# 1NC

## 1NC — Off

### 1NC — CP

#### First is the European Union 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 — DA

#### Next off is the International Unity DA —

#### The West is unified in response to Russia---but, successful response relies on maintaining strong relations and close economic coordination with democratic allies. Putin exploits any divisions.

Daalder 3-1-2022, President of the Chicago Council on Global Affairs and served as U.S. Ambassador to NATO from 2009 to 2013 (Ivo, “The Return of Containment,” Foreign Affairs)

To succeed, the new containment policy must be embraced by all Western allies—in Europe, in North America, and even in Asia. Russia, like the Soviet Union before it, is keen to exploit divisions within and between democracies. It has interfered in elections for years and supported far right politics in Europe and beyond. It has used bribes and Western energy dependence to divide Europe. Putin saw the divisions within NATO sown by U.S. President Donald Trump during his four years in office, and the disagreements over Afghanistan and submarine sales to Australia that occurred since, as evidence that the West was weak and divided. Now, he likely thought, was the time to strike.

Putin was wrong. The West has been remarkably unified in its response. Even before Russia’s attack, Western unity within NATO and beyond had solidified. The Biden administration, perhaps learning from its Afghanistan stumbles, did a superb job of bringing its allies together by sharing information, consulting frequently, and demonstrating tough, determined leadership. The result has been significant: strong sanctions, bolstered deterrence, and total political solidarity with Ukraine.

To preserve this unity, the United States, which has once again emerged as a leader of the West, will need to carefully listen to allies and be willing to change course to keep everyone on board. There will be times when internal divisions will raise questions about the solidity of the coalition. During the Cold War, NATO seemed to be in perpetual crisis—except when it mattered most.

An important difference between the Cold War era and today is the status of China. No longer a bit player on the global scene, Beijing has emerged as the Washington’s biggest competitor and largest geopolitical challenger in the Indo-Pacific and beyond. The Ukraine crisis emerged at a moment when the relationship between Russia and China has become particularly close. Their leaders have met 38 times since Xi Jinping became president of China in 2012, including most recently at the opening of the Winter Olympics. There, they issued a joint statement noting that their partnership had “no limits.” Far from condemning Russia’s invasion of Ukraine, Beijing has blamed the United States and NATO for taking insufficient account of Russia’s security interests.

Beijing’s pronouncements, however, contained an undercurrent of unease with Putin’s moves. The joint statement was notably silent on Ukraine, and official statements have consistently stressed China’s principled commitment to sovereignty, territorial integrity, and noninterference in the internal affairs of other nations. China abstained on a UN Security Council Resolution condemning Russia, rather than joining Moscow in voting against. And Beijing has never recognized Russia’s annexation of Crimea, suggesting it may keep an open mind on the future of Ukraine. There is scope, therefore, for quiet diplomacy to gauge whether Beijing might be persuaded to help put pressure on Russia.

Even if Beijing has its doubts, however, it is hardly in its interest to help the United States against Russia. Indeed, Chinese leaders no doubt welcome the U.S.’s renewed preoccupation with security in Europe because it gives Beijing more freedom of maneuver in its own region. China is also likely to help alleviate some of the economic consequences of sanctions for Russia, though there are limits to how much it can do, especially on the financial side, where transactions largely remain the domain of western currencies from which Russia has now been banned.

Containing Russia will therefore require paying attention to China. One way to increase the West’s leverage over Beijing would be to strengthen the political, economic, and military ties between the advanced democracies in Asia, Europe, and North America. An expanded G-7, for example, could include Australia and South Korea as well as the involvement of the heads of the EU and NATO. These nations and organizations will need to devise common strategies and policies not only to contain Russia but also to compete effectively with China.

February 24 was a turning point in history. Democratic powers of the West are once again called upon to defend a rules-based order that has been violently uprooted. Fortunately, the Western powers possess the innate strength necessary to contain Russia and outcompete China for influence across the globe. The only real question is whether they have the will and determination to do so in unison.

#### Empirically, removing the exemption causes massive international backlash — the immunities they remove were created in order to respect international sovereignty and was born out of foreign backlash — this does not apply to status quo enforcement because it is not challenging the exemption

Cecil 85, Attorney and Mediator, (Martha, "The Shipping Act of 1984: Bringing the United States in Harmony with International Shipping Practices," Penn State International Law Review: Vol. 3: No. 2, Article 4. Available at: http://elibrary.law.psu.edu/psilr/vol3/iss2/4Martha L. Cecil)

The Shipping Act of 1984 substantially alters United States policy toward international shipping. The United States is now much more in harmony with international shipping practices than it was under the 1916 Act. Limitation of extraterritorial application of United States antitrust laws to foreign carriers, through abolition of private treble damage actions and otherwise, is a significant concession to the complaints of foreign governments. The new Shipping Act, however, is still not in complete harmony with international shipping practices. The United States and the Federal Maritime Commission must be careful, particularly in assessing penalties against foreign nationals for conduct that occurs outside the United States that is not illegal in their own countries. An extremely stringent application of United States shipping laws abroad could cause foreign governments to retaliate in forms more drastic than the simple blocking laws of the past.232 Ultimately, all the cooperation the United States Government seeks, and indeed needs, to regulate United States shipping industry under the 1984 Act could be jeopardized.

#### A coordinated global response leads to effective sanctions coordination. Solves escalation.

Fishman 2-28-2022, Nonresident Senior Fellow at the Atlantic Council and an Adjunct Fellow at the Center for a New American Security. He served as a member of the Policy Planning Staff and as Russia and Europe Sanctions Lead at the U.S. Department of State from 2014 to 2017. CHRIS MILLER is an Assistant Professor at the Fletcher School and Jeane Kirkpatrick Visiting Fellow at the American Enterprise Institute. (Edward and Chris Miller, “The New Russian Sanctions Playbook,” Foreign Affairs)

After Russian President Vladimir Putin launched a full-scale invasion of Ukraine last week, U.S. President Joe Biden made good on his threat to impose “swift and severe consequences” on Russia’s economy. His administration has enacted a set of sanctions far stronger than those deployed in 2014, after Moscow’s last incursion into Ukraine. This latest package includes sanctions on Russian banks, debt and equity restrictions on state-owned enterprises, and unprecedented multilateral export controls designed to cut Russia’s high-tech imports in half. These sanctions, coupled with similar measures from the European Union and other U.S. allies, will accelerate Russia’s isolation from the global economy. Such moves, however, are not a sign of policy success—despite the impressive transatlantic diplomacy. On the contrary, they represent a failure to deter Putin from invading Ukraine. It is possible that the threat of sanctions failed because Putin was determined to invade regardless of the cost. It is also possible that Putin underestimated the damage that Western sanctions would cause. The 2014 measures sent Russia’s economy into a tailspin, but the country stabilized after several years. Just because threatening sanctions failed, however, doesn’t mean the United States should abandon them altogether. Beyond exacting a price for military aggression and signaling solidarity with Ukrainians under fire, punitive economic measures can demonstrate to Russian elites and society that Putin’s imperial fantasies have costs. Declining living standards and diminishing prospects could, in turn, weaken Putin’s domestic base of support, siphoning attention and resources away from foreign policy. Over the long term, economic penalties can also degrade Moscow’s ability to project power abroad. With Russia’s army already deployed across Ukraine—and little prospect for a dramatic shift in Russian foreign policy while Putin is in office—sanctions are now less a tool of behavioral change than one aimed at economic and technological attrition. Their primary objective is no longer to deter Moscow from taking particular actions but to drastically alter the trade and investment links between Russia and the United States and its allies—to the latter’s geopolitical advantage. THE FIRST WAVE The United States and its allies had sanctions ready to go within hours of Putin’s decision to move troops into Ukraine. In the weeks before these measures were announced, the Biden administration hinted that it would target Russia’s state-owned banks and impose a bevy of technology-related export controls. It has actually gone further than that, imposing debt and equity restrictions on large state-owned enterprises in virtually every important sector of the Russian economy, including gas, diamonds, and rail transport. The most impactful sanctions, however, have been the penalties Washington levied on Russian financial institutions. On Tuesday, after Putin recognized two breakaway regions in eastern Ukraine, the Biden administration implemented “full blocking” sanctions—a complete asset freeze and transaction ban—on VEB.RF, a bank that operates as a Kremlin slush fund with over $50 billion in assets. This marked the first time the United States had used its most fearsome sanctions cudgel against a major Russian state-owned bank. On Thursday, after Putin ordered a full-scale invasion, Washington used that cudgel again against VTB, Russia’s second-largest bank. It also imposed a transaction ban—a less draconian but still significant limitation—on Sberbank, which is by far Russia’s largest financial institution. Through it all, the EU has remained in lockstep with the United States, levying a similar array of restrictions on Russia and agreeing not to certify the Nord Stream 2 pipeline carrying natural gas from Russia to Germany. U.S. and EU sanctions will undoubtedly intensify in the days and weeks ahead. Over the weekend, for instance, Canada, the United Kingdom, the United States, and the EU announced their intention to enact new measures targeting Russia’s central bank and kicking certain Russian banks off SWIFT, the interbank messaging system. Although the United States and its allies have not yet unveiled the details, these actions, in their most ambitious form, would amount to a virtual financial embargo of Russia. Putin has amassed more than $600 billion in foreign currency reserves, but a significant share of that pile could become unusable if the United States and Europe imposed severe limitations on the country’s central bank. Such measures were unthinkable a week ago. That they are coming soon indicates just how rapidly attitudes are shifting in the United States and Europe as Putin’s war gets uglier. Sanctions are now aimed at economic and technological attrition. Still, the recently imposed U.S. and EU sanctions on Russia are not as comprehensive as those in place against Iran. At present, only one of Russia’s five largest banks is subject to full blocking sanctions. By contrast, all major Iranian banks, including the Central Bank of Iran, are fully blacklisted. All major Iranian state-owned enterprises, including the National Iranian Oil Company, are also under full blocking sanctions. Critically, the United States has also used the threat of so-called secondary sanctions—measures targeting third parties that transact with sanctioned entities—to drastically reduce Iran’s oil exports and isolate Tehran almost entirely from the global economy. No such sanctions are currently in place against Russia. Thus far, U.S. and EU measures against Russia have focused on the country’s financial sector while largely sparing its energy industry. Tough sanctions on oil and gas sales, by far Russia’s most valuable exports, will be politically difficult because markets are tight and the Biden administration worries about the impact on domestic gasoline prices and inflation. The EU, meanwhile, needs Russian gas to make it through the winter. Washington and its allies are therefore likely to max out sanctions on Moscow’s banking sector before considering measures that target the energy sector directly. Nevertheless, the Ukrainian government and much of the international media have fixated on cutting Russia off from SWIFT. In truth, however, it would make little sense to cut Russia off from SWIFT unless the United States and others had already sanctioned the country’s major financial institutions. Severing SWIFT access first, without imposing maximal banking sanctions, would perversely increase demand for SWIFT alternatives, including Russia’s own interbank communications network. Because SWIFT is a communications mechanism, rather than a tool for transferring actual funds, international banks would also still be permitted to engage with their Russian counterparts; they simply couldn’t use SWIFT to facilitate their transactions. Sweeping sanctions on the Russian banking sector should therefore precede a SWIFT ban. This approach appears to be the preferred U.S. and European course of action, as states begin imposing SWIFT bans on specific sanctioned banks instead of a blanket prohibition on Russia. A NEW SANCTIONS CALCULUS As U.S. and EU sanctions intensify, Russia’s economy will undoubtedly suffer. The country’s stock market and the ruble will plumb new lows, inflation will jump, and financial distress will set in. Living standards will fall, and economic disruption might pressure Putin to end the war. In such a hopeful scenario, Washington and others should be prepared to relieve some of the most draconian sanctions. But this is not an outcome the United States and its allies can count on. What Washington and others can count on, however, is that sanctions will worsen Russia’s position in its long-run competition with Western countries—reducing Moscow’s overall ability to fund its military and project power. Sanctions can facilitate this process in several ways. For one, financial penalties will slow Russia’s economic growth. The country’s economy will probably shrink this year due to Washington’s and Brussels’s existing sanctions. By throwing a wrench into the Russian financial system and further cutting Moscow off from international capital markets, the sanctions will reduce overall investment, dragging down the country’s long-run growth rate. Sanctions will also impose some costs on Western countries, too, which policymakers can’t ignore—including higher prices for Russian commodity exports such as oil, gas, and many types of metals. Nevertheless, the U.S. and European economies combined are more than 20 times as large as Russia’s economy. Even if sanctions imposed equivalent costs on them and on Russia—and usually, they hit Moscow far harder—Russia still would end up substantially worse off in relative terms. Another way that sanctions can limit Russia’s ability to project power is by complicating Putin’s domestic calculus. Escalating economic discontent at home could spur the Kremlin to shift resources away from its military and foreign policy priorities and toward supporting living standards. Even if no such shift occurs, Putin’s domestic position will inevitably become more tenuous. Over the past decade, the Kremlin has presided over declining living standards, in large part because sanctions-induced stagnation has made it impossible for Moscow to support both domestic prosperity and an expansive foreign policy. Putin’s popularity has declined meaningfully as a result. The more attention the Kremlin devotes to controlling domestic politics, the fewer resources it has for further aggression abroad. Sanctions can limit Russia’s ability to project power by complicating Putin’s domestic calculus. Finally, sanctions and export controls can limit Russia’s ability to produce and develop advanced military equipment. Moscow is immensely reliant on foreign technology—including machine tools, software, and semiconductors—and Russia already struggles to produce large quantities of certain military equipment such as precision munitions. U.S. limits on technology transfers to Russia following the Kremlin’s 2014 invasion of Ukraine, for instance, caused painful delays across Russia’s military-industrial complex, including the manufacture of its global positioning GLONASS satellites.

#### The impact is nuclear world war 3

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Will the Ukraine Crisis Spark World War III?

All parties owe it to themselves, their citizens, and the world to avoid an armed conflict that could accidentally escalate into World War III. Time is growing short.

Vladimir Putin’s rhetoric demands another Munich with Joe Biden capitulating, but Biden can’t and won’t oblige. But then the president predicted armed conflict. These smart leaders are better than that, and both need to avert an avoidable war. What both sides need is a grand strategy that redefines relations between the West and Russia, gives each what its pride and security interests require, and averts a conflict that could escalate into World War III. A key aspect of the U.S. posture is to stop reacting to Putin’s threats and shift to a pro-active posture to resolve the crisis, proposing actionable ideas that work for all sides. The talk is about deterrence, but the United States wants action from Russia that advances U.S. security interests just as Russia wants to advance its own. What plausible strategies might work for all the parties? Here are areas to consider for where the parties might find common ground and avoid war. If one characterized Dwight Eisenhower’s grand strategy as “containment,” this one seems to qualify as “equilibrium.” That notion doesn’t view Russia as a friend or ally. Let’s move beyond personalities and strike a balance for a stable order in Europe rooted in longer-term state-to-state relationships. Containment grasped that the Soviet Union had expansionist ambitions. Ike rightly rejected co-existence and worked to defeat communism. Russia wants to revive its Soviet sphere of influence, but it offers no ideology, and while seeking global influence as a great power, lacks communist imperial ambitions. A realistic coexistence rooted in strength makes sense for a united West, led by the United States, NATO—with its military focus—and the European Union—with its political focus. Achieving that goal will enable the West to direct fuller attention to its main challenges, particularly those posed by China’s ambitions. Russia Nationalism and hubris drive Putin to regain Russia’s influence and control over its former sphere. Putin views the Maidan Revolution that overturned a pro-Russian government in Ukraine as a U.S.-sponsored color revolution forming part of a scheme to oust him from power. Regime preservation is always Putin’s number one goal. While misguided, his fears help explain his tactics. Putin’s perception of the facts, not the facts themselves, governs Russian actions. A stable framework between Russia and the West might embrace the following ideas: First, assurances that neither Ukraine nor Georgia will become members of NATO. These nations enjoy no right to join NATO; membership is invitation only. Western security interests don’t require making them NATO members, and the West need not insinuate them so closely that Russia feels the relationship amounts to membership. Ukraine could accept a status similar to Austria’s. Austria is a democracy that does business with all sides and maintains its independence. Such status won’t harm the West, and would remove the threat that Putin most complains about. Ukraine needs to be a part of that negotiation. Second, some believe that Putin fears a successful democracy in Ukraine will spur knock-on consequences in Russia that undermine his regime. Unless he wants a real war, Putin is going to have to get real about this politically. He’s popular at home and may remain so unless Russians see lots of body bags coming home. That’s a more serious threat along, potentially, with Russia’s inept response to Covid-19. Third, Putin wants the United States to avoid meddling in Russian internal politics. Let’s be realistic. The United States rightly hit the roof over Russian meddling in U.S. elections. Putin has angered Europe by using weaponized social media and other hybrid warfare tactics to create political disruption and undercut NATO and the EU. But as Russia points out, no nation meddles in other countries’ politics as much as the United States does. One way forward may lie in a mutual agreement that the West and Russia will each stop meddling in one another’s internal affairs. Fourth, Putin would like to turn back the clock. He’s going to have to get real about that. Corruption and the failure of communism defeated the Soviet Empire, not the West. He led Russia to economic progress for the first part of his tenure. He needs to recognize that this record lights his way ahead, not armed conflict. Finally, Putin wants respect as a great power equal. One sore point for him is history. He feels that the West refuses to acknowledge that Russia fought most of the ground war against Germany during World War II and suffered the most casualties. He’s quite emotional about the issue. Addressing pride and nationalism is a matter of diplomacy. Working that out may not be easy, but the goal is achievable. In the meantime, if Putin wants more credit for Russia, Russian historians need to translate their work into English and publish in the West. The West The United States should require quid pro quos from Russia. First, as noted above, both sides must commit to cease meddling in one another’s politics or internal affairs. Second, Russia must commit to avoiding using the Nord Stream II as political leverage to influence European politics. Diplomacy must work out what that means in practice. Third, Russia must recognize that the West is acting with a united front through the United States, NATO, the EU, and the parties. The United States must make clear the West will do whatever is required to honor NATO’s Article V obligations. That includes boosting current military strength in Europe, especially airpower, which can be strategically positioned fairly rapidly. We feel clear lines of communication with Russia can help avoid confusion or cause miscalculation. Issues such as missile deployments have to be negotiated. Fourth, Russia must gain control over and crackdown on criminal cyber hacking in the West by the Russian state, its proxies, so-called “patriotic hackers,” and transnational criminal groups operating from Russia. Moscow’s attempts to disclaim such groups are nonsense and the West shouldn’t give credence to such efforts. Finally, and this is a matter for diplomacy that would take time to play out, Russia and the West should try to find common ground that recognizes the existential threat posed by China’s ambition to establish global military and economic supremacy by 2049. China’s achieving that ambition would pose an existential threat to both sides. Russia won’t join the West in an alliance against China, but the West can also influence Russia against allying with China against it. From the Western perspective, any deal has to stick. President Ronald Reagan once said that in dealing with Russia, “trust but verify.” That was a Russian proverb. If Russia plays fast and loose with a deal or breaks it, all bets are off and the West should move aggressively to protect its security interests, politically and militarily. That includes providing Ukraine with essential military support for defense. Matters are obviously more complicated and nuanced, but these ideas seem common sense and may help inform a framework for negotiation. For the United States, the Biden administration should seek bipartisan consultation and support so that the United States can present a unified front. We feel Russia perceives strategic weakness in the polarization evident in U.S. politics, and unity on Russia would strengthen the U.S. hand in dealing with Russia. All parties owe it to themselves, their citizens, and the world to avoid an armed conflict that could accidentally escalate into World War III. Time is growing short. It’s time to move out.

#### Independently, respect for sovereignty is high now---new sovereignty disputes lead to great power war and collapse interdependence — turns the aff

Walt 20, professor of international relations at Harvard University (Stephen, “Countries Should Mind Their Own Business,” *Foreign Policy*, <https://foreignpolicy.com/2020/07/17/sovereignty-exceptionalism-countries-should-mind-their-own-business/>)

What we are seeing, in short, is a reassertion of sovereign independence on the part of great and small powers alike. The Westphalian model of sovereignty has never been absolute or uncontested, but the idea that individual nations should be (mostly) free to chart their own course at home remains deeply embedded in the present world order. The territorial state remains the basic building block of world politics, and, with some exceptions, states today are doing more to reinforce that idea than to dilute it. Although there are clearly areas where our future depends on states agreeing to limit their own freedom of action and conform to global norms and institutions, greater respect for sovereignty and national autonomy has some obvious benefits. First, states that interfere in foreign countries rarely understand what they are doing, and even well-intentioned efforts often fail due to ignorance, unintended consequences, or local resentment and resistance. A stronger norm of noninterference could make some protracted conflicts less likely or prolonged. Second, trying to impose a single model on other countries inevitably raises threat perceptions and increases the risk of serious great-power conflict. The Westphalian idea of sovereignty was created in part to address this problem: Instead of continuing to fight over which version of Christianity would hold sway in different countries (one of the key drivers of the wars that preceded the Westphalian peace), European states agreed to let each ruler determine the religious orientation of their realm. Similarly, a powerful state’s efforts to shape the domestic arrangements of another country will inevitably be seen as threatening by the target: Just look at how Americans now react to the possibility of Russian interference in our political system. Third, creating a more stable international economic order while preserving most of the benefits of trade and comparative advantage will require fashioning trade and economic arrangements that permit great national autonomy, even at the price of slightly lower global growth rates. Not only might this reduce the risk of global financial panics, but allowing individual states greater freedom to set the terms of their international economic engagement could also reduce the anti-free trade backlash that is currently fueling costly trade wars. Finally, a world in which a single political and economic model prevails is probably impossible anyway, at least for the foreseeable future. To believe that one size could fit all ignores the enormous diversity that still exists in the world and the powerful tendency for ideas and institutions to morph and evolve as they travel from their point of origins. Take pop music: Elvis Presley creates a new amalgam of rhythm and blues, gospel, and rockabilly (with a jolt of testosterone), his influence arrives in England and helps inspire the Beatles, who lead the “British invasion” of America in the 1960s, which then combines with Bob Dylan and the folk music movement to create the sound of groups like The Byrds. Or look at how Lin-Manuel Miranda combined hip-hop with his deep appreciation of traditional Broadway styles to create something new like Hamilton. These examples just scratch the surface of how music changes when different cultural streams begin to interact; I could just as easily have cited examples from Africa, Latin America, the Middle East, or the Silk Road. Because humans are boundlessly creative social beings who resist conformity, and because no social or political arrangements are ever perfect, dissidents will always arise and contending visions will emerge no matter how fiercely they are repressed. Institutions created in one place may travel to other locations, but they will mutate and evolve in the process and exhibit different forms wherever they take root. And that’s why I’ll raise two cheers for the (partly) sovereign state. A world made up of contending nationalisms is hardly a utopia, with the ever-present possibility of conflict and war and many obstacles to mutual cooperation. But trying to fit a diverse humanity into a uniform box is doomed to fail—and no small source of trouble as well. Even if we hold certain values to be sacred and are tempted to act when other states violate them, continued respect for boundaries and sovereignty is also a norm that can keep simmering rivalries in check. Libya would not have multiple powers interfering in it today had Britain, France, and the United States not decided to meddle there back in 2011. As A.J.P. Taylor once archly observed, leaders in the 19th century “fought ‘necessary’ wars and killed thousands; the idealists of the 20th century fought ‘just’ wars and killed millions.” Looking ahead, greater respect for national sovereignty and fewer efforts to force the whole world into one way of living will help emerging rivalries stay within bounds and help countries with very different values cooperate on those critical issues where their interests overlap.

### 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 — CP

#### Next is the Uniqueness CP —

#### The Department of Justice and Federal Maritime Commission should cease antitrust enforcement of container shipping, and end all current investigations.

#### That generates uniqueness for the case turns BUT doesn’t hurt the presumption argument.

## 1NC — Supply Chains

### 1NC — Presumption

#### The aff’s impacts are being solved in the status quo BUT it doesn’t thump the DA because it doesn’t remove the exemption —

#### The DOJ and FMC are already ramping up enforcement

Seward & Kissell 3/2/22, Law firm specializing in antitrust. (Federal Maritime Commission and Department of Justice Announce New Steps to Strengthen Antitrust Enforcement Efforts in the Shipping Industry, <https://www.sewkis.com/publications/federal-maritime-commission-and-department-of-justice-announce-new-steps-to-strengthen-antitrust-enforcement-efforts-in-the-shipping-industry/>)

Building on our July 2021 alert regarding the signing of the first interagency Memorandum of Understanding (“MOU”) entered into by and between the Federal Maritime Commission (“FMC”) and the Department of Justice (“DOJ”), the DOJ and FMC on February 28 issued a joint release announcing additional steps that each agency would take to strengthen their partnership and support efforts to enforce the antitrust laws of the United States, reflecting their ongoing focus on promoting competition in the shipping industry. In press releases posted to each agency’s website, the Antitrust Division of DOJ and the FMC disclosed that “the Justice Department will provide the FMC with the support of attorneys and economists from the Antitrust Division for enforcement of violations of the Shipping Act and related laws” and that “the FMC will provide the Antitrust Division with support and maritime industry expertise for Sherman Act and Clayton Act enforcement actions.” This interagency initiative highlights an increasing level of sophistication and an ongoing focus by both DOJ and FMC to investigate and enforce violations of the Shipping Act and the antitrust laws of the United States. Simultaneously, the White House also on February 28 released a companion fact sheet that highlights ongoing enforcement efforts by the Executive Branch, with a particular focus on ocean carrier companies and alliances that operate in the container shipping industry. The fact sheet includes criticism of ocean carrier detention and demurrage fees and price increases, and contends that certain ocean carrier business practices have contributed to supply chain disruptions and port congestion. The fact sheet also notably states that the FMC will continue ramping up oversight of the global ocean shipping industry, and seeks additional reforms that “address the current antitrust immunity for ocean shipping alliances.” As shipping industry participants have speculated that supply chain pressures may last well into 2022, we expect that the government’s focus on fair competition in the shipping industry will continue.

#### That includes everything the plan text tries to effect

Smith 22, Attorney Reed Smith LLC. (Reed Smith, Antitrust insights in shipping – recapping 2021 and preparing for 2022, https://www.reedsmith.com/en/perspectives/2022/01/antitrust-insights-in-shipping-recapping-2021-and-preparing-for-2022)

In the same month that EO 14036 was issued, the FMC and the Antitrust Division of the Department of Justice (DOJ) entered into a memorandum of understanding relative to “Cooperation with Respect to Promoting Competitive Conditions in the U.S.-International Ocean Liner Shipping Industry.” The agencies agreed to share information “for the purpose of improving each agency’s effectiveness in carrying out its respective legal responsibilities.” They also agreed to confer, at least annually, to address law enforcement, regulatory, and other matters related to competitive conditions in the international ocean liner shipping industry. This is the first-ever agreement of this nature between the two agencies. Importantly, unlike the FMC, the DOJ has criminal enforcement capabilities. Specifically, the DOJ has jurisdiction to enforce U.S. antitrust laws not only against domestic business activities but also against foreign business activities that have a substantial and intended effect in the United States, up to and including criminal prosecution. In recent years, the DOJ has indicted a foreign ocean liner shipping company and its executives in relation to a conspiracy regarding allocation of customers and routes, bid rigging, price fixing, and other anticompetitive conduct in the international roll-on, roll-off ocean shipping industry, resulting in guilty pleas, hefty fines, and prison time for individuals, not just for the company and its executives, but also for four other competitors that were found to have participated in the conspiracy. The DOJ’s prosecutions followed a European Union antitrust probe into the container line shipping industry, which was resolved in 2016 when 14 companies entered into legally binding commitments to increase price transparency for customers and reduce the likelihood of coordinating prices. The FMC, on the other hand, has jurisdiction to investigate and sanction ocean carriers that implement unfair and unreasonable practices in violation of the U.S. Shipping Act. Specifically, the FMC brings enforcement actions and issues civil penalties against ocean carriers; the FMC also adjudicates private party actions brought by cargo owners and awards reparations. The FMC has intensified its efforts to use these tools against ocean carriers, in particular in relation to their demurrage and detention practices during the COVID-related port congestion crisis. The most recent illustrations are three policy statements issued by the FMC last month to encourage shippers to file private party complaints against ocean carriers, either individually or collectively, and to protect them from retaliation and attorney fees awards when such actions were brought in good faith. In one of these statements, the FMC recognized that private actions are important to alert the agency of potential violations and to deter unfair and unreasonable conduct by carriers.

#### Price fixing is already illegal

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.

#### 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.

#### US Code means there is no exemption the FMC cannot overcome

Legal Information Institute ND – (“46 U.S. Code § 40103.Administrative exemptions,” [accessed 1/21/22], https://www.law.cornell.edu/uscode/text/46/40103, see)

**(a) In General.— The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.** (b)Opportunity for Hearing.— An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

#### BUT they can’t solve regardless — they can’t just shift to not shipping to the US — if they don’t touch US markets, antitrust suits have no standing to deter cartels, which makes all of their impacts inevitable

#### AND the European Union still has an exemption on antitrust for international shipping until 2024 — means if they lose in US courts post aff, they can appeal in EU courts and win

### 1NC — Turn

#### There is no cartel collusion—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 cracking down on shipping alliances turns the aff —

#### 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.

#### 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.

### 1NC — AT: Warming

#### Warming doesn’t trigger extinction

* peer-reviewed journal shows IPCC exaggeration
* history proves resilience
* no extinction- warming under Paris goals
* rock breaking strategy could offset warming

IBD 18 [Investors Business Daily, Citing Study from Peer reviewed journal by Lewis and Curry, “Here's One Global Warming Study Nobody Wants You To See”, 4/25/18, https://www.investors.com/politics/editorials/global-warming-computer-models-co2-emissions/]

Settled Science: A new study published in a peer-reviewed journal finds that climate models exaggerate the global warming from CO2 emissions by as much as 45%. If these findings hold true, it's huge news. No wonder the mainstream press is ignoring it.

In the study, authors Nic Lewis and Judith Curry looked at actual temperature records and compared them with climate change computer models. What they found is that the planet has shown itself to be far less sensitive to increases in CO2 than the climate models say. As a result, they say, the planet will warm less than the models predict, even if we continue pumping CO2 into the atmosphere.

As Lewis explains: "Our results imply that, for any future emissions scenario, future warming is likely to be substantially lower than the central computer model-simulated level projected by the (United Nations Intergovernmental Panel on Climate Change), and highly unlikely to exceed that level.

How much lower? Lewis and Curry say that their findings show temperature increases will be 30%-45% lower than the climate models say. If they are right, then there's little to worry about, even if we don't drastically reduce CO2 emissions.

The planet will warm from human activity, but not nearly enough to cause the sort of end-of-the-world calamities we keep hearing about. In fact, the resulting warming would be below the target set at the Paris agreement.

This would be tremendously good news.

The fact that the Lewis and Curry study appears in the peer-reviewed American Meteorological Society's Journal of Climate lends credibility to their findings. This is the same journal, after all, that recently published widely covered studies saying the Sahara has been growing and the climate boundary in central U.S. has shifted 140 miles to the east because of global warming.

The Lewis and Curry findings come after another study, published in the prestigious journal Nature, that found the long-held view that a doubling of CO2 would boost global temperatures as much as 4.5 degrees Celsius was wrong**.** The most temperatures would likely climb is 3.4 degrees.

It also follows a study published in Science, which found that rocks contain vast amounts of nitrogen that plants could use to grow and absorb more CO2, potentially offsetting at least some of the effects of CO2 emissions and reducing future temperature increases.

## 1NC — Naval

### 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.

#### **Russia won’t go nuclear.**

Veebel 19, PhD, MA, Fellow on Russian Strategic and Military Studies @ the Baltic Defense College, (Viljar, 8-2-2019, “Researching Baltic security challenges after the annexation of Crimea”, *Journal on Baltic Security*, (5)1, pg. 44, https://doi.org/10.2478/jobs-2019-0004)

Conflict escalation scenarios that involve nuclear capabilities are discussed also in other studies. For example, in a study called ‘Reducing the risk of nuclear war in the Nordic/Baltic region’ by Barry Blechman and co-authors, two scenarios of conventional war ending in the exchange of nuclear weapons are constructed (namely, ‘Escalation in Estonia’ and ‘Regional War’). Although the authors emphasize that the scenarios are purely illustrative and the probability of nuclear use is low, they argue that it is useful to reduce these risks even further and suggest two initiatives, such as a strengthening of the Alliance’s conventional military capabilities and particularly the ability to move quickly into the Baltic region, as well as to establish a Baltic nuclear weapons free zone, or at least examining the possibility to do so (for further discussion, see Blechman et at., 2015). Jüri Luik and Tomas Jermalavičius in their article ‘A plausible scenario of nuclear war in Europe, and how to deter it: A perspective from Estonia’ point to various alarming signs, e.g., Russia’s large-scale exercises incorporate limited nuclear strike scenarios against NATO as part of Russia’s ‘escalation to de-escalate’ strategy; Russia is expanding the range of its tactical delivery systems, the country’s political rhetoric includes nuclear threats toward the West, and so on. They emphasize that the Alliance’s range of response options to such threats and limited nuclear war scenarios has shrunk considerably and that the Alliance lacks a collective will to call those threats a bluff (Luik and Jermalavičius, 2017).

A large part of the research in this field more or less considers it likely that Russia could use its nuclear forces in the Baltic region. However, there are also articles that oppose this conviction. For example, Viljar Veebel and Illimar Ploom in ‘The deterrence credibility of NATO and the readiness of the Baltic states to employ the deterrence instruments’ disagree with the idea that the Baltic countries could be under potential nuclear attack, which could in turn evolve to a nuclear war. They argue that although Russia and NATO as potential conflict parties have a striking capability, it would be irrational for both of them to execute a nuclear strike even as a measure of last resort. The authors stress that it is hard to believe that Russia has any rational motivation to use nuclear weapons in the Baltic countries because a large share of the population in the Baltic countries are Russian-speaking. Likewise, in case of a potential conflict, territorial proximity of Russia and the Baltic countries, as well as Russia’s possible further ambition to legitimate the annexation comes into play. The argument of irrationality applies also to the NATO alliance as it would raise a question about morality and escalation should NATO consider using nuclear attack as a preventative measure. In addition, there are several logical gaps in the chain of arguments justifying the use of nuclear weapons against Russia if the latter has fully or partially invaded the Baltic countries. The authors hereby point to the following questions: First, how could the strategic use of nuclear weapons against Russia be believable in a regional conflict? Second, how would it help to solve the conflict which has already started? Third, what would be the possible positive outcome for NATO, having initiated mutually assured destruction with Russia to stop the occupations of Baltics? (Veebel and Ploom, 2018a).

#### No Middle East war---deterrence.

Cobban 19, MA, Senior Fellow at the Center for International Policy. (Helena, 10-13-2019, "Mutual Deterrence: Good for the Middle East, Bad for the Nuclear Weapons Industry?", *LobeLog*, https://lobelog.com/mutual-deterrence-good-for-the-middle-east-bad-for-the-nuclear-weapons-industry/)

Over the past three-plus months it has become increasingly clear that, despite the bombast that Pres. Donald Trump has hurled against the Islamic Republic of Iran (along with a full deck of extremely harmful sanctions and some cyber attacks), neither he nor his closest regional allies in the anti-Iran coalition have been willing to escalate to any military attack against Iran that could escalate to all-out war. Might the Middle East now be seeing the emergence of a situation of mutual deterrence that could bring it some much-needed stability — and that could also put the long-vaunted “value” of nuclear weapons into deep question? Let’s do a quick recap. On June 20, Iranian forces shot down a large U.S. Reaper Hawk drone that had almost certainly ventured into Iranian airspace. The military reaction from the United States, Saudi Arabia, Israel, and the United Arab Emirates? As I noted here a few weeks later: goose egg. Then on September 14, either Iranian allies or Iran itself launched a large-scale, stunningly intricate attack against Saudi Arabia’s oil complex at Abqaiq. More goose egg. Along the way, in late August, Israel killed two fighters affiliated with Iran’s Lebanese ally, Hizbullah, in Syria and sent explosive drones against two Hizbullah-related targets inside Lebanon. The Hizbullah chief warned publicly that the organization would retaliate against Israel. Israel’s response? Its military leaders organized a very public withdrawal of their forces from a strip along the country’s northern border with Lebanon. Then, after Hizbullah indeed launched a quick missile strike against an Israeli military vehicle fleeing deeper into Israel, the Israelis’ only response was to shoot a few pieces of ordnance, seemingly at random, into uninhabited parts of southern Lebanon. In an analysis of the incident and its background that I published September 5, I noted that, “the situation of reciprocal (if highly asymmetrical) deterrence that has existed between Israel and Hizbullah since … 2006 remains in place.” Now, in the aftermath of the Abqaiq attacks, it is clearer than ever that a situation of mutual (if asymmetrical) deterrence exists not just between Israel and Hizbullah over the Lebanon-Israel border, but also more broadly in the region between Israel and Hizbullah’s backers in Iran. In Israel, nuclear scientist Uzi Even recently assessed the capabilities the Iranians or their allies revealed during the Abqaiq attack: The Iranian technology is reliable and advanced, and the Iranians are capable of producing and operating simultaneously a large number of drones and cruise missiles. He argued that, Either the Saudi defense system failed or communication between the Iranian missiles was hidden and hard to discover. Either way, the attack was successful and effective… The Iranians, or their proxies, showed that they can hit specific targets with great precision and from a distance of hundreds of kilometers. We have to accept the fact that we are now vulnerable to such a strike. Yes, we can also carry out such strikes and perhaps inflict great damage on them, but so what? Does rational deterrence always work in the Middle East? He also argued that, above all… operation of [Israel’s] Dimona nuclear reactor should be halted. It has now been shown to be vulnerable, and the harm it could cause would likely exceed its benefits. For the staunchly pro-war and pro-Israel New York Times columnist Thomas Friedman, the main takeaway from Even’s analysis was that: Israel has been signaling two things to Hezbollah and Iran. One is that in response to any missile attacks, Israel will carpet bomb neighborhoods in Lebanon where Hezbollah’s families live and where it manufactures the missiles, and turn them into rubble, as it did on a small scale in 2006. And it will make the Lebanese economy collateral damage. And the other is that Israel will attack Tehran directly, either with precision long-range missiles from Israel or submarine-launched missiles from the Persian Gulf, with this message: “Every time Tel Aviv is hit by your proxies, we will hit Tehran. You will not sit out this war. And you will not out-~~crazy~~ us.” Notably, neither of these “signals” seemed to be ones that Friedman disagreed with, or had any problem with. But his analysis of the crucial war that Hizbullah and Israel fought in 2006 also seemed badly askew: the bombing that Israel carried out that year of the “neighborhoods in Lebanon where Hizbullah’s families live” — and indeed, of numerous key elements of the country’s vital national infrastructure — was extremely far from “small-scale.” It was truly monumental. Yet Hizbullah not only survived it, it survived it with its standing in Lebanon’s political system significantly enhanced and with the Israeli ground units that had attempted a broad invasion of the country racing back as fast as they could to Israel with their tails between their legs. Hizbullah’s performance in 2006 reaffirmed to all objective observers that a situation of reciprocal (if asymmetrical) deterrence existed between it and Israel — and it achieved that by having only relatively “dumb” weapons at its command. Friedman was right to warn that with the much smarter surveillance and guidance systems now presumably at its command, Hizbullah’s ability to project targeted threats against vital Israeli infrastructure is almost certainly much, much higher. Friedman’s conclusion was that the demonstrations that Iran and its allies (whether in Lebanon, Yemen, or elsewhere) have given in the past few months of the high level of their targeting and command-and-control capabilities have made the Middle East a considerably more dangerous place: [T]he Middle East may look calm right now, but that’s an illusion. Everyone is recalculating: The Iranians are emboldened, the Arabs are frightened and Israel and Iran are one miscalculation away from a war of precision missiles that neither can afford. I question this conclusion, which seems unthinkingly Israelocentric. After all, for 40 years of the US-Soviet Cold War, the situation of reciprocal deterrence and “Mutually Assured Destruction” (MAD) between the world’s two largest, nuclear-armed superpowers gave a measure of strategic calm to a world still reeling from the two globe-girdling wars of the first half of the 20th century. (True, there were lots of nations in the Global South that suffered in that era.) But why would we think that in the Middle East of the second quintile of the 21st century, a situation of Mutual Intraregional Deterrence (MID) would be any more destabilizing than the Cold War’s MAD was at the global level? Indeed, the actual situation of being deterred that Israel, Saudi Arabia, the United States, and the UAE have all evinced in recent months — at the hands of the non-nuclear-weapons state Iran and its allies in the region — is the most intriguing aspect of the current situation. Bearing in mind that two of those powers, Israel and the United States are both well-endowed nuclear powers, what does this tell us about the utility of nuclear weapons in today’s world? A subject for another day…

#### No Korea war---mutual vulnerability.

Post 21, Commander, U.S. Navy, Ph.D. candidate studying international relations at Brown University. His research centers on nuclear deterrence strategy, policy, and the role of nuclear weapons in international relations, with a focus on the concept of limited nuclear war. He is currently serving in his 20th year of active duty naval service and is assigned to the Permanent Military Professor Program at the U.S. Naval War College in Newport, Rhode Island. (Daniel, 1-29-2021, "Deterring North Korea", *War on the Rocks*, <https://warontherocks.com/2021/01/deterring-north-korea/>)

Do These Principles Apply to North Korea?

With these principles in mind, can deterrence continue to work vis-a-vis North Korea? In short, yes. Throughout the evolution of the U.S-North Korean deterrence relationship, vulnerability has played an important role in the nuclear strategies and policies of both sides. The vulnerability of U.S. allies and assets in the region to North Korea’s intermediate-range missile and artillery barrages has almost certainly been a check on a more aggressive U.S. strategy, whether geared toward nonproliferation or regime change. It is certainly plausible that in the absence of this vulnerability the chances of the U.S. preventively attacking North during the Trump administration would have been higher, especially considering the extremely hawkish views of his national security adviser in 2017. As a result of this vulnerability, the U.S. routinely demonstrates its dedication to security agreements with allies in word and deed. Strategic bomber flights and military exercises, for example, demonstrate to North Korea their own vulnerability to U.S. and allied power in the region. Conversely, although the Kim regime would like nothing more than to unify the Korean Peninsula under North Korean leadership (dubbed the “holy grail of North Korean statecraft” in a recent report), it has refrained from overt and aggressive military action in pursuit of this goal. There is no doubt that Kim, like his predecessors, is wary of such behavior in the face of U.S. and allied military capabilities. Today, North Korea remains vulnerable to U.S. nuclear attacks, while the United States and its regional partners remain vulnerable to nuclear attack or retaliation from North Korea. This mutual vulnerability necessitates caution on both sides.

Recent progress in North Korean missile technology have made portions of the U.S. mainland vulnerable, giving the U.S. further reason to avoid unnecessary provocation. In 2017, North Korea conducted several tests of intercontinental ballistic missiles, two of which demonstrated the capability to potentially reach the continental United States. More recently, North Korea has successfully tested a submarine-launched ballistic missile and has showcased a new and larger submarine-launched ballistic missile at a recent parade. As a result, the United States continues to invest significantly in homeland missile defense, as well as to deploy missile defenses to defend allies and assets in the region. Missile defenses likely contribute to increased feelings of vulnerability among Kim’s regime, which may see the build-up as a prelude to a military offensive. Though imperfect, these attempts to reduce vulnerability enhance deterrence by potentially denying North Korea the expected military gains from a limited missile attack, even as fully effective missile defenses might contribute to strategic instability. Regardless of their effectiveness, Kim will have to factor in these defensive capabilities when assessing the success of engaging in conflict and will question the ability to achieve even limited goals through limited means. For example, in order to ensure the success of a missile attack, Kim would have to increase the size of the salvo in order to compensate for missiles likely to be shot down by U.S. and allied defenses. But knowing that a larger initial attack would be perceived as particularly aggressive and would likely invite a larger counter-attack, he might be deterred from pursuing whatever limited gains a smaller attack might have achieved. From Kim’s perspective, U.S. military capabilities are more than sufficient to make military success for North Korea in any conflict appear difficult and costly. Vulnerability to severe retaliation and punishment from U.S. strategic forces is also currently unavoidable for Kim. In fact, this very vulnerability has driven the North Korean nuclear program toward a capability to directly threaten the U.S., thereby demonstrating its own acknowledgement of vulnerability. In sum, both sides are vulnerable to each other. Most importantly for U.S. decision-makers, there is no likely development in the near to medium term that might remove this sense of vulnerability from Kim’s mind.

#### No African instability OR US draw-in.

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)

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.

## 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, 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?

#### Grid alt causes — power grids, financial systems — that’s Edwards

#### No grid hacks---AND squirrels thump.

Larson 19, Intel Analyst @ Dragos. (Selena, 4-3-2019, "Debunking the Hacker Hype: The Reality of Widespread Blackouts", *Dragos*, <https://www.dragos.com/blog/industry-news/debunking-the-hacker-hype-the-reality-of-widespread-blackouts-rsa-2019-recap/>)

Unfortunately, the Hollywood-esque idea of a country-wide blackout that grinds society to a halt is what many people consider to be the reality of the threat to the electric grid system. But the truth is less of a blockbuster.

Consider this:

A destructive incident at one site would require highly-tailored tools and operations and would not effectively scale.

A ransomware infection at the financial services division of an electric utility doesn’t automatically translate into a blackout.

In most industrial environments the equipment can operate safely and independently for quite a while, so system downtime may have no effect. It could however hurt business operations like shipping, sales, etc.

So why is it important to identify fear, uncertainty, and doubt (FUD) in reporting? It can have a real impact on how people do their jobs: if incidents relating to ICS security are misreported it can be a headache for defenders and owners and operators who may not have the proper context. Additionally, it contributes to an overall misunderstanding among the general public and policy makers who often make decisions based on public information.

It’s worth noting the phrase “hacking the grid” doesn’t make complete sense. At a very basic level, the North American Electric grid is complex and made up of regional and local electricity grids that are connected together to make larger networks for reliability. There are also built-in redundancies for power resiliency. Cyberattacks are not the only threats grid operators and other stakeholders consider when focusing on defending the US electric grid. The long-running joke is that squirrels and other animals should be considered their own APT group due to their ability to cause blackouts; it is, however, true that creatures, natural events, vegetation like fallen limbs, and physical disruptions are all potential threats to grid systems.

#### Internal link to fires is train hacks, impact is forest fires — ships don’t affect them

#### Yang says alt causes — unsustainable farming

#### No fires impact — says certain plant and animal species go extinct, not humans

#### No BioD — "habitat stress; overexploitation and unsustainable use of natural resources; air, land and water pollution" thump — IPBES

#### No extinction from biodiversity loss, and intervening actors solve.

Kareiva & Carranza 18, \*Director of the Institute of the Environment and Sustainability at UCLA, Pritzker Distinguished Professor in Environment & Sustainability and Chair, Doctorate, in the Environmental Science and Engineering program, \*\*PhD Student at University of California, Riverside. (Peter, Valerie, “Existential risk due to ecosystem collapse: Nature strikes back”, *Futures*, 102, pg. 39-50, doi: 10.1016/j.futures.2018.01.001)

While there are data that relate local reductions in species richness to altered ecosystem function, these results do not point to substantial existential risks. The data are small-scale experiments in which plant productivity, or nutrient retention is reduced as species number declines locally (Vellend, 2017), or are local observations of increased variability in fisheries yield when stock diversity is lost (Schindler et al., 2010). Those are not existential risks. To make the link even more tenuous, there is little evidence that biodiversity is even declining at local scales (Vellend et al 2017; Vellend et al., 2013). Total planetary biodiversity may be in decline, but local and regional biodiversity is often staying the same because species from elsewhere replace local losses, albeit homogenizing the world in the process. Although the majority of conservation scientists are likely to flinch at this conclusion, there is growing skepticism regarding the strength of evidence linking trends in biodiversity loss to an existential risk for humans (Maier, 2012; Vellend, 2014). Obviously if all biodiversity disappeared civilization would end—but no one is forecasting the loss of all species. It seems plausible that the loss of 90% of the world’s species could also be apocalyptic, but not one is predicting that degree of biodiversity loss either. Tragic, but plausible is the possibility our planet suffering a loss of as many as half of its species. If global biodiversity were halved,

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but at the same time locally the number of species stayed relatively stable, what would be the mechanism for an end-of-civilization or even end of human prosperity scenario? Extinctions and biodiversity loss are ethical and spiritual losses, but perhaps not an existential risk.

What about the remaining eight planetary boundaries? Stratospheric ozone depletion is one—but thanks to the Montreal Protocol ozone depletion is being reversed (Hand, 2016). Disruptions of the nitrogen cycle and of the phosphorous cycle have also been proposed as representing potential planetary boundaries (one boundary for nitrogen and one boundary for phosphorous). There are compelling data linking excesses in these nutrients to environmental damage. For example, over-application of fertilizer in Midwestern USA has led to dead zones in the Gulf of Mexico. Similarly, excessive nitrogen has polluted groundwater in California to such an extent that it is unsuitable for drinking and some rural communities are forced to drink bottled water. However, these impacts are local. At the same time that there is too much N loading in the US, there is a need for more N in Africa as a way of increasing agricultural yields (Mueller et al., 2012). While the disruption of nitrogen and phosphorous cycles clearly perturb local ecosystems, end-of-the-world scenarios seem a bit far-fetched.

Another hypothesized planetary boundary entails the conversion of natural habitats to agricultural land. The mechanism by which too much agricultural land could cause a crisis is unclear—unless it is because land conversion causes so much biodiversity loss that is species extinctions that are the proximate cause of an eco-catastrophe. Excessive chemical pollution and excessive atmospheric aerosol loading have each been suggested as planetary boundaries as well. In the case of these pollution boundaries, there are well-documented mechanisms by which surpassing some concentration of a pollutant inflicts severe human health hazards. There is abundant evidence linking chemical and aerosol pollution to higher mortality and lower reproductive success in humans, which in turn could cause a major die-off. It is perhaps appropriate then that when Hollywood envisions an unlivable world, it often invokes a story of humans poisoning themselves. That said, it is doubtful that we will poison ourselves towards extinction. Data show that as nations develop and increase their wealth, they tend to clean up their air and water and reduce environmental pollution (Flörke et al., 2013; Hao & Wang, 2005). In addition, as economies become more circular (see Mathews & Tan, 2016), environmental damage due to waste products is likely to decline. The key point is that the pollutants associated with the planetary boundaries are so widely recognized, and the consequences of local toxic events are so immediate, that it is reasonable to expect national governments to act before we suffer a planetary ecocatastrophe.

# 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.

#### Food insecurity doesn’t cause war.

Vestby et al 18, \*Jonas, Doctoral Researcher at the Peace Research Institute Oslo, \*\*Ida Rudolfsen, doctoral researcher at the Department of Peace and Conflict Research at Uppsala University and PRIO, and \*\*\*Halvard Buhaug, Research Professor at the Peace Research Institute Oslo (PRIO); Professor of Political Science at the Norwegian University of Science and Technology (NTNU); and Associate Editor of the Journal of Peace Research and Political Geography. (5/18/18, “Does hunger cause conflict?”, *Climate & Conflict Blog*, <https://blogs.prio.org/ClimateAndConflict/2018/05/does-hunger-cause-conflict/>)

It is perhaps surprising, then, that there is little scholarly merit in the notion that a short-term reduction in access to food increases the probability that conflict will break out. This is because to start or participate in violent conflict requires people to have both the means and the will. Most people on the brink of starvation are not in the position to resort to violence, whether against the government or other social groups. In fact, the urban middle classes tend to be the most likely to protest against rises in food prices, since they often have the best opportunities, the most energy, and the best skills to coordinate and participate in protests.

Accordingly, there is a widespread misapprehension that social unrest in periods of high food prices relates primarily to food shortages. In reality, the sources of discontent are considerably more complex – linked to political structures, land ownership, corruption, the desire for democratic reforms and general economic problems – where the price of food is seen in the context of general increases in the cost of living. Research has shown that while the international media have a tendency to seek simple resource-related explanations – such as drought or famine – for conflicts in the Global South, debates in the local media are permeated by more complex political relationships.

## CP — UQ

## Advantage 1

## Advantage 2

# 1NR

## DA — Unity

#### Also turns China — Failure to check Russia leads to Chinese takeover of Taiwan

Walsh 2-26-2022 (Bryan, “The war in Ukraine could portend the end of the “long peace”,” Vox, <https://www.vox.com/2022/2/26/22951016/russia-ukraine-long-peace-nuclear-weapons-global-development>)

That was implicit in Russia’s decision to exercise its strategic nuclear forces in the leadup to the invasion, in Putin’s absurd casus belli claim that Ukraine was going to develop its own nuclear weapons, in his threat that countries that interfered with Russian actions would face “consequences you have never seen.” As Roger Cohen pointed out in the New York Times, Putin’s speech “seemed to come closer to threatening nuclear war than any statement from a major world leader in recent decades.” The irony is that one of the reasons Ukraine was vulnerable to a Russian invasion is that it does not possess nuclear weapons. It agreed in 1994 to give up Soviet nukes that had been left in its territory after the USSR’s breakup in exchange for an agreement that the US, the UK, and Russia would guarantee its security. And one of the reasons that Putin could invade knowing that international opposition would be largely limited to diplomatic and financial tools was that Russia still possesses the world’s largest nuclear arsenal. It has also retained strategic ambiguity about just when and why it would use those weapons, including the possibility it would threaten a nuclear strike if it were on the losing side of a conventional conflict with NATO. As Vox’s Zack Beauchamp writes, what we’re seeing is an illustration of the “stability-instability paradox” of nuclear weapons. As the chance of nuclear conflict declines, the theory holds, the risk of conventional war increases, and as the likelihood of nuclear conflict increases, the risk of conventional war declines. That in turn helps explain another paradox: why the decades following the introduction of nuclear weapons — weapons that, in their most maximalist effect, could conceivably bring an end to human civilization — also saw a historic fall in the number of war-related deaths around the world. These decades go by another name: “the long peace.” The name can be a bit misleading — for much of the world, these years have been anything but peaceful, with the number of discrete conflicts beginning to rise in the 1960s and staying high ever since. These ranged from large conflicts like America’s decade in Vietnam and the 1980s Iran-Iraq war to countless small skirmishes, often conflicts within countries, that barely penetrated the international media. But compared to the blood-stained decades that marked the first half of the 20th century — which saw more than 100 million deaths in World Wars I and II combined — let alone humanity’s tremendously violent past, these years have indeed been a holiday from history. And if the invasion of Ukraine marks a decisive end to that holiday, as some experts have suggested, we risk losing far more than peace. The wages of peace When Future Perfect was launched in 2018, Vox’s Dylan Matthews laid out a founding question: “What topics would we write about if our only instruction was to write about the most important stuff in the world?” The years that followed provided some of the answers: the battle against global poverty and the common diseases that still kill too many of the world’s poorest; the growth of effective altruism and the rigorous movement to do the most good per dollar; the expansion of moral concern from tribe and nation to all of humanity and even non-human species; and yes, occasionally, the existential threat of superintelligent AI. What these topics have in common is that they all flourish best in peace. The last half-century or more hasn’t just seen a historic reduction in the casualties of war. It’s also witnessed an unprecedented expansion in human prosperity, as measured in health, wealth, and education. It’s an expansion that is far from perfect and far from complete, but one that has opened the door, even just a crack, to a future that truly could be perfect. That progress, I would argue, depends on peace. Unchecked war is the great destroyer of human value. One estimate from 2019 put the economic impact of violence and conflict at $14.4 trillion that year, equivalent to more than 10 percent of gross global GDP. But dollar figures are only one way of counting the destruction. A world where borders can once again be remade with force, where countries and their citizens no longer feel secure from better-armed neighbors, is one where the broader goals Future Perfect covers (and values) will be harder to achieve, where the circle of moral concern could shrink rather than grow. It is a return to barbarity. Fighting back Understanding the value of peace doesn’t mean the world should do nothing as Russian troops and arms pour into Ukraine — far from it. A Russian takeover of Ukraine at the point of a gun doesn’t merely destabilize its European neighbors; it potentially opens the door for other increasingly authoritarian countries to take what they can by force. Today Kyiv, tomorrow Taipei.

#### Antitrust is no longer the focus of Congress — the aff pushes it back into the forefront

Chitkara 3-2-2022, reporter at Protocol focused on the intersection of politics, technology and society. Before joining Protocol, he helped write a daily newsletter at Insider that covered all things Big Tech (Hirsh, “The antitrust window is shrinking as DC turns to Ukraine,” Protocol, https://www.protocol.com/newsletters/policy/ukraine-russia-antitrust?rebelltitem=10#rebelltitem10)

The question I want to explore today is whether the moment has also passed for Big Tech antitrust: Is there enough wind in those sails to get anything done by midterms?

For a while, antitrust enforcement sat at the top of every D.C. agenda. Sen. Amy Klobuchar spearheaded two significant, bipartisan antitrust bills. And Lina Khan landed at the FTC ready to fend off critics and launch one of its most consequential antitrust campaigns in decades.

Antitrust no longer occupies that top slot. The war in Ukraine has instead become everyone’s highest priority, for obvious reasons. D.C. has a lot to figure out in the coming days, from the ramifications of further sanctions to the diplomatic fallout in Europe.

There’s also Biden’s Supreme Court nominee, Judge Ketanji Brown Jackson. Republicans may very well attempt to block her confirmation, and that would mean further political deadlock. It would also become another wedge splitting support for Klobuchar’s bills, which already held a tenuous bipartisan balance.

The war in Ukraine has changed political calculus surrounding antitrust. Big Tech and its lobbyists have pressured Republicans to steer clear of antitrust on the grounds that the U.S. needs big, powerful tech companies to uphold national security. That angle of attack may gain more traction as the U.S. faces off against Russia.

#### Empirically reducing shipping exemptions causes international backlash

Cecil 85, Attorney and Mediator, (Martha, "The Shipping Act of 1984: Bringing the United States in Harmony with International Shipping Practices," Penn State International Law Review: Vol. 3: No. 2, Article 4. Available at: http://elibrary.law.psu.edu/psilr/vol3/iss2/4Martha L. Cecil)

United States antitrust laws were not applied extraterritorially to foreign carriers when the Shipping Act of 1916 was first enacted. From 1916 to the late 1970's, however, a series of developments occurred in American case law that permitted American courts to hold foreign carriers liable for antitrust violations. First, the courts determined under what conditions they had jurisdiction to apply antitrust laws extraterritorially. Second, in cases involving violations of the Shipping Act of 1916, the courts determined that a plaintiff could seek a remedy under antitrust laws rather than the Shipping Act. Third, the courts narrowed the extent of antitrust immunity granted under section 15 of the 1916 Act. And fourth, to assist in antitrust investigations, United States courts claimed jurisdiction to order foreign nationals to submit to United States discovery and enforcement procedures. These developments in United States case law are described below to illustrate how the persistent export of United States antitrust philosophy provoked foreign governments into passing retaliatory legislation that, in turn, induced Congress to rethink United States international shipping policy.

#### Empirics prove it would crush foreign relations and cause backlash — turns solvency

Cecil 85, Attorney and Mediator, (Martha, "The Shipping Act of 1984: Bringing the United States in Harmony with International Shipping Practices," Penn State International Law Review: Vol. 3: No. 2, Article 4. Available at: http://elibrary.law.psu.edu/psilr/vol3/iss2/4Martha L. Cecil)

Developments during the 1960's and 1970's, however, made the 1916 Shipping Act obsolete. Case law increasingly restricted the antitrust immunity granted under the Act. 1 And, when the worldwide economy fell into a general recession in the 1970's and foreign carriers inundated the comparatively lucrative22 United States trade,23 many international conferences that thought they were protected under the 1916 Act found themselves, under the new case law, accused of violating United States antitrust laws. These carriers were suddenly held liable for acts which, at one time, would have been immunized from antitrust prosecution. 2' Compounding the irritation of this expansion of antitrust liability was the fact that acts considered illegal under United States law were often legal in the carrier's home nation. Foreign governments were shocked to see their nationals subject to United States jurisdiction, United States discovery procedures, and attempts by United States courts to enforce their judgments abroad. Unlike the United States, most foreign countries traditionally do not apply their antitrust laws to international shipping." Indeed, many countries tolerate and even support conference activity. 7 In response to the extraterritorial application of United States antitrust laws, a number of countries passed blocking statutes which limited the use of United States discovery procedures within their borders and prohibited enforcement of antitrust judgments." The failure of United States courts to consider the fact that these carriers may not have been violating any law in their own countries, and the failure of the United States Government to intervene, particularly in private treble damage actions, has significantly injured United States foreign relations2 9 United States carriers have also been affected. Foreign carriers hesitate to enter into conference agreements with United States carriers for fear of antitrust reprisals.30 Conferences complying with United States antitrust laws do not have powers equal to foreign conferences and therefore find it more difficult to compete."1 And, as a result of foreign blocking statutes, the only carriers punished for antitrust violations are United States carriers.3 2

#### Other countries will block U.S. enforcement

Cecil 85, Attorney and Mediator, (Martha, "The Shipping Act of 1984: Bringing the United States in Harmony with International Shipping Practices," Penn State International Law Review: Vol. 3: No. 2, Article 4. Available at: http://elibrary.law.psu.edu/psilr/vol3/iss2/4Martha L. Cecil)

In brief, this was the situation that Congress faced when it sat down to revise the Shipping Act of 1916. Whether drafted in direct response to antitrust liabilities placed on foreign shippers or as the result of some other antitrust action, the foreign blocking statutes effectively immunized foreign shippers from United States antitrust fines while United States shippers bore the full force of such fines. In addition, United States laws continued to conflict with the laws of other countries. Other countries believed, and the economic realities of the liner industry indicated, that basic antitrust assumptions did not work in the context of the liner industry.' Increased efficiency and increased harmony with the laws of other nations required a change in the Shipping Act of 1916.

#### Blocking statutes wreck global economic coordination

Kava 19, JD/MBA Candidate @ JU (Samuel, “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization,” 15 J. Bus. & Tech. L. 135, Lexis)

Overall, there is a significant risk that foreign nations will look towards blocking statutes to limit the extraterritorial application of the Act. The conflicting laws of the United States and international community will lead to judicial uncertainty, which will have an adverse impact on the global economy. Businesses will spend more time and money to avoid disputes; thus, undermining corporate profits, a customer’s ability to purchase low cost goods, and the overall health of the global economy. The only certainty is that trade will slow down as a result of trade policy uncertainty. To avoid these adverse economic effects, it would be advantageous for the United States Congress to amend the FTAIA in a way that limits the effects of the extraterritorial application of the Sherman Anti-Trust Act. Specifically, Congress should limit the effects of the extraterritorial application of the Sherman Anti-Trust Act by expressly providing courts with a robust international comity analysis.

## 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.