# 1NC

## 1NC — Off

### 1NC — CP

#### First off is the EU CP —

#### The European Union should remove its shipping competition exemption and pursue antitrust enforcement including tort liability with treble damages against Shipping alliances.

#### The EU removing its exemption can deter misconduct in shipping

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>.)

Liner shipping does not have unique characteristics that justify exemptions from competition law, either for conferences or for alliances. In line with the global long-term trend to dismantle sector-specific exemptions from competition law and in line with OECD regulatory principles, generic antitrust rules should apply to all agreements between liner shipping companies, as for any other industry, with regard to the cooperation that is allowed. Countries where “conferences” are still allowed should reconsider their position. In light of the longer-term trend toward the removal of block exemptions in the shipping industry, the European Commission should carefully consider allowing the EU Consortia Block Exemption Regulation to expire in April 2020, as currently scheduled, rather than extending it. A repeal of block exemptions is unlikely to result in the termination of current and future alliances, as these could still be authorised under competition law on a case by case basis. However, it would ensure greater scrutiny of individual alliances and thus more effectively deter any anticompetitive conduct in the sector. In order to maintain legal certainty, the European Commission could provide temporary guidelines on how to treat liner shipping in EU antitrust law. If the block exemption is extended, its scope should be limited, in particular by introducing a provision to consult maritime transport stakeholders and by excluding joint purchasing by alliances.

### 1NC — CP

#### Next off is the Advantage CP —

#### The U.S. should via Executive Order require a clean ship standard of zero emissions for all ships calling at U.S. ports requiring a 50% reduction by 2025 and zero emissions by 2035.

#### The United States executive branch should target cyber-attacks by —

#### Integrating Central Intelligence Agency, National Security Agency, Federal Bureau of Investigation, United States Military and Cyber Command cyber networks

#### Leverage diplomacy, sanctions, and executive agency enforcement in cooperation with foreign military partners against cyber threats

#### Implement proactive preventative strategies outside of antitrust to prevent cyber attacks including kinetic and non-kinetic planning

#### The United States federal government should —

#### Provide financial incentives to private businesses to implement strategies of attribution

#### Initiate de-escelation strategies after attacks have occurred including limiting retaliatory potential

#### Develop a strategy for minor cyber responses to cyber attacks

#### Publicly announce that the United States will fully retaliate to cyber attacks but never enforce a policy of full spectrum retaliation

#### Ban the adoption of internet-connected technology in NC3 and other vulnerable assets, and retroactively apply this

#### Plank 1 solves a global transition to zero shipping emissions — solves every deficit

Barry et al 21, Professor in the Department of Benthic Ecology San Jose State University, (James, 2021, with Madeline Rose Climate Campaign Coordinator for Pacific Environment, and Daniel Hubbell Shipping Emission Campaign Manager at Ocean Conservancy, ‘All Aboard,’ Pacific Environment and Ocean Conservancy, https://oceanconservancy.org/wp-content/uploads/2021/04/All-Aboard-US-Policy-Zero-Emissions-Report\_FINAL.pdf)

Pacific Environment and Ocean Conservancy call on the United States to commit to helping achieve a zero-emission shipping industry by 2035. We urge the Biden-Harris administration to exercise its “port state control” authority under international law to set a progressive “clean ship standard” for all ships calling U.S. ports. The policy should require progressive cuts in carbon dioxide equivalents (CO2e) — 50 percent by 2025, 80 percent by 2030, and 100 percent by 2035. That would prevent 213 million metric tons of CO2e from entering the atmosphere by 2035 and every year thereafter.8 In addition to achieving lifesaving emissions reductions, this U.S. policy will create positive ripple effects globally, helping force the development of a zeroemission vessel market and accelerate zero-emission research, development, and demonstration across the maritime supply chain.

#### Next three planks solve deterrence and proactive cyber deterrence

**Nakasone & Sulmeyer 20** – (Paul Nakasone, Commander of U.S. Cyber Command, Director of the National Security Agency, and Chief of the Central Security Service; Michael Sulmeyer, is Senior Adviser to the Commander of U.S. Cyber Command; “How to Compete in Cyberspace”; Foreign Affairs; D.A. January 9th 2021, [Published August 25th 2020]; <https://www.foreignaffairs.com/articles/united-states/2020-08-25/cybersecurity>)

FROM DOCTRINE TO RESULTS

The National Security Agency is a critical Cyber Command partner. The two organizations are not one and the same: although one of us (General Nakasone) leads both, and although both are headquartered at Fort Meade, they are charged with different missions. The NSA produces signals intelligence and, through its cybersecurity mission, protects National Security Systems.  Cyber Command defends military networks and directs cyberspace operations against adversaries. Yet because of the overlapping nature of the threats they face, the common domain in which they work, and their shared focus on defending the nation, the two organizations work closely together.

The power of this partnership can be seen in how Cyber Command and the NSA worked together to protect against meddling in the[2018 midterm elections](https://www.foreignaffairs.com/articles/united-states/2018-07-25/how-washington-can-prevent-midterm-election-interference). Experts from both organizations formed the Russia Small Group (RSG), a task force created to ensure that democratic processes were executed unfettered by Russian activity. It shared indicators of potential compromise, enabling DHS to harden the security of election infrastructure. It also shared threat indicators with the FBI to bolster that organization’s efforts to counter foreign trolls on social media platforms. And Cyber Command sent personnel on several hunt forward missions, where governments had invited them to search for malware on their networks. Thanks to these and other efforts, the United States disrupted a concerted effort to undermine the midterm elections. Together with its partners, Cyber Command is doing all of this and more for the 2020 elections.

Cyber Command’s partnership with the NSA also has been central to the online fight against the Islamic State, or ISIS. As part of a previous assignment as head of the army component of Cyber Command, one of us (General Nakasone) led the task force charged with fighting ISIS in cyberspace. The terrorist group’s propagandists used to spread their message on Twitter, YouTube, and their own websites. Today, because of our efforts, they have a much harder time doing so. At the height of its influence, ISIS published magazines in multiple languages, but it now struggles to publish in anything other than Arabic. At the same time as the U.S.-led coalition of conventional forces has prevailed over the physical caliphate, Cyber Command’s efforts have helped defeat the virtual one.

For all their power and results, however, cyberspace operations are not silver bullets, and to be most effective, they require much planning and preparation. Cyber Command thus works closely with other combatant commands to integrate the planning of kinetic and nonkinetic effects. Cyber Command’s capabilities are meant to complement, not replace, other military capabilities, as well as the tools of diplomacy, sanctions, and law enforcement. And they are often used in cooperation with foreign military partners, who bring different skills and techniques to the table. The West’s united front against the Soviet Union kept the Cold War cold; likewise, today, the United States and its allies are building unity of purpose to promote respect for widely held international norms in cyberspace.

#### Next planks solve retaliation and attribution

**Hennessey 17** – (Susan Hennessey, Managing Editor of Lawfare and a Fellow in National Security Law at the Brookings Institution; “Deterring Cyberattacks”; Foreign Affairs; D.A. January 9th 2021, [Published November/December 2017]; <https://www.foreignaffairs.com/reviews/review-essay/2017-10-16/deterring-cyberattacks>)

NEXT STEPS

To avoid a repeat of the 2016 fiasco, the United States must chart a new course shaped by a higher tolerance for strategic risk. For starters, Washington must articulate clearer lines. The Obama administration’s cyberstrategy presented ambiguity as a deterrent tactic, claiming that a lack of specificity would discourage states from simply tailoring their malicious activities to avoid crossing lines. But experience has demonstrated that aggressive adversaries considered that zone of ambiguity to be a zone of impunity. Although setting clearer lines does risk encouraging some additional below-the-threshold activity, containing behavior in that space is a better outcome than allowing more serious violations to go unchecked.

Likewise, the United States should be more consistent and proactive in publicly attributing attacks. When officials fail to point fingers for fear of revealing sources and methods, they offer U.S. adversaries plausible deniability. Strong attribution and statements that unambiguously link retaliation to corresponding offenses are important steps toward shaping and enforcing the norms necessary to govern state conduct in cyberspace.

Finally, the United States must cease to be inhibited by the fear of sparking escalatory cycles. Stronger responses to hacking, such as counterattacks and aggressive sanctions, do carry significant risks, but Washington can no longer rely on a do-nothing or do-little approach. Cyber-deterrence policy must reflect the reality that failing to respond in the face of an attack is itself a choice with consequences.

#### The last planks solve proactive deterrence

O’Hanlon 17 — Michael; Director of Research in Foreign Policy, Co-Director at the [Center for Security, Strategy, and Technology](https://www.brookings.edu/center/center-for-security-strategy-and-technology/), [Africa Security Initiative](https://www.brookings.edu/project/africa-security-initiative/). (“Cyber threats and how the United States should prepare” Brookings. June 14, 2017. <https://www.brookings.edu/blog/order-from-chaos/2017/06/14/cyber-threats-and-how-the-united-states-should-prepare/>)

Panelists were first asked about the biggest problem in the cyber realm in the Department of Defense. Leigher suggested the United States needs to better address the human side of the cyber security problem, including the frequent security breaches that take place today. Jones proposed that the Department of Defense needs either to eliminate compliance reports or to use technology to automate compliance reports to give people time to patch security vulnerabilities and fix the network. Ramcharan argued that the broader civilian infrastructure and its vulnerabilities require attention, not just the infrastructure devoted to DoD systems.

Miller highlighted a particular strategic problem that characterizes current cyber vulnerabilities: “death by a thousand hacks,” including the Iranian attacks on Wall Street, North Korea’s hack on Sony Pictures, Chinese cyber thefts of intellectual and personal property, and the Russian hack of the recent U.S. election. These could consistently distract the United States and compromise the economy and communication systems. Miller also pointed to the need for a long-term deterrence campaign aimed at each of the actors attacking the United States, along with the use of offensive cyber instruments and other tools of foreign policy.

Miller further raised that the U.S. military is already “an internet of things.” Miller explained the multidimensional nature of vulnerabilities today: There could be problems in the computer chips embedded in weapon system platforms; there could also be major vulnerabilities in critical infrastructure on which the U.S. military depends for transportation and sustained logistical support. Disruptions to command and control capabilities that, in time of war, could leave military forces disconnected from each other—or falsely directed to shoot in erroneous directions or otherwise carry out inadvertent and harmful activities—could also result from various forms of sophisticated hacking. Miller concluded that the combination of attacks on civilian infrastructure—in vital domains such as electricity, water and sewage, transportation, and financial activities, many of which are also crucial to military operations—along with its military vulnerabilities, the United States could experience a situation where a major actor (e.g. Russia or China) could have the capacity to both harm the economy and attempt to blunt U.S. military responses to an aggression.

Miller and DSB coauthors believe vulnerabilities are still worsening today and that they will likely continue to get worse until we take the problem much more seriously. In their eyes, a sustained effort in cyber protection is urgently needed.

A number of other key points were made.  Again, Ramcharan emphasized the importance of protecting civilian infrastructure. He explained that the tactics and techniques being applied to cyber warfare today are widely accessible and often fairly easy to employ.  Today, low-cost, low-entry, and often low skill-set methods are used to attack.

Leigher explained present-day vulnerabilities by observing that earlier generations of military systems engineers were not too concerned about cyber security.  He expressed alarm that even a limited, discrete cyberattack on a key part of a major platform like a ship could incapacitate the entire thing, causing mission failure. For example, an attack that disabled the ship’s propulsion could lead to catastrophic results.

Jones explained that by writing better code, using various kinds of red teams, and scrutinizing carefully from the very beginning, reliability and resilience could be dramatically improved.

In conclusion, going forward, Miller suggested that the United States needs to do three things:

Prioritize and invest in resilience for nuclear strike systems and for long-range conventional platforms.

Work hard on the critical infrastructure and maintain a threshold so that terrorist groups and lesser powers (e.g. North Korea and Iran) do not have the capability of holding the nation at risk through cyberattacks.

Develop a playbook of sorts, in advance, to guide response to significant cyberattack.

### 1NC — DA

#### Next off is the Politics DA —

#### Climate spending will pass now. It’s the last chance to avert climate change.

Leonhardt 1-21-2022, senior writer for The New York Times (David, “Good morning. Will Congress be able to pass a climate bill in the coming months?,” *New York Times: The Morning*, https://www.nytimes.com/2022/01/21/briefing/climate-change-bill-democrats.html)

The ravages of climate change are not a binary, on-or-off issue. Many problems, like increased flooding, wildfires, heat waves and severe storms, have already begun. How much worse they get will be shaped by how aggressively the world acts to slow climate change — both now and in the future. Immediate action can have a larger impact, scientists say, yet future action will not be irrelevant. “The reason I push back against the ‘last, best hope’ frame is that we need to realize that addressing climate change is simultaneously urgent and a long game,” Nat Keohane, the president of the Center for Climate and Energy Solutions, told me. “We need to greatly accelerate the transition to a low-carbon economy, and it is going to take decades.” It’s true that many experts feel a particular urgency about climate legislation — but the reason is more political than scientific: If Congress does not pass a bill to slow carbon emissions over the next few months, it may not do so for years. ‘Make or break’ In the U.S. today, only one of the two major political parties is worried about climate change — the Democratic Party. Republicans in Congress have opposed almost every major effort to combat change in the 21st century. So have the last two Republican presidents, George W. Bush and Donald Trump. Some Republicans say they support certain climate policies, like a carbon tax, but they tend to do so only when the policies are theoretical, not when they are up for a vote. This opposition is different from the approach taken by many other conservative parties around the world. But there is no sign that Republicans will change their stance anytime soon. If the U.S. is going to act on the climate in the foreseeable future, it will almost certainly need to be through a Democratic bill, passed along partisan lines in Congress and signed by a Democratic president. Right now, such a bill is conceivable. Democrats control both chambers of Congress as well as the White House. After 2022, however, Democrats may need to wait years before being in control again. Republicans are very likely to retake the House in the midterm elections. In the Senate, where small, rural states have a lot of power, Republicans enjoy a built-in advantage. More broadly, the Democratic Party has been losing working-class votes for years and does not seem focused on reversing the trend. Many Democratic politicians continue to favor a socially liberal agenda, with positions that are at least somewhat to the left of public opinion on religion, guns, crime, abortion, immigration, affirmative action and American history, among other issues. The agenda is strongly supported by the college graduates who run and shape the Democratic Party — but not shared by many working-class voters. And college graduates remain a minority of the electorate, which helps explain why Democratic candidates struggle in so many states and congressional districts, including racially diverse ones. Together, these political forces mean that the next few months present a rare chance to pass major climate legislation. “This is a make-or-break moment on the climate crisis,” said Jamal Raad, executive director of the climate advocacy group Evergreen Action. Seven of seven At President Biden’s news conference on Wednesday, he said that he now wanted to split his Build Back Better legislative agenda into at least two pieces. The climate provisions appear to have more solid Democratic support than proposals on taxes, health care and other issues. (Here’s the latest on the Capitol Hill negotiations, from The Times’s Emily Cochrane.) Just listen to Senator Joe Manchin, the most prominent Democratic opponent of Biden’s full plan: “The climate thing is one that we probably can come to an agreement much easier than anything else,” he said this month. Manchin does not favor all of Biden’s climate proposals, but he favors many, and it’s not hard to envision a compromise, as Eric Levitz of New York magazine has explained. My colleagues Coral Davenport and Lisa Friedman report that a growing number of congressional Democrats favor prioritizing the climate provisions, given the stakes. Coral and Lisa also write: “The New York Times asked each of the 50 Senate Republicans if he or she would support just the climate provisions in the Build Back Better Act if they were presented in a stand-alone bill. None said they would.” Those climate provisions are ambitious enough to make a difference, many scientists believe. They would cost about $555 billion over 10 years, or about one quarter as much as Biden’s full plan. Among the main components: The largest pot of money would subsidize wind, solar and nuclear power, making them less expensive for companies, communities and households. Many consumers would receive a rebate of $7,500 on an electric vehicle — and another $4,500 if union workers in the U.S. assembled the car. Consumers could also receive subsidies for solar panels and energy-efficient appliances. The bill would finance research into technology that would capture carbon after it has been emitted, rather than allowing it to contribute to the greenhouse effect. During the 2020 campaign, Biden and many other Democrats vowed to do everything they could to slow climate change and reduce its damaging consequences. The next few months will determine if they succeed. As Keohane says, the “last, best chance” notion is closer to the truth now than it usually is.

#### PC is key. Biden has to prioritize effectively to thread the needle on climate funding

Cohn 12-24-2021 (Jonathan, Senior National Correspondent at HuffPost, formerly worked at the New Republic and American Prospect, has written for the Atlantic and New York Times Magazine, has won awards from the Sidney Hillman Foundation, the Association of Health Care Journalists, World Hunger Year, and the National Women's Political Caucus, “Joe Manchin's 'Scaled-Back' Framework May Be Better Than It Sounds,” *HuffPost*, <https://www.huffpost.com/entry/build-back-better-joe-manchin-joe-biden_n_61c4a435e4b04b42ab699214>)

It looks like negotiations over President Joe Biden’s Build Back Better legislation are only mostly dead — which, as any fan of “The Princess Bride” knows, means they are also slightly alive.

This wasn’t so apparent last weekend, when Sen. Joe Manchin (D-W.Va.) went on Fox News to say he was a “no” on the bill that House Democrats passed last month. Shortly afterward, Manchin issued a press release reaffirming his opposition. The statements were stronger than anything he’d said previously, and drew blistering rebukes from a variety of top Democratic officials ― including White House press secretary Jen Psaki and House Progressive Caucus Chair Pramila Jayapal (D-Wash.), both of whom accused Manchin of negotiating in bad faith. But Biden, who has since spoken directly with Manchin, vowed on Tuesday that “Sen. Manchin and I are going to get something done.” Jayapal also spoke to Manchin and asked him to be more specific about what in the House bill he could support and what he couldn’t. It was a clear attempt to lower the temperature, restart a dialogue and craft a consensus bill that can pass both houses. That won’t be easy, given the considerable distance between Manchin and his party’s leaders. Manchin has raised a series of objections to specific initiatives, including the direct subsidy to families with parents that Manchin says could create an “entitlement society” but that Democrats see as the centerpiece of their strategy to fight child poverty. Manchin has also said he objects to the bill’s basic structure. By funding several of the programs for only a few years with the expectation that future lawmakers will renew them, Manchin says, Democratic leaders have disguised the bill’s true cost ― which, he says, is $3 trillion over 10 years, rather than the $1.85 trillion in the official Congressional Budget Office projection. The best hope for moving forward may lie in an alternative framework that, according to The Washington Post, Manchin gave the White House last week. It would include the bill’s climate and pre-kindergarten initiatives, along with improvements to the Affordable Care Act, funding all of them for the full 10 years of the budget window. It would leave out most of the bill’s other components. It’s difficult to know how serious this proposal is, given that it’s not public, or whether Manchin sincerely wants to get to “yes.” Even if he does, reconstructing legislation and assembling votes for it at this late stage in the process would be difficult. Progressives in particular are likely to resist endorsing a bill that is already being described in the media as a “scaled-back” version of the House bill. But that description is not quite right. Whatever Manchin’s motives, whatever the consistency or merits of his views, a bill that includes fewer initiatives but is funded permanently might actually be better as both politics and policy ― as a number of liberal writers and thinkers have been arguing for weeks. In fact, it’s possible this is the type of bill that Biden and party leaders would have tried passing from the very beginning, if not for the unusual, ultimately fleeting political circumstances that prevailed in late 2020 and early 2021. The Choices Biden And Leaders Avoided Before The interval between the final stages of a campaign and the first weeks of a presidential term is typically when a new administration works with congressional leaders to figure out what legislation it will try to pass and when. That is when former President Barack Obama and his allies decided to spend Obama’s first year seeking legislation on health care (which passed) and climate change (which didn’t). Likewise, it’s when former President Donald Trump and his allies decided to focus on Obamacare repeal (which failed) and tax cuts (which succeeded). Setting priorities is never easy for a new administration, because it means postponing the push for some initiatives, neglecting the needs those initiatives address and disappointing their champions. That’s why, to this day, so many immigration reform advocates are furious with Obama and Democratic leaders over their failure to take up their cause right away. But an administration has only so much bandwidth, so much political capital and so much time at its disposal. The same goes for congressional leaders. And so in 2009, they decided to focus on a few initiatives, even though they wanted to promote them all. That wasn’t the approach in late 2020 and early 2021, and the emergency mentality of the pandemic was a big reason why. Economic relief measures were expiring while large swaths of the population remained out of work, unable to pay for basics like food and housing. Key sectors like child care were on the verge of collapse because of closures and staff shortages, panicking families and further undermining the economy. Vaccines were finally available, but distribution was a mess and badly in need of funding. Into this crisis stepped a new administration that hadn’t yet prioritized among its campaign promises because, until the surprise Democratic Senate victories in Georgia, it hadn’t expected its party would have control of Congress. At the same time, Biden and Democratic leaders in Congress were determined not to make the mistake of Obama’s first year, when Democrats frittered away so much time and political capital trying unsuccessfully to win Republican support for their initiatives. Instead, before the administration was even two months old, Biden and Democratic leaders passed the American Rescue Plan through the budget reconciliation process, which requires just 50 votes in the Senate. No Senate Republicans voted for it, and Manchin was the last to sign on with what was, in the context of that legislation, a relatively modest concession: giving up on a proposed increase in the minimum wage. Many within and outside the party began counting on Manchin’s support for the rest of the Democratic agenda, assuming a similar negotiation process would get it done. That thinking shaped the construction of Build Back Better, which included most of the major initiatives Biden had embraced as a candidate, from once-in-a-generation action to slow climate change to a new entitlement for child care. The idea was to reprise not Obama’s or Bill Clinton’s first term, but something more like Franklin Roosevelt’s. But FDR had larger majorities that, among other things, were willing to commit a lot more government spending to launching new programs. Biden’s opening bid, which he constructed together with Democratic leaders from both houses, envisioned $3.5 trillion over 10 years. Biden’s plan was actually a preemptive compromise, well short of the $6 trillion that Senate Budget Chairman Bernie Sanders (I-Vt.) thought it would take to fund the agenda fully ― and it was still way more than Democrats like Manchin were willing to spend. That led to a second round of downsizing ― and the decision to start limiting funding for several initiatives to only a few years, in the hopes that their popularity would compel a future Congress to extend the programs before they expire. It would be a huge gamble, all the more so because several programs depend on state officials agreeing to participate. The lack of permanent funding could convince more of them to stay out. An example is Build Back Better’s two early childhood initiatives, one to revamp child care assistance and one to establish universal pre-kindergarten programs. Successfully implemented, the programs could save some families many thousands of dollars a year, ideally allowing kids to end up in better care and working parents to feel a lot less financial distress. The bill envisions both initiatives as traditional federal-state partnerships, with Washington putting up most of the money in exchange for states covering the rest and arranging their programs to comply with new federal rules. In its estimate of the program’s cost, CBO assumed a third of states would turn down the child care money and 40% would turn down the pre-K funding, according to an internal document obtained by the People’s Policy Project. CBO analysts were just guessing at this, and it’s possible more states would participate. It’s also possible fewer would. And the fewer states in the program, the easier it would be for lawmakers to let the program lapse, turning a transformational change into a temporary one. The Choices Biden And Leaders Face Now Unless Manchin is bluffing, the only way to get his vote and pass a bill is to pick a few plans to fund fully ― which, inevitably, would mean picking a few plans not to fund at all. The contours of the reconfiguration would depend heavily on whether it includes an extension of those direct payments to families with kids, the child tax credit, that the American Rescue Plan increased temporarily. It’s arguably the simplest, easiest policy in Build Back Better to implement, since it’s already on the books, and it has already had dramatic effects on poverty. But with a 10-year cost of $1.65 trillion, it would soak up almost all of the money in a $1.85 trillion bill. Democrats could opt for a smaller version of the credit that would still do a lot of good. Or, if Manchin were amenable, they could pass a one-year extension that would avoid cutting off the money next year, with the expectation that Congress would then work on a bipartisan bill to extend the cuts permanently, using a proposal from Sen. Mitt Romney (R-Utah) as its basis. (Former Democratic Senate aide Adam Jentleson sketched out such a scenario in the Post this week.) Either option would leave room for most if not all of the climate initiatives ― which most Democrats deem essential because the warming planet is such an existential threat ― and then some combination of the programs to help families with child care and health care.

#### Antitrust reform trades off with other legislative priorities

Carstensen 21, JD and MA @ Yale, Former Chair of U-W Law School, Senior Fellow of the American Antitrust Institute (Peter, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>)

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities. 15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate! 16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Climate change causes extinction---Paris thresholds solve

Alexander-Sears 21, PhD Candidate in Political Science at The University of Toronto, former Professor of International Relations at the Universidad de Las Américas (Nathan, “Great Powers, Polarity, and Existential Threats to Humanity: An Analysis of the Distribution of the Forces of Total Destruction in International Security,” Conference Paper: *International Studies Association, 2021 Annual Conference*, Research Gate)

Humanity faces existential risks from the large-scale destruction of Earth’s natural environment making the planet less hospitable for humankind (Wallace-Wells 2019). The decline of some of Earth’s natural systems may already exceed the “planetary boundaries” that represent a “safe operating space for humanity” (Rockstrom et al. 2009). Humanity has become one of the driving forces behind Earth’s climate system (Crutzen 2002). The major anthropogenic drivers of climate change are the burning of fossil fuels (e.g., coal, oil, and gas), combined with the degradation of Earth’s natural systems for absorbing carbon dioxide, such as deforestation for agriculture (e.g., livestock and monocultures) and resource extraction (e.g., mining and oil), and the warming of the oceans (Kump et al. 2003). While humanity has influenced Earth’s climate since at least the Industrial Revolution, the dramatic increase in greenhouse gas emissions since the mid-twentieth century—the “Great Acceleration” (Steffen et al. 2007; 2015; McNeill & Engelke 2016)— is responsible for contemporary climate change, which has reached approximately 1°C above preindustrial levels (IPCC 2018). Climate change could become an existential threat to humanity if the planet’s climate reaches a “Hothouse Earth” state (Ripple et al. 2020). What are the dangers? There are two mechanisms of climate change that threaten humankind. The direct threat is extreme heat. While human societies possesses some capacity for adaptation and resilience to climate change, the physiological response of humans to heat stress imposes physical limits—with a hard limit at roughly 35°C wet-bulb temperature (Sherwood et al. 2010). A rise in global average temperatures by 3–4°C would increase the risk of heat stress, while 7°C could render some regions uninhabitable, and 11–12°C would leave much of the planet too hot for human habitation (Sherwood et al. 2010). The indirect effects of climate change could include, inter alia, rising sea levels affecting coastal regions (e.g., Miami and Shanghai), or even swallowing entire countries (e.g., Bangladesh and the Maldives); extreme and unpredictable weather and natural disasters (e.g., hurricanes and forest fires); environmental pressures on water and food scarcity (e.g., droughts from less-dispersed rainfall, and lower wheat-yields at higher temperatures); the possible inception of new bacteria and viruses; and, of course, large-scale human migration (World Bank 2012; Wallace-Well 2019; Richards, Lupton & Allywood 2001). While it is difficult to determine the existential implications of extreme environmental conditions, there are historic precedents for the collapse of human societies under environmental pressures (Diamond 2005). Earth’s “big five” mass extinction events have been linked to dramatic shifts in Earth’s climate (Ward 2008; Payne & Clapham 2012; Kolbert 2014; Brannen 2017), and a Hothouse Earth climate would represent terra incognita for humanity. Thus, the assumption here is that a Hothouse Earth climate could pose an existential threat to the habitability of the planet for humanity (Steffen et al. 2018., 5). At what point could climate change cross the threshold of an existential threat to humankind? The complexity of Earth’s natural systems makes it extremely difficult to give a precise figure (Rockstrom et al. 2009; ). However, much of the concern about climate change is over the danger of crossing “tipping points,” whereby positive feedback loops in Earth’s climate system could lead to potentially irreversible and self-reinforcing “runaway” climate change. For example, the melting of Arctic “permafrost” could produce additional warming, as glacial retreat reduces the refractory effect of the ice and releases huge quantities of methane currently trapped beneath it. A recent study suggests that a “planetary threshold” could exist at global average temperature of 2°C above preindustrial levels (Steffen et al. 2018; also IPCC 2018). Therefore, the analysis here takes the 2°C rise in global average temperatures as representing the lower-boundary of an existential threat to humanity, with higher temperatures increasing the risk of runaway climate change leading to a Hothouse Earth. The Paris Agreement on Climate Change set the goal of limiting the increase in global average temperatures to “well below” 2°C and to pursue efforts to limit the increase to 1.5°C. If the Paris Agreement goals are met, then nations would likely keep climate change below the threshold of an existential threat to humanity. According to Climate Action Tracker (2020), however, current policies of states are expected to produce global average temperatures of 2.9°C above preindustrial levels by 2100 (range between +2.1 and +3.9°C), while if states succeed in meeting their pledges and targets, global average temperatures are still projected to increase by 2.6°C (range between +2.1 and +3.3°C). Thus, while the Paris Agreements sets a goal that would reduce the exis 6 - tential risk of climate change, the actual policies of states could easily cross the threshold that would constitute an existential threat to humanity (CAT 2020)

### 1NC — T

#### Next off is T-Wholesale —

#### Private sector means all non-governmental persons or entities, including non-profits

Senate Report 95 (Senate Report. 104-1, “UNFUNDED MANDATE REFORM ACT OF 1995,” https://www.congress.gov/congressional-report/104th-congress/senate-report/1 , date accessed 9/10/21)

"Private sector" is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

#### Topical affs must change a universally-applied standard, like the CWS [Consumer Welfare Standard]

Phillips 18, commissioner on the Federal Trade Commission. (Noah J. November 1, 2018, Before the Federal Trade Commission, “Competition and Consumer Protection in the 21st Century,” https://www.ftc.gov/system/files/documents/public\_events/1415284/ftc\_hearings\_session\_5\_transcript\_11-1-18\_0.pdf)

Our second topic today is the consumer welfare standard. And I think most folks even out in the public know, this is the standard that we use across the board, mergers and conduct in courts and at agencies, to judge anticompetitive conduct. It is not only a standard that we in the U.S. apply, it is a standard that is used by competition agencies around the world. It is an economically-grounded standard, and it requires that there be harm to consumers for conduct to be condemned. Mere harm to competitors is considered insufficient. So let me repeat that again. There has to be harm to consumers, not just competitors. The reason that is so, the reason harm to competitors is considered insufficient is because sometimes a less-efficient firm losing sales or market share to a cheaper, more innovative or efficient rival, can be and often is consistent with vibrant competition and with outcomes that benefit consumers. Courts and agencies have embraced this standard for decades. Today, there are two very important discussions going on about the consumer welfare standard, and they are happening simultaneously. And I think it is important that we understand that there are two conversations going on. One is a continuing discussion about how we apply the standard, regarding whether enforcement is at the appropriate level, whether it is properly targeted. This is an introspective question on some level, in which scholars, economists, practitioners, and enforcers all ask ourselves, are we bringing the right kinds of cases? Are we using the right kinds of evidence? Should we be doing more or less in certain places? The antitrust bar, the business community, and others benefit from this ongoing and active analysis. The second discussion happening now, and the one on which today’s consumer welfare standard panels will focus, is whether the standard is itself the right metric we ought to use in antitrust enforcement and in antitrust law; some argue that enforcement under the consumer welfare standard has failed because of the law, and accordingly, that we should reform the law.

#### Violation: the aff applies exclusively to conduct in a specific segment of the private sector.

#### Vote neg:

#### FIRST---limits and ground---the number of potential subsets is infinite---any industry, product, single companies, individuals---undermines clash. Only big affs have link uniqueness.

#### SECOND----precision---our interp has intent to define, exclude and is in legislative context.

### 1NC — DA

#### Next off is the DOJ Tradeoff DA —

#### DOJ-Antitrust Division criminal enforcement of price-fixing generics is a sufficiently funded priority now.

Murphy 21, partner in the firm’s Regulatory Practice Group. A former federal prosecutor, Justin counsels and represents corporate and individual clients involved in government enforcement of complex antitrust, fraud and all phases of white-collar criminal and related civil matters, including internal corporate investigations, False Claims Act (FCA), Foreign Corrupt Practices Act (FCPA), e-discovery, data privacy, cybersecurity, securities enforcement, federal grand jury, inspector general investigations and trials and appeals (Justin, “Expect More Criminal Enforcement & What you Can do to Minimize Your Risk,” *The National Law Review*, <https://www.natlawreview.com/article/expect-more-criminal-enforcement-what-you-can-do-to-minimize-your-risk>)

Antitrust cartel and related collusive scheme enforcement is poised to increase. Several factors support this: (1) the Antitrust Division (the Division) has a 10% budget increase for Fiscal Year (FY) 2021; (2) proposed legislation that would increase its budget by $300 million; (3) Democratic administrations have traditionally been more aggressive in enforcing antitrust laws; (4) according to the US Department of Justice (DOJ), last year the Division opened the most grand jury investigations in almost 20 years and by the end of 2020 had the most open grand jury investigations in a decade; (5) increased coordination with international law enforcement agencies, including the Division recently signing a number of cross-border agreements, maintaining active memberships in multilateral organizations dedicated to cross-border antitrust enforcement cooperation and a DOJ official recently noting they have been working at strengthening their relationships with international law enforcement agencies during the pandemic and they expect this to benefit international coordination on investigations and (6) as pandemic limitations on in-person investigative tactics subside (including search warrants and knock and talk interviews, among others), expect a return to overt tactics related to open grand jury investigations. Historically, cartel enforcement has increased following economic downturns and substantial federal stimulus packages. For example, after the 2008 financial crisis and the 2009 Recovery Act, the DOJ filed 60% more criminal cases than in prior years. We expect this trend to continue in the wake of the unprecedented government stimulus packages passed in 2020 and 2021 and additional potential government spending on infrastructure. In addition to the increased resources, the Division has stepped up its criminal enforcement program with the creation and recent expansion of the Procurement Collusion Strike Force (PCSF), the expansion of criminal investigations and prosecutions into labor markets, higher expectations for corporate cooperators and new potential benefits for corporate entities with compliance programs addressing antitrust violations. Below we discuss the sectors most likely to be implicated by increased criminal antitrust enforcement, the PCSF and what steps can be taken to prepare and minimize risk in this environment. Based on the trends described above and our recent experience at the DOJ, we expect antitrust criminal enforcement to focus in at least the following industries: Healthcare – The DOJ remains active in this sector with its ongoing generics investigations and prosecutions and other cases relating to market allocation and labor markets. In fact, all of the charged labor market cases thus far have been in the healthcare industry. The DOJ has stated that investigations and prosecutions for violations in the healthcare sector remain its top focus and stimulus spending will likely serve to increase the DOJ’s attention to healthcare markets. Although healthcare compliance policies have often focused on other fraud and abuse issues, such as the Anti-Kickback Statute and Stark Law, compliance with antitrust laws – including for human resources – is now more critical than ever. In addition, the recently signed Competitive Health Insurance Reform Act significantly narrows the exemption for health and dental insurers from the federal antitrust laws.

#### New antitrust violations are policed by the criminal components of the Antitrust Division

Fishman 19 (Todd, “The Rule of Reason as a Bar to Criminal Antitrust Enforcement,” *JD Supra*, <https://www.jdsupra.com/legalnews/the-rule-of-reason-as-a-bar-to-criminal-87406/>)

Under stated policy, the Antitrust Division does not criminally prosecute cases under the more permissive rule of reason standard, but reserves its discretion only to charge conduct considered to be per se illegal—that is, restraints of trade classified as unlawful without assessing potential precompetitive benefits and overall market impact. So a judicial finding that charged conduct comprises an offense that should be evaluated under the rule of reason effectively amounts to a dismissal. The trial court’s ruling in Kemp precluding antitrust prosecutors from proceeding on a per se theory, and the Tenth Circuit’s criticism of that ruling, provide unique insight into the modern use of the Sherman Act as a criminal statute. The Sherman Act, and in particular a per se violation of the Sherman Act, often functions as a blunt prosecutorial instrument. The Sherman Act tends to limit the per se rule of illegality to those restraints among horizontal competitors, with which courts have had considerable experience and where the restraints are deemed facially anticompetitive and lack any plausible business justification. But such condemnation is not static. The principles animating antitrust law have evolved with the century-old Sherman Act, dynamically moving from the formalistic approach towards horizontal price-fixing agreements applied in United States v. Socony-Vacuum Oil Co., 310 U.S. 150, 224 n.59 (1940), to the recognition that not all price-fixing arrangements unreasonably eliminate competition in Broadcast Music v. Columbia Broadcasting System, 441 U.S. 1, 23 (1979), to more complex notions that emphasize economic realities of business relationships as set forth in Business Electronics v. Sharp Electronics, 485 U.S. 717, 726 (1988). As with antitrust doctrines themselves, the judgment that guides prosecutorial discretion should take into consideration the complexities and nuances of markets. This article reviews a series of criminal antitrust cases in which indicted defendants have challenged the application of the per se rule of illegality, with only a small degree of success. Still, to the extent the Sherman Act continues to be a weapon of choice for U.S. prosecutors, practitioners should consider whether the rule of reason can function as a useful tool in pre-charging discussions and, if need be, seeking dismissal of an indictment. Policy and Provenance The DOJ’s policy on prosecuting antitrust crimes focuses, as a matter of institutional discretion, on per se unlawful conduct. The current version of the U.S. Attorneys’ Antitrust Manual provides that “current Division policy is to proceed by criminal investigation and prosecution in cases involving horizontal, per se unlawful agreements such as price fixing, bid rigging, and customer and territorial allocations.” U.S. Dep’t of Justice, Antitrust Division, Manual at III-12 (5th ed. 2018). The Antitrust Manual, however, states that “[t]here are a number of situations where, although the conduct may appear to be a per se violation of law, criminal investigation or prosecution may not be appropriate.” According to the Manual, those “situations may include cases in which (1) the case law is unsettled or uncertain; (2) there are truly novel issues of law or fact presented; (3) confusion reasonably may have been caused by past prosecutorial decisions; or (4) there is clear evidence that the subjects of the investigation were not aware of, or did not appreciate, the consequences of their action.”

#### That trades off. The criminal Antitrust Division has limited resources and will triage when faced with resource constraints

Powers 19, Acting Assistant Attorney General @ DOJ Antitrust Division (Richard, “Deputy Assistant Attorney General Richard A. Powers Delivers Remarks at the American Bar Association Public Contract Law Section's 2019 Procurement Symposium,” <https://www.justice.gov/opa/speech/deputy-assistant-attorney-general-richard-powers-delivers-remarks-american-bar>)

Instead, I will focus my comments on the criminal program. As the DAAG responsible for criminal enforcement, I supervise approximately 100 prosecutors who are located in Washington, DC, New York, Chicago, and San Francisco. Divided into five sections that are responsible for different regions of the country, these dedicated prosecutors conduct grand jury investigations into possible violations of antitrust laws and related criminal conduct, and prosecute resulting criminal cases in federal district courts across the nation. Much like our fellow prosecutors in other parts of the Department of Justice, we work with several law enforcement partners to investigate suspected criminal violations, including the Federal Bureau of Investigation and agents from the Offices of Inspector General from agencies like the Department of Defense, Postal Service, Department of Transportation, and Internal Revenue Service, among others. So that is who we are, and now I’ll turn briefly to what it is we do on the criminal side of antitrust law enforcement. In the words of a former Assistant Attorney General who headed the Division, Anne Bingaman, “[c]riminal enforcement against the most serious antitrust offenses is our core mission.” The heart of our criminal program is the 1890 Sherman Act, which provides that “[e]very . . . conspiracy in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal.” In practice, we prosecute criminally only certain types of conspiracies to restrain trade. Specifically, we prosecute conspiracies between horizontal competitors to fix prices, rig bids, or allocate markets. These are the types of agreements the Supreme Court has recognized as categorically or “per se” illegal. And these are the types of agreements “that unambiguously disrupt the integrity of the competitive process, harm consumers, and reduce faith in the free-market system.” Over the years, we have found that the range of industries, products, and services affected by criminal antitrust conspiracies is as expansive as peoples’ temptation to cheat for profit. From conspiring to fix the prices of the canned tuna you buy in the grocery store, to rigging the bids for financial products, we have seen a lot in the history of the program. And our experience has taught us that this type of criminal behavior is not limited to commercial businesses that impact private consumers directly. Rather, we have seen—and continue to see—a large volume of cases affecting public procurement. Along with other forms of fraud and public corruption, criminal antitrust conspiracies pose a grave threat to the integrity of government procurement processes. From an enforcer’s standpoint, we care about criminal antitrust conduct in this area because of the harm it poses to government agencies, and by extension the taxpayers. (I’ll address that further in a moment.) But why should you care, as professionals involved in public procurement? I’ll tell you: because your employer or client could be subject to severe penalties for illegal conduct. Violations of criminal antitrust laws result in significant fines for companies and prison time for individuals. The maximum term of imprisonment is 10 years for individuals, and companies can face fines of up to $100 million or twice the gain or loss resulting from the conspiracy offense. To give you a recent example, just last month StarKist Co. was sentenced to pay a criminal fine of $100 million, the statutory maximum, for its role in a conspiracy to fix prices for canned tuna sold in the United States. And for individuals, the threat of jail time is real. To give another recent example, in June two executives were sentenced to 18 months and 15 months respectively for their role in an international freight forwarding price-fixing conspiracy. Moreover, in addition to criminal penalties, there are often other collateral effects, as well. Civil lawsuits often follow criminal investigations and can result in treble damages. And, importantly for those in the public procurement field, a criminal conviction nearly always leads to debarment. Having described the significant risks companies and individuals face when they collude to fix prices, rig bids, or allocate markets, I want to pause for a moment and highlight a unique enforcement tool used by the Antitrust Division that provides a significant incentive to self-report participation in these schemes. Under the Division’s Leniency Program, the first to self-report can receive a complete pass in return for cooperating with the Division’s investigation and meeting the Program’s other requirements. That means no criminal conviction, no criminal fine, and non-prosecution protection for all officers, directors, and employees. Moreover, companies that win the race to the door and receive leniency can achieve de-trebling and removal of joint and several liability under the Antitrust Criminal Penalty Enhancement and Reform Act for providing timely and satisfactory cooperation in any follow-on litigation. While the benefits of leniency speak for themselves, it’s worth considering the other side of the equation. For those who don’t win the race for leniency, the Division will pursue the prosecution of all remaining members of the conspiracy, especially the culpable executives. So, the choice is stark: a complete pass, or else face severe monetary penalties, potential criminal conviction, and the associated risks such as debarment, lengthy prison sentences for culpable executives, and substantial exposure in private litigation. The last point I want to make about our leniency program is our firm commitment to both the transparency of its application and the predictability of outcomes. To that end, our Division’s public website contains a number of documents relating to leniency, including the Corporate Leniency Policy, the Individual Leniency Policy, a set of frequently asked questions, and other helpful documents. Now that I’ve given you some background on who we are and what we do, I want to focus the rest of my remarks on the public procurement space and antitrust risks. Like any enforcer, the Antitrust Division’s criminal program must decide where to allocate limited resources. What should we prioritize, and why? I am an Infantry Officer by training, and one of the things I learned in the Army is that first you have to identify what the problem is before you can devise a plan to solve it. Having served as the DAAG for criminal enforcement for 18 months now, I have concluded that criminal antitrust conduct in the public procurement area is a distinct problem that demands attention. And I’m here to give you the message that we are giving a hard look at the public procurement space, and we will be devoting significant investigative resources to it going forward. Why? Our experience investigating antitrust conspiracies in various industries, along with plain common sense, tell us that the public procurement space is particularly vulnerable to collusion. Moreover, when antitrust violations do happen, they result in significant financial harm to American taxpayers, due to the dollar values involved. Let’s talk about vulnerabilities first. Bid rigging is the typical form of collusion we see in public contracting—that is, an agreement among competitors that limits competition in the bidding process. In a typical scenario, bidders agree among themselves who should win the contract and then arrange their bids in a way—such as through complementary bidding or bid rotation—to ensure the designated company wins the bid. Since such conspiracies often last for years, government purchasers—and ultimately, the taxpayers—pay more for goods or services than they otherwise would have in a truly competitive market. The bidding processes involved in public procurement make this area uniquely vulnerable to collusion for several reasons. For one, the sheer monetary value of government projects presents an enticing opportunity for greed to prevail over ethical conduct. Next, regulatory requirements governing procurement procedures can make the process predictable and thus subject to manipulation through collusion. Many agencies have repetitive or regularly scheduled purchases, for instance. Another factor that makes it easier for sellers to collude is that there are often relatively few qualified sellers for a given project, given that government agencies often require specialized goods and services. In addition, rush or emergency projects arise in government procurement, such as disaster-relief projects, and the exigency creates opportunities to cheat. Finally, the large volume of goods and services contracted by the government creates monitoring difficulties, even with the existence of 72 statutory Inspectors General across the U.S. federal government. Given the growth in government spending over time, it is difficult for audit and investigation resources within agencies to keep pace. So why do these vulnerabilities pose a problem? Setting aside the inherent importance of deterring, detecting, and prosecuting illegal conduct wherever it’s found, those of you in the audience today know that the sheer amount of money flowing from the government to contractors to purchase a broad array of goods and services makes any criminal conduct that cheats the taxpayer especially impactful. Let’s look at a current snapshot. Roughly one out of every ten dollars of federal government spending is allocated to government contracting. Following a brief downward trend between 2010 and 2015, federal contract spending rebounded and climbed from $440 billion in 2015, to $470 billion in 2016, to $510 billion in fiscal year 2017. The growth continues: in fiscal year 2018, the federal government spent more than $550 billion—or about 40% of all discretionary spending—on contracts for goods and services. This represents more than a $100 billion increase from 2015, largely due to defense spending. In 2018, the Department of Defense alone spent nearly $113 billion on procurement. Of course, federal money spent on goods and services is not confined to federal agencies. The 2018 federal budget included more than $696 billion in grants to state and local governments. While healthcare accounts for much of that total, more than $79 billion of this money went to fund major public physical capital investment. Since we are in California today, I’ll highlight that the state of California received approximately $84.6 billion in grants from the federal government in 2018, with about $21.9 billion for non-healthcare spending. With all of this money flowing to government contracts, therefore, even a small percentage lost to bid rigging or price fixing or other types of related criminal conduct inflicts great harm on the government and the taxpayers. So here is another eye-popping number: the Organisation for Economic Co-operation and Development (OECD) estimates that eliminating bid rigging could help reduce procurement costs by 20% or more. Twenty percent. While precise estimates are hard to come by, if OECD’s estimate is even half-way accurate, reducing illegal and anticompetitive collusion in procurement could save U.S. taxpayers tens of billions of dollars per year. In short, even the most conservative estimates of illegal conduct in the public procurement space lead one to the conclude that the aggregate harm to the public fisc is enormous. But let’s drill down past abstractions and generalities. We know collusion in public procurement is a problem. We know because “[w]hat’s past is prologue”: we have seen this conduct before, and we are seeing it now in our investigations. The Antitrust Division has a long history of prosecuting criminal antitrust conspiracies that target government contracts, ranging from construction and disaster recovery projects to food and hardware. Let me point you to just a few examples from over the last few decades: From the late 1970s into the 1980s, the Division prosecuted hundreds of corporations and individuals for bid rigging in road construction projects in multiple states around the country. In the early 1990s, we uncovered a decade-long conspiracy to rig bids on frozen seafood contracts awarded by a Department of Defense purchasing center and prosecuted the multiple individuals and companies responsible. After Typhoon Paka struck the island of Guam in December 1997 and caused hundreds of millions of dollars in damage, a government official conspired with contractors to award reconstruction projects through rigged bids and took bribes to line his pockets. As a result of our investigation, five individuals pled guilty to rigging bids for these emergency repair contracts, and that government official was convicted at trial and sentenced to 8 years in prison—one of the longest prison sentences ever imposed in an antitrust case. Moving to the early 2000s, we rooted out bid rigging in humanitarian aid water treatment construction projects in Egypt, which were funded by the U.S. Agency for International Development. The successful prosecution resulted in guilty pleas by four companies, fines of over $140 million, and a three-year prison sentence for a defendant who was convicted at trial. We uncovered yet more criminal conduct taking advantage of government aid programs in the mid-2000s, when the Division and our investigative partners prosecuted multiple individuals in multiple states for schemes to rig bids in connection with the E-Rate Program, which provides discounts to help schools and libraries in disadvantaged areas obtain internet access and telecommunication services. In one prominent case, a consultant was convicted at trial of 22 counts of bid rigging and fraud, sentenced to 7.5 years in prison, and debarred for 10 years. Which brings me to the present day. Recently, we prosecuted one of the more significant procurement-related cases in the Division’s history—one that has helped inform our renewed focus on this area. In November 2018 and March 2019, five South Korean oil companies agreed to plead guilty for their involvement in a decade-long bid-rigging conspiracy that targeted contracts to supply fuel to U.S. military bases in South Korea. In total, the companies have agreed to pay $156 million in criminal fines and over $205 million in separate civil settlements. (These companion civil settlements are important for a reason to which I’ll return in a moment.) The Division also indicted seven individuals in this case for conspiring to rig bids and to defraud the government, and one executive was also charged with obstruction of justice. This investigation is the latest example of our commitment to holding corporations and individual executives accountable when they defraud the U.S. government, victimize taxpayers, and interfere with the integrity of our investigations. So, again, how do we know there’s a collusion problem in public procurement? Because we see the criminal conduct in this space. And common sense tells us there’s a lot more of it going on than we’ve detected. Right now, the Antitrust Division has over 100 open grand jury investigations—more than at any point since 2010. Of those, more than one third relate to public procurement or otherwise involve the government being victimized by criminal conduct. And we intend to take measures to increase our detection rate going forward. Having identified the problem as we see it, let me now turn to what the Antitrust Division is doing about it. The mission of our criminal program overall is to aggressively deter, detect, and prosecute individuals and organizations that collude and undermine competition. In the context of government procurement, specifically, our objective must be first to deter and prevent antitrust and related crimes on the front end of the procurement process. When crimes do happen, we must also effectively investigate and prosecute such conduct on the back end of the procurement process, both to punish the wrongdoers and deter others from following the same path. Deterrence must be a primary aim of any prosecuting agency for a reason that is obvious but bears repeating: prosecution can never fully un-do the harm of a crime, whether it be a murder or a financial crime. Enforcement through prosecution is, inherently, of limited remedial value because the money is already out the door. No matter how large the fine or restitution in a successful prosecution, it is impossible to reverse the harm that has been done by anticompetitive conduct and recover every cent on the dollar. There are many ways government enforcers can seek to deter bad conduct. I want to talk about three: First, one important way enforcers can deter crime is by giving clear notice of what conduct they will prioritize investigating and prosecuting. Through our public statements and actions, government enforcers should be as transparent as possible about our investigative priorities and the ways in which individuals and companies can steer clear of illegal conduct.

#### Generic price-fixing spikes drug costs

Mulcahy 19, Senior Policy Researcher @ RAND (Andrew, “Price-Fixing Case Reveals Vulnerability of Generic Drug Policies,” *RAND*, <https://www.rand.org/blog/2019/07/price-fixing-case-reveals-vulnerability-of-generic.html>)

A massive lawsuit (PDF) filed in May by 44 states accuses 20 major drug makers of colluding for years to inflate prices on more than 100 generic drugs, including those to treat HIV, cancer, and depression. If true, the alleged behavior is not just a violation of antitrust law, but also a betrayal of the government policies that created and defended the entire generic drug industry. Most prescriptions in the U.S. today—9 in 10—are filled with generics, which are just as safe and effective as their brand-name equivalent. And yet generics account for only 22 percent of U.S. prescription drug spending. These prices are so low because of competition between makers of different versions of the same generic drug. The more competing generic alternatives, the lower the price, theoretically right down to the marginal cost of manufacturing the pill. This success is the result of decades of careful federal and state policymaking, all geared towards introducing competition in prescription drug markets. The entire generic industry has its origins in the Hatch-Waxman Act of 1984. Prior to Hatch-Waxman, a company that wanted to sell a competing version of a drug whose patents had expired had to conduct lengthy and expensive clinical trials to get approval from the U.S. Food and Drug Administration. Hatch-Waxman established a quicker, less-expensive path to FDA approval that leans on the scientific research supporting the already approved brand-name drugs. Hatch-Waxman also created incentives for generic drug makers to challenge drug patents that prevent competition. Successful challengers win a 180-day period of exclusivity during which their generic is the only one allowed to compete with the brand-name drug. The floodgates open and additional competition pushes prices down further after the 180-day period. Other policies—public and private—evolved to promote generic competition. State laws allow generics to be freely substituted for brand-name drugs by pharmacists. Health plans aggressively push generics by offering higher dispensing fees to pharmacies and lower copays to patients. All these policies aim to promote competition in order to reduce how much Americans spend on drugs. Overall, they've succeeded. One estimate puts savings to patients and health plans from generic drugs at $265 billion (PDF) in 2018 alone. Lower prices also improve adherence to treatment regimens for chronic conditions, which helps avoid downstream health care costs. But where patients and health plans benefit the most from competition, the profit margins realized by generic drug makers are the slimmest. Margins can be razor thin or nonexistent for run-of-the-mill generic pills or capsules. Generic drug makers have always had an eye out for opportunities to widen those margins. In the past, for example, the profits realized during the 180-day exclusivity period were so comparatively enormous that generic companies camped out in FDA's parking lot to be the first to file a challenge. But then after a policy change allowed it, companies began to share exclusivity (thereby shrinking the incentive to be first) and generic drug makers increasingly settled patent litigation with brand-name drug makers rather than fight to a final decision. The settlements usually allow the generic drug maker to enter the market—just not immediately—in exchange for a large lump-sum payment. While brand-name and generic drug makers claim these “pay for delay” deals benefit everyone, the Federal Trade Commission disagrees. Patients, after all, are left paying brand-name prices for years. The FTC has waged a campaign against such settlements for nearly a decade. Eventually, for most blockbuster drugs, there are many competing generic versions and therefore lower prices. But competition is more anemic—and sometimes absent—in lower-volume corners of the prescription drug market. Shortages and price spikes are common when there are only one or two manufacturers. Drugs with complex manufacturing requirements, such as injected and infused drugs, also typically have fewer generic competitors and higher prices. Likewise, competition from “biosimilar” versions of biologic drugs (which, despite important differences with generics, also aim to lower prices through competition) has yet to take off as hoped and prices for biologics remain high. The U.S. generic industry has its warts. But most of them are the result of loopholes and market forces that could be addressed with policy changes. In short, it's no secret that the U.S. generic industry has its warts. But most of them are the result of loopholes and market forces that could be addressed with policy changes if policymakers choose to do so. The price-fixing allegations in the lawsuit, if correct, raise the level of concern. They suggest that failures of competition in the generic industry are more troubling—and more widespread—than anyone knew. If the alleged price increases—some up to 1000 percent—are true, patients and health plans have been overcharged to the tune of “many billions of dollars,” according to the lawsuit. The broader damage done to trust in generic drug makers may be irreparable. Especially as spending on prescriptions overall is increasing, the U.S. needs a fair, competitive generic drug industry. It shouldn't take more aggressive policing of antitrust laws to get one.

#### High drug costs lead to ABR

Duff-Brown 15 - communications manager for the Center for Health Policy/Center for Primary Care and Outcomes Research, citing peer reviewed Stanford research (Beth, “Out-of-pocket health costs tied to antimicrobial resistance,” https://med.stanford.edu/news/all-news/2015/07/out-of-pocket-health-costs-tied-to-antimicrobial-resistance.html)

The data set for the main analysis is from the first global report by the World Health Organization on antibiotic resistance. The report, which came out last year, indicates that antimicrobial resistance is a “serious, worldwide threat to public health.” And the Stanford researchers believe this is, in part, due to high out-of-pocket costs. “To our knowledge, we are the first to emphasize the idea that copayments imposed in the public sector of a health-care system lead to overuse of a medication or product in the private sector,” the authors wrote. “Conventional teaching in health economics — which focuses on their effect on the demand for care within a single insurance system — is that copayments tend to discourage use.” The most prominent and convincing evidence for this, the authors wrote, was the 15-year RAND health insurance experiment conducted in six U.S. cities on 2,000 households. That study found that the increase in copayments led to a significant decline in the use of antibiotics, “providing evidence that the demand for health care is not completely inelastic.” However, when the regulated public sector and unregulated private sector are selling the same or similar products, a price increase in one does not necessarily reduce the overall demand, the authors found. In fact, it may increase demand because higher dosages of drugs will be required to fight more resistant microbes, which are the result of poorly made and prescribed drugs in the private sector “Even if total consumption of antibiotics were unchanged, the shift of more patients to less-regulated providers could lead to more antibiotic resistance,” the authors wrote. Global health challenge “Antimicrobial resistance is a growing, global public health challenge that could undo decades of progress in declining morbidity and mortality from infectious diseases,” the authors wrote. “Common bacterial pathogens have increasingly developed resistance to most of the currently available antibiotics. This phenomenon, coupled with a dry antibiotic pipeline, has led the World Health Organization to warn of a ‘post-antibiotic era, in which common infections and minor injuries can kill.’”

#### AMR outweighs---it’s systemic and non-linear

Silverman ’16 (Rachel Silverman – MPhil with Distinction in Public Health @ the University of Cambridge, Senior Policy Analyst and Assistant Director of Global Health Policy @ the Center for Global Development, focusing on global health financing and incentive structures, “Confronting Antimicrobial Resistance: Can We Get to Collective Action?” 19 April 2016, https://www.cgdev.org/blog/confronting-antimicrobial-resistance-can-we-get-collective-action)

Antimicrobial resistance is already causing huge harm – and the worst is yet to come.

To open the panel, Dr. Chan issued a serious warning about the size and scope of the AMR threat: “everyone will be affected if we do not address this problem.” AMR is already responsible for an estimated 700,000 global deaths each year, 50,000 of which take place in the US and Europe. Extensively drug-resistant (XDR) tuberculosis—cases where the most effective first- and second-line drugs are rendered useless—infected an estimated 47,000 people worldwide in 2014, only one ‘last-line’ antimicrobial is available to reliably treat gonorrhea, and few new antimicrobial drugs are in the development pipeline. According to the latest review, AMR could cause 10 million deaths each year by 2050, with knock-on effects draining many trillions from the global economy. Summers suggested that AMR and potential pandemics, alongside climate change and nuclear proliferation, represent the top three existential threats to life on earth as we know it. And as Dr. Chan explained, the worst-case scenario implies the end of modern medicine as we know it.

Even worse, Summers suggested that AMR seems like a “quintessential non-linear phenomenon, and therefore more dangerous.” Year by year the effects are small and mostly invisible. But at some point in the future they could suddenly become catastrophic, like a “levee that doesn’t hold and unleashes a flood.” Dr. Chan concurred that “the tipping point is not predictable because…microbes are invisible. We don’t even know when they’re going to make the switch” to become resistant to existing drugs.

## 1NC — Supply Chains

### 1NC — Top Level

#### The EU still has an exemption until 2024 — means they can claim immunity via EU law or claim they are EU-based companies — at MOST means they solve nothing, at LITTLE means that they create a contradiction between EU and US antitrust laws, which we’ll impact out late

#### The plan only makes price fixing and collusion illegal—Collusion in shipping is already illegal and the FTC is already using its existing authority to deter collusion

#### There is no collusion and even if there is it can’t be proven

Pico 9/17/21, Reporter for shipping watch, (Soren, Authorities find no evidence of collusion between container carriers,

The overheated container market is driven solely by unprecedented demand and not collusion between carriers, conclude authorities in the US, China and the EU, according to media.

No proof has been found in the investigations of possible market manipulation between container carriers or the three major alliances to push up pricing, concludes maritime authorities in the EU, the US and China, according to Daniel B. Maffei, Chair of US Federal Maritime Commission (FMC).

In an interview with Lloyd’s List, Maffei explains that the maritime authorities have reached similar conclusions. The carriers, he says, have artificially reduced capacity to make pricing go up. Instead, the increases have been fueled by market forces.

### 1NC — AT: Trade

#### There is no cartel collusion—High prices are caused by the pandemic

#### BUT cracking down on shipping alliances turns the aff —

#### 1 — Restricting alliances will explode shipping rates

Van Marle 19, Managing Editor and Journalist at The Loadstar. (Gavin, June 19, 2019, 'An end to shipping alliances would see freight rates skyrocket', <https://theloadstar.com/an-end-to-shipping-alliances-would-see-freight-rates-skyrocket/>)

Shipper opposition to deepsea liner shipping alliances may be dangerously misplaced, delegates at the TOC Container Supply Chain event in Rotterdam heard yesterday. Lars Jensen, chief executive and partner of SeaIntelligence Consulting, said efforts by some to bar container lines from operating in alliances, claiming they have become anti-competitive, would result in freight rates “skyrocketing”. The EU’s Block Exemption Regulation (BER), the de facto legislation covering liner alliances and vessel-sharing agreements (VSAs) on container trades to and from Europe, is set to expire on 25 April next year, and EC regulators are assessing whether to extend it for five years. Mr Jensen said: “If the anti-trust exemption isn’t extended, it doesn’t necessarily mean shipping lines can’t run alliances. It may well just mean the lines have higher hoops to jump through, and I believe that they will do that. “But it will mean a lot of legal costs and the carriers will have to recoup those costs and the only they can do that is through higher rates,” he added. “However, if shipping alliances are outlawed altogether, then freight rates will skyrocket, because alliances are the only way that carriers can operate ultra-large container vessels (ULCVs) effectively.” He explained that, on its own, Maersk Line could only run two Asia-Europe services a week, and even then it would have a much more limited port rotation than under its 2M alliance with MSC. “I think you would see these services calling at just three Chinese export ports and three main European port calls. And MSC is in the same situation. “Now, if you are shipping from Shanghai’s container yard to Rotterdam’s, then that’s fine, rates will stay relatively low. But for any other origin or destination you will have to use far more transhipment than currently, and shippers would be faced with an enormous jump in freight rates. “So I am of the opinion that shippers should pray the lines are allowed to continue to operate alliances,” he said.

## 1NC — Naval Industries

### 1NC — AT: Naval Power

#### No internal link or the aff can’t solve — vote negative on presumption —

#### 1 — shipping yards, where US naval power is created, is not part of the shipping industry because it is public sector

#### 2 — the internal link in their Greenwood evidence is about reliance on foreign carriers for trade — the aff doesn’t change that, it just stops collusion —

#### Naval deterrence fails and is unsustainable. Answers all of their internal links

van Hooft 21, senior strategic analyst at The Hague Centre for Strategic Studies, the co-chair of its Initiative on the Future of Transatlantic Relations, and a former postdoctoral fellow at the Security Studies Program at Massachusetts Institute of Technology. (Paul, 2-23-2021, "Don’t Knock Yourself Out: How America Can Turn the Tables on China by Giving Up the Fight for Command of the Seas", *War on the Rocks*, https://warontherocks.com/2021/02/dont-knock-yourself-out-how-america-can-turn-the-tables-on-china-by-giving-up-the-fight-for-command-of-the-seas/)

The United States should give up its quest for command of the maritime commons in the Western Pacific. The struggle is based on a false premise — that if the United States loses command of the seas, China will step in the fill the vacuum. In fact, even if the United States loses command of the maritime commons, China is not positioned to gain it. However, by positioning China as an existential threat, the United States is boxing itself in politically. The United States courts disaster when it overextends itself by seeking military primacy in the region. There is one fundamental reason: the tyranny of distance. The maritime nature of American power is a double-edged sword, specifically when it comes to its competition with China. American command over the maritime commons allows the U.S. military to project power globally, but when that power is projected at a great distance from U.S. shores, as in the Western Pacific, U.S. forces are particularly vulnerable to measures designed to raise the costs of access. First, a strategy of maintaining command of the maritime commons in the face of anti-access measures exposes U.S. dependence on allied territory to support deployed forces through basing, infrastructure, and logistics. Second, as the costs and risks of maintaining access increase, the asymmetrical stakes become more constraining for the United States than for China. Overcommitment has historically been endemic to U.S. grand strategy, but it is especially dangerous now that China is capable of inflicting heavy costs upon the United States. Instead, the United States should, together with its allies and partners, focus on denying China command of the Pacific maritime commons. It is cheaper and easier to deny command of the seas than to exercise it. If China cannot gain command of the seas, the Western Pacific will remain a contested environment — one that China cannot break out of. China would either be forced to accept the status quo or make a first move in which it overextends itself. While giving up command of the seas may seem unpalatable, it need not be fatal to the United States and its allies and partners’ collective goal to maintain the regional balance of power. The alternative is unlikely to end well for them.

#### 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.

## 1NC — Cyber

### 1NC — AT: Cyber

#### Can't solve vertical integration of carriers and terminal operators - it's their internal link

#### No cyberattacks – Sadek says the government is cracking down now

#### Tung is about Cyberattacks on the tech industry like SolarWinds - aff can't solve.

#### WannaCry and NotPetya thump

#### No cyber impact.

Lewis 20, PhD, a senior vice president and director of the Technology Policy Program at the Center for Strategic and International Studies in Washington, D.C. (James Andrew, 8-17-2020, "Dismissing Cyber Catastrophe", *CSIS*, https://www.csis.org/analysis/dismissing-cyber-catastrophe)

A catastrophic cyberattack was first predicted in the mid-1990s. Since then, predictions of a catastrophe have appeared regularly and have entered the popular consciousness. As a trope, a cyber catastrophe captures our imagination, but as analysis, it remains entirely imaginary and is of dubious value as a basis for policymaking. There has never been a catastrophic cyberattack.

To qualify as a catastrophe, an event must produce damaging mass effect, including casualties and destruction. The fires that swept across California last summer were a catastrophe. Covid-19 has been a catastrophe, especially in countries with inadequate responses. With ~~man-made~~ actions, however, a catastrophe is harder to produce than it may seem, and for cyberattacks a catastrophe requires organizational and technical skills most actors still do not possess. It requires planning, reconnaissance to find vulnerabilities, and then acquiring or building attack tools—things that require resources and experience. To achieve mass effect, either a few central targets (like an electrical grid) need to be hit or multiple targets would have to be hit simultaneously (as is the case with urban water systems), something that is itself an operational challenge.

It is easier to imagine a catastrophe than to produce it. The 2003 East Coast blackout is the archetype for an attack on the U.S. electrical grid. No one died in this blackout, and services were restored in a few days. As electric production is digitized, vulnerability increases, but many electrical companies have made cybersecurity a priority. Similarly, at water treatment plants, the chemicals used to purify water are controlled in ways that make mass releases difficult. In any case, it would take a massive amount of chemicals to poison large rivers or lakes, more than most companies keep on hand, and any release would quickly be diluted.

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack

[marked]

, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

One major failing of catastrophe scenarios is that they discount the robustness and resilience of modern economies. These economies present multiple targets and configurations; they are harder to damage through cyberattack than they look, given the growing (albeit incomplete) attention to cybersecurity; and experience shows that people compensate for damage and quickly repair or rebuild. This was one of the counterintuitive lessons of the Strategic Bombing Survey. Pre-war planning assumed that civilian morale and production would crumple under aerial bombardment. In fact, the opposite occurred. Resistance hardened and production was restored.1

This is a short overview of why catastrophe is unlikely. Several longer CSIS reports go into the reasons in some detail. Past performance may not necessarily predict the future, but after 25 years without a single catastrophic cyberattack, we should invoke the concept cautiously, if at all. Why then, it is raised so often?

# 2NC

## CP — EU

#### The federal government is the central government in DC

Encarta Online 5 http://encarta.msn.com/encyclopedia\_1741500781\_6/United\_States\_(Government).html#howtocite

United States (Government), the combination of federal, state, and local laws, bodies, and agencies that is responsible for carrying out the operations of the United States. The federal government of the United States is centered in [Washington, D.C.](http://encarta.msn.com/encyclopedia_761576320/Washington_D_C.html)

#### The exemption allows the alliances to exist AND that is the internal link to collusion / supply chains — cooperation allows for it — that’s sufficient to solve

Tirschwell ’18 — Peter Tirschwell; “Regulatory pressure on container lines builds;” JOC.com; November 16th, 2018; https://www.joc.com/maritime-news/container-lines/threat-container-alliances-rise\_20181116.html

Container shipping has been gradually deregulated over the years to the point where pricing today reacts seamlessly to changes in supply and demand. The collective activities of carriers on the operating side — engaging in vessel-sharing agreements (VSAs) — were allowed to continue by government regulation. That could soon change.

It was not a big deal by itself when the European Commission announced in September that it was “inviting comments on the legal framework [exempting liner shipping consortia from EU antitrust rules](https://www.joc.com/maritime-news/container-lines/european-commission-review-ocean-carrier-block-exemption_20180613.html) that prohibit anti-competitive agreements between companies.” The rule allowing consortia in European trades expires on April 25, 2020, and just as it did when expiring in earlier occasions going back to the mid-1990s, it would be customary for Brussels to solicit comments on the renewal.

The difference now in terms of factors that Brussels will consider is how significantly the use of consortia by carriers has expanded in the past 10 years, with consortia dominating the east-west trades to a much greater extent than in the past.

“If we go back 10 years, you had 20 carriers with 70 percent of the market and the top three carriers not engaged in alliances of any kind,” said Mary Brooks, a specialist on liner competition policy and professor emeritus at Dalhousie University in Halifax. “You go forward to today, and you have three big alliances, all of which have a large share, and all of the top carriers are in alliances. It is a huge change.”

In a [study](https://www.itf-oecd.org/impact-alliances-container-shipping) published on Nov. 2 that called for the elimination of the consortia antitrust exemption, the International Transport Forum (ITF) of the OECD pointed out the expanded use of consortia by container carriers, saying they were responsible for [the proliferation of mega-ships](https://www.joc.com/special-topics/mega-ships) that have imposed burdens on ports and slowed down shipper supply chains: “Whereas the early generations of global alliances that emerged in the mid-1990s provided a vehicle for cooperation between smaller carriers, alliances are nowadays cooperation tools for the largest container lines — the three global alliances (2M, Ocean, and THE Alliance) that are operational since the April 2017 regroup of the eight largest container carriers of the world. These three alliances represent around 80 percent of overall container trade and operate around 95 percent of the total ship capacity on east-west trade lanes where the major containerized flows occur.”

#### The alliances is the internal link to supply chains — breaking them up solves

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.

## Advantage 1

#### High prices are caused by the pandemic

Lloyds List 21 Maritime Intelligence Publication, ( Container lines: Profiting or profiteering? <https://lloydslist.maritimeintelligence.informa.com/LL1135325/Container-lines-Profiting-or-profiteering)>)

High freight rates and equipment shortages are a consequence of the pandemic, not market manipulation, Recent complaints by shippers have seen regulators showing an interest in box carriers again. But is there really any case to answer? RECENT complaints from shippers in China, Europe and the US have again raised questions over the performance and practices of container lines. It is easy to see why cargo owners’ hackles are raised. Freight rates are rocketing, with the Shanghai Containerised Freight Index last week reporting rates of over $4,000 per teu on Asia-Europe trades for the first time. Alongside the high rates are a severe shortage of equipment and delays at ports and in inland distribution, all of which are causing additional costs. Shippers and forwarders are not a happy lot, and with good reason. Laying the blame for the current crisis at the feet of container lines is convenient. They, after all, are the ones calling the shots and asking for the rates, even if much of the problem, such as overcrowded warehouses and congested ports, is beyond their control. Some have gone as far as to say lines are profiteering from the crisis, making undue amounts of money from the suffering inflicted by the pandemic. The calls for investigations and control of the lines seek to rein in their power and suggest that they are acting unfairly to take advantage of customers. While the past decade of consolidation has seen the number of truly global container lines shrink to fewer than 10, grouped in just three major alliances, every previous investigation into carrier practices has failed to prove any collusion, price setting or market manipulation. When carriers took capacity out of the market at the start of the pandemic, it was not to increase rates, but to survive. As one line pointed out, a 20% fall in volumes in a month reflects a $200m loss of revenue. And blankings were being done at a time when cargo owners were frantically trying to cancel orders and seek storage in transit. The rebound in demand in the second half of the year surprised everyone, but lines were quick to restore capacity. By the third quarter, deployed capacity was higher than it had been in 2019. Even now, blankings in the lead up to Chinese New Year are virtually non-existent. Layups are at near record lows and charter rates at record highs as all available ships are pressed into service. That is hardly the way to manipulate a market. There is no doubt that carriers have benefited from the surge in demand; third-quarter results for 2020 were the best in many years. But that is a simple outcome of the laws of supply and demand and a basic tenet of capitalism. If there is an excess demand for a limited supply, those who want the supply most will pay more for it. And having a few profitable quarters needs to be put in the context of having a decade of unprofitable quarters. Since the global financial crisis, carriers have struggled to pay for the cost of their capital, far less provide returns for their investors. A stable, and profitable, container shipping sector should be welcomed. One doesn’t need too long a memory to remember the carnage that came out of the collapse of Hanjin Shipping in 2016. If carriers are to continue to invest in services and in new, environmentally friendly ships, they need to be able to pay for those. Some perspective is also needed. Shippers balking at $4,000 per teu freight rates will remember that last October the SCFI spot rate to Europe was less than $1,100 per teu. In 2015, it went below $250 per teu. In the five years to the end of 2020, the average SCFI figure has been below $900 per teu. Rates like these add only pennies to the price of goods when they get to shops, a remarkable benefit of containerisation. Moreover, the current high spot rates cover just a portion of the cargo shipped, with the majority going under contract arrangements. Shippers allege that carriers are ignoring these commitments, but if market conditions were going in the opposite direction, with spot rates falling below contract rates, carriers would be accusing shippers of breaking their contract terms. Lines have been trying for years to make container shipping less commoditised, and to have greater price predictability, but it takes both sides to achieve that. The current crisis is just that: a crisis. This is the first time in the history of containerisation that the industry has faced a global pandemic. It is a mark of the maturity of the sector that, for the most part, goods are still being delivered. As with all crises, this too shall pass.

#### BUT, even if, collusion is already allowed to be prosecuted — plan text in a vacuum means the aff does nothing — vote neg on presumption

Van Merle 20, Reporter for The LoadStar (Gavin, FMC fires 'collusion' warning shot across the bows of transpacific carriers, https://theloadstar.com/fmc-fires-collusion-warning-shot-across-the-bows-of-transpacific-carriers/)

US ocean regulator the Federal Maritime Commission (FMC) has fired a warning shot across the bows of container shipping lines, saying it will head to the courts if there is evidence of collusion on the transpacific trades. Freight rates between Asia and the east and west coast of the US have reached record highs in recent months and, following a closed meeting of FMC commissioners yesterday, the regulator said it was looking into possible infringements of competition law. “If there is any indication of carrier behaviour that might violate the competition standards in section 6(g) of the Shipping Act, the commission will immediately seek to address these concerns with the carriers. “If necessary, the FMC will go to federal court to seek an injunction to enjoin further operation of the non-compliant alliance agreement,” it said, adding that it had “heightened its scrutiny of markets, individual ocean carriers, and the three global carrier alliances in response to the unusual circumstances and challenges created by the Covid-19 pandemic”. It said it had received “detailed reports that addressed trends in spot rates, longer-term service contracts, utilisation of equipment, blanked sailings, revenue trends, the policies of individual carriers and global alliances for service changes, as well as what notice must be provided to the FMC when there are blanked, cancelled or amended voyages. “The FMC is actively monitoring for any potential effect on freight rates and transport service levels, using a variety of sources and markers, including the exhaustive information that parties to a carrier agreement must file with the agency,” it added. While carriers have continued to restrict capacity, the transpacific trade has seen a surge in demand over the summer. Last week, Hackett Associates’ Global Port Tracker recorded US ports handling 1.92m teu in July, which although being down 2.3% year on year, was up 19.3% on June, “and significantly higher than the 1.76m teu forecast a month ago”. And it currently forecasts August’s throughput at 2.06m teu, which would be 6% higher than August last year and represent the highest monthly throughput on record, “beating the previous record of 2.04m teu set in October 2018”. Data from the port of Los Angeles supports this – it said this week that August container throughput was its highest ever, at 961,833 teu, which was up 12% year on year, and saw loaded imports breach the 500,000 teu mark for the first time. Meanwhile headhaul spot rates continue at historic highs: today’s World Container Index (WCI) from Drewry recorded a Shanghai-Los Angeles spot rate of $3,922 per 40ft, which Drewry said was 2% up on last week and a staggering year-on-year 182% increase. It is a similar situation on the Asia-US east coast trade, with today’s WCI Shanghai-New York reading $,716 per 40ft, up 3% week on week and 94% year on year. However, it appears carriers have begun to heed warnings from the FMC and China’s ministry of transport. This week, Ocean Alliance member OOCL announced it was reinstating six of nine previously announced blanked sailings on the transpacific slated to take place around the Golden Week holidays.

#### Alliances are essential in shipping without them shipping rates would skyrocket — turns trade

Vinyard 19, Reporter for Universal Cargo. (Jared, June 20, 2019, SeaIntelligence Says End of Shipping Alliances Would Skyrocket Freight Rates, <https://www.universalcargo.com/seaintelligence-says-end-of-shipping-alliances-would-skyrocket-freight-rates/>)

What would happen if ocean freight carrier alliances were brought to an end? Many shippers would cheer as they’re currently seeking to make such an outcome a reality. But would it really be good news for shippers? SeaIntelligence Consulting’s CEO, Partner Lars Jensen says no. As much as shippers may see carrier alliances as a way shipping lines are skirting antitrust laws (and there’s reason for distrust with recent price-fixing investigations into carriers, even some charges resulting in a K-Line executive pleading guilty to price fixing in 2014 and an NYK exec pleading guilty of price fixing in 2015), it’s the vessel sharing agreements, under which carriers work together, being broken up that shippers should really worry about. That according to Mr. Jensen, who says an end to carrier alliances will cause freight rates to skyrocket. In an article for the Loadstar, Gavin van Marle reports remarks Mr. Jensen made on Tuesday (June 18th, 2019) at the TOC Container Supply Chain event in Rotterdam: Shipper opposition to deepsea liner shipping alliances may be dangerously misplaced, delegates at the TOC Container Supply Chain event in Rotterdam heard yesterday. Lars Jensen, chief executive and partner of SeaIntelligence Consulting, said efforts by some to bar container lines from operating in alliances, claiming they have become anti-competitive, would result in freight rates “skyrocketing”. Mr. van Marle makes it clear the impetus for Mr. Jensen’s words is the European Commission’s regulators assessing whether or not to extend EU’s Block Exemption Regulation (BER) for five years. The BER is the EU’s legislation that covers vessel-sharing agreements (VSAs), which are commonly referred to as carrier alliances, essentially exempting these agreements from being antitrust law violations. BER does not give carriers a carte blanche when it comes to antitrust rules. Carriers, for example, are not allowed to communicate and cooperate in regards to freight rate points. VSA cooperation is supposed to be strictly limited to ship sharing matters. Of course, shippers have been suspicious from the start of carrier alliances that cooperation bleeds into price point sharing and reduces competition between carriers. Because shippers see VSAs or carrier alliances as a reduction in carrier competition, potentially exacerbating the poor quality of customer service carriers are notorious for and increasing freight rates, there are shippers attempting to persuade regulators not to extend the BER. Obviously, Mr. Jensen argues shippers will not get what they’re hoping for if they succeed in keeping the BER from getting extended. In his Loadstar article, Mr. van Marle continues to quote Mr. Jensen as the SeaIntelligence CEO explains why ending the BER will be expensive for shippers: Mr Jensen said: “If the anti-trust exemption isn’t extended, it doesn’t necessarily mean shipping lines can’t run alliances. It may well just mean the lines have higher hoops to jump through, and I doubt that they will do that. “But it will mean a lot of legal costs and the carriers will have to recoup those costs and the only [way] they can do that is through higher rates,” he added. “However, if shipping alliances are outlawed altogether, then freight rates will skyrocket, because alliances are the only way that carriers can operate ultra-large container vessels (ULCVs) effectively.” I have long had mixed feelings about carrier alliances, myself. Yes, they are a reduction of carrier competition in the international shipping industry, and I’m not a fan of shrinking that competition. Smaller competition (in any industry) usually means higher prices and lower service. However, the incredible financial losses carriers have suffered over the last many years (and, yes, I would argue those losses are largely by their own doing) and the very tight profit margins carriers seem to be working within has made carrier alliances basically a necessity in reducing costs and keeping these big shipping companies from sinking like Hanjin did a few years back. There is also the argument that VSAs create more ability and flexibility for carriers to offer more sailings, so that’s a case where carrier alliances could increase service instead of decreasing it. Overall, I’ve considered carrier alliances a necessary evil in the ocean freight sector. I’m actually of the opinion that if the carrier alliances ended suddenly today, several carriers would have trouble competing with the top dogs of the industry like Maersk and suffer the same fate as Hanjin or at least be forced into mergers or buyouts. We possibly might even eventually reach Maersk’s prediction of carrier competition shrinking to only 3 global companies. Such a low competition situation would almost certainly mean higher freight rates for shippers. While my position on the situation of carrier alliances is not as extreme as Mr. Jensen’s, whose final quote in the Loadstar article is, “So I am of the opinion that shippers should pray the lines are allowed to continue to operate alliances,” I do think the sudden disbanding of VSAs would not be in the overall interest of shippers.

#### Independently, protectionist action like the aff sends a shockwave throughout global trade

Murray ‘19 [Allison; 2019; JD from the Loyola Law School, Los Angeles Law School, BS in Business Administration from the University of Redlands, Judicial Law Clerk at the U.S. Bankruptcy Courts, Former Corporate Paralegal at Boeing, Degree in Economics and Management from the University of Oxford Loyola of Los Angeles International and Comparative Law Review, “Given Today's New Wave of Protectionism, Is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?,” p. 117-119]

INTRODUCTION

Trump. Le Pen. Brexit. Protectionist rhetoric has consumed the international political stage. Western countries and their leaders were once the drivers of economic globalization, relying on free-market speeches and the prospect of removing trade barriers to appeal to their constituents. 1They pointed fingers at other countries engaging in or encouraging protectionist behavior and challenged them in the court of public opinion and elsewhere to stop their antics. The "our country first, world trade after" mentality was widely politicized and vilified. Now, it seems that Western national leaders are championing the very protectionism that they once criticized. 2

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. [\*118] Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences.

Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders' best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law. 3So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims.

Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States ("U.S."), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally. 4To remedy bad behavior in a specialized set of industries is not to instigate a global paradigm shift. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes. 5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations.

Trump is not the only high-profile leader flirting with staunch protectionism. Western leaders in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western lawmakers themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions [\*119] that could counteract that progress. 6Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies.

Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be forced to rely on existing avenues to meet protectionist aims. Again, we find ourselves relying squarely on antitrust law, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization ("WTO"), "once formal trade barriers come down, other issues become more important." 7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures.

Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause the death of even the smallest semblance of international free trade that remains in the international marketplace today.

## Advantage 2

#### A2/AD and hard constraints undermine naval deterrence

van Hooft 21, senior strategic analyst at The Hague Centre for Strategic Studies, the co-chair of its Initiative on the Future of Transatlantic Relations, and a former postdoctoral fellow at the Security Studies Program at Massachusetts Institute of Technology. (Paul, 2-23-2021, "Don’t Knock Yourself Out: How America Can Turn the Tables on China by Giving Up the Fight for Command of the Seas", *War on the Rocks*, https://warontherocks.com/2021/02/dont-knock-yourself-out-how-america-can-turn-the-tables-on-china-by-giving-up-the-fight-for-command-of-the-seas/)

It is no accident that the United States finds itself in its current predicament. China’s strategy over the past decades has deliberately targeted the physical and political constraints that remoteness places on the United States. China’s military planners have invested in building up the number of Chinese surface ships and submarines as well as specifically towards developing its air-, sea-, and land-launched cruise missiles and ballistic missiles. Together with sensors and command and control, these missiles make up China’s so-called anti-access/area denial capabilities with which it plans to target not only U.S. aircraft and surface ships, specifically its aircraft carriers, but also its air bases and ports, including Guam. Other weapons are continuously added to the arsenal. In effect, China has pushed what constitutes a hostile coastline far out into the Western Pacific and undermined the ability of the United States to intervene in its proximity.

U.S. officials have grasped for military-technological solutions to maintain or regain command in the region. The new tri-service strategy, Advantage at Sea: Prevailing with Integrated All-Domain Naval Power, and the Navy’s Battle Force 2045 plan are the latest attempts to overcome China’s cost-imposing strategy. The tri-service strategy continues the emphasis on the growing costs of access in the previous strategies from 2007 and 2015. The 2020 iteration explicitly names China as the pacing threat. It points toward a need for longer-range, so-called “stand-off” weapons to avoid operating within striking range of Chinese capabilities. It proposes increasing the number of ships while also de-emphasizing the role of more powerful but expensive and vulnerable assets, such as aircraft carriers. The strategy is in line with the Battle Force 2045 plan recently introduced by former Secretary of Defense Mark Esper. This plan also proposed drastically increasing the number of ships in the U.S. Navy from the current 297 to 500, beyond the previous goal of 355. Both documents mostly foresee this increase through the construction of more unmanned ships.

The strategy represents an improvement over previous plans. Yet, as with the Battle Force 2045 plan, it is arguably too little, too late. For the foreseeable future, the United States lacks the capacity for that scale of naval shipbuilding, including for repair, logistics, and sealift. The U.S. Navy also lacks sufficient resources to execute this strategy (now or in the foreseeable future) without cutting into the resources of the Army, as the Chairman of the Joint Chiefs of Staff recently noted. Furthermore, current naval force structure is stretched to a breaking point.

More importantly, in their reliance on military superiority, the tri-service strategy and the Battle Force 2045 plan build on a flawed grand strategic foundation. The pursuit of “strategic primacy” through military superiority, as the recently declassified “U.S. Strategic Framework for the Indo-Pacific” advocates, plays to Chinese strengths. Sino-American competition would be decided by the outcome of a military confrontation in the waters close to China in which it can largely set the terms. For now, it is unclear whether the administration of President Joe Biden will follow through with these plans, designed and released as they were by the previous administration. In any case, without fully addressing the implications of China’s geographical advantages over the United States, the current maritime plans instead represent the best attempt to execute a faulty grand strategy.

## Advantage 3

#### Uncertainty alone checks.

Lewis 18, PhD, a senior vice president at the Center for Strategic and International Studies (CSIS). (James Andrew, 1-1-2018, “Rethinking Cybersecurity: Strategy, Mass Effect, and States”, pg. 29, <https://www.jstor.org/stable/resrep22408.8?seq=1#metadata_info_tab_contents>)

This upper bound on cyber attack is affected by the likelihood of attribution. If an attacker was confident that it could avoid having the attack attributed to it, the risk of retaliation would be reduced, making some attacks more attractive. Uncertainty about attribution capabilities, particularly American capabilities, combined with uncertainty about the effectiveness of cyber attack, creates caution. Public expressions of uncertainty about attribution are not shared by opponents, who know when they have been caught. Over the last decade, the United States has made a major effort to improve its attribution capabilities and has succeeded to the point where no opponent can be confident about anonymity and this, if linked to truly credible threats to impose consequences, may finally produce the cyber deterrence so long sought by the United States.

The implicit threshold governing cyber attack is the line between force and coercion. With very few exceptions, states have avoided cyber actions that could be judged as the use of force, based on international understandings on what actions qualify as the use of force or armed attack. Opponents have engaged in cyber actions below this implicit threshold with impunity, but they are reluctant to cross it for fear of creating a situation that they cannot control. In this, cyber incidents are more like border incursions or bandit raids than attacks.

Public sources suggest that at least seven countries have used cyber tools for coercive purposes. However, they have been careful to avoid anything that could be interpreted as the use of force, and they have avoided physical destruction or casualties. This suggests that countries prefer actions that advance their strategic goals without creating unmanageable risk of escalation into armed conflict. Opponents calculate the advantage they would gain from an attack against the potential cost. Miscalculation is possible, but if anything, opponents appear more likely to overestimate the risk of retaliation.

#### 3---no motivation.

Lewis 18, PhD, a senior vice president at the Center for Strategic and International Studies (CSIS). (James Andrew, 1-1-2018, “Rethinking Cybersecurity: Strategy, Mass Effect, and States”, pg. 7-9, <https://www.jstor.org/stable/resrep22408.5?seq=1#metadata_info_tab_contents>) \*language edited---brackets

The most dangerous and damaging attacks required resources and engineering knowledge that are beyond the capabilities of nonstate actors, and those who possess such capabilities consider their use in the context of some larger strategy to achieve national goals. Precision and predictability—always desirable in offensive operations in order to provide assured effect and economy of force—suggest that the risk of collateral damage is smaller than we assume, and with this, so is the risk of indiscriminate or mass effect.

State Use of Cyber Attack Is Consistent with Larger Strategic Aims

Based on a review of state actions to date, cyber operations give countries a new way to implement existing policies rather than leading them to adopt new policy or strategies. State opponents use cyber techniques in ways consistent with their national strategies and objectives. But for now, cyber may be best explained as an addition to the existing portfolio of tools available to nations.

Cyber operations are ideal for achieving the strategic effect our opponents seek in this new environment. How nations use cyber techniques will be determined by their larger needs and interests, by their strategies, experience, and institutions, and by their tolerance for risk. Cyber operations provide unparalleled access to targets, and the only constraint on attackers is the risk of retaliation—a risk they manage by avoiding actions that would provoke a damaging response. This is done by staying below an implicit threshold on what can be considered the use of force in cyberspace.

The reality of cyber attack differs greatly from our fears. Analysts place a range of hypothetical threats, often accompanied by extreme consequences, before the public without considering the probability of occurrence or the likelihood that opponents will choose a course of action that does not advance their strategic aims and creates grave risk of damaging escalation. Our opponents’ goals are not to carry out a cyber 9/11. While there have been many opponent probes of critical infrastructure facilities in numerous countries, the number of malicious cyber actions that caused physical damage can be counted on one hand. While opponents have probed critical infrastructure networks, there is no indication that they are for the purposes of the kind of [devastating] crippling strategic attacks against critical infrastructure that dominated planning in the Second World War or the Cold War.

Similarly, the popular idea that opponents use cyber techniques to inflict cumulative economic harm is not supported by evidence. Economic warfare has always been part of conflict, but there are no examples of a country seeking to imperceptibly harm the economy of an opponent. The United States engaged in economic warfare during the Cold War, and still uses sanctions as a tool of foreign power, but few if any other nations do the same. The intent of cyber espionage is to gain market or technological advantage. Coercive actions against government agencies or companies are intended to intimidate. Terrorists do not seek to inflict economic damage. The difficulty of wreaking real harm on large, interconnected economies is usually ignored.

Economic warfare in cyberspace is ascribed to China, but China’s cyber doctrine has three elements: control of cyberspace to preserve party rule and political stability, espionage (both commercial and military), and preparation for disruptive acts to damage an opponent’s weapons, military information systems, and command and control. “Strategic” uses, such as striking civilian infrastructure in the opponent’s homeland, appear to be a lower priority and are an adjunct to nuclear strikes as part of China’s strategic deterrence. Chinese officials seem more concerned about accelerating China’s growth rather than some long-term effort to undermine the American economy.6 The 2015 agreement with the United States served Chinese interests by centralizing tasking authority in Beijing and ending People’s Liberation Army (PLA) “freelancing” against commercial targets.

The Russians specialize in coercion, financial crime, and creating harmful cognitive effect—the ability to manipulate emotions and decisionmaking. Under their 2010 military doctrine on disruptive information operations (part of what they call “New Generation Warfare”). Russians want confusion, not physical damage. Iran and North Korea use cyber actions against American banks or entertainment companies like Sony or the Sands Casino, but their goal is political coercion, not destruction.

None of these countries talk about death by 1000 cuts or attacking critical infrastructure to produce a cyber Pearl Harbor or any of the other scenarios that dominate the media. The few disruptive attacks on critical infrastructure have focused almost exclusively on the energy sector. Major financial institutions face a high degree of risk but in most cases, the attackers’ intent is to extract money. There have been cases of service disruption and data erasure, but these have been limited in scope. Denial-of-service attacks against banks impede services and may be costly to the targeted bank, but do not have a major effect on the national economy. In all of these actions, there is a line that countries have been unwilling to cross.

When our opponents decided to challenge American “hegemony,” they developed strategies to circumvent the risks of retaliation or escalation by ensuring that their actions stayed below the use-of-force threshold—an imprecise threshold, roughly defined by international law, but usually considered to involve actions that produce destruction or casualties. Almost all cyber attacks fall below this threshold, including, crime, espionage, and politically coercive acts. This explains why the decades-long quest to rebuild Cold War deterrence in cyberspace has been fruitless.

It also explains why we have not seen the dreaded cyber Pearl Harbor or other predicted catastrophes. Opponents are keenly aware that launching catastrophe brings with it immense risk of receiving catastrophe in return. States are the only actors who can carry out catastrophic cyber attacks and they are very unlikely to do so in a strategic environment that seeks to gain advantage without engaging in armed conflict. Decisions on targets and attack make sense only when embedded in their larger strategic calculations regarding how best to fight with the United States.

There have been thousands of incidents of cybercrime and cyber espionage, but only a handful of true attacks, where the intent was not to extract information or money, but to disrupt and, in a few cases, destroy. From these incidents, we can extract a more accurate picture of risk. The salient incidents are the cyber operations against Iran’s nuclear weapons facility (Stuxnet), Iran’s actions against Aramco and leading American banks, North Korean interference with Sony and with South Korean banks and television stations, and Russian actions against Estonia, Ukrainian power facilities, Canal 5 (television network in France), and the 2016 U.S. presidential elections. Cyber attacks are not random. All of these incidents have been part of larger geopolitical conflicts involving Iran, Korea, and the Ukraine, or Russia’s contest with the United States and NATO.

There are commonalities in each attack. All were undertaken by state actors or proxy forces to achieve the attacking state’s policy objectives. Only two caused tangible damage; the rest created coercive effect, intended to create confusion and psychological pressure through fear, uncertainty, and embarrassment. In no instance were there deaths or casualties. In two decades of cyber attacks, there has never been a single casualty. This alone should give pause to the doomsayers. Nor has there been widespread collateral damage.

# 1NR

## DA — Politics

#### Only warming leads to extinction, not war

McDonald 19, writer and geography PhD student at University of Oxford studying the intersection of grassroots movements and energy transition. (Samuel Miller, 1-4-2019, “Deathly Salvation,” *The Trouble*, <https://www.the-trouble.com/content/2019/1/4/deathly-salvation>)

A devastating fact of climate collapse is that there may be a silver lining to the mushroom cloud. First, it should be noted that a nuclear exchange does not inevitably result in apocalyptic loss of life. Nuclear winter—the idea that firestorms would make the earth uninhabitable—is based on shaky science. There’s no reliable model that can determine how many megatons would decimate agriculture or make humans extinct. Nations have already detonated 2,476 nuclear devices. An exchange that shuts down the global economy but stops short of human extinction may be the only blade realistically likely to cut the carbon knot we’re trapped within. It would decimate existing infrastructures, providing an opportunity to build new energy infrastructure and intervene in the current investments and subsidies keeping fossil fuels alive. In the near term, emissions would almost certainly rise as militaries are some of the world’s largest emitters. Given what we know of human history, though, conflict may be the only way to build the mass social cohesion necessary for undertaking the kind of huge, collective action needed for global sequestration and energy transition. Like the 20th century’s world wars, a nuclear exchange could serve as an economic leveler. It could provide justification for nationalizing energy industries with the interest of shuttering fossil fuel plants and transitioning to renewables and, uh, nuclear energy. It could shock us into reimagining a less ~~suicidal~~ civilization, one that dethrones the death-cult zealots who are currently in power. And it may toss particulates into the atmosphere sufficient to block out some of the solar heat helping to drive global warming. Or it may have the opposite effects. Who knows? What we do know is that humans can survive and recover from war, probably even a nuclear one. Humans cannot recover from runaway climate change. Nuclear war is not an inevitable extinction event; six degrees of warming is.

#### Warming’s a conflict multiplier.

Scheffran 16, Professor at the Institute for Geography at the University of Hamburg and head of the Research Group Climate Change and Security in the CliSAP Cluster of Excellence and the Center for Earth System Research and Sustainability, et al (Jürgen, “The Climate-Nuclear Nexus: Exploring the linkages between climate change and nuclear threats,” <http://www.worldfuturecouncil.org/file/2016/01/WFC_2015_The_Climate-Nuclear_Nexus.pdf>)

Climate change and nuclear weapons represent two key threats of our time. Climate change endangers ecosystems and social systems all over the world. The degradation of natural resources, the decline of water and food supplies, forced migration, and more frequent and intense disasters will greatly affect population clusters, big and small. Climate-related shocks will add stress to the world’s existing conflicts and act as a “threat multiplier” in already fragile regions. This could contribute to a decline of international stability and trigger hostility between people and nations. Meanwhile, the 15,500 nuclear weapons that remain in the arsenals of only a few states possess the destructive force to destroy life on Earth as we know multiple times over. With nuclear deterrence strategies still in place, and hundreds of weapons on ‘hair trigger alert’, the risks of nuclear war caused by accident, miscalculation or intent remain plentiful and imminent. Despite growing recognition that climate change and nuclear weapons pose critical security risks, the linkages between both threats are largely ignored. However, nuclear and climate risks interfere with each other in a mutually enforcing way. Conflicts induced by climate change could contribute to global insecurity, which, in turn, could enhance the chance of a nuclear weapon being used, could create more fertile breeding grounds for terrorism, including nuclear terrorism, and could feed the ambitions among some states to acquire nuclear arms. Furthermore, as evidenced by a series of incidents in recent years, extreme weather events, environmental degradation and major seismic events can directly impact the safety and security of nuclear installations. Moreover, a nuclear war could lead to a rapid and prolonged drop in average global temperatures and significantly disrupt the global climate for years to come, which would have disastrous implications for agriculture, threatening the food supply for most of the world. Finally, climate change, nuclear weapons and nuclear energy pose threats of intergenerational harm, as evidenced by the transgenerational effects of nuclear testing and nuclear power accidents and the lasting impacts on the climate, environment and public health by carbon emissions.

#### That push is coming now

Geman 1-20-2022, Axios columnist (Ben, “Splitting up Biden's Build Back Better package could save Dems' climate agenda,” *Axios*, <https://www.axios.com/biden-build-back-better-climate-agenda-6cd5b2f4-7037-497d-aca5-9c54e605ce62.html>)

President Biden's attempt to salvage his faltering clean energy and social spending plan could bring new efforts to revive climate-related measures separately or within a slimmed-down package. Driving the news: Biden on Wednesday publicly endorsed the prospect of splitting up the $1.75 trillion Build Back Better plan. Biden suggested there's agreement possible on the roughly $550 billion in climate and provisions. Some Senate Democrats are urging colleagues to begin paring back the wider package to salvage what they can, Axios' Alayna Treene reports. Why it matters: Congressional action is likely needed to keep Biden's climate goals — notably a 50% cut in economy-wide emissions by 2030 — within reach. Catch up fast: "It’s clear to me that we’re going to have to probably break it up," Biden said at a press conference. "I think we can break the package up, get as much as we can now, and come back and fight for the rest later," he said, citing barriers to the child tax credit extension and community college aid. Biden needs support from every Senate Democrat for Build Back Better, but Sen. Joe Manchin (D-W.Va.) opposes the package. Manchin, however, has suggested a deal on climate provisions is possible. Reality check: Attempting to split up the plan would bring big political hurdles of its own, and force difficult choices that jettison priorities of the wider liberal coalition. And even the energy provisions lack consensus, with Manchin — whose state is a major coal and gas producer — cool to ideas like a fee on methane emissions. What's next: The White House hopes to renew negotiations with Manchin and Sen. Kyrsten Sinema (D-Ariz.), Biden's chief of staff Ron Klain told the Wall Street Journal.

#### 1---Dem unity. They’re unified now behind climate funding

Choi 1-20-2022, analyst @ Politico (Matthew, “Biden's BBB break up,” *Politico*, <https://www.politico.com/newsletters/morning-energy/2022/01/20/bidens-bbb-break-up-799957>)

BIDEN BACKS BBB BREAK UP: President Joe Biden is throwing his support behind what Senate Democrats had previously been skittish to embrace: splitting Build Back Better into smaller bills and passing them separately. “I think we can break the package up,” he said at a news conference Wednesday. “Get as much as we can now and fight for the rest later.” Biden cited the climate and clean energy provisions in particular as a starting point. Those parts of Democrats’ stalled reconciliation package were often cited in the upper chamber as the most likely to get the backing of Senate Energy Chair Joe Manchin (D-W.Va.), who opposed the full bill on inflation concerns. While some House Democrats saw that as a sign to run with the climate provisions now and hope for the best on everything else, splitting the package up had not been a wildly popular idea among Senate Democrats, Pro’s Josh Siegel reported earlier this week. But that appears to have changed, with more positive reactions coming out Wednesday. “The climate justice and clean energy provisions in Build Back Better have been largely worked through and financed, so let’s start there and add any of the other important provisions to support working families that can meet the 50-vote threshold," Sen. Ed Markey (D-Mass.) told Josh on Wednesday, just days after he shied away from such a move. “We should pass whatever can pass,” Sen. Brian Schatz (D-Hawaii) told Josh Wednesday. “It’s as simple as that. We are all using our brains and our egos to make this more complicated than necessary. Let’s figure out what’s got fifty, and enact it.” There are still details to iron out in the climate package, but the crux of the provisions appear to have support across the caucus, including a smorgasbord of expanded clean energy tax credits for technology including wind, solar, nuclear, hydropower and carbon capture.

#### Prefer evidence after Biden’s “split it up” speech---it shifted sentiment in the Senate

Waldman 1-20-2022, E and E News columnist (Scott, “Biden supports removing climate provisions from stalled BBB,” *EE News*, <https://www.eenews.net/articles/biden-supports-removing-climate-provisions-from-stalled-bbb/>)

President Biden said yesterday that he’s willing to split up his "Build Back Better" bill to give the stalled measure a chance of passage. And he signaled there was strong support on Capitol Hill for its climate-related provisions. “We’re going to have to probably break it up,” Biden said during a White House press conference. “I’ve been talking to my colleagues on the Hill; it’s clear that we would be able to get support for the 500-plus billion dollars for energy and the environment.” Biden’s comments came during a rare two-hour press conference. It was the first time the president has said publicly that he’s open to the idea of taking a piecemeal approach to passing "Build Back Better," which contains a wide range of his domestic priorities. Biden’s press conference came as his approval ratings hover in the low 40s. He was defensive to questions about his response to the Covid-19 pandemic, Russia’s possible invasion of Ukraine and his belief there was a bipartisan path to working with Republicans. Biden bluntly acknowledged that he had misread Republican opposition to his agenda and said it was worse than what former President Obama faced. “I did not anticipate that there’d be such a stalwart effort to make sure that the most important thing was that President Biden didn’t get anything done,” he said, adding, “Think about this: What are Republicans for? What are they for? Name me one thing they’re for.” Biden’s climate ambitions have collided with the political realities of Washington politics during his first year in office. Many of his plans to address climate change were inserted into the "Build Back Better" measure, which has been stuck for months in legislative limbo. That’s in spite of a small shift among congressional Republicans as it relates to climate. While a growing number of Republicans no longer deny the basic science of global warming, GOP lawmakers have done little if anything to help advance Biden’s climate plans. Meanwhile, Democratic infighting has hindered Biden’s campaign pledge to pass the most aggressive plan in U.S. history to cut greenhouse gas emissions. The $1.8 trillion "Build Back Better" agenda passed the House almost two months ago, but it stalled in the Senate amid objections from Sen. Joe Manchin (D-W.Va.) about some provisions, including a child care tax credit. Manchin also weakened the strongest climate pieces of the bill — including a groundbreaking plan to entice utilities to build out clean energy. Recently, however, Manchin said his biggest concerns about the bill were the child tax credits, and he said he was open to passing climate policies as a stand-alone bill. The current proposal contains about $555 billion for energy policy, including a major investment in clean energy tax credits that could transform the industry. Some House Democrats have called for breaking out pieces of "Build Back Better" as a way to notch some legislative victories before the November midterm elections. Republicans are widely expected to take back the House and possibly the Senate, which means that a number of lawmakers feel they are racing against the clock to pass something. Still, in the Senate, some lawmakers are determined to pass a more comprehensive plan that widens the social safety net and increases educational opportunities. Sen. Tina Smith (D-Minn.), one of the Senate’s climate hawks, recently told E&E News she does not want to separate climate policy from the larger bill. Even as Biden spoke, a Senate shift appeared to take place. Before the president had finished, Sen. Jon Tester (D-Mont.), a key moderate vote, told reporters at the Capitol that he was ready to move on climate policy.

#### 3---PC shapes uniqueness. A renewed push solves defectors.

Kevin Liptak 1-1, Reporter covering the White House for CNN, “Biden's 2022 challenges revolve around Covid, Russia and dealing with Congress,” CNN Politics, 01-01-2022, <https://www.cnn.com/2022/01/01/politics/joe-biden-2022-pandemic-russia-ukraine-congress-democrats/index.html>

President Joe Biden will return to the White House from an abbreviated winter break facing a set of hurdles that will test his political, diplomatic and management skills at a trying moment for his presidency.

The raging pandemic, a crisis with Russia and uncertainty surrounding his prized domestic priorities all await Biden in the new year. Determined to reset after a series of struggles -- and to recalibrate expectations that some of his allies believe were unrealistic -- the President is hopeful the coming weeks can provide much-needed momentum as another election cycle dawns. Biden spent much of his time away from Washington over the past week on the phone discussing the days ahead with advisers and others in his extended orbit, plotting next steps in what could prove a pivotal month for his presidential ambitions. That includes preparation for a speech marking next week's one-year anniversary of the January 6 Capitol riot, a moment that underscores the stakes of his tenure and the strained political environment in which he governs. His team is still regrouping after Sen. Joe Manchin, the moderate West Virginia Democrat, threw the future of his sweeping economic plan into doubt the Sunday before Christmas. In the days after his announcement, which surprised and angered Biden's aides, Manchin made particular note of his annoyance with White House staff, claiming they undermined the negotiation process and cryptically citing a perceived slight that drove him to his "wit's end." Since then, tensions seem to have cooled, though Biden told reporters on Tuesday he hadn't spoken to Manchin this week. White House officials are hopeful talks can be revived on a more limited bill, or set of bills, in the new year. "President Biden, who I have worked for for many years ... has a habit of pulling legislative rabbits out of hats. And has done so many times," said Jared Bernstein, the president's top economist, on CNN. "He is not by any means done fighting for Build Back Better. When I talk to him about that, he has some confidence about that." Democrats in Congress, who have been left politically vulnerable by retirements and GOP redistricting plans, enter the midterm election cycle eager for Biden and Manchin to strike some kind of accord, even if the final package lacks the ambition of the sweeping social and climate bill the President initially proposed. "I think it is important we pass whatever components we can through Congress and get them signed into law," said Rep. Raja Krishnamoorthi, a Democrat from Illinois, this week. "If we do that, we make our own luck and increase the chances of doing better in the midterms and delivering for the American people." Viewed by the President and his team as a rebuilding year after the tumult of the Donald Trump era, 2021 was marked by a series of challenges that dramatically eroded Biden's political standing. His approval rating entered negative territory over the summer and has not rebounded since. The sour national mood belies a strong economic record, including the creation of nearly 6 million jobs. New jobless claims fell this week to a 52-year low. Other indicators have shown near-record levels of growth as the economy rebounds from pandemic-era shutdowns. Biden was also able to pass two major pieces of legislation -- a Covid relief package and a massive infrastructure bill -- and successfully rolled out a vaccination campaign to hundreds of millions of Americans, even if a stubbornly large percentage of the country still refuses the shot. Biden and his advisers have been frustrated those achievements were obscured by other challenges, like a messy withdrawal from Afghanistan, slogging negotiations among Democrats over the domestic spending bill, supply chain issues, high inflation and the still-raging pandemic. Unlike some of his predecessors, Biden opted against convening a year-end press conference to discuss the year's achievements or his priorities for 2022. He sat for one news interview, with ABC, and appeared on Jimmy Fallon's late-night show, but otherwise left public assessments of his first year to others. "Here's the deal," Biden told Fallon, "we've been in less than a year, a lot has happened. Look, people are afraid, people are worried, and people are getting so much inaccurate information to them. I don't mean about me, but about their situation. And so they're, you know, they're being told that, you know, Armageddon is on the way." Biden spent two nights at his Rehoboth Beach, Delaware, home after Christmas with members of his extended family and a new German Shepherd puppy, emerging once to walk the dog -- which he received as a birthday gift from his brother -- along the Atlantic. He departed the beach one day earlier than originally planned to return to his main house in Wilmington, which is situated more privately than his oceanfront property. It was from there he spoke by telephone with Vladimir Putin on Thursday, hoping to defuse a crisis on the Ukrainian border. The conversation did not yield much clarity over whether the Russian president plans to invade Ukraine, as the West fears he might. Biden, who spent the preceding days conferring with his secretary of state and national security adviser by telephone, is hopeful diplomatic talks early next month in Europe can help ease the situation. The Ukraine standoff is an opportunity for Biden to repair a foreign policy reputation damaged by a chaotic and deadly withdrawal from Afghanistan over the summer, which angered US allies and led to questions about the President's diplomatic acumen. The administration's admitted failure to foresee how quickly the Taliban would retake control was one in a roster of items that seemed to catch Biden and his advisers off-guard this year. Other examples included persistent inflation that officials once described as "transitory," the emergence of the highly transmissible Omicron variant and a shortage of Covid-19 tests that Biden is now hurriedly working to remedy. The White House is expected to soon unveil details surrounding the rollout of the 500 million free at-home tests Biden promised all Americans last week, though a series of questions about the logistics and capacity of the program remain unanswered. The vaccine mandates he sought to implement will also face the Supreme Court this week. The resurgent coronavirus shadowed the President's festive season as national case counts rose to record levels this week and strained hospitals in certain areas of the country. Over the Christmas weekend, Biden took notice of long lines at testing centers that aired on television. It was, for Biden, another pandemic-related disappointment in a year that fell short of nearly everyone's expectations. A July 4 ceremony marking "Independence from Covid-19" was followed nearly immediately by a surge of the Delta variant. Biden said during a CNN town hall last February that he hoped by the Christmas holidays -- then still 11 months away -- "we'll be in a very different circumstance, God willing, than we are today." "A year from now, I think that there'll be significantly fewer people having to be socially distanced, having to wear a mask," he said then -- a goal that, at the time, seemed dully unambitious. The Bidens had once hoped to escape somewhere warmer for the week between Christmas and New Year's Day, as they usually did before the pandemic. But those plans were abandoned in mid-December, and instead the President's family requested a Christmas Eve at the White House. Before departing for Delaware, Biden spoke by video link to the nation's governors and assured them he was standing ready to provide support to states in need, even as he acknowledged shortcomings in his testing strategy. "It's clearly not enough," he said after listing which steps he has taken to ramp up test capacity. "If I had -- we had known, we would have gone harder, quicker if we could have." At the same time, the White House has begun a concerted shift away from focusing exclusively on case counts as a barometer for the pandemic, hoping to hone in on severity of cases as measured in hospitalizations. A CDC decision this week to halve the number of recommended isolation days post-infection -- driven in part by a desire to keep businesses running as employees become infected -- reflected a response increasingly attuned to living with a virus that shows no signs of disappearing completely. "If you're in office, you're accountable and you're always going to be subject to criticism. When you manage a pandemic, you're not running a popularity contest. You're trying to manage the situation so you minimize the amount of pain as much as possible and allow people to lead their lives," said Andy Slavitt, who was Biden's top pandemic adviser earlier in the administration. Still looming in the middle distance is Biden's first State of the Union, a moment advisers hope to use to define the first year of Biden's presidency on their own terms. Tentatively set for early February, the speech will also provide a chance to adjust expectations for the coming months. Work has already begun on the outline of the address. It could be Biden's final address to a Congress controlled in both chambers by Democrats, a matter of urgency if he hopes to pass the major items on his priority list. That includes protections for voting rights, an issue Biden has said has no equal when it comes to preserving American democracy. The coming weeks will prove critical for the push to safeguard access to the ballot, and Biden along with Vice President Kamala Harris -- tasked with leading on the issue from within the White House -- are planning a renewed drive to pass stalled pieces of legislation. That includes using the January 6 anniversary to call for greater democratic protections.

#### The aff is uniquely controversial with lobbyists

Dye 18, Commissioner of Federal Maritime Commission. (Rebecca, Oct 8, 2018, Remarks of Commissioner Dye, International Bar Association, Annual Conference 2018 International Bar Association Annual Conference, <https://www.fmc.gov/remarks-of-commissioner-dye-international-bar-association-annual-conference-2018/>)

It is a pleasure to be here this afternoon to discuss the Federal Maritime Commission’s approach to enforcing competition in the United States liner trades, and to explain why the Shipping Act does not shield liner companies from competition enforcement. Rather, it adds value to the global ocean freight delivery system. In that regard, my remarks today will focus on the Federal Maritime Commission’s review, evaluation and monitoring of strategic alliances. I’ll do that by addressing three questions: How does the FMC analyze alliance agreements under the Shipping Act of 1984 as amended by the Ocean Shipping Reform Act of 1998? What requirements and processes are involved in that analysis? How does the FMC monitor the behavior of alliances after the agreements are in effect? In 1995, I was Maritime Subcommittee Staff Director on the House Transportation Committee in the U.S. House of Representatives. My job was to develop and enact legislation in accordance with our member’s policy positions. With respect to Shipping Act reform in particular, my highest priority was to develop and enact legislation that would increase competition in liner shipping in U.S. trades. My view was that retaining a limited carrier exemption from the antitrust laws would not preclude a dramatic, effective increase in liner competition. At the time, the heart of U.S. shippers’ discontent with the Shipping Act of 1984 was that it supported what was known as the “conference system.” As many of you remember, liner companies joined together in rate conferences to propose collective rate increases. In addition, liner conferences had the legal authority to collectively regulate their members’ freight rates. In those days, service contract rates – like tariff rates — were, by law, publicly available. Which made it relatively easy for rate conferences to keep track of what their members were charging. It also allowed foreign competitors of U.S. exporters to see their freight rates, causing U.S. agricultural exporters, for example, to lose sales for pennies on the dollar. By the way, ending rate transparency’s negative impact on U.S. exports ultimately became the most persuasive argument for members of the United States Congress to support the Ocean Shipping Reform Act amendments. So, what American shippers wanted from any new legislation was: To preclude conference members from agreeing on freight rates and regulating member lines’ rates; To prevent the contracts that they negotiated with their preferred carriers from being subject to conference review; and To have their negotiated service contract rates and terms remain confidential. If it could be successfully enacted into law, repeal of Shipping Act’s antitrust law exemption may have been the obvious way to achieve those goals. But outright repeal of the exemption was sure to attract fierce opposition. And not just from lines that were conference members. Public port authorities, marine terminal operators, and longshore labor did not, for different reasons, support deregulation or reform. Fortunately, there was an alternative approach by which shippers could obtain the enhanced competition we wanted – even while allowing carriers to maintain a residual, limited antitrust exemption from mainstream U.S. antitrust laws. But not immunity from competition enforcement! Reform legislation could directly restrict conference rate authority and the ability to regulate member lines’ individual service contracts. In addition, making service contract rates and terms of service confidential would reinforce that restriction. I discussed this alternate approach that I favored with attorneys at the Department of Justice’s Antitrust Division – and they agreed to support it. One of the best days of my legislating life! The Department of Justice’s support was a major factor in the enactment of the Ocean Shipping Reform Act. Implementing restrictions on conference rate authority, and making service contracts confidential undercut liner companies’ efforts to achieve above market rates. And that proved to be the case even after “rate discussion agreements” replaced traditional conferences. The long years of failed general rate increase efforts, and the recent disbanding of the Transpacific Stabilization Agreement – the central rate discussion agreement in the US/Asia trade – is a clear example. In early February, the TSA ended its 29-year history – declaring that the “organization’s mission is no longer viable.” There was still a good deal of legislative give-and-take involved in getting the Ocean Shipping Reform Act enacted into law in 1998. But, in the end, the new rate authority restrictions, and the implementation of confidential one-to-one service contracts, succeeded in boosting competition in the U.S. liner trades. What’s more, the EC’s Directorate-General for Competition promptly adopted a nearly identical approach. They did so by declaring that the conference block exemption only applied to tariff rates – not service contracting. But, by then, carrier tariffs were already being eliminated as a pricing tool by the expanding use of service contracts. So, well before it began its review of the conference block exemption in 2003, DG-Comp had ensured that conferences in EU trades could not restrict the availability of individual, confidential service contracts. Thus, the Ocean Shipping Reform Act’s guiding principles went global – in the major East/West trades and the many North/South trades that originated in the US or Europe. Today, although the EU approach to liner competition and the US approach are not identical, there is a substantial degree of de facto harmonization. So, with that brief history as background, I’ll now turn to how the Commission ensures that shipping lines in general, and alliance members in particular continue to compete. The Shipping Act’s protections are divided into two sections that have their grounding in antitrust principles. Together they provide a balance that offsets the Act’s grant of limited exemption from antitrust laws. They are: Section 10 of the Shipping Act of 1984, which enumerates an extensive list of explicit prohibitions grounded in antitrust principles, such as unfair or unjust discriminatory practices, unreasonable refusal to deal (including boycotts), offering or paying deferred rebates, and others. And Section 6 of the Shipping Act, which contains the Federal Maritime Commission’s flagship competition law enforcement authority. Section 6 deals with filed agreements among common carriers in the foreign trades, including strategic alliance agreements. Section 6 also contains the Commission’s authority to seek an injunction to stop substantially anticompetitive agreements. Proposed alliance agreements, once they are filed with the Commission, are published to allow for public comment, and closely analyzed by our professional staff under what is known informally known as “The 6(g) Standard” after the relevant section of our organic statute. As enacted, Section 6(g) provides that: “If, at any time after the filing or effective date of an agreement, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, it may, after notice to the person filing the agreement, seek appropriate injunctive relief under subsection (h).” Subsection (h) allows the Commission to bring suit to enjoin the agreement in the U.S. District Court for the District of Columbia. But, Section 6(g) of the Shipping Act is very similar to section 7 of the Clayton Act of 1914, a central part of US antitrust law that prohibits mergers and acquisitions “the effect of [which] may be substantially to lessen competition, or tend to create a monopoly.” Along those lines, our review of the agreements filed with us – including strategic operational alliance agreements – employs the same type of analysis that the Department of Justice and the Federal Trade Commission conduct under the Horizontal Merger Guidelines and the Antitrust Guidelines for Collaboration among Competitors. As our colleagues at the Justice Department have noted: “Congress expressly gave the [Federal Maritime] Commission authority to protect the public from agreements that will result in an unreasonable increase in price or reduction in service. This charge parallels the goals of the antitrust laws: to protect the public from a reduction in competition caused by agreements that unreasonably increase market power, that is, the power to increase price or reduce output.” That commonality of purpose and approach is why I describe the Commission not as a traditional regulatory agency, but as a competition law enforcement agency — one with exceptional expertise in the structure and performance of liner shipping and marine terminal operations. In evaluating potential anticompetitive effects, we pay close attention to any potential for increased market concentration. Our approach is familiar to any competition attorney or official: Defining the relevant product and geographic market; Examining likely changes in market share and concentration ratios, including the assessment of market concentration using the Herfindahl-Hirchman Index; Determining whether or not there are barriers to entry; Assessing the number and strength of competitors, the state of the industry, and the agreement parties’ performance history; and Considering the likely consequences of any organizational and operational changes under the proposed agreement. The Federal Maritime Commission also considers the likelihood of beneficial effects that the agreement likely would produce – the benefits it would provide to shippers and any efficiencies it would introduce. Just as important — during the agreement review process, we also identify agreements that, because of their importance to U.S. liner shipping markets, the Commission should monitor on an on-going basis. Given their importance, the Big Three strategic alliances are among the agreements that we closely monitor. That process includes two meetings with the alliance parties each year – typically one face-to-face and the other by conference call. We also require each alliance to provide us with minutes from their executive committee meetings. And finally each alliance is required to provide us data on services, capacity, blank sailings, liftings (from which we calculate market share), vessel utilization and average revenue — for 9 US trades. The data is subject to statistical analyses of, for example, changes in average revenue. So, even after the initial review of new agreements or amendments, we keep a close eye on the alliances. And, so far, no red flags. Because the topic at hand is large carrier alliances and mergers — I want to emphasize a distinction that has been central to the Commission’s assessments of the Big Three alliances – 2M, OCEAN and THE Alliance. 2M includes Maersk and MSC and has a market share, based on capacity, of 32% globally – and roughly 31% in US-based trades. OCEAN Alliance is COSCO Group (including OOCL), CMA CGM, and Evergreen – with a global market share of 29.5% and 33% for U.S. trades. And THE Alliance – including Ocean Network Express, Hapag-Lloyd and Yang Ming –at 16.7% globally, and 23% in U.S. trades. The distinction I want to emphasize is the one between operational consolidation and market concentration. In the trade press, one often sees alliances described using the general term “consolidation.” Using the term “consolidation” for alliances can obscure the fact that “consolidating” participating lines’ vessel operations, but not their marketing and pricing, has very different consequences from “consolidating” the lines into one indivisible company. Because mergers and acquisitions eliminate a competitive rival, they increase market concentration – a potential concern for future anticompetitive market behavior. But when an alliance is established – rate competition continues among its members. There are just as many sellers of vessel space as there were before. Thus, there is no increase in market concentration. To the extent that alliances provide an alternative to mergers and acquisitions – or to a line declaring bankruptcy – they are a valuable option that is provided for under the Shipping Act. As things stand today, the shift from four to three strategic alliances has not increased market concentration in U.S. trades. And the Federal Maritime Commission, specialized in the global ocean freight delivery system, adds value by enforcing competition and insisting that, under the Shipping Act, there remains a place for beneficial agreements in U.S. liner trades. As for the prospects for greater operational consolidation – and, perhaps, greater market concentration – in the liner industry, I’m afraid that, given the current political and economic climate, further consolidation is more likely than not. In the longer run, industry experts like Lars Jensen, a Maersk alumnus and now CEO of SeaIntelligence Consulting, have speculated that when liner concentration reaches its end point – that is, when competition standards on concentration run up against the increased concentration that is seen as necessary for improved liner profitability – only 6 to 8 main global shipping lines will remain. Today, according to Alphaliner’s September monthly report, we have seven lines with global market shares of 5% or more – running from Maersk at 17.9% to Evergreen with 5.2%. Together those seven represent over three-quarters of the global market for liner vessel slots. So, if Mr. Jensen’s forecast does prove accurate, it may happen sooner than even he envisioned in his book entitled “Liner Shipping 2025.” Thank you for your kind attention.

#### PC is key to climate legislation. Loss of PC turns the cause through non-compliance and leads to war.

Sensiba 11-6-2020, MA @ American Military U, analyst @ Clean Technica (Jennifer, “Don’t Encourage Biden To Waste Political Capital,” *Clean Technica*, [https://cleantechnica.com/2020/11/06/dont-encourage-biden-to-waste-political-capital/)](https://cleantechnica.com/2020/11/06/dont-encourage-biden-to-waste-political-capital/)//BB)

If we want clean energy to succeed in the upcoming Biden administration, we have to (a) be realistic, and (b) fight like hell to keep him focused on it as much as possible. Political capital is scarce, and the threats to our future from climate change are real, so allowing the various Democratic lobbies to suck all of the oxygen out of the room is not an option. Here’s a quick rundown of the problem and some ideas on what we can do to help clean energy win. It’s All About Political Capital In short, political capital is a way to think about political power in democratic countries. Yes, winning elections does give some political power, but you can’t effectively use it unless you have coalitions, alliances, trust, goodwill, and influence. Your earned trust and connections are like money (capital). You can work hard to earn it and build it up, but it’s easy to spend it and even waste it, just like money. If you get power from an election and then quickly spend all of the political capital impressing loyalists, you’ll get to the point where you can’t win future elections (Trump is a great example of this), can’t get votes together for legislation, and can’t get people to help you in a variety of other ways. At worst, a political leader who has run completely out of political capital might not even be able to get normal citizens to follow laws. As the consent of the governed is withdrawn, you see protests, riots, violence, terrorism, and even war. For better or worse, Biden won’t start out with much political capital to begin with. After a narrowly won election, not taking the Senate (because many voters rejected Trump but voted for Republicans further down the ballot), and then extended accusations of cheating, it’s not going to be easy to get things done. Earning More Political Capital Is Essential To get more political capital, Biden will need to find ways to heal the rifts after the election. This is true after any election, but the job is going to be that much harder in 2021. While there’s a segment of the population that will never accept a president of the opposite party, there are still plenty of reasonable people who will need to be won over (at least a little). If we want Biden to succeed, we need to not take part in divisive politics. Don’t rub Trump fans’ faces in it, as tempting as that can be. Be nice to people on social media, even if they’re hurt or feeling pain over the loss of an election. Try to understand that people have whipped up many people into fear of a Democratic president, and cut them some slack. Do anything you can to discourage “sore winners” next year. Don’t Encourage The Don Quixotes To Waste It On The Impossible There are things that simply aren’t possible with a Democratic president and a Republican Senate. No matter how badly people might want an expansive Green New Deal, gun control, high taxes on the rich, and other such things, it’s just not going to happen. Like Don Quixote, a fictional senile old man who tried to fight imaginary monsters (who were, in reality, windmills), there are people in the Democratic Party who would gladly waste what little political capital is available on their quixotic quests. If it’s not going to happen, it’s not harmless to try anyway, or even to make a bunch of noise about it. Everything has a cost, and the cost of pushing these policies is that policies you could get passed into law don’t happen. Executive Power Is Expensive While Trump abused executive power frequently, don’t be tempted by calls for Biden to take revenge and do the same thing. The short term gains may be enticing, but the longer term costs are much bigger than they might appear to be at first. Trump found out the hard way that pushing for things like the border wall, fights against LGBT rights, and attempts to prop up the failing coal industry alienates reasonable people. It’s easy to say “Trump did it! We can too!”, but don’t forget that was part of his undoing. The worst thing a President Biden could do is use unconstitutional executive orders for something divisive like gun control. Yes, Trump actually did this, because he thought it would make him look good after the Las Vegas shooting, but it divided his own supporters. Loyalists made excuses or claimed it was part of some elaborate game to “beat the libs,” while people who really believed in gun rights deeply lost trust in Trump. Make no mistake, a Democratic president doing this would quickly earn the hostilities of both camps and suffer a deeper cost than Trump did. That’s just one example. There are many other little regulatory things a President Biden could do to put the screws to Republicans, but in most cases it simply isn’t worth it when we need real legislation to get the job done. Focus On The Possible! The best way to make actual progress on clean energy is to look for ways to find common ground with part of the Republican Party. Libertarian-leaning Republicans are big on free markets, and don’t like things like tariffs and subsidies. One way to put renewable energy on better footing would be to cut fossil fuel subsidies, and that’s something you’d find Republican supporters for. Tariffs that drive up the cost of solar panels are another target that you’d find Republican allies against. Another possible source of Republican support comes from Republicans concerned with national preparedness and energy security. American cars (e.g., Tesla vehicles, the Nissan LEAF, the Chevy Bolt, the Ford Mustang Mach-E) that run on American fuel (electricity) would have been a Republican dream in 2005, and definitely could be today. Add in that you can generate the fuel at home, store it safely, and enable broad swaths of the public’s homes and most key facilities to run uninterrupted when the power goes out, and you have an emergency preparedness winner. Solar roofs and Powerwalls are also great for preppers and homesteaders, many of whom are Republicans. I’m sure with some creativity we can come up with many other ways to make real progress on renewable energy, but it’s going to take goodwill, trust, and lots of healing to get there. Be sure to be part of that solution.

#### Political capital is real. Overwhelming empirics.

Siewert 18, PhD, dissertation to obtain the degree of Doctor of Philosophy in the Faculty of Social Sciences of the Johann Wolfgang Goethe University to Frankfurt am Main (Markus, “"It’s Never Easy for the President to Get Exactly What He Wants,” [https://d-nb.info/1164077325/34)](https://d-nb.info/1164077325/34)//BB)

One of the most important presidential strategies in the legislative arena is (trying) to set the agenda of Congress (see Wood 2009 for an extensive overview; Cohen 2012; Edwards and Wood 1999; Light 1999). The reasoning behind this is straightforward: Since presidents have only few tools at hand to sway lawmakers on how they cast their ballot, the focus of the White House is set at an earlier stage: by already influencing what is considered in the first place. Compared with the legislative prevalence of executives in parliamentarian democracies, presidents in the United States are clearly less able to dominate the agenda space. Yet based on his constitutional right to recommend legislation deemed necessary and appropriate (Art. II, Sec 3, U.S. Constitution), it is primarily the resources of the executive branch - i.e., the departmental bureaucracies, and the Executive Office of the President - which put the president into the position to exert policy leadership via drafting legislative proposals. Unmatched by any other single legislators or even Congress as a whole, John W. Kingdon is right to argue that “[…] no other single actor in the political system has quite the capability of the president to set agendas.” (Kingdon 2003, 24). Previous research has shown that defining the agenda is a promising strategy for the White House. Presidential initiatives, both major and minor ones, almost always find their way into the legislative hopper (Cameron and Park 2008, 51f; Cohen 2012, 24ff; Edwards and Barrett 2000, 116ff). Accordingly, legislation proposed by the administration makes up between 30% and 50% of the congressional calendar, while the remaining proportion is initiated by members of Congress, is based on recurring pieces of legislation, and are reaction to external events or imminent crises (Edwards and Barrett 2000, 112ff; Taylor 1998, 377ff; Theriault 2002). While this indeed makes the president the single most important agenda-setter, it also demonstrates that he does not dominate the legislative agenda of Congress (Sinclair 2006, 255–63). We can mainly identify three mechanisms how presidential agenda-setting affects the lawmaking process in Congress. First, it enables the president to define the boundaries of policies under consideration, and in this way to structure the following deliberation. In this sense, agenda setting is first and foremost about obtaining the Deutungshoheit - i.e., the prerogative of interpretation - over the policy debate through setting the terms of the debate, moving first on certain policy aspects, and via framing and priming of core arguments (Edwards and Wood 1999; Eshbaugh-Soha and Peake 2005). George W. Bush, for instance, during his 2000 presidential campaign advertised his plans for massive across the board tax breaks which, at that time, were perceived as a mere “pipe dream” on both sides of the political spectrum (Milbank 2001). Cutting taxes, and especially to this extent, did not rank high among the priorities of lawmakers nor the American public. The arrival of Bush in the White House, however, completely changed the dynamics of debate. It put the tax cut proposal upfront of the legislative agenda during his first half year as president, and Democrats in the end had to accept an amount of tax breaks which came up to more than double of what they called reasonable six months before during the election campaign. Bill Clinton, on the other hand, was largely rolled by the issue dynamics in the debates regarding the overhaul of the Internal Revenue Service in 1997. Favoring only minor reforms, he had to concede early on to pressures from the public and Congress who, fueled by several major scandals, thirsted for a largescale reorganization of the IRS instead of a fine-tuning approach preferred by Clinton (Broder 1997). Of course, these are only two illustrations highlighting how presidents can succeed but also fail in setting the tone of the debate from early stages and through this pre-structure the outcome of the lawmaking process. Second, presidential leadership at the agenda-setting stage helps to overcome collective action problems within Congress and among its 535 legislators by providing a focal point around which other political actors’ policy positions can crystalize (Cameron and Park 2008; Cohen 2012; Neustadt 1991, 8f). The USA PATRIOT Act can serve as a prime example in this regard, on which the New York Times stressed that “[b]y and large, the House and Senate bills both use as a starting point a proposal sent to Capitol Hill nearly two weeks ago by the White House.” (Lewis and Pear 2001). Since lawmakers in Congress today only have scarce resources to draft their own bills, presidential input from the beginning is often highly appreciated. Yet, a proposal from the White House furthermore fulfills the role of first mover draft upon which the subsequent debate can be structured. In this sense, it both offers a distinct policy outline upfront and provides guiding posts for the further deliberation process. Third, agenda-setting offers the White House the opportunity to highlight its priorities, how they are distributed across various policy issues, and in which way policies should be packaged (Rudalevige 2005, 437ff; Wayne 2009b, 317ff). Because the resources of any administration to lobby Congress are not infinite and the multiple political arenas are usually heavily crowded with myriad policy items and problems striving to be solved, the White House needs to prioritize its policy agenda. This involves, among other things, to select some issues over others, decide about their sequencing, how to pursue them, and how much political capital it wants or needs to spend on any given item. Therefore, the administration will focus on certain policies with more attention, on others with less, depending on the prioritization by the president but also upon other considerations, such as the overall density of the policy agenda or imminent pressures of the time. The trick is to not overwhelm Congress with the president’s initiatives. As Lyndon B. Johnson famously quipped, “Congress is like a Whiskey drinker. You can put an awful lot of whiskey into a man if you just let him sip it. But if you try to force the whole bottle down his throat at one time, he’ll throw it up.” (cited in Rudalevige 2002, 113). Thus, the failure to prioritize easily leads to overload of Pennsylvania Avenue with Congress at the one end, and to excessive demands and exhaustion for the White House at the other end. The rocky start of the Clinton administration underlines this argument: since the White House did not pursue a ‘rifle-approach’ to define clear policy priorities for its initial months and then execute them, it got lost in numerous legislative battles and mine-fields early on in its first year. Instead it followed a ‘shotgun-approach’ by addressing as many issues as possible at once leading to an overkill and chaos (Rockman 1996; Sinclair 2000b).