substantial figure, and the possibility of incurring such sanctions surely has deterred a significant number of would-be antitrust violators.40 Nevertheless, these penalties amount to approximately 50 percent of the $19.4–$21.0 billion in cash alone (not including products, etc.) secured by just the 49 studied class cases that were completed during the same period.41 These private cases were only a portion of the hundreds of successful class action cases completed during this period (albeit they were many of the largest).42 The total amount of payouts in class action cases is so high that it probably deters more anticompetitive conduct than even the DOJ’s anti-cartel enforcement efforts.

#### Those cases force a reduction in ship size, improvement in services, and lower costs

Haralambides 19, Professor of Maritime Economics and Logistics at Erasmus University Rotterdam. (Hercules, 2019, Gigantism in container shipping, ports and global logistics: a time-lapse into the future Maritime Economics & Logistics volume 21, pages1–60, https://link.springer.com/article/10.1057/s41278-018-00116-0)

Such consolidation in an industry that is already highly concentrated is bound to take place under the increasing scrutiny of the regulator who, with the final consumer in mind, is likely to encourage more competition rather than further consolidation. If the liner shipping market thus becomes more open and competitive in the future, i.e. if alliance agreements regarding vessel sharing, investment planning, etc. are scrutinized more closely for their compatibility with competition law, as I expect, the joint filling of the ship will become more difficult and ship sizes shall by necessity decrease, together with an increase in the number of ports of call. Low prices would then be achieved through higher competition rather than big ship sizes. In such a scenario, shipping companies will be forced to provide the services their customers want, rather than the ones they find it convenient to offer. Shippers do not like too much transshipment and, if they could help it, they would like their container as close to them as possible. Reduction in ship size and more direct calls could thus follow the example of the air-transport industry. The most common jet flying across the Atlantic is not the 420-seat 747 jumbo but the 200 plus-seat Boeing 767. Eight out of 10 transatlantic planes are twin-engine craft such as the 767, its bigger brother the 777, or the various airbuses. This taste for smaller international jets reflects the fact that travellers now like to shun big international hubs such as London and New York and fly directly to their destinations. This is changing the international market into a web of direct intercontinental flights rather than one big air-bridge between London and New York.

#### Only antitrust can reduce the size of mega ships

Haralambides 19, Professor of Maritime Economics and Logistics at Erasmus University Rotterdam. (Hercules, 2019, Gigantism in container shipping, ports and global logistics: a time-lapse into the future Maritime Economics & Logistics volume 21, pages1–60, https://link.springer.com/article/10.1057/s41278-018-00116-0)

The impact of alliances on container shipping and ports I just stated that the gigantism in shipping has been induced by both port competition and shipping alliances. Indeed, without the ability to use each other’s ships, no carrier alone would be able to achieve a capacity utilization high enough to justify the use of present day mega-ships, while at the same time offering the frequency that shippers demand. But carriers have gone a step too far: At the time of writing, three alliances carry 80% of global trade. Such consolidation, in an industry that is already highly concentrated, is bound to take place under the increasing scrutiny of the regulator who, with the final consumer in mind, is likely to encourage more competition rather than further consolidation. If this happens, i.e., if container shipping becomes more open and competitive in the future, and alliance agreements regarding vessel sharing, investment planning, etc. are scrutinized more closely for their compatibility with competition law, as I expect, the joint filling of the ship will become more difficult and ship sizes shall by necessity decrease, together with an increase in the number of ports of call. Low prices would then be achieved through more competition rather than big ship sizes. This is more so when it is doubtful if the economies of scale in shipping are passed on to the final consumer, as required by the consortia block exception from the provisions of competition law in Europe.Footnote51

#### \*\*\*Federal Maritime Commission (FMC) decisions aren’t currently under antitrust

Young-Bascom 11 is a Professor of Law at the University of Wisconsin. (George, 2011, “Replacing Antitrust Exemptions for Transportation Industries: The Potential for a “Robust Business Review Clearance,” Oregon Law Review, Vol. 89 1059-1106, https://www.antitrustinstitute.org/wp-content/uploads/2018/08/Carstensen.pdf)

4. Some Tentative Conclusions

The great bulk of agreements and combinations that benefit from antitrust immunity have no absolute need for such an entitlement. Despite the concerns about the specifics of a few ventures, a majority of the joint venture agreements seem to present little risk of any antitrust liability. The relatively few standard-setting agreements are somewhat more problematic because they reflect a collective agreement among competitors that restricts the ways they compete. Because these agreements are subject to agency review and approval, the agreements could easily be transformed into formal agency orders based on an administrative proceeding in which all interested parties could participate as the STB has suggested. Thus, even if such agreements were characterized as unlawful under antitrust law, they can easily be converted into a formal regulatory requirement. With few exceptions, the current body of exempted agreements is not consistent with a clear cartel motivation. Two more troubling observations point toward the need for reform. First, especially in ocean shipping, some explicit cartel agreements remain. There seems, however, to be little justification for such agreements. Indeed, as the STB has stated in connection with the trucking agreements, such agreements are now contrary to declared public policy. Second, the present systems for land and air transportation immunities fail to provide a sufficiently rigorous check on the potentially adverse competitive effects that can and do flow from unnecessarily restrictive or unduly inclusive ventures. Worse, the FMC lacks any authority even to review the merits of submitted agreements that result in immunity. Overall, then, the present system has a strong tendency to undermine competition. The results are diminished efficiency and a loss of dynamic innovation. Moreover, given the changes in the underlying market contexts that result from both technological and legal changes, there is no continuing policy reason for the current system of an agency’s unilateral grant of immunity. This is not to argue that the agencies serve no function. First, the agencies provide a forum for establishing rules and regulations to govern aspects of these markets that are beyond the capacity of antitrust law and courts’ enforcing that law. Second, the agencies establish important reporting requirements to obtain information necessary in evaluating the services being offered by transportation providers. Third, the agencies provide continuing oversight, monitoring, and investigative capacity beyond the authorization or institutional capacity of the DOJ. Thus, the question is not whether the agencies should be removed from the process but whether agency approval alone should warrant immunity from antitrust law.

#### \*\*\*NCAA thumps every link

Dillickrath and Newman 8-12-2021, both JD @ Sheppard Mullin Richter and Hampton (Thomas and Bevin, “Two Important Antitrust Cases Decided by US Supreme Court,” *JD Supra*, https://www.jdsupra.com/legalnews/two-important-antitrust-cases-decided-7489047/)

The second case, NCAA v. Alston, considered whether the NCAA’s eligibility rules regarding compensation of student-athletes violate federal antitrust laws. NCAA bylaws contain an ‘amateurism rule,’ which prohibits student-athletes from competing in intercollegiate sports if they “[u]se[] [their] athletics skill (directly or indirectly) for pay in any form in [their] sport.” In 2014, a group of student-athletes challenged NCAA compensation restrictions in district court. The court held that “NCAA limits on education-related benefits are unreasonable restraints of trade in violation of section 1,” and the Ninth Circuit affirmed. At the Supreme Court, the NCAA cited the Court’s previous decision in the 1984 case NCAA v. Board of Regents to argue that the NCAA’s amateurism rule should not be subject to a detailed rule of reason analysis. Rather, it argued, amateurism is a defining feature of college sports, “necessary for the ‘product’ of amateur college sports to be available at all.” Thus, the amateurism rule should be upheld as procompetitive. By contrast, plaintiffs argued that increasingly lucrative television contracts, which bring in billions in revenue each year, differentiate the 1984 intercollegiate sports market from its present day counterpart. Thus, the truncated, “quick look” analysis applicable in Board of Regents should not apply here. Under a full rule of reason analysis, plaintiffs argued, the anticompetitive harms associated with the amateurism rule outweigh any procompetitive benefits. At the time of writing, the Court had not yet reached a decision on the merits of this case. However, the Court would go on to find for the plaintiffs and affirm the lower court’s opinion. Justice Gorsuch, writing for a unanimous Court, observed that the NCAA never challenged plaintiffs’ market definition, allegation of monopsony power, or its fundamental characterization of the challenged activity. Rather, “this suit involves admitted horizontal price fixing in a market where the defendants exercise monopoly control.” On the other side, “the student-athletes do not question that the NCAA may permissibly seek to justify its restraints in the labor market by pointing to procompetitive effects they produce in the consumer market.” Thus, the only question was whether “the lower courts erred by subjecting its compensation restrictions to a rule of reason analysis.” Harkening back to Board of Regents, the Court acknowledged that “[w]ithout some agreement among rivals—on things like how many players may be on the field or the time allotted for play—the very competitions that consumers value would not be possible.” In such cases, a “quick look” analysis may be appropriate. The amateurism rule falls outside the scope of necessary agreement, however, for “[n]obody questions that Division I basketball and FBS football can proceed (and have proceeded) without the education-related compensation restrictions the district court enjoined.” Thus, the district court was correct to apply a more detailed rule of reason analysis to determine “whether and to what extent those restrictions in the NCAA’s labor market yield benefits in its consumer market that can be attained using substantially less restrictive means.” In evaluating the district court’s application of the rule of reason, the Court marched through the rule of reason’s three-step framework. For the first step, the NCAA “did not meaningfully dispute” that its compensation restrictions “produced significant anticompetitive effects.” As to the second step, the NCAA failed “to establish that the challenged compensation rules . . . have any direct connection to consumer demand” but nevertheless demonstrated that “some” of its compensation restrictions “may” be procompetitive effect “to the extent” they prohibit compensation “unrelated to education, akin to salaries seen in professional sports leagues.” On the third step, the Court held that the district court permissibly found the challenged restraints “patently and inexplicably stricter than is necessary’” to achieve any purported procompetitive benefits. Thus, the Court affirmed. Importantly, the Supreme Court’s decision extends only to “education-related benefits schools may offer student-athletes—such as rules that prohibit schools from offering graduate or vocational school scholarships.” It does not extend to the NCAA’s restrictions on non-education related compensation. However, Justice Kavanaugh’s concurrence signaled that these may also be open to challenge: “[T]here are serious questions whether the NCAA’s remaining compensation rules can pass muster under ordinary rule of reason scrutiny. Under the rule of reason, the NCAA must supply a legally valid procompetitive justification for its remaining compensation rules. As I see it, however, the NCAA may lack such a justification.” While no other member of the Court joined Justice Kavanaugh’s concurrence, this language signals that the Court may not be done with antitrust challenges to the NCAA’s compensation rules.

# 2AC

## Adv — Mega Ships

## Adv — Alliances

## AT: T---Of

#### Of is an extremely ambiguous term — the other terms in the resolution should check

Nelson 66, Mankato Citizens Tel. Co. v. Commissioner of Taxation, 145 N.W.2d 313, 275 Minn. 107 (1966).

The commissioner has conceded that the word "of," in the law as presently printed, is ambiguous and susceptible of more than one interpretation. The Tax Court acceded to this view and added that the original wording of the statute must control as evidence of the legislative intent. The Tax Court suggests in its memorandum that "exchange business of" can mean either business actually taking place at some particular place, or it can mean business "arising from" or "derived from" some particular place. Relator argues that the latter interpretation is the correct one. The commissioner, however, contends that, because the word "at" was used when the statute was first enacted, the legislature intended that the place where the exchange facilities building and business offices were located should control and, consequently, the higher rate must be applied. Relator also asserts that because the subscriber and certain physical equipment constitute a part of the telephone system as applied to North Mankato, the lower rate of 4 percent is applicable, even though the central facilities, the exchange building, the switching equipment, and the business offices are located in Mankato. Despite these arguments it is conceded by both parties that the intention of the legislature controls.

#### Prohibitions expand the scope

Bradford and Chilton 18 (Anu Bradford, Henry L. Moses Professor of Law and International Organization, Columbia Law School. Adam S. Chilton, Assistant Professor of Law and Walter Mander Research Scholar @ the University of Chicago. “Competition Law Around the World from 1889 to 2010: The Competition Law Index” , Columbia Law School Scholarship Archive Faculty Scholarship, <https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=3519&context=faculty_scholarship> , 2018, date accessed 9/5/21)

The Scope Index is the closest to the CLI in that it also measures the law in the books, treating prohibitions as elements that increase the scope (or stringency) of the law and defenses as elements that reduce the scope (or stringency) of the law. Basic categories in the Scope Index and our CLI are also the same, even if somewhat differently labeled. For example, we refer to “anticompetitive agreements” where the Scope Index refers to “restrictive trade practices.”

## CP — States

#### Zero domestic organizations participate in shipping alliances making extraterritorial application key---that’s Oshea.

Today, exactly zero U.S. ship owners participate in the three ocean carrier alliances recognized by the FMC. This means our laws now do more to shield foreign carriers from being sued for antitrust violations than it does to promote the domestic shipping industry.

#### States get squashed by foreign laws

Dodge 19, is a leading expert on international law, international transactions, and international dispute resolution, currently a member of the State Department’s Advisory Committee on International Law and an Adviser to the American Law Institute’s Restatement (Third) of the Conflict of Laws, J.D. at Yale. (William, 2020, “Presumptions Against Extraterritoriality in State Law,” University of California Davis Law Review, https://lawreview.law.ucdavis.edu/issues/53/3/53-3\_Dodge.pdf)

I. THE FEDERAL PRESUMPTION AGAINST EXTRATERRITORIALITY For the past three decades, the federal presumption against extraterritoriality has been the principal tool that the U.S. Supreme Court has used to determine the geographic scope of federal statutes.18 The current version of the federal presumption is significantly more flexible than at least some versions that the Supreme Court used in the past.19 Courts may also rely on other principles of interpretation in determining the geographic scope of federal statutes, including a principle of reasonableness in interpretation, deference to administrative agencies, and the Charming Betsy canon of avoiding violations of international law.20 At the outer margins, the Due Process Clause of the Fifth Amendment may also constrain the extraterritorial application of federal statutes.21 But in contrast to state law, there are no conflict-of-laws rules at the federal level that give priority to foreign law in cases of conflicting regulation.22 A. An Overview of the Federal Presumption In 1909, the U.S. Supreme Court noted that “the general and almost universal rule is that the character of an act as lawful or unlawful must be determined wholly by the law of the country where the act is done.”23 Consistent with this general rule, the Court articulated a presumption that “in case of doubt,” a federal statute should be construed “as intended to be confined in its operation and effect to the territorial limits over which the lawmaker has general and legitimate power.”24 The Supreme Court applied this presumption inconsistently between 1909 and 1949 and then abandoned it for four decades.25 In 1991, however, the Supreme Court resurrected a strong version of the federal presumption against extraterritoriality in EEOC v. Arabian American Oil Co. (Aramco),26 suggesting that the presumption should be applied as a clear statement rule and (like the traditional presumption) should turn on the location of the regulated conduct.27

#### State efforts are preempted

Longstreth and Bachman 15, Longsreth is a partner focusing on antitrust in transportation at K&L Gates, J.D. at Harvard Law School. Bachman is a partner focusing on competition law at K&L Gates. (John & Allen, 9-10-2015, “Shipping Act Antitrust Exemption Held for the First Time to Preempt State Antitrust Laws,” K&L Gates, https://files.klgates.com/files/105702\_antitrust\_alert\_09102015.pdf)

For the first time, a federal court has held that the Shipping Act of 1984, 46 U.S.C. §§ 40101–41309 (Shipping Act), preempts state-law antitrust claims. The federal district court in New Jersey applied conflict preemption principles to hold that a challenge to a price fixing and capacity reduction agreement among international shipping companies was within the exclusive jurisdiction of the Federal Maritime Commission (FMC), and that the Shipping Act preempts state law antitrust claims that would apply to such conduct. In re Vehicle Carrier Services Antitrust Litigation, No. 13-3306 (ES)(MDL No. 2471) (D.N.J. Aug. 28, 2015). The decision is important not only as the first case to address this issue under the Shipping Act, but also as a confirmation that federal preemption remains a viable defense to state-law antitrust claims, notwithstanding the Supreme Court’s recent decision in Oneok, Inc. v. Learjet, Inc., 135 S. Ct. 1591 (2015) declining to find state antitrust claims preempted by the Natural Gas Act. The scope of the Shipping Act’s antitrust exemption Agreements that are filed with the FMC and become effective under the Shipping Act, or that are exempt from filing under the Act, are expressly exempted from federal antitrust laws. 46 U.S.C. §§ 40307(a)(1), (2). Conduct may also fall outside of the specific authority granted in an effective agreement but still be immune if there is a reasonable basis to believe it was authorized, and if the conduct falls within the scope of the Act. 46 U.S.C. § 40307(a)(3). “[A]ll activity permitted or prohibited by the Act enjoys immunity from antitrust coverage if undertaken with a reasonable belief that it was being done under an effective agreement filed with the FMC.” A&E Pac. Constr. Co. v. Saipan Stevedore Co., 888 F.2d 68, 72 n.6 (9th Cir. 1989)(emphasis added). The Shipping Act and its antitrust exemption apply to agreements among vessel-operating common carriers in the U.S.-foreign trades, or with or among one or more marine terminal operators serving such carriers. See 46 U.S.C. § 40102(6), (14), § 40301(a), (b). The Shipping Act and its exemption do not apply to the U.S. domestic or offshore trades, sometimes known as the “coastwise” or “Jones Act” trades. Nor do they apply to noncommon carriers, such as many bulk or tanker operators, or to agreements between carriers and entities that are not marine terminal operators, such as shippers or non-vessel-operating carriers. Id. See generally ABA Transportation Antitrust Handbook, at 270–73 (2014). At issue in Vehicle Carrier Services were alleged price fixing and capacity reduction agreements between carriers that had not been filed with the FMC. Because this activity was not undertaken pursuant to an effective agreement, or with reason to believe it was under an effective agreement, it was not immune from criminal enforcement by the Justice Department or civil penalties imposed by the FMC. Both agencies, in fact, took enforcement September 10, 2015 Practice Groups: Antitrust, Competition & Trade Regulation Maritime Shipping Act Antiturst Exemption Held for the First Time to Preempt State Antitrust Laws 2 actions against the cartel. See, e.g, United States v. Compania Sud Americana de Vapores S.A., No. 1:14-cr-100 (D. Md.) However, conduct that is prohibited by the Shipping Act cannot be the subject of a private civil antitrust suit under any circumstances. 46 U.S.C. § 40307(d).

## CP — Regulations

#### Regulation is strictly domestic, antitrust isn’t.

Hovenkamp 03, Ben V. & Dorothy Willie Professor of Law and History, University of Iowa. (Herbert, Fall 2003, “Antitrust as Extraterritorial Regulatory Policy”, 48 Antitrust BULL. 629, pg. 632-633, https://heinonline.org/HOL/P?h=hein.journals/antibull48&i=637)

This change from government agency control to antitrust control is beginning to have one consequence that was not foreseen. While regulatory regimes in the United States could be state, federal, or local, they were for the most part quite strictly territorial. For example, residents of Minneapolis might have their retail electricity regulated intraterritorially by the federal government, the State of Minnesota, or perhaps even the city. But it is unlikely that retail electricity in Minneapolis would be regulated by the State of Illinois or the government of Canada. The antitrust laws do not exercise the same territorial circumspection. Under traditional ideas about regulatory control it would be almost unthinkable that the United States would attempt to apply its law to a Mexican telephone company's rate structure or customer selection policies; under modern conceptions of antitrust law it is not. The global reach of antitrust extends very far. Actions that occur abroad can be condemned under the Sherman Act if they have an intended, substantial and foreseeable effect on United States commerce. 5 Appellate courts have even approved criminal indictments under United States antitrust law for activity that took place entirely abroad.6

#### Specifically, the FMC (Federal Maritime Commission)

Khouri 19 Chair of the Federal Maritime Commission. (Michael, April 4, 2019, Testimony Before BEFORE THE UNITED STATES SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION SUBCOMMITTEE ON SECURITY, <https://www.commerce.senate.gov/services/files/F6DD1ADF-0A95-4E4F-9EC6-BF62AF1D2E66>)

The Federal Maritime Commission As a first matter, allow me a moment to introduce the FMC and its role, which is best summarized by our prime meridian: ensuring competition and integrity for America’s ocean supply chain. The FMC is an independent agency with specialized experience in the international ocean transportation industry. We administer a focused antitrust regulatory regime tailored to the particular factors affecting the ocean liner trade. The Shipping Act of 1984 contains several major sections that are comparable to the antitrust statutes administered by the Department of Justice and the Federal Trade Commission. Since passage of the original Shipping Act in 1916, Congress has recognized that the international ocean liner industry requires special legislative and regulatory oversight. This is due to the substantial amount of our Nation’s international exports and imports being delivered via ocean liner carriage, the resulting critical role the industry plays in our international commerce, and the many competing, and potentially conflicting, maritime regulatory regimes and interests of our international trading partners. Based on economic and non-economic conditions affecting the international ocean liner trade, Congress determined in 1916 to allow certain types of ocean carrier collaboration that would not normally be permitted under other antitrust statutes, in order to ensure that certain U.S. national objectives would be met. This included the availability of ocean transportation and stability of the shipping infrastructure upon which our international commerce depends. The antitrust laws, including the Shipping Act of 1984, are designed to protect competition, not individual competitors. Collaborative joint venture agreements among competitor ocean carriers, as long as they are not found to be materially anticompetitive, are recognized as beneficial, finding efficiencies, and reducing costs that ultimately benefit U.S. exporters and saves the U.S. consumer money. Congress entrusted competition oversight and antitrust enforcement for this industry to a specialized agency with particular expertise in this legal area, close familiarity with the commercial and operational issues involved in the ocean liner industry, and sensitivity to the interests of U.S. stakeholders and our many international trading partners. The FMC reviews and monitors international ocean liner carrier joint collaborations and agreements under the Shipping Act to ensure that procompetitive efficiencies and cost savings are obtained for the benefit of U.S. consumers, and that anticompetitive effects are prevented or properly mitigated. Our Annual Report was submitted on April 1, 2019 and provides a comprehensive summary of the Commission’s activities and industry developments in Fiscal Year 2018. Our Fiscal Year FY 2020 Budget Justification was submitted on March 18, 2019 and provides detailed support for our budget request. I will address matters of interest to the Committee, discuss what we foresee as potential developments and trends in the coming year, review our significant activities of the past year, and recap our budget request for FY 2020.

## K — Baudrillard

#### Info isn’t always dissuasive - Bush could have escalated the war further absent significant anti-war activism

Heaney 12, Assistant Professor of Organizational Studies and Political Science @ Umich (Michael, “The Policy, Political, and Social Effects of the Antiwar Movement after 9/11,” <https://mobilizingideas.wordpress.com/2012/07/02/the-policy-political-and-social-effects-of-the-antiwar-movement-after-911/>)

Of course, it is impossible to establish definitely the nonimpact of the antiwar movement on policy. Doing so requires the evaluation of counterfactual scenarios that cannot be tested empirically. For example, if there had been no antiwar movement at all – if nobody had protested the war policies of the Bush Administration – it is plausible to believe that the administration would have been emboldened to take more aggressive military actions, possibly invading Syria or Iran. Or, perhaps the Bush Administration would have had the confidence to pursue more ambitious conservative domestic policies. Personally, I am inclined to believe that the movement did have these types of restraining effects but, as a social scientist, it is impossible to demonstrate them convincingly. To claim that the policy and political effects of the antiwar movement were limited is not to say that the movement was unimportant. Indeed, the social effects of the movement may have been its most lasting contribution. The antiwar movement exposed millions of people to their first experiences with activism, which will likely shape the way that many of them think of, and participate in, politics for the remainder of their lives.[7]

The movement provided critical opportunities for activists to learn about new tactics and to implement them on unfamiliar terrain.[8] Alliances and conflicts within coalitions shaped the structure of the social networks of movement participants.[9] The movement provided activists with opportunities to explore their identities[10] and to create new organizations by hybridizing elements of intersecting social movements.[11] In many ways, we have only begun to see the long-term consequences of a generation shaped by the antiwar movement.

#### Even if simulation exists, reality is still putting up a good fight

**Luke,** Chair, Political Science Dept – Virginia Tech**, ‘91**(Timothy W, “Power and politics in hyperreality: The critical project of Jean Baudrillard,” *Social Science Journal*, Vol. 28 Issue 3, p347)

Baudrillard's critical project clearly outlines a fascinating and innovative appraisal of the often confusing and contradictory tendencies in contemporary society that are usually labelled as "postmodernity." Nonetheless, **there are considerable weaknesses** as well as great strengths **in Baudrillard's system of analysis.** The tenacity of "reality" or "modernity" in several spheres of everyday life, for example, often still overshadows "hyperreality." Thus, it seems that Baudrillard's major flaw is mistaking a handful of incipient developments or budding trends for a full-blown or completely fixed new social order. The total break with all past forms of social relations cannot be verified either from within or from outside of Baudrillard's frameworks. While he denies finding much systematicity in hyperreal capitalism and sees the end of "production" and "power" in the rise of seduction, Baudrillard still clings to the image of a powerful exploitative system in his call to the masses to recognize "that a system is abolished only by pushing it into hyperlogic."( n21) This twist in his thinking raises important questions. Why does a social order that no longer really exists need his theoretical intervention to be transformed by mass resistance if it is not real, powerful or productive? Likewise, if the history of power and production has ended, then why does Baudrillard envision today's best radical opposition to capital and the state assuming the form of hyperconformity by pushing "the system" into a hyperlogical practice of itself to induce the crisis that might abolish it?

On the other hand, Baudrillard's strategy of "hyperconformity," as a means of radical resistance, does not seriously challenge the consumerist modes of domination intrinsic to transnational corporate capitalism. Moreover, its ties to consumer subjectivity do not even begin to address other possible strategies of resistance following lines drawn by gender, race, ethnicity, language or ecology. Unlike Lyotard, he does not advance any new conceptions of postmodern justice or articulate alternative principles to represent meaningful narratives about values in hyperreality. Thus, **Baudrillard** also **can be tarred with the brush of neoconservatism**, like many other postmodernist critics of society.( n22) Baudrillard tends to misplace the concreteness of the relations that he is investigating, lumping everything into the category of "seduction" which, in turn, **totally subsumes** **such complex factors as power, production, sex, and economy into one universal force**. He claims somewhat contradictorily that "seduction . . . does not partake of the real order." Yet, at the same time, "seduction envelops the whole real process of power, as well as the whole real order of production, with this never-ending reversibility and disaccumulation--without which neither power nor production would even exist."( n23) While Baudrillard makes these claims, he never really demonstrates definitely how this all works with carefully considered evidence.

#### Err on the side of reality — suffering and death are real, and the alt greenlights it

**Giman-Olpasky 11** - Assistant Professor of Political Philosophy in the Department of Political Science at the University of Illinois at Springfield (Richard, Spectacular Capitalism Guy Debord and the Practice of Radical Philosophy <http://www.scribd.com/doc/58299096/3/Chapter-1-Selectively-Forgetting-Baudrillard>)

Simulacra are, by definition, indistinguishable from real events. Nevertheless, the actual existence and constant possibility of simulacra are not sufficient causes for adopting reality agnosticism. It may be impossibleto distinguish the fake holdup and fake sickness from the real holdup andreal sickness, but the child has really been sick, and most criminals are notplaying. Those involved in staging the act of simulation itself do mostly know the difference. But Baudrillard would rightly point out that, fromthe outside – for those confronting simulacra phenomenologically (instead of making them) – our general inability to tell the difference means that we can never be too confident about reality. Reality agnosticism istantamount to treating every event as a possible simulacrum. This is thesame as to treat no events as real. This is precisely what Baudrillard wantsto do, yet I think this is a mistake.Baudrillard presses us to recognize that even suffering and death canbe and have been simulated (i.e. the Timişoara Massacre in 1989 in WesternRomania, where protestors were gunned down by the army. While themassacre was real, it was later disclosed that 27 bodies were exhumed fromthe Timişoara “Paupers’ Cemetery” to exaggerate the massacre for TV effect. This series of events marked the end of Ceauşescu’s Stalinist regimein Romania.). 36 However, despite such manipulation, we do live in a world where suffering and death are real. That even suffering and death couldbe staged, and that we cannot always tell when that is the case, does notmean that we should make such suspicion into an operational logic – thereis always the other side, the side of actual suffering and death. Baudrillardmakes too much out of the fake, and he errs on the wrong side of theequation. What I mean by saying “too much” and “wrong side,” is precisely to raise a normative objection. Wherever we cannot tell the difference (thatis, wherever there are functional simulacra), I contend that we should err on the side of a different obligation. And this is indeed a moral obligation to take human suffering seriously, an obligation that outweighs the integrity of Baudrillard’s skepticism. To put it bluntly, I would rather be fooled intothinking a faked death was real than that a real death was faked, just as I would always prefer the doctor who assumes that my pain is real despite the leap of faith this may entail. We must also ask, from a political point of view, what it means to beagnostic about reality. Can one act with certainty and resolve against human suffering, against inequality, against growing macroeconomic disparity,against misrecognition, etc., if we cannot know anything with any certainty about these things? It is no misuse or abuse of Baudrillard’s work too bserve that his arguments do in fact distance us from a political consideration of the material conditions of poverty, war, repression, and oppression. He explicitly intends for his arguments to be – inasmuch asthis is possible – incompatible with or unusable for moral judgment and political argument. Baudrillard happily argues for the abandonment of moral argument and normative theory altogether (again, much likeNietzsche, who also intended to think beyond good and evil). For example,Baudrillard writes, “It is no longer a matter here of philosophical morality of the sort that says ‘the world isn’t what it ought to be’ or ‘the world isn’t what it was’. No, the world is as it is.” 37 Of course, Baudrillard is right that the world is as it is, but what of the role of human action in making it that way? So much of the world is as it is because of the cumulative effect of collective human action and inaction over time. In light of this, we do have some space within which to consider what ought to be, and what human action can do to move usin that direction. This is a tenuous space indeed, for it promises us nothing and many people already stand in it pushing and pulling in different directions. But, it is in this space of consideration of the impact and the intervening prospects of human action where the possibility for politics remains, and where one hopes that the best heads will enter the fray.

## DA — Midterms

#### Inflation thumps.

Wollner 10-18-2021, \*deputy editor in McClatchy’s Washington bureau; \*\*has written about the Democratic Party since joining McClatchy in 2017. He’s been a campaigns reporter in Washington since 2010 (Adam and Alex Roarty, "‘It will only intensify’: Inflation spikes lead to rising voter concerns. Will Biden be blamed?", *McClatchy Washington Bureau*, <https://www.mcclatchydc.com/news/politics-government/article255029322.html>)

Democrats and Republicans alike have long expected next year’s midterm elections to hinge on the state of the coronavirus pandemic, the job market and former President Donald Trump’s influence on the GOP. Now, they see a new potential top issue emerging: inflation. Political strategists from both parties are closely watching the price of everyday goods, which continue to rise at higher-than-expected rates, preparing to grapple with a pocketbook issue that could resonate with voters in a way it hasn’t in decades. Republicans in particular see the issue as a potent one for the upcoming midterm campaign, increasingly putting rising inflation rates at the heart of their attacks on the economic policies of President Joe Biden and Democrats in Congress. “I believe the economic challenges the country faces, with inflation leading them, will be the single biggest concern to voters this cycle,” said Dan Conston, president of the Congressional Leadership Fund, a super PAC with ties to House Republican leadership. “It’s already there, and likely that it will only intensify further going forward.” Not everyone is so certain. Economists say they don’t know if prices will continue to increase, and even if they do, political operatives say it’s unclear whether voters will blame the president. But veteran Democrats concede that it’s an issue they are now watching closely for the first time since the rampant inflation of the late 1970s and early 1980s, the latest in a string of challenges facing the Biden White House and the party. “It’s like an old nightmare girlfriend from 40 years ago who shows up on your front steps,” said James Carville, chief strategist for Bill Clinton’s 1992 presidential campaign.

#### Too far away to predict or for the plan to matter.

Shapiro 10-22-2021, fellow at the Brennan Center for Justice and a lecturer in political science at Yale. (Walter, "Pundits Have a Terrible Track Record of Predicting Midterms a Year in Advance", *New Republic*, https://newrepublic.com/article/164107/pundits-terrible-track-record-predicting-midterms-year-advance) ---ableist language edited

Taken together, it sounds dire. But how predictive are the portents more than a year before the congressional elections? To find out, I examined the political news and election forecasts 13 months before six different off-year elections dating back to Bill Clinton’s first term in 1993. (I only skipped October 2001—the nation’s shock from the 9/11 attacks overwhelmed everything.)

These historical excavations offer mixed news to Democrats brooding about 2022. The prognosticators correctly picked up signs that the incumbent president’s control of Congress was in jeopardy before the wave elections of 2006 (when Nancy Pelosi first became House speaker), 2010 (the Obama-era shellacking), and 2018 (Pelosi’s comeback as speaker). But too often the political narrative in October of odd-numbered years overreacted to ephemeral events and wrongly portrayed them as pivotal turning points. The problem with many of these prior electoral assessments was that the analysts failed to imagine the political terrain changing.

Handicapping [Predicting] off-year congressional elections nearly 400 days in advance has proven about as accurate as an eighteenth-century blunderbuss. Yes, the forerunner of the shotgun could hit its target. But its accuracy was limited, and it carried the risk of misfiring.

#### A single policy won’t flip the election

Mitchell 10-20-2021, PhD @ Colombia, teaches in the School of International and Public Affairs at Columbia University. (Lincoln, "Opinion: Doing right isn't the secret to Democrats' success next year", *CNN*, <https://www.cnn.com/2021/10/20/opinions/joe-biden-democrats-midterm-elections-2022-legislation-mitchell/index.html>)

The idea that delivering on policy promises is the key to victory in the midterms also happens to be wrong – or at least not supported by any evidence from the last half century or so. As a motivator for Democrats to act, the idea that delivering major policy accomplishments will pave the road to electoral success may be a good approach, but as political analysis it runs counter to history.

Recent decades are filled with examples of a new administration passing major legislation only to lose seats in the midterm election. After being elected in 1964 in a landslide with huge Democratic majorities in both houses of Congress, President Lyndon B. Johnson passed a battery of policies in 1965 that included the Voting Rights Act, the creation of Medicare and Medicaid and a number of other Great Society programs. The reward for the Democrats was the loss of 47 seats in the House of Representatives and three seats in the Senate in the 1966 midterm elections. For good measure, Johnson's Vice President Hubert Humphrey was defeated in the 1968 presidential election.

A few years later, in 1981 President Ronald Reagan delivered on a campaign promise and passed the Omnibus Budget Reconciliation Act, which was the core of his economic agenda and his campaign platform from his 1980 election. Reagan's Republican Party then went on to pick up one Senate seat but lost 26 House seats in the 1982 midterms. In more recent years President Donald Trump passed major tax cuts, significant deregulation and two Supreme Court justices while President Barack Obama delivered the Affordable Care Act early in his first term. Both Trump and Obama saw their party drubbed in their first midterm election.

The pattern of the president's party losing seats in the midterm is well-known and vexing for almost all presidents. Simply delivering on campaign promises has, at least since the New Deal era, not been enough to stop that trend. It is extremely unlikely that will change now in an era of a deeply polarized electorate, highly partisan media and a relative paucity of undecided voters.

#### A slew of other issues thump.

Collinson 21, White House Reporter @ CNN (Stephen, 9-7-2021, "Analysis: The coming weeks will define Biden's presidency and shape the midterm elections", *CNN*, https://www.cnn.com/2021/09/07/politics/joe-biden-september-battles-ahead/index.html)

A crush of challenges and political battles are dominated by a pandemic Biden hoped would now be history. But the crisis is beginning to feel endless, and, as it batters national morale, is denting his political standing. The fallout from a chaotic exit from Afghanistan that encapsulated the ignominy of a US defeat is meanwhile raising questions about Biden's core promise of competency. The internal Democratic Party tussle between progressives and moderates is highlighting the huge bet of the Biden presidency: That, at a time of national crisis, voters want a multi-trillion-dollar assault on climate change and the remaking of the social safety net.

Reverberations still ring from the conservative Supreme Court's decision not to block the effective eradication of a ~~woman's~~ constitutional right to an abortion in Texas, which promises multiple political consequences. The House Republican Party's radical turn to pro-Donald Trump authoritarianism also underscores the deep peril still facing American democracy.

#### No leadership impact.

Fettweis 20, Associate Professor of Political Science at Tulane University. (Christopher J., 6-3-2020, "Delusions of Danger: Geopolitical Fear and Indispensability in U.S. Foreign Policy", *A Dangerous World? Threat Perception and U.S. National Security*, <https://www.cato.org/publications/publications/delusions-danger-geopolitical-fear-indispensability-us-foreign-policy>)

Like many believers, proponents of hegemonic stability theory base their view on faith alone.41 There is precious little evidence to suggest that the United States is responsible for the pacific trends that have swept across the system. In fact, the world remained equally peaceful, relatively speaking, while the United States cut its forces throughout the 1990s, as well as while it doubled its military spending in the first decade of the new century.42 Complex statistical methods should not be needed to demonstrate that levels of U.S. military spending have been essentially unrelated to global stability.

Hegemonic stability theory’s flaws go way beyond the absence of simple correlations to support them, however. The theory’s supporters have never been able to explain adequately how precisely 5 percent of the world’s population could force peace on the other 95 percent, unless, of course, the rest of the world was simply not intent on fighting. Most states are quite free to go to war without U.S. involvement but choose not to. The United States can be counted on, especially after Iraq, to steer well clear of most civil wars and ethnic conflicts. It took years, hundreds of thousands of casualties, and the use of chemical weapons to spur even limited interest in the events in Syria, for example; surely internal violence in, say, most of Africa would be unlikely to attract serious attention of the world’s policeman, much less intervention. The continent is, nevertheless, more peaceful today than at any other time in its history, something for which U.S. hegemony cannot take credit.43 Stability exists today in many such places to which U.S. hegemony simply does not extend.

Overall, proponents of the stabilizing power of U.S. hegemony should keep in mind one of the most basic observations from cognitive psychology: rarely are our actions as important to others’ calculations as we perceive them to be.44 The so‐​called egocentric bias, which is essentially ubiquitous in human interaction, suggests that although it may be natural for U.S. policymakers to interpret their role as crucial in the maintenance of world peace, they are almost certainly overestimating their own importance. Washington is probably not as central to the myriad decisions in foreign capitals that help maintain international stability as it thinks it is.

The indispensability fallacy owes its existence to a couple of factors. First, although all people like to bask in the reflected glory of their country’s (or culture’s) unique, nonpareil stature, Americans have long been exceptional in their exceptionalism.45 The short history of the United States, which can easily be read as an almost uninterrupted and certainly unlikely story of success, has led to a (perhaps natural) belief that it is morally, culturally, and politically superior to other, lesser countries. It is no coincidence that the exceptional state would be called on by fate to maintain peace and justice in the world.

Americans have always combined that feeling of divine providence with a sense of mission to spread their ideals around the world and battle evil wherever it lurks. It is that sense of destiny, of being the object of history’s call, that most obviously separates the United States from other countries. Only an American president would claim that by entering World War I, “America had the infinite privilege of fulfilling her destiny and saving the world.“46

Although many states are motivated by humanitarian causes, no other seems to consider promoting its values to be a national duty in quite the same way that Americans do. “I believe that God wants everybody to be free,” said George W. Bush in 2004. “That’s what I believe. And that’s one part of my foreign policy.“47 When Madeleine Albright called the United States the “indispensable nation,” she was reflecting a traditional, deeply held belief of the American people.48 Exceptional nations, like exceptional people, have an obligation to assist the merely average.

Many of the factors that contribute to geopolitical fear — Manichaeism, religiosity, various vested interests, and neoconservatism — also help explain American exceptionalism and the indispensability fallacy. And unipolarity makes hegemonic delusions possible. With the great power of the United States comes a sense of great responsibility: to serve and protect humanity, to drive history in positive directions. More than any other single factor, the people of the United States tend to believe that they are indispensable because they are powerful, and power tends to blind states to their limitations. “Wealth shapes our international behavior and our image,” observed Derek Leebaert. “It brings with it the freedom to make wide‐​ranging choices well beyond common sense.“49 It is quite likely that the world does not need the United States to enforce peace. In fact, if virtually any of the overlapping and mutually reinforcing explanations for the current stability are correct, the trends in international security may well prove difficult to reverse. None of the contributing factors that are commonly suggested (economic development, complex interdependence, nuclear weapons, international institutions, democracy, shifting global norms on war) seem poised to disappear any time soon.50 The world will probably continue its peaceful ways for the near future, at the very least, no matter what the United States chooses to do or not do. As Robert Jervis concluded while pondering the likely effects of U.S. restraint on decisions made in foreign capitals, “It is very unlikely that pulling off the American security blanket would lead to thoughts of war.“51 The United States will remain fundamentally safe no matter what it does — in other words, despite widespread beliefs in its inherent indispensability to the contrary.

#### A Dem win in 2022 prevents the GOP from shredding democracy.

Purcell 21, Joseph Solomon distinguished professor at New York Law School. (Edward, 10-11-2021, "Democrats are ignoring the only thing that matters", *The Hill*, <https://thehill.com/opinion/civil-rights/576241-democrats-are-ignoring-the-only-thing-that-matters>)

Today there is only one issue that matters, and the Democrats are missing it. Although inspired by the best of intentions and striving to address pressing national problems, they are being led down a garden path to disaster. Today, the only political question of any significance is what will happen in the 2022 elections, and the only relevant issue for Democrats is the fate of the two voting rights bills currently wasting away in Congress. If those bills are not enacted, Democrats will lose the House of Representatives and probably the Senate; and, if that happens, nothing else they might possibly do with their current majorities will have mattered. The reason is simple and obvious. If Republicans take over Congress in 2022, they will finally grasp what they have been driving toward for the past two decades: the negation of majority rule, the supremacy of a resentment-inspired white minority and virtually unshakeable control of the national government for a generation or more. If the Republicans succeed in 2022, they will use their position to methodically entrench themselves in power. First, they will ensure that the House abolishes its committee investigating the Jan. 6 insurrection, thus covering up their complicity in the nation’s first and only criminal conspiracy to overthrow a national election and seize control of the federal government. Second, they will defend and expand their control over state governments by extreme partisan redistricting and gerrymandering and by adopting even more carefully targeted laws to restrict voting rights and enhance the power of Republican appointees and legislatures to determine election outcomes. Third, they will then use their control of both critical states and the House of Representative to ensure their victory in 2024 and the return of Donald Trump to the presidency. Thus, the 2022 elections will determine the fate of popular government in the United States. It will be the decisive pivot point at which Americans faithfully preserve their free and honest constitutional democracy or Republicans successfully transform the nation into effectively a one-party state. If the Republicans achieve their goal in 2022, whatever successes the Democrats might manage in the next 15 months will prove of fleeting significance even if Republicans do not subsequently repeal or otherwise gut them. That is why Republicans are happily leading Democrats down the garden path to self-destruction. They are doing everything possible to force Democrats to spend all their time and energy on issues that will not matter in 2022 so that they will not press and prevail on the one issue that will matter, the voting rights bills.

#### Democracy solves extinction.

Twining 21, PhD, president of the International Republican Institute, former director of the Asia Program at the German Marshall Fund. (Daniel, 10-10-2021, "America must double down on democracy", *The Hill*, <https://thehill.com/opinion/campaign/575693-america-must-double-down-on-democracy>) \*language edited

The hard truth is that a world that is less free is one that is less secure, stable and prosperous. The greatest dangers to the American way of life emanate from hostile autocracies. There are no quick fixes, but the best antidotes to the challenges of great-power conflict, terrorism and mass migration of desperate refugees lie in the building of inclusive democratic institutions — and working with allied democracies to sustain the free and open order that China, in particular, wishes to replace with a world that’s safe for autocracy. The conventional wisdom that authoritarianism has popular momentum is wrong. No one anywhere is taking to the street to demand more corrupt governance, the adoption of one-man rule, a stronger surveillance state, or greater intervention by malign foreign powers. Democratic freedoms are unquestionably under assault in many nations. Autocrats are aggressive precisely because of the growing demands for change in their more modern, connected societies — and the rising risk that middle classes in nations such as China and Russia will not be willing forever to forfeit political rights for prosperity. American retrenchment and isolationism compound the danger. It would be nice to live in a world where failed states and dictatorships were a problem for someone else to worry about. But rather than producing stability, Western retreat only emboldens autocrats in ways that amplify dangers to American national security. We know that violent extremism flourishes under state failure and dictatorship.

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Broken states become breeding grounds for extremist groups because they leave vacuums that terrorists are only too happy to fill. In nations without democratic accountability, citizens become drawn to the only forms of expression available to them, which are often violent and extreme. The good news is that we have billions of allies around the world: citizens on every continent chafing for greater freedom and dignity. They do not want U.S. military-led nation-building. They want peaceful support for their independent efforts to create democratic space in systems distorted by overweening government control, dangerous governance gaps and foreign malign influence. The free world cannot be neutral in the face of autocracy’s resurgence. Rather, it should play to its strengths. The appeal of democratic opportunity is a strategic asset for the United States — despite our own shortcomings — because people around the world similarly aspire to live in societies that guarantee justice, rights and dignity. America’s closest allies are democracies. Democracies don’t fight each other, export violent extremism, or produce the conflicts that drive mass migration. Democracies are better partners in fighting terrorism, human trafficking and poverty, as well as establishing reliable trading relationships. Open societies incubate the technologies that will help solve the world’s most pressing problems, including climate change. Citizens can hold leaders accountable when they fall short, and democratic institutions are stronger than any [individual] ~~man~~ — as America itself witnessed after the assault on the U.S. Capitol on Jan. 6.

## DA — Trade

#### Trade doesn’t solve war.

White 13, Emeritus Professor of Strategic Studies at the Strategic and Defence Studies Centre of the Australian National University. (Hugh, “China: Power and Ambition,” *The China Choice: Why We Should Share Power*, pg. 51-53, Oxford University Press)

Certainly, the more countries trade and invest with one another, the greater the economic cost of conflict and the stronger the incentive to keep the peace. America and China today are more interdependent economically than any two comparably powerful states have ever been before, and this will certainly restrain ambition and rivalry on both sides. The question is whether the restraints will prove stronger than the pressures going the other way. If interdependence does trump strategic and political ambition, we should be seeing it happening between the United States and China now – but we have not seen much evidence of that yet. So far the two countries seem to be acting very much as strong states in the past have acted as relative power shifts from one to the other. Pessimists like John Mearsheimer and Niall Ferguson remind us that before war broke out in 1914, the great powers of Europe had grown more economically interdependent than they had ever been before, and than they would be again for almost a century.12

The lesson to draw is that interdependence increases the incentive for leaders to subordinate political ambitions and ignore nationalist sentiments, but it does not remove the need for them to take these bold and [politically] politicaly risky steps. The hard choices still have to be made. It is easy for leaders to see that economic interests require them to compromise their countries’ aspirations for international status and power, but it is harder for them to acknowledge that to their people, and harder still to put their economic interests ahead of strategic and political ones when a choice has to be made. In fact, most often people see it as shameful to put economic concerns first when issues of power and status are engaged. What president would tell the American people that their country will compromise its position on an issue like Taiwan in order to protect America’s economic interests? What Chinese leader could make the same argument to the Chinese people? When a choice has to be made, especially when it has to be made in the glare of an international crisis, it is very hard to put economics first.

In some ways the obvious importance of economic interdependence increases rather than limits the risk that rivalry will escalate, because of the way it can affect one country’s view of the other’s priorities. There seems to be a pattern here: each side believes that the imperatives of interdependence will press more heavily on the other. That inclines both governments to assume that the other will compromise to protect the economic relationship, so they do not have to do so. In Washington they expect China to back down from its challenge to America once Beijing understands the economic risks of rivalry. In Beijing they think America will blink. That makes both of them less inclined to compromise their own position – which makes escalation more likely.

Ultimately, faith in the power of interdependence boils down to faith in the power of money to trump other emotions and motivations. That is a risky proposition. We cannot assume that Chinese leaders will always choose rationally to maximise China’s objective benefits. They are no less liable than the leaders of any other country to allow what may be, or may seem to us to be, irrational desires for status and influence to trump the rational calculations of national interest.

Economics is important, but money isn’t everything. Countries, like people, want to be rich, but they also want to be safe and to feel good about themselves. For countries, as for individuals, aspirations for security and identity often compete with material interests, and often win. America’s and China’s divergent visions touch on very deep issues of national identity in both countries, which can easily seem to outweigh economic imperatives when the crunch comes. And there is always something a little strange about the assumption, implicit in the interdependence argument, that our economic desires will suppress the urge to strategic and political competition when our desire to avoid the horrors of war will not.

#### COVID wrecked interdependence.

Kampf 20, senior PhD fellow at the Center for Strategic Studies at The Fletcher School. (David, 6/16/20, “How COVID-19 Could Increase the Risk of War”, *World Politics Review*, https://www.worldpoliticsreview.com/articles/28843/how-covid-19-could-increase-the-risk-of-war)

The coronavirus pandemic immediately elicited further calls to reduce dependence on other countries, with Trump using the opportunity to pressure U.S. companies to reconfigure their supply chains away from China. For its part, China made sure that it had the homemade supplies it needed to fight the virus before exporting extras, while countries like France and Germany barred the export of face masks, even to friendly nations. And widening economic inequalities, a consequence of the pandemic, are not likely to enhance support for free trade.

This assault on open trade and globalization is just one aspect of a decaying liberal international order, which, its proponents argue, has largely helped to preserve peace between nations since World War II. But that old order is almost gone, and in all likelihood isn’t coming back. The U.N. Security Council appears increasingly fragmented and dysfunctional. Even before Trump, the world’s most powerful country ratified fewer treaties per year under the Obama administration than at any time since 1945.

Trump’s presidency only harms multilateral cooperation further. He has backed out of the Paris Agreement on climate change, reneged on the Iran nuclear deal, picked fights with allies, questioned the value of NATO and defunded the World Health Organization in the middle of a global health crisis. Hyper-nationalism, rather than international collaboration, was the default response to the coronavirus outbreak in the U.S. and many other countries around the world.

#### Interdependence can just as easily cause war.

* Higher op costs of war cause uncertainty over resolve which raises risk of war
* Need to disaggregate effects of trade
* Effect remains for nuclear countries

Spaniel and Malone 3/5/19 [William Spaniel, Department of Political Science, University of Pittsburgh. Iris Malone, Department of Political Science, Stanford. The Uncertainty Tradeoff: Re-Examining Opportunity Costs and War. March 5, 2019. <https://wjspaniel.files.wordpress.com/2019/03/uncertainty-tradeoff-final.pdf>]

This paper’s main contribution is to identify the precise conditions under which the probability of war increases despite rising opportunity costs. We show that, unlike other mechanisms, rising opportunity costs may counter-intuitively make war more likely because it also increases the difference between reservation points for unresolved versus resolved opponents. As a result, these informational asymmetries can lead states to screen their opponents and risk war. This new finding reshapes our understanding about the relationship between opportunity costs and war. It introduces a more nu-anced mechanism about when and how this relationship operates, sometimes contrary to expectations.

Our work advances economic interdependence theories of war in several ways. First, it provides new insight on the causes of war at odds with traditional cases where opportunity costs increased, yet conflict still erupted. Second, it demonstrates how and when competing effects of economic instruments predominate, driving changes in the probability of conflict. In contrast to previous work, we identify specific conditions under which increasing opportunity costs shifts the probability of conflict, consistent with the empirical evidence. Finally, it demonstrates the important, but subtle, effects of changing instruments, like trade flows, in the presence of uncertainty. The model advances a growing line of research that various sources of uncertainty have disparate effects on crisis bargaining.

This paper has more general implications for trade-conflict research. It complements growing calls to disaggregate the effects of instruments like trade (Martin et al. 2008). Empirical analyses must carefully trace what precisely parties do not know about each other to draw the correct inference. It also suggests states should be careful in interpreting how other states value or benefit from mutual trade flows. A free trade agreement championed by one state may be perceived as relatively less beneficial in another state. This uncertainty may undermine the credibility to abide by the agreement in the long-run.

We also highlight the need for future research to consider screening incentives in trade deals themselves. Although the proposer benefits from greater trade—both from the direct economic benefit and indirect ability to steal more surplus from the receiver— trade can harm unresolved receivers and incentivize screening. This could generate some constraints in the deals a state is willing to sign, in fear that the rearranged incentives under uncertainty could hurt its ability to effectively bluff later. A more unified approach to trade and crisis negotiations would yield additional interesting insights.

Moving forward, the results speak to other lines of research in international relations theory predicated on changing costs of conflict. We couched our results in the interdependence literature due its clear application. However, the comparative static speaks to cases where the receiver’s costs increase more generally.23 Framed this way, the results have clear implications for other literatures. For example, standard nuclear deterrence theory argues that possessing nuclear weapons increases the costs of war for potential challengers due to the risk of a retaliatory nuclear response (Morgenthau 1961, 280; Gilpin 1983, 213-219). The logic of alliance formation similarly relics on the assumption that entering these pacts induces peace by raising an opponent’s costs of conflict (Morrow 1994). Together, these mechanisms assume raising the costs of war should decrease conflict. Our results demonstrate this effect is likely more conditional than previously realized. We find increased costs of conflict can exacerbate issues with uncertainty over resolve even if both states possess destructive weaponry. This promises to shed new insights into how raising costs affects deterrence and coercive bargaining in other contexts.

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## DA — Trade

#### Interdependence doesn’t solve war – prefer studies at the multilateral not just dyadic level – competitive dynamics outweigh conflict dampening incentives.

Chatagnier and Kavakli 17 – (2017, J. Tyson, PhD in Political Science, Assistant Professor in the Department of Political Science at the University of Houston, and Kerim Can, PhD in Political Science, assistant professor at the Faculty of Arts and Social Sciences at Sabanci University in Turkey, “From Economic Competition to Military Combat: Export Similarity and International Conflict,” Journal of Conflict Resolution, Vol 61, Issue 7, 2017)

International trade has long been thought to facilitate peace among nations (Kant [1795] 1970). A voluntary exchange of goods that leaves both parties better off inherently raises the value of each side to the other, increasing the cost of conflict. The belief that economic interaction can ignite a positive dynamic of cooperation and reduce conflictual behavior is so intuitive and widespread that some political pundits have even heralded free trade as the path to world peace (see, e.g., Griswold 1998; Boudreaux 2006).The conventional wisdom within the international relations literature (e.g., Oneal and Russett 1997; Gartzke, Li, and Boehmer 2003; Polachek and Xiang 2010) reinforces these claims, having found consistent empirical (and theoretical) links between trade and peace. At the same time, however, there is certainly evidence that trade can exacerbate rivalry and conflict between states. Throughout history, states have fought their competitors for advantage (i.e., access to inputs and markets) in the global marketplace. For instance, in his authoritative account of the Anglo-German rivalry before World War I, Kennedy (1980, 464) concludes that “the most profound cause [of the conflict], surely, was economic”. More specifically, the cause was “the detectable increase in Anglo-German trade rivalry since Bismarck’s time as the latter country steadily became more competitive.” Moreover, while modern empirical international relations research has largely come down on the side of the neoliberals, it has not been monolithic. Indeed, numerous studies by Barbieri (1996, 2002) have demonstrated that increased trade actually has the potential to aggravate tensions between states. These inconsistencies in both the historical and analytical records raise questions about the simplicity of the link between trade and conflict. Additionally, the vast majority of previous work considers only the bilateral effects of trade, neglecting the way in which trade between two actors can affect a third. We remedy this oversight by analyzing the effects of trade competition, arguing that the tension produced by export competition can be an important source of international conflict. More specifically, we highlight that economic actors who face foreign competition have an incentive to use military power to gain an advantage in international markets. These domestic actors can use their economic power to influence their nation’s political elites and increase the likelihood that economic conflict erupts into war. We support this theoretical argument with several well-established historical cases including the seventeenth-century Dutch-English commercial rivalry, the pre-World War I Anglo-German rivalry, and the 1990 invasion of Kuwait by Iraq. Our argument suggests that, although trade can have a pacifying direct effect at the dyadic level, it also has strong indirect effects, which can be conflict aggravating. We test this argument using commodity-level trade data from 1962 to 2000. We measure each country pair’s portfolio similarity along nearly 1,300 commodity categories and test the effect of this variable on several indicators of international conflict. Our results strongly support our claim that countries that produce and export similar goods are significantly more likely to fight, even taking into account their bilateral trade. These findings are robust to several checks on model specification as well as alternative explanations. We also show that our findings are not driven by oil or other strategic resources and that they hold for both raw and manufactured goods. In light of these results, we are confident that we have identified a significant and practically important cause of war.

#### Collapses supply chains and liberal integration.

Farrell & Newman 20, \*Professor of Political Science and International Affairs at George Washington University, \*\*Professor at the Edmund A. Walsh School of Foreign Service and Government Department at Georgetown University. (Henry, Abraham, 3/16/20, “Will the Coronavirus End Globalization as We Know It?”, *Foreign Affairs*, https://www.foreignaffairs.com/articles/2020-03-16/will-coronavirus-end-globalization-we-know-it)

The new coronavirus is shaping up to be an enormous stress test for globalization. As critical supply chains break down, and nations hoard medical supplies and rush to limit travel, the crisis is forcing a major reevaluation of the interconnected global economy. Not only has globalization allowed for the rapid spread of contagious disease but it has fostered deep interdependence between firms and nations that makes them more vulnerable to unexpected shocks. Now, firms and nations alike are discovering just how vulnerable they are.

But the lesson of the new coronavirus is not that globalization failed. The lesson is that globalization is fragile, despite or even because of its benefits. For decades, individual firms’ relentless efforts to eliminate redundancy generated unprecedented wealth. But these efforts also reduced the amount of unused resources—what economists refer to as “slack”—in the global economy as a whole. In normal times, firms often see slack as a measure of idle, or even squandered, productive capacity. But too little slack makes the broader system brittle in times of crisis, eliminating critical fail-safes.

Lack of fail-safe manufacturing alternatives can cause supply chains to break down, as they have in some medical and health-related sectors as a result of the new coronavirus. Producers of vital medical supplies have been overwhelmed by a surge in global demand, pitting countries against one another in a competition for resources. The outcome has been a shift in power dynamics among major world economies, with those that are well prepared to combat the new virus either hoarding resources for themselves or assisting those that are not—and expanding their influence on the global stage as a result.

## DA — Midterms

#### Outweighs other issues.

Wollner 10-18-2021, \*deputy editor in McClatchy’s Washington bureau; \*\*has written about the Democratic Party since joining McClatchy in 2017. He’s been a campaigns reporter in Washington since 2010 (Adam and Alex Roarty, "‘It will only intensify’: Inflation spikes lead to rising voter concerns. Will Biden be blamed?", *McClatchy Washington Bureau*, <https://www.mcclatchydc.com/news/politics-government/article255029322.html>)

INFLATION AT CENTER STAGE But polling has shown that voters are worried about rising prices. A Pew Research Center survey from late last month found that 63% of Americans said they were “very concerned” about rising prices for food and consumer goods, topping the other economic issues they were asked about. And according to a Fox News poll from mid-September, 82% of voters said they were concerned about inflation and higher prices, more than any other issue, including the pandemic and situation in Afghanistan. Republican operatives argue that the longer inflation remains a concern, the more likely voters are to naturally blame the party in power in Washington. They say that will especially be the case if Biden’s job performance rating on the economy as a whole remains low. Less than 40% of voters approved of Biden’s handling of the economy in a new Quinnipiac University poll, while two-thirds of voters said the economy was going in the wrong direction in the latest Politico/Morning Consult survey. “If inflation continues to rise, I think it’s very problematic for Democrats. It’s something we haven’t seen in 40 years,” said Glen Bolger, a veteran Republican pollster. “The longer this goes on, the more it impacts the economy and the mood of voters. Voters are nervous.” Republicans have heavily criticized Biden and the Democrats on a variety of fronts over the past nine months, ranging from immigration to crime to Afghanistan. But inflation has been among the most prominently featured issues in their early paid media campaigns. The NRCC, CLF, and its associated nonprofit group, American Action Network, have all aired TV or digital ads over the last three months blaming vulnerable House Democrats and their policies for rising prices. Officials with those groups say they expect that messaging to continue heading into the election year. “This is going to be an issue all the way through to the midterms,” NRCC Chairman Tom Emmer said in an interview. “This will come back to bite them at the ballot box in 2022.” While Republicans say inflation could have particular resonance with independents, suburbanites and seniors, they argue the issue is uniquely consequential because it directly affects Americans across the board. “You’ll hear candidates talking about it over and over and over again, because it’s a way to make the consequences of failed leadership real to average voters,” said John Ashbrook, a Republican strategist and former aide to Senate Minority Leader Mitch McConnell.