## 1nc

### off

Con con

#### The United States, through a limited constitutional convention called for by at least thirty-four of the States and ratified by at least thirty-eight of the States, should expand the scope of its core antitrust laws by rescinding its presumption against extraterritoriality because of comity in antitrust cases involving anticompetitive business practices by the private sector in the People’s Republic of China.

#### It solves, causes follow on, and avoids politics.

Cooper ’21 [Charlie; 2021; President of Get Money Out Maryland and Retired Human Services Administrator; Get Money Out Maryland, “A Convention of States is Wise and Safe,” <https://www.getmoneyoutmd.org/peoples_convention>]

When Congress fails to represent the people who elected them, the U.S. Constitution provides a path for the people to propose a Constitutional amendment through the states. Article V lays out two equal alternatives:

"The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States..."

Thus there are only two ways to amend the U.S. Constitution:

* A proposal passed by two-thirds of each chamber of Congress, then ratified by three-quarters of the states
* A proposal passed by a convention called by two-thirds of the states, then ratified by three-quarters of the states

As former U.S. Supreme Court Justice Antonin Scalia said about this second option: "[When] the Congress is simply unwilling to give attention to many issues which it knows the people are concerned with—and which issues involve restrictions upon the federal government’s own power—I think the founders foresaw that and they provided this method in order to enable a convention to remedy that.”

In a 2016 report, the Congressional Research Service noted that an Article V Convention “was included [in the Constitution] to provide the people, through applications by their state legislatures, with the means to call a convention having the authority to consider and propose changes to the Constitution, particularly if Congress proved incapable of, or unwilling to, initiate amendments on its own."

All 27 Amendments to the Constitution were passed using the first of the two methods: Congress proposed an amendment, then two-thirds of state legislatures ratified it. So why is a convention of states necessary to obtain a 28th Amendment? As George Mason argued when he proposed the convention language: It is necessary when Congress itself is the problem.

The 17th Amendment is the best example of a convention campaign working effectively to add an amendment to the U.S. Constitution. The 17th Amendment, which allows for the popular election of U.S. Senators, came about in reaction to Senators being appointed by state legislatures until the early 1900s. That process was widely recognized as corrupt due to the disproportionate influence of wealthy individuals and special interests. In fact, the Senate became so corrupt that individual senators took nicknames such as the "Coal Senator," the "Bank Senator," and the "Oil Senator."

Citizens responded to this overt venality by using every tool of democracy available including petitions, local legislation, ballot referendums, educational campaigns, resolutions calling on Congress to propose a Constitutional amendment, and finally, after all else failed, applying for an Article V Convention to propose an amendment.

When that movement was just one state shy of the two-thirds needed to force a convention on this topic, Congress reacted by proposing an amendment requiring the direct election of U.S. Senators for the states to ratify—resulting in the 17th Amendment to the U.S. Constitution. The Congressional Research Service has called this technique the "prodding effect." It worked then, and it could work today.

Arguments Against an Article V Convention

Both left- and right-leaning groups—Common Cause and the John Birch Society among them—have argued vehemently against the use of Article V Conventions. They say correctly that such a convention has never been used to amend the Constitution. Never having held an Article V Convention, however, is hardly a reason to avoid one, since the framers provided this Constitutional alternative in anticipation of a time when Congress fails to represent the people. Opponents also fear the prospect of a "runaway" convention, where any topic could be proposed, possibly threatening the process for ratifying amendments or the Constitution itself. See authoritative answers to these arguments below.

Experts Respond

The Constitution’s framers foresaw a time—when Congress itself is the problem—for citizens to have the Constitutional authority to pursue an amendment through the states. That time is now: Supreme Court rulings in Citizens United and other cases have created no-holds-barred politics in which Big Money steamrolls the democratic process. A Congress that is the result of this increasingly lawless system can hardly be expected to propose an amendment to dismantle that system without an extraordinary level of public pressure. A citizens’ drive toward a convention of states under Article V would apply such pressure.

Government and legal agencies have responded to critics opposing a convention of states:

* Criticism: Individual delegates could bring up matters unrelated to those the convention was originally called to address.

Response #1: For a convention to stray from its original topic, delegates would have to propose topics that were not included in the original resolution approved by their state legislatures. Nine states to date have made it a felony for any delegate to a state-called convention to call for or vote on any topic that was not part of the original convention topic.

Response #2: The Justice Department concluded in 1987 that Article V Conventions can be called "for limited purposes, and that a variety of practical means to enforce such limitations are available." In addition, "Congress may decline to designate the mode of ratification for those proposed amendments that it determines are outside the scope of the subject matter limitation and therefore beyond the authority of the convention to propose."

### Off

Court cp

#### The United States Supreme Court ought to over rule the empagran decision.

### Off

ecommernce

#### SCOTUS is shifting to expand the presumption against extraterritoriality to include antitrust

Bell ‘17 [Luke; March 2017; J.D., Candidate at J. Reuben Clark Law School, Brigham Young University; BYU Law Review; “Boundary Dispute: The Presumption Against Extraterritoriality as Judicial Nondelegation,” vol. 2017, iss. 2, https://digitalcommons.law.byu.edu/cgi/viewcontent.cgi?article=3092&context=lawreview]

In addition to its reluctance to undertake extraterritoriality inquiries with little statutory guidance in other contexts, the Supreme Court may also be rethinking whether the presumption against extraterritoriality should not apply to antitrust cases. The Sherman Act is arguably the best example of a broad delegation of policymaking power from Congress to courts,127 a delegation courts have accepted wholeheartedly. And unlike Title VII and section 10(b), the presumption against extraterritoriality apparently does not apply to antitrust suits under the Sherman Act.128 This, however, may be changing. Justice Alito’s opinion in RJR Nabisco casts doubt on the rationales articulated in antitrust cases decided “before we honed our extraterritoriality jurisprudence in Morrison and Kiobel.”129 Although Justice Alito was discussing cases interpreting the Clayton Act rather than the Sherman Act, his opinion suggests that recent developments in the Court’s extraterritoriality jurisprudence may have altered the playing field for future antitrust cases. This is especially true given that Justice Alito cites private antitrust suits as a source of “considerable controversy in other nations.”130 Justice Scalia’s dissenting opinion in Hartford Fire also seemed to hint at this possibility; if not for the Supreme Court precedent on point, which he begrudgingly followed, Scalia would have applied the presumption against extraterritoriality.131 These indications suggest the Court may not have had its final say on the presumption in relation to antitrust cases.132

[Start Footnote 132]

Of course, any reconsideration of whether the presumption against extraterritoriality applies to the Sherman Act would necessarily involve interpreting Congress’ extraterritorial intent as expressed in the Foreign Trade and Antitrust Improvements Act, 15 U.S.C. § 6a (2012)

[End Footnote 132]

This in turn provides further evidence that the Supreme Court’s willingness to accept congressional invitations to fill large gaps in broad statutes may be decreasing, at least where questions of extraterritoriality are implicated.

#### Expanding extraterritorial antitrust wrecks e-commerce and the global economy

Kava ‘19 [Samuel; 2019; J.D./M.B.A. Candidate, 2020, University of Maryland Francis King Carey School of Law and Johns Hopkins University Carey School of Business; Journal of Business & Technology Law; “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity;” vol. 15, no. 1, p. 135-164]

Most trades that take place today have a direct impact that is both: (1) of immediate consequence, and (2) the reasonable proximate causal nexus. Especially with C2C e-commerce platforms, which serve to create “liquidity” in the market by connecting sellers with many buyers, it is foreseeable that this platform will proximately cause a multi-national transaction that causes an immediate consequence to a U.S. producer.72 For example, if Alibab were salling adidas sneakers on its platform, at an anti-competitive price, Nike would be instantly harmed because a customer (whether a U.S. or foreign citizen) will buy the cheaper and similar product on the platform rather than purchase through Nike. This harm is of immediate consequence to the Nike’s of the world, and Alibaba certainly is able to foresee it being the proximate causal nexus to this harm. Thus, the FTAIA has become an obsolete and toothless statute in the age of globalization.

The United States Department of Justice has exemplified the ease of proving a transaction has a “direct, substantial, and reasonably foreseeable effect on commerce in the United States.”73 The success of the Justice Department has led to its aggressive pursuit of criminal anti-trust claims against foreign companies operating outside the United States.74 Since 1999, “about 90 percent of fines of $10 million for criminal violations of U.S. antitrust laws [] have been levied against non- U.S. defendants for conduct occurring outside the U.S. Twenty-eight percent of those fines have been in excess of $100 million, with the largest, a fine of $650 million, levied in 2017.”75

Moreover, with the Supreme Court’s ruling in Apple v. Pepper, C2C e-commerce companies that are incorporated and operated outside the U.S. will undoubtedly be exposed to higher levels of private claims under the Sherman Anti-Trust Act. These foreign e-commerce companies would be subject to the Sherman Anti-Trust Act under two theories, either the e-commerce company may be: (1) defined as a company engaged in import commerce, in which the Sherman Anti-Trust Act automatically applies and FTAIA is irrelevant; or (2) viewed as a company engaged in conduct that will have a “direct, substantial, and foreseeable effect on commerce in the United States.”76 Regardless, with both the FTAIA becoming obsolete and the Supreme Court’s potential expansion of standing for consumers to sue C2C e- commerce platforms as “direct purchasers,” litigation against foreign e-commerce corporations will proliferate to the demise of the global economy.77

While the international community has been slow to enact up-to-date and effective blocking statutes, there will certainly be a resurgence by foreign nations to adopt statutes that would limit the scope of the Sherman Anti-Trust Act. For one, with globalization making the FTAIA affectively obsolete, the international community will strive to pressure the United States to adopt a new unified standard that expressly respects international comity. Second, advances in technology, like C2C e-commerce, will exacerbate the likelihood that the international community will: (1) adopt new and effective blocking statutes, and (2) pressure Congress to amend the current FTAIA to be more restrictive in its extraterritorial application. Specifically, with Supreme Court’s decision in Apple v. Pepper, the international community will look for ways to protect its e-commerce platforms from litigious activity brought in the United States under U.S. anti-trust law.

#### e-commerce is key to SDGs.

Revinova’ 21 [Svetlana; 2021; Professor, Department of Economic and Mathematical Modeling, Peoples’ Friendship University of Russia; SHS Web of Conferences, “E-commerce effects for the sustainable development goals,” dml]

The analysis showed that the contribution of e-commerce to achieving sustainable development goals is relatively high. E-commerce can help achieve 10 of the 17 SDG in one way or another. E-commerce has a positive impact on the sustainable development of both individual countries and the world. This impact is especially evident in the labor market, as the number of Internet companies are overgrowing, and with them, the number of jobs increases. Most vacancies require some qualifications, but in 2020 we saw a rise in areas such as courier delivery, where additional education is not required. E-commerce offers opportunities for access from anywhere globally to the same market for education and health services. Often, these services obtained over the Internet are cheaper. It includes primary and additional education, advanced training, getting medical consultations via the Internet from specialists from other countries, etc. At the same time, e-commerce can have adverse effects on the environment. Searching, packaging, shipping and returning items purchased through online stores leave their carbon footprint. E-companies can affect their carbon footprint by using rational packaging and shipping methods, although this can come with additional costs. They can influence sustainable consumption by educating their customers about sustainable behavior and opportunities to reduce environmental pollution. E-сompanies can significantly reduce their negative contribution to sustainable development goals.

#### SDGs prevent extinction, not meeting them causes it.

Cernev and Fenner ‘20 [Tom; Richard; Jan. 2020; Australian National University AND Centre for Sustainable Development, Cambridge University Engineering Department; Futures; “The importance of achieving foundational Sustainable Development Goals in reducing global risk,” vol. 115, dml]

4. Risks from failure to meet the SDGs

4.1. Cascading failures

Fig. 3 demonstrates that cascade failures can be transmitted through the complex inter-relationships that link the Sustainable Development Goals. Randers, Rockstrom, Stoknes, Goluke, Collste, Cornell, Donges et al. (2018) have suggested that where meeting some SDGs impact negatively on others, this may lead to “crisis and conflict accelerators” and “threat multipliers” resulting in conflicts, instability and migrations. Ecosystem stresses are likely to disproportionately affect the security and social cohesion of fragile and poor communities, amplifying latent tensions which lead to political instabilities that spread far beyond their regions. The resulting “bad fate of the poor will end up affecting the whole global system” (Mastrojeni, 2018). Such possibilities are likely to go beyond incremental damage and lead to runaway collapse.

The World Economic Forums’ Global Risks Report for 2018 shows the top five global risks in terms of likelihood and impact have changed from being economic and social in 2008 to environmental and technological in 2018, and are closely aligned with many SDGs (World Economic Forum, 2018). The report notes “that we are much less competent when it comes to dealing with complex risks in systems characterised by feedback loops, tipping points and opaque cause-and-effect relationships that can make intervention problematic”. The most likely risks expected to have the greatest impact currently include extreme weather events natural disasters, cyber attacks, data fraud or theft, failure of climate change mitigation and water crises.

These are represented in Fig. 3 by the following exogenous variables. “Climate change” drives the need for Climate Action (SDG 13), “Cyber threat” may adversely impact technology implementation and advancement which will disrupt Sustainable Cities and Communities (SDG 11); Decent Work and Economic Growth (SDG 8) and the rate of introduction of Affordable and Clean Energy (SDG 7), with reductions in these goals having direct consequences in also reducing progress in the other goals which they are closely linked to. “Data Fraud or Threat” has the capacity to inhibit innovation and Industrial Performance (SDG 9), reducing competitiveness (and having the potential to erode societal confidence in governance processes). “Water Crises” (linked with climate change) have a direct impact on Human Health and Well Being (SDG 3) as well as reducing access to Clean Water and Sanitation (SDG 6) and reducing agricultural production which increases Hunger (SDG 2). The causal loop diagram also highlights “Conflict” as a variable (driven by multiple environmental-socio-economic factors) which together with regions most impacted by climate degradation will lead to an increase in migrant refugees enhancing the spread of disease and global pandemic risk, thus impacting directly on Human Health and Well Being (SDG 3)

4.2. Existential and catastrophic risk

The level and consequences of these risks may be severe. Existential Risks (ER) have a wide scope, with extreme danger, and are “a risk that threatens the premature extinction of humanity or the permanent and drastic destruction of its potential for desirable future development” (Farquhar et al., 2017,) essentially being an event or scenario that is “transgenerational in scope and terminal in intensity” (Baum & Handoh, 2014). With a smaller scope, and lower level of severity, global catastrophic risk is defined as a scenario or event that results in at least 10 million fatalities, or $10 trillion in damages (Bostrom & Ćirković, 2008). Global Catastrophic Risk (GCR) events are those which are global, but they are durable in that humanity is able to recover from them (Bostrom & Ćirković, 2008; Cotton-Barratt, Farquhar, Halstead, Schubert, & Snyder-Beattie, 2016) but which still have a long-term impact (Turchin & Denkenberger, 2018b).

Achieving the Sustainable Development Goals can be considered to be a means of reducing the long-term global catastrophic and existential risks for humanity. Conversely if the targets represented across the SDGs remain unachieved there is the potential for these forms of risk to develop. This association combined with the likely emergence of new challenges over the next decades (Cook, Inayatullah, Burgman, Sutherland, & Wintle, 2014) means that it is of great value to identify points within the systems representations of the Sustainable Development Goals that could both lead to global catastrophic risk and existential risk, and conversely that could act as prevention, or leverage points in order to avoid such outcomes. This identification in turn enables sensible policy responses to be constructed (Sutherland & Woodroof, 2009).

Whilst existential threats are unlikely, there is extensive peril in global catastrophic risks. Despite being lesser in severity than existential risks, they increase the likelihood of human extinction (Turchin & Denkenberger, 2018a) through chain reactions (Turchin & Denkenberger, 2018a), and inhibiting humanity’s response to other risks (Farquhar et al., 2017). It is necessary to consider risks that may seem small, as when acting together, they can have extensive consequences (Tonn, 2009). Furthermore, the high adaptability potential of humans, and society, means that for humanity to become extinct, it is most likely that there would be a series of events that culminate in extinction as opposed to one large scale event (Tonn & MacGregor, 2009; Tonn, 2009).

### off

states

#### The fifty states and relevant subnational entities should

* **expand the scope of its core antitrust laws by rescinding its presumption against extraterritoriality because of comity in antitrust cases involving anticompetitive business practices by the private sector in the People’s Republic of China.**

#### Increase funding for the NAAG to prosecute

#### Have SCOTUS uphold the cp

#### Devolve power to the states to prosecute extraterritorial antitrust violations

#### State coordination solves---multistate litigation and enforcement bureaus overcome deficits.

Arteaga ’21 [Juan and Jordan Ludwig; January 28; former Deputy Assistant Attorney General for the U.S. Department of Justice’s Antitrust Division, J.D. from Columbia Law School; partner in the Antitrust and Competition Group at Crowell and Moring firm, J.D. from Loyola Law School; Global Competition Review, “The Role of US State Antitrust Enforcement,” <https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement>]

In the United States, competition laws have been implemented and enforced through a dual system where the state and federal governments play distinct, yet complementary, roles in regulating the competitive process. While the Department of Justice (DOJ) Antitrust Division and Federal Trade Commission (FTC) are widely viewed as the stewards of US antitrust laws, state attorneys general have long played an important, albeit varying, role within the United States’ antitrust enforcement regime. This has been especially true during the past 30 years because state attorneys general have become much more effective at coordinating their antitrust enforcement efforts to ensure that they have a meaningful seat at the table in any actions brought jointly with their federal counterparts or are able to bring their own actions when the DOJ and FTC decide not to do so.

Prior to the enactment of the first federal antitrust law – the Sherman Act – in 1890, state antitrust enforcement was quite robust in the United States because at least 26 states had already enacted some form of antitrust prohibition.[[2]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-126) In addition, state enforcers had often used general corporation law and common law restraint of trade principles to regulate anticompetitive business practices and transactions.[[3]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-125) This well-established state antitrust enforcement infrastructure – coupled with the fact that the Antitrust Division and FTC had only recently been created – permitted state attorneys general to continue playing a leading enforcement role for the first 30 years after the Sherman Act’s passage.[[4]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-124) Indeed, state attorneys general successfully prosecuted a number of the most consequential antitrust enforcement actions during this period.[[5]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-123)

In the early 1920s, however, state antitrust enforcers began playing a less prominent role because ‘the national dimension of the most important trusts, . . . as well as their ability to restructure in order to evade problematic state laws’, made clear that the federal government needed to step forward in order to adequately protect consumers and the competitive process.[[6]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-122) As a result, the DOJ and FTC – whose national jurisdiction and greater resources enabled them to tackle the most pressing competition issues of the time – displaced state attorneys general as the primary source of government antitrust enforcement within the United States.[[7]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-121) This largely remained true until the mid-1970s when Congress, in response to the DOJ and FTC’s perceived inactivity, passed two laws that expanded the authority of state attorneys general to enforce the federal antitrust laws and provided them with financial resources to do so.[[8]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-120)

In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorised state attorneys general to bring parens patriae suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations.[[9]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-119) Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices.[[10]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-118) These laws had their intended effect of reinvigorating state antitrust enforcement.

During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints.[[11]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-117) The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’.[[12]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-116) No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications.[[13]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-115) To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.[[14]](https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement#footnote-114)

### Off

Biz con

#### Growth will rebound due to self-sustaining corporate performance.

Van der Welle ’21 [Peter; July 7; Strategist within the Global Macro team, M.A. in Economics from Tilburg University; Robeco, “How capex holds the key to a self-sustaining economic recovery,” <https://www.robeco.com/latam/en/insights/2021/07/how-capex-holds-the-key-to-a-self-sustaining-economic-recovery.html>]

Title:

How capex holds the key to a self-sustaining economic recovery.

Capital expenditure to fix supply shortages and meet burgeoning demand is seen figuring strongly in the post-Covid recovery.

[Author and summary omitted].

Companies are expected to invest heavily in new equipment and capacity as they seek to meet the pent-up demand released from economic reopening.

“The world is emerging from the pandemic, and much of the focus has been on the release of huge pent-up demand for goods and services that have been inaccessible for much of the past year,” says Peter Van der Welle, strategist with Robeco’s multi-asset team.

“But there is a bigger issue regarding the ability of companies to supply these goods and services, due to the supply side constraints that have emerged through economic reopening. We believe this is powering a resurgence in capital expenditure by companies, and those which are investing in new equipment to meet greater demand will be the more sought after stocks.”

Capex intentions

Van der Welle says this trend can already be seen in the US Federal Reserve’s Capex Intentions Index, which shows that steep year-on-year increases in capital expenditures are planned.

“So, that's promising for a near-term rebound in the capex cycle,” he says. “The market has already picked up on that theme because you can see a clear outperformance of capex-intensive stocks compared to the broader market year to date.”

Fiscal dominance

Van der Welle says five elements support the multi-asset team’s view that capex will rise from here onwards. “The first is the overarching macroeconomic picture in that we are increasingly moving towards an environment of fiscal dominance and away from one that has been monetary-led via quantitative easing,” he says.

“Central banks have pursued very easy monetary policies, but they have hit the nominal lower bounds with regard to policy rates.”

“This is a hard constraint because real rates are difficult for central banks to push even lower than they are nowadays, given the strong consensus among both central bankers and market participants that inflation is transitory.”

Big spending plans

For stimulus, fiscal policy is better suited to address the negative supply shock that Covid-19 has posed. Fiscal dominance can be seen in the huge infrastructure spending planned in the US, with the USD 1.9 trillion American Rescue Plan already in motion, and the USD 2 trillion American Jobs Plan going through Congress. In Europe, the disbursement of the EUR 750 billion EU Recovery Fund is due to start later in July.

“An era of fiscal dominance is able to say goodbye to the secular stagnation thesis, which holds that the economy is suffering from under-investment,” says Van der Welle. “Under-investment due to insufficient demand, which was the biggest problem after the global financial crisis, has become less likely.”

“We saw very subdued consumption growth both in the US and elsewhere between 2009 and 2019. That story is reversing in the US. Households’ income has been supported by fiscal policy during the Covid-19 recession, while burgeoning consumer demand in the reopening phase could prove to be more sticky as employment prospects continue to improve in the medium term.”

Tobin’s Q looks good

A third reason to expect higher capex is driven by ‘Tobin’s Q’ – the market value of a company divided by its assets' replacement cost. If this ratio is above one, then corporates have an incentive to invest directly in the underlying assets rather than buying another company at market value to acquire the same assets.

The Tobin’s Q ratio is currently at 1.7 for the US. “So it's very expensive to do M&A, and it is wiser for corporates to invest in the underlying capital goods themselves,” Van der Welle says.

“We should therefore expect a gradual move away from M&A activity towards companies making direct investments in capital goods.”

Supply-side constraints

The fourth element is the severe supply-side constraints seen in the global economy, as capacity shut down during the pandemic.

“This is reflected in the ISM Prices Paid Index, which reached an all-time high in June in reflection of rampant shortages of raw materials and labor,” says Van der Welle.

“Clearly the issue today following the pandemic is not demand related, but supply related. This will also trigger more awareness to push the productivity frontier and incentivize capital expenditure.”

Less reliance on labor

The fifth element is the partial substitution from labor to capital in the US against the backdrop of lingering labor shortages.

“A decline in the labor force participation rate shows that people are not quickly returning to the labor force, as they have been disincentivized by the subsidies and pay checks they have gained from the stimulus plans, and/or structural changes in their work/life balance due to the pandemic,” says Van der Welle.

“When the cost of labor becomes more expensive, substituting labor with capital becomes more attractive for employers. Typically, the inflection point for capex intentions becoming positive is when unit labor costs rise by more than 2% year on year, which is the case today.”

Capex will lengthen the earnings cycle

Regarding earnings, there is a significant relationship between capex intentions and productivity, though the lag from intending to invest to actually getting a realized productivity gain is quite long – up to several years.

Higher capex that eventually brings higher productivity growth will sustain the earnings cycle, Van der Welle says. Higher productivity gives corporates more pricing power because they suppress unit labor costs, and that means profit margins can stay elevated for longer.

#### Changing the legal standards of antitrust spills over to crush otherwise surging corporate growth.

Thierer ’21 [Adam; February 25; Senior Research Fellow with the Mercatus Center at George Mason University; The Hill, “Open-ended antitrust is an innovation killer,” <https://thehill.com/opinion/technology/540391-open-ended-antitrust-is-an-innovation-killer>]

Unfortunately, the calls for more bureaucracy and regulation emanating from all corners of the political world could have an unintended consequence: discouraging the sort of vibrant innovation and consumer choice that made America’s tech companies household names across the globe.

Sen. [Amy Klobuchar](https://thehill.com/people/amy-klobuchar) (D-Minn.) is leading one charge. Klobuchar, who chairs the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, [recently introduced](https://www.klobuchar.senate.gov/public/_cache/files/e/1/e171ac94-edaf-42bc-95ba-85c985a89200/375AF2AEA4F2AF97FB96DBC6A2A839F9.sil21191.pdf) the “Competition and Antitrust Law Enforcement Reform Act.” This sweeping measure seeks to expand the powers and budgets of antitrust regulators at the Federal Trade Commission and the Department of Justice. It also includes new filing requirements and potentially hefty civil fines.

The most important feature is the proposed change to the legal standard by which regulators approve business deals. It would allow the government to stop any deal that creates an “appreciable risk of materially lessening competition,” and it also defines exclusionary behavior as, “conduct that materially disadvantages one or more actual or potential competitors.”

These may sound like simple, semantic tweaks, but – much like some of the other policy ideas currently circulating – they would upend decades of settled law and create a sea change in U.S. antitrust enforcement. This change could undermine business dynamism, innovation and investment in ways that inhibit the global competitiveness of U.S. businesses.

Critics of merger and acquisition (M&A) activity by large tech firms include not only Sen. Klobuchar but also Republicans such as Sen. [Josh Hawley](https://thehill.com/people/joshua-josh-hawley) (R-Mo.). Hawley recent [offered an amendment](https://www.axios.com/josh-hawley-big-tech-merger-ban-1467081d-216c-45a2-9d09-9416dfbde330.html) to a budget bill that would preemptively prohibit mergers and acquisitions by dominant online firms. Klobuchar and Hawley believe that M&A skews the market in favor of today’s largest firms, entrenching their market power and discouraging innovation.

History teaches a different lesson. Consider DirecTV and Skype, both once considered innovative market leaders in their respective fields of satellite TV and internet telephony. Both firms stumbled, however, and they might not even be with us today without creative business deals. DirecTV has been partially or fully controlled by Hughes Electronics, News Corp., Liberty Media and now AT&T. Skype has swapped hands multiple times, moving from eBay, to a private investment firm and now to Microsoft.

These were complex deals, and some didn’t work, leading to divestitures. But each was a learning experience that illustrated how dynamic media and technology markets can be with firms constantly searching for value-added arrangements that serve their customers and shareholders. If we make this type of activity presumptively illegal, we’re imagining that government bureaucrats are better suited to make these calls than businesspeople and the consumers who choose whether or not to buy the product.

Worse yet, legal tests like those Klobuchar proposes – “conduct that materially disadvantages potential competitors” – are remarkably open-ended and could be easily abused. The system will be gamed by opponents of deals for business reasons. They will claim that their own failure to attract investors or customers must all be the fault of more creative rivals. That’s a recipe for cronyism and economic stagnation.

Those who worry about today’s largest tech giants becoming supposedly unassailable monopolies should consider how similar fears were expressed not so long ago about other tech titans, many of which we laugh about today. Just 14 years ago, headlines [proclaimed](https://www.technewsworld.com/story/55185.html) that “MySpace Is a Natural Monopoly,” and [asked](https://www.theguardian.com/technology/2007/feb/08/business.comment), “Will MySpace Ever Lose Its Monopoly?” We all know how that “monopoly” ceased to exist.

At the same time, pundits [insisted](https://www.marketwatch.com/story/apple-should-pull-the-plug-on-the-iphone) “Apple should pull the plug on the iPhone,” since “there is no likelihood that Apple can be successful in a business this competitive.” The smartphone market of that era was viewed as completely under the control of BlackBerry, Palm, Motorola and Nokia. A few years prior to that, critics lambasted the merger of AOL and TimeWarner as a new [corporate “Big Brother”](http://www.ojr.org/ojr/workplace/1017966109.php?__cf_chl_jschl_tk__=67a5f6a101935b8e3586ca48216d31ba6d4e03de-1612467283-0-AXvbGCtUx-p_N4T-8_2m8OHezQUhQ9kelg9-pVuD6IzKvFfXrllJujU9ERvjqjyIsAeCovUw9bfZqq75_NYasBM87SnQT_027hDJOhjXeowzK1QQH_7vcmr1tS4XgCGC_NNx6UGbAvVgcJNFhSkqkVKKeRJ-BjdDA7Vus-gwmr7wQXcS7KKfTtHyqxdRfureL9alpZHU2IJcbbdYaZpTjTrfcJHCKa8pIZcdiScjaRJmON9X1Ip20Vuv7tyDHbZSvcrn88WrY_9N_qBpKvZhQ4PAe90w5Fx5iHjjNIzoNMKSpToTFGLbPdqawgge9PVubSQbkS7xXDXxCBMA2Sh-Y_U) that would decimate digital diversity and online competition.

Today, we know these tales of the apocalypse ended up instead becoming case studies in the continuing power of “creative destruction.” New innovations and players emerged from many unexpected quarters, decimating whatever dreams of continued domination the old giants once had.

Today’s biggest players face similar pressures, and it’s better to let rivalry and innovation emerge organically, not through the wrecking ball of heavy-handed antitrust regulation.

#### Extinction---recovery caps numerous geopolitical crises.

Baird ’20 [Zoe; October 2020; C.E.O. and President of the Markle Foundation, Member of the Aspen Strategy Group and former Trustee at the Council on Foreign Relations, J.D. and A.B. from the University of California at Berkeley; Domestic and International (Dis)order: A Strategic Response, “Equitable Economic Recovery is a National Security Imperative,” Ch. 13]

A strong and inclusive economy is essential for American national security and global leadership. As the nation seeks to return from a historic economic crisis, the national security community should support an equitable recovery that helps every worker adapt to the seismic shifts underway in our economy.

Broadly shared economic prosperity is a bedrock of America’s economic and political strength—both domestically and in the international arena. A strong and equitable recovery from the economic crisis created by COVID-19 would be a powerful testament to the resilience of the American system and its ability to create prosperity at a time of seismic change and persistent global crisis. Such a recovery could attack the profound economic inequities that have developed over the past several decades. Without bold action to help all workers access good jobs as the economy returns, the United States risks undermining the legitimacy of its institutions and its international standing. The outcome will be a key determinant of America’s national security for years to come.

An equitable recovery requires a national commitment to help all workers obtain good jobs—particularly the two-thirds of adults without a bachelor’s degree and people of color who have been most affected by the crisis and were denied opportunity before it. As the nation engages in a historic debate about how to accelerate economic recovery, ambitious public investment is necessary to put Americans back to work with dignity and opportunity. We need an intentional effort to make sure that the jobs that come back are good jobs with decent wages, benefits, and mobility and to empower workers to access these opportunities in a profoundly changed labor market.

To achieve these goals, American policy makers need to establish job growth strategies that address urgent public needs through major programs in green energy, infrastructure, and health. Alongside these job growth strategies, we need to recognize and develop the talents of workers by creating an adult learning system that meets workers’ needs and develops skills for the digital economy. The national security community must lend its support to this cause. And as it does so, it can bring home the lessons from the advances made in these areas in other countries, particularly our European allies, and consider this a realm of international cooperation and international engagement.

Shared Economic Prosperity Is a National Security Asset

A strong economy is essential to America’s security and diplomatic strategy. Economic strength increases our influence on the global stage, expands markets, and funds a strong and agile military and national defense. Yet it is not enough for America’s economy to be strong for some—prosperity must be broadly shared. Widespread belief in the ability of the American economic system to create economic security and mobility for all—the American Dream— creates credibility and legitimacy for America’s values, governance, and alliances around the world.

After World War II, the United States grew the middle class to historic size and strength. This achievement made America the model of the free world—setting the stage for decades of American political and economic leadership. Domestically, broad participation in the economy is core to the legitimacy of our democracy and the strength of our political institutions. A belief that the economic system works for millions is an important part of creating trust in a democratic government’s ability to meet the needs of the people.

The COVID-19 Crisis Puts Millions of American Workers at Risk

For the last several decades, the American Dream has been on the wane. Opportunity has been increasingly concentrated in the hands of a small share of workers able to access the knowledge economy. Too many Americans, particularly those without four-year degrees, experienced stagnant wages, less stability, and fewer opportunities for advancement.

Since COVID-19 hit, millions have lost their jobs or income and are struggling to meet their basic needs—including food, housing, and medical care.1 The crisis has impacted sectors like hospitality, leisure, and retail, which employ a large share of America’s most economically vulnerable workers, resulting in alarming disparities in unemployment rates along education and racial lines. In August, the unemployment rate for those with a high school degree or less was more than double the rate for those with a bachelor’s degree.2 Black and Hispanic Americans are experiencing disproportionately high unemployment, with the gulf widening as the crisis continues.3

The experience of the Great Recession shows that without intentional effort to drive an inclusive recovery, inequality may get worse: while workers with a high school education or less experienced the majority of job losses, nearly all new jobs went to workers with postsecondary education. Inequalities across racial lines also increased as workers of color worked in the hardest-hit sectors and were slower to recover earnings and income than White workers.4

The Case for an Inclusive Recovery

A recovery that promotes broad economic participation, renewed opportunity, and equity will strengthen American moral and political authority around the world. It will send a strong message about the strength and resilience of democratic government and the American people’s ability to adapt to a changing global economic landscape. An inclusive recovery will reaffirm American leadership as core to the success of our most critical international alliances, which are rooted in the notion of shared destiny and interdependence. For example, NATO, which has been a cornerstone of U.S. foreign policy and a force of global stability for decades, has suffered from American disengagement in recent years. A strong American recovery—coupled with a renewed openness to international collaboration—is core to NATO’s ability to solve shared geopolitical and security challenges. A renewed partnership with our European allies from a position of economic strength will enable us to address global crises such as climate change, global pandemics, and refugees. Together, the United States and Europe can pursue a commitment to investing in workers for shared economic competitiveness, innovation, and long-term prosperity.

The U.S. has unique advantages that give it the tools to emerge from the crisis with tremendous economic strength— including an entrepreneurial spirit and the technological and scientific infrastructure to lead global efforts in developing industries like green energy and biosciences that will shape the international economy for decades to come.

### off

#### Biden slaps backs to pass infrastructure.

López ’9-16 [Burgess Everett and Laura Barrón-López; 2021; reporters, citing Senate Majority Whip Dick Durbin, Sen. Richard Blumenthal, Andrew Bates, a spokesperson for Biden, and Celinda Lake, a pollster on Biden’s campaign; Politico, “Dems call in big gun as they face huge Hill tests,” https://www.politico.com/news/2021/09/16/biden-influence-capitol-democrats-511952]

The next few months will push President Joe Biden to wield every drop of his influence over Congress.

Democrats are plunging into messy internal debates over social programs from child care to drug pricing as they try to beat back GOP resistance on voting rights while steering the United States away from economic catastrophe. And in order to avert a government shutdown, avoid a debt default and fight ballot access restrictions passed in some GOP states, Democratic lawmakers are urging Biden to get more directly involved.

Senate Majority Whip Dick Durbin said that Biden, “more than anyone,” maintains sway over his caucus’s 50 members: “There is no comparable political force to a president, and specifically Joe Biden at this moment.”

Biden appears to be answering the call. The president is getting increasingly involved in Congress’ chaotic fall session as he battles sagging approval ratings, heightened concerns around the pandemic and some internal criticism over his withdrawal from Afghanistan. On Thursday, he'll speak to Senate Majority Leader Chuck Schumer and Speaker Nancy Pelosi ahead of a critical week for funding the government and lifting the debt ceiling.

Rebounding as the midterms draw nearer will depend on whether his big social spending ambitions are realized and if his party can dodge a government shutdown and credit default. But even if he has success on those fronts, he still needs to maintain momentum on Democrats’ elections legislation, which Republicans look certain to torpedo.

“I have full faith and confidence in Joe Biden in all of this,” said House Majority Whip Jim Clyburn, who's pressed Biden to endorse a filibuster carve out for voting rights legislation. “He is working this … and that’s how it should be.”

Biden met with two key Democratic holdouts on his domestic spending agenda on Wednesday, part of a sustained push to keep Sens. Joe Manchin (D-W.Va.) and Kyrsten Sinema (D-Ariz.) on board with his legislative program. Biden’s met with Sinema four times this year, in addition to telephone calls made between the two, and has spoken to Manchin a similar number of times.

“Now is the time” for Biden to jump full-force into the reconciliation conversation, said Sen. Tim Kaine (D-Va.). And the White House made clear that Biden is diving into the series of tricky issues.

Andrew Bates, a spokesperson for Biden, said that Biden and his administration "are in frequent touch with Congress about each key priority: protecting the sacred right to vote, ensuring our economy delivers for the middle class and not just those at the top, and preventing needless damage to the recovery from the second-worst economic downturn in American history.”

To help corral all 50 Senate Democrats for the social spending bill, the president and his party need to create an “echo chamber” around its substance, said Celinda Lake, a pollster on Biden’s campaign. But that won't be easy. Manchin has told colleagues he’s worried about whether the bill’s safety net, climate action and tax reforms will be popular in his state, according to one Senate Democrat. He's also said he won't support a measure at the current spending level: $3.5 trillion.

If Biden can hammer home the popular aspects of the spending plan, it may help assuage Manchin and improve his whip count in Congress. Underscoring the degree to which he's become the face of the multi-trillion dollar reconciliation bill, a Democratic aide said the party is increasingly seeking to frame it as Biden’s agenda, not that of Sen. Bernie Sanders (I-Vt.) or any single Democrat.

“People think they like the reconciliation package, but they really don't know what's in it,” said Lake, who added that her polling shows popularity for the measure, particularly among women and seniors.

The coming months will also challenge Biden’s relationship with Republicans, who are threatening to block a debt limit hike after many of them supported a suspension or increase three times under former President Donald Trump. Biden campaigned as a Democrat who could work with Republicans, and he succeeded this summer by rounding up 19 Senate GOP votes for a $550 billion infrastructure bill.

Yet he’s running into a brick wall in convincing Senate Minority Leader Mitch McConnell to provide at least 10 GOP votes to lift the nation's borrowing limit. Republicans say Biden’s dip in the polls isn’t driving their strategy on the debt ceiling. But it’s not helping either.

“I don’t think anything in the last month has increased the likelihood that he can now create an atmosphere of: Let’s work together,” said Sen. Roy Blunt (R-Mo.), who voted for the infrastructure bill and debt ceiling increases under Trump.

The White House is, so far, sticking by its plan to try and call McConnell’s bluff. Aides in the West Wing consider attaching a debt ceiling suspension or increase to a government funding measure the best way to pressure Republicans on the routine step required by law. Should that approach fail, they may be forced to separate the two fiscal measures to avert a shutdown.

On the debt limit, congressional Democrats are in lockstep with the administration's strategy. But they're looking for Biden to exhibit more of his arm-twisting and back-slapping skills on their social spending plan and their bid to shore up voting rights protections.

Biden “knows better than anyone the power of the United States [presidency] in persuading and sometimes cajoling the key members of Congress, when push comes to shove,” said Sen. Richard Blumenthal (D-Conn.).

#### Antitrust requires PC, knocking out competing domestic initiatives.

Carstensen ’21 [Peter; February 2021; Fred W. & Vi Miller Chair in Law Emeritus at the University of Wisconsin Law School; Concurrences, “The ‘Ought’ and ‘Is Likely’ of Biden Antitrust,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#carstensen>]

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities.

15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!

16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Infrastructure passage lowers clean energy costs globally and solves existential climate change.

Bordoff ’21 [Jason; March 15; J.D. from Harvard Law School, co-founding dean of the Columbia Climate School, Professor of Professional Practice in International and Public Relations at Columbia University; Foreign Policy, “The Time for a Green Industrial Policy Is Now,” https://foreignpolicy.com/2021/03/15/biden-climate-energy-transition-green-new-deal-industrial-policy/]

Now that U.S. President Joe Biden’s $1.9 trillion plan for economic stimulus and pandemic relief has become law, his administration will turn its attention to a multitrillion-dollar plan to rebuild the United States’ ailing infrastructure. Its scope goes far beyond roads and bridges. Viewed in combination with other parts of Biden’s economic agenda, it reflects a new openness on both sides of the aisle to what has traditionally been known as industrial policy. Critics deride industrial policy as protectionist and as the government picking “winners,” but when it comes to clean energy—a top priority for Biden—a push by his administration to build new and innovative clean energy sectors using industrial policy may actually be the greatest contribution it can make to combating climate change.

Industrial policy, long anathema to mainstream economic policymakers in Washington, is back in vogue. The Biden administration’s Build Back Better economic plan includes targeted support for specific industries to make them more competitive with Asia and Europe and government procurement provisions to boost domestic manufacturing with “Buy America” requirements. As White House economist Jared Bernstein wrote in Foreign Policy, “the rationale for industrial policy is as strong as ever.” Biden’s national security advisor, Jake Sullivan, similarly wrote in Foreign Policy that “advocating industrial policy … should be considered something close to obvious.” Even Republicans, such as Sen. Marco Rubio, have been willing to deviate from the free-market’s gospel by endorsing industrial policy.

The push for industrial policy has been particularly strong for clean energy—as a way to combine battling climate change with building strategically important parts of the economy. The Green New Deal in 2019 drew the link between achieving net-zero emissions and creating millions of jobs by investing in the “industry of the United States.” Biden’s top economic advisor, Brian Deese, said, “some of the biggest opportunities” in climate policy right now are “what some people would call straight-out industrial policy.”

Industrial policy is a phrase used to mean different things. Broadly speaking, it refers to government intervention in the economy to promote and protect targeted sectors, often those considered strategically important. The term is therefore instinctively distasteful to those schooled in the laissez-faire, free-market orthodoxy of Adam Smith’s “invisible hand.” They worry about a creeping state capitalism that favors well-connected companies, stifling innovation and competition.

In reality, of course, the energy sector has never been free of government intervention. Nearly every source of energy receives some degree of favorable tax treatment. Nuclear energy receives government liability protection. Government investment and research gave rise to the shale revolution. As Robert McNally points out in his book, Crude Volatility: The History and the Future of Boom-Bust Oil Prices, the Texas Railroad Commission was the most successful oil cartel in history in setting prices, and even a Republican president like Dwight D. Eisenhower protected the domestic oil industry from the threat of imported oil.

To be fair, there are good reasons for government intervention in the energy market. Energy use and production can impose harm on others, such as through air pollution and carbon emissions. Energy innovation delivers benefits to all of us beyond the economic gains the innovator can capture. Energy infrastructure investment, such as pipelines, transmission lines, and electric vehicle chargers, may be hampered if any one firm’s investments benefit all their competitors or if it risks monopolistic market power of energy delivery mechanisms.

The argument for government’s role in the energy sector is even stronger today. First, the world faces an existential threat from climate change. With time running short to begin sharply curbing emissions, market forces will not deliver the pace of transition needed without robust government intervention. Second, the scale of that transition creates enormous economic opportunity to build new energy sectors. With the economy in a deep hole from the pandemic, leading in these new sectors can spur significant job growth. Finally, given the strategic importance of energy—critical to every citizens’ economic and physical well-being and safety, as the recent crisis in Texas reminded us—there is a strong national security rationale to develop these technologies and capabilities in the United States. As the energy system transitions to cleaner alternatives, there will be new risks associated with the critical minerals’ supply chains required for renewable energy and batteries, cybersecurity, and global trade chokepoints, which argues for reinforcing the domestic U.S. industrial base in these technologies.

To tackle the problem of climate change, Sullivan and Biden’s China advisor, Kurt Campbell, persuasively argued that the United States must pursue not only cooperation but also economic competition with China, for example. Noting that both Democrats and Republicans “are making a convincing case for a new U.S. industrial policy,” they called for more government investment in infrastructure and research in clean energy, among other areas, to confront such a “challenging economic competitor” as China.

The argument against industrial policy to combat climate change is that the government cannot anticipate which technologies will deliver the cheapest solutions. Yet, as the International Energy Agency explained, most of the key technologies the energy sector needs to reach net-zero emissions are known today. Market forces are still powerful—when properly directed by a carbon price—to give firms and consumers the right incentives to adopt and develop those technologies and to determine which ones emerge as the best solutions in different energy sectors.

Moreover, critics of industrial policy argue that if the goal is to reduce emissions as fast as possible, it should matter less whether the technology is made in the United States than whether it is as cheap as possible so more people will adopt it. Germany’s Energiewende, a comprehensive plan to shift the country to renewable energy, has been criticized for its high cost per ton of emissions avoided, which economists have estimated to be between $600 and $1500, much costlier than most other policy interventions. (To put the German numbers in context: The Obama administration estimated the total harm caused by one ton of carbon dioxide to be around $50, although there are good arguments to revise that figure higher.) Jason Furman, a Harvard professor and former Obama administration economic advisor, said “if you think climate change is the biggest challenge facing the country … you should want to make sure a lot of solar and wind energy is produced in the United States. You shouldn’t care nearly as much where panels and turbines are produced.”

Furman’s view is correct if the goal is to cut emissions in the United States as fast as possible. But what if the goal is to decarbonize the entire world’s emissions as fast as possible? What if the goal is to show climate leadership by helping all nations achieve net-zero emissions? In that case, the measure of U.S. climate policy should be less about how fast it brings down domestic emissions, only 15 percent of the world’s annual total, than about how fast it brings down the cost of clean technologies needed for the rest of the world to decarbonize.

Some clean energy technologies, such as solar and wind power or electric vehicles, are fairly cost competitive today relative to their carbon-intensive counterparts. Yet as Bill Gates explained in his new book, the cost difference between carbon-emitting and carbon-free production—what he calls the “green premium”—remains exceptionally high for many sectors and technologies, such as cement and steel, air travel and shipping, long-duration energy storage to cope with the intermittency of renewable energy, and steady sources of electricity like nuclear power or natural gas with carbon capture and storage. These technologies may not be needed to make a large dent in emissions by 2030, but they will absolutely be needed to achieve net-zero emissions by mid-21st century. Consider that the largest source of global greenhouse gas emissions comes from what Gates calls “making things,” such as the production of cement, steel, and plastics—sectors that will almost certainly need nascent technologies to decarbonize.

To promote domestic industries developing technologies for such hard-to-decarbonize sectors, policies should boost demand for such products, spur their deployment, and lower production costs. As first U.S. Treasury Secretary Alexander Hamilton famously explained: “In matters of industry, human enterprise ought, doubtless, to be left free in the main, not fettered by too much regulation; but practical politicians know that it may be beneficially stimulated by prudent aids and encouragements on the part of the Government.”

What might such a clean energy industrial policy look like? Dramatically increasing clean energy research and development funding can accelerate needed innovation. Subsidies can lower the cost of clean energy technologies, and a carbon price can increase the cost of carbon-intensive alternatives. The government can use its procurement power to create more demand or reduce risk for developers by signing long-term energy purchase agreements or guaranteeing them a certain price by paying the difference to prevailing market prices (the “contract for difference” model used in the United Kingdom). Low-cost loans and loan guarantees can support projects by lowering the cost of capital and the barriers to accessing private capital because of perceived technological risk. Infrastructure investment and streamlined permitting can boost demand and overcome chicken-and-egg problems. For example, there may be little incentive to develop zero-carbon hydrogen or install carbon-capture technology on power plants if there are no pipelines to transport fuel or carbon dioxide—but firms will not build the infrastructure until the new technology is commercialized. Trade and economic policy can align U.S. competitiveness with a global clean energy transition, such as through export finance to help clean energy companies compete with Chinese and other competitors in emerging markets. Some argue industrial policy should also protect U.S. firms through import tariffs or “Buy America” provisions, but such protectionist tools risk backfiring if retaliatory measures by other countries close export markets to these new domestic industries.

There are three reasons a U.S. clean energy industrial policy makes particular sense today. First, the technologies needed for sectors that are hard to decarbonize also offer many of the biggest economic opportunities for growth. According to the International Energy Agency, almost half of the cumulative emission reductions needed to achieve net-zero emissions by 2050 come from technologies that are not yet commercially available. China already dominates the market for solar panels and batteries, a result of government decisions taken more than a decade ago, so it would be very difficult for the United States to displace China in these technologies, which China already produces very cheaply. By contrast, the United States is well-positioned to build a strong industrial base to produce and export zero-carbon energy in the form of hydrogen and ammonia, fuel cells to produce zero-carbon electricity, or carbon-capture and removal technologies.

Second, these technologies will be needed to decarbonize globally, and by bringing the cost of these technologies down through government investments, Washington can help accelerate their deployment outside the United States as well. In this way, a U.S. industrial policy to promote clean energy can serve not as protectionism but as one of the country’s greatest contributions to global efforts to combat climate change. In the future, roughly 95 percent of all greenhouse gas emissions will come from outside the United States. Yet developing market countries, which are poorer and use much less energy per capita than developed countries do, will not adopt low-carbon solutions unless they are affordable.

Third, industrial policy that drives down the cost of clean energy “green premiums” while also putting U.S. citizens to work can be among the most effective ways to account for the United States’ historic responsibility for the climate change problem. Climate change results from the cumulative total of all carbon emissions over time, and as of 2019, the United States has contributed 25 percent. By contrast, the entire continent of Africa represents only 2 percent. One way to address this inequity is for wealthy countries to send cash to poorer countries. For example, the Biden administration has pledged that the United States will fulfill its 2014 commitment to provide climate-related assistance to poorer countries, of which $2 billion is still outstanding. But making it affordable for developing countries to grow their energy use and prosperity in climate-friendly ways can be a far greater contribution.

At present, U.S. climate policy ambition is being framed around what commitment Biden will make to reduce domestic emissions by 2030. Yet the steps the Biden administration takes to invest in nascent clean energy technologies and research can be even more important to long-term temperature stabilization goals, even if most of the dividends come after 2030 because of the time it takes for hydrogen, long-duration power storage, carbon capture, advanced nuclear power, and other emerging technologies to scale.

### Advantage 1

#### Maintaining respect for other countries is critical to effective international enforcement cooperation – that solves the aff – but the aff makes it impossible

Connolly ‘15 [Robert; Jan. 2015; partner in the Washington, D.C. office of GeyerGorey, LLP; CPI Antitrust Chronicle; “Why the Motorola Mobility Decision was Good for Cartel Enforcement and Deterrence,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2559149]

The initial Seventh Circuit holding, that the conduct in question did not “have a direct, substantial and reasonably foreseeable effect” on U.S. commerce, could have seriously jeopardized the enforcement efforts of the Department of Justice’s Antitrust Division (“Division”). The Court could have reached a decision allowing Motorola Mobility to seek damages in U.S. courts for purchases made overseas by a foreign subsidiary, but that could have created resentment of the United States as the world’s only cartel cop that mattered. (See Section II, below.) The decision to hold only that Motorola Mobility’s claim did not meet the FTAIA’s “gives rise to” requirement was a wise compromise from a policy perspective. Here’s why I think so.

II. INTERNATIONAL COOPERATION HAS LED TO THE EFFECTIVE PREVENTION, DETECTION, AND PROSECUTION OF CARTELS

While there are a few exceptions,3 major private civil damage cases in the international cartel arena have generally been brought only after the Division has obtained guilty pleas or convictions. The Division's ability to obtain guilty pleas has been aided greatly by cooperation from foreign governments in global investigations. Numerous foreign governments filed amicus briefs in Motorola Mobility urging the Court not to reach a decision that would infringe on their sovereignty and undermine their own enforcement of competition laws. For purposes of prosecuting international cartels, as well as for follow-on civil actions, maintaining international cooperation is essential.

Cooperation among antitrust enforcers takes many forms, some public, some not: coordinated dawn raids, assistance in obtaining foreign-located evidence, sharing leads and other non-confidential information, adoption of Mutual Legal Assistance Treaties (“MLATs”), and reducing safe havens from extradition for those who do fix prices.4 “While challenges remain in the area of international cooperation, cooperation among jurisdictions in anti-cartel enforcement continues to become more robust, sophisticated, and effective.”5

The Division has observed that, with each passing day, the antitrust community learns of a foreign government that has enacted a new antitrust law, created a new cartel investigative unit, obtained a record antitrust fine, or adopted a new corporate leniency program. This shared commitment to fighting international cartels has led to the establishment of cooperative relationships among competition law enforcement authorities around the world, leading to more effective investigation and prosecution of international cartels.6

It is probably true that when the Division brought the international lysine price-fixing cartel case against ADM, there was under deterrence of international cartels. ADM was the “supermarket to the world,” yet faced penalties in very few jurisdictions. The United States and European Union were the principal enforcers, imposing fines of just slightly more than $200 million cumulatively. While two ADM executives were sent to prison, no foreign executives were. Indeed, at that time, foreign executives had little to fear from cartel participation—extradition, red notices, and potential jail sentences in other jurisdictions were not yet a reality. More recently, by contrast, many foreign executives involved in the LCD cartel received jail terms as a result of Division prosecutions. Many currently believe jail is the greatest deterrent to cartel behavior.

Fines have also increased dramatically in the past decade. In the LCD cartel prosecution, AU Optronics alone was fined $500 million in the United States. LCD cartel enforcement actions have been taken by, among others, the United States, European Union, Canada, Korea, Japan, Brazil, and China, and this is likely not the full list. Global fines for price-fixing reached a record high in 2014 of $5.3 billion, which was a 31 percent increase over 2013’s record-breaking total.7 Fines in Asia were also at a record level of $1.7 billion.8

This dramatic expansion of cartel-fighting abilities on a worldwide scale took some time, as did developing a respect for differing views among nations. In the autumn of 1999, the Division hosted the first-ever international meeting of cartel investigators and prosecutors. More than 25 countries sent representatives. An international conference among enforcers has continued, in one form or another, ever since. The International Competition Network (“ICN”), has developed into a mature international organization with 126 agency members from 111 jurisdictions.9 And today there are more than 100 competition agencies worldwide with some form of leniency program. Any cartelist facing government action has a long, and continually growing, list of countries where it must “make peace” if it has committed a cartel violation.

These statistics demonstrate that the Division has been spectacularly successful in exporting the view that “cartels are the supreme evil of antitrust.” During the time I was with the Chief of the Philadelphia Field Office, we hosted delegations from Korea, Japan, and China, as well as had telephone discussions with many other jurisdictions regarding effective cartel enforcement. Other Division field offices did likewise and, of course, the main stop was always Main Justice in Washington, D.C.

Besides advocating condemnation of cartels, the Division also very effectively advocated for the adoption of leniency programs, which have now been adopted almost universally. Having invited the world to join the effort to prohibit and prosecute cartels, and that invitation having been enthusiastically accepted, it is good manners/policy that the competition regimes set up around the globe—which continue to develop—be given due respect and that the views of our partners be given serious consideration.

#### Improved relations are impossible

Dr. Hal Brands 19, Henry A. Kissinger Distinguished Professor of Global Affairs at the Johns Hopkins School of Advanced International Studies, Senior Fellow at the Center for Strategic and Budgetary Assessments, February 2019, “After the Responsible Stakeholder, What? Debating America’s China Strategy,” Texas National Security Review, Vol. 2, No. 2, https://tnsr.org/2019/02/after-the-responsible-stakeholder-what-debating-americas-china-strategy-2/

The attraction of accommodation is obvious. If successful, it would avoid the costs associated with prolonged political, economic, military, technological, and ideological competition, and it would facilitate compromise on issues such as climate change, where joint U.S.-Chinese action is sorely needed. The logic of this approach is equally straightforward: If the United States has failed to shape Chinese behavior through a combination of engagement and hedging, then it should seek to defuse the emerging confrontation before the balance of power becomes even less favorable. Unfortunately, accommodation is a bad bet for several reasons.

First, the United States cannot simply “make a deal” on many core issues since those issues have to do with the territory and interests of U.S. allies and partners. Washington does not itself claim the Senkaku/Diaoyu Islands, Scarborough Shoal, or Taiwan, so it cannot relinquish those claims. Entering negotiations with Beijing over the heads of leaders in Tokyo, Manila, and Taipei would undermine the U.S. network of alliances and partnerships. U.S. leaders would thus find it difficult to strike a grand bargain unless they are also willing to entertain withdrawing from the Indo-Pacific.

Second, neither U.S. nor Chinese leaders can have much confidence that a bargain struck now would hold in the future. At times of flux in the international hierarchy, established powers often hesitate to conclude grand bargains because they fear that the rising power might simply seek to renegotiate the deal later, when the balance has shifted further in its favor. So even if the United States cut a deal that satisfied China in the short term, there is little guarantee that Beijing would remain satisfied if its influence continued to grow. In fact, accommodation could incentivize greater Chinese revisionism by signaling declining U.S. willingness to defend its interests or by giving Beijing control of valuable territory — such as Taiwan — that could serve as a springboard to future aggression.10 Chinese leaders are also likely to be skeptical of a grand bargain given that the United States has walked away from major agreements signed in recent years — most notably the Iran nuclear deal and the Paris climate accord.

Finally, perhaps because of the reasons listed previously, leaders in Washington and Beijing appear averse to a grand bargain. Although Trump vaguely floated the idea in the months after his election, and there remains the possibility of a broad economic deal to deescalate the bilateral trade war, his administration recently and publicly dismissed a broader strategy of accommodation aimed at a comprehensive settling of differences.11 Future U.S. administrations are likely to do the same, given that both Republicans and Democrats have strongly criticized China’s security activities, economic practices, and human rights violations. Meanwhile, Xi Jinping has provided few indications that he is willing to make serious compromises in pursuit of a deal. Quite the opposite: His recent speeches on both foreign and domestic policy have been strident and confident.12 Even if a grand bargain is theoretically possible, it is probably not in the cards.

#### Zero solvency---tons of issues complicate relations

Dr. David M. Lampton 19, Oksenberg-Rohlen Fellow at Stanford University's Asia-Pacific Research Center and Hyman Professor Emeritus and Former Director of China Studies at the Johns Hopkins University School of Advanced International Studies, April 2019, “Reconsidering U.S.-China Relations: From Improbable Normalization to Precipitous Deterioration,” Asia Policy, Volume 14, Number 2, p. 43-60

There no longer is consensus in either country about carrying forward policies associated with the heyday of constructive engagement, much less to pursue the goal that Presidents Bill Clinton and Jiang Zemin articulated in November 1997—"building a constructive strategic partnership oriented towards the 21st century." The mounting friction at present reflects a multidimensional failure by top leadership in both Washington and Beijing. Managing the U.S.-China relationship productively should be a litmus test for leadership competence in both countries—and both are grievously failing. Could it conceivably be in Beijing's interest to be in confrontation with its single-largest national trading partner and the country of the most security importance to China? Could it conceivably be in Washington's interest to have [End Page 49] both China and Russia aligned against the United States, forcing U.S. allies and friends to choose between Washington and Beijing? As Michael Green points out in his book By More Than Providence, the core of U.S. strategy in Asia since the republic's earliest days has been to avoid a scenario where the Eurasian landmass and the Pacific are under the sway of a single hostile power or coalition.12 Recent large-scale joint Russian-Chinese military exercises signal a sharp move toward deterrence-thinking in Beijing, as does the United States' adoption of the Indo-Pacific strategy of like-minded countries and its multiplication of security, export, and investment control measures.

Looking at the 1970s, Richard Nixon, Mao Zedong, Henry Kissinger, Zhou Enlai, Jimmy Carter, Deng Xiaoping, Zbigniew Brzezinski, and (perhaps) Hua Guofeng understood that improved bilateral relations would help their countries address the most pressing domestic and international problems, challenges bearing on their personal success and regime legitimacy. For Mao, improved relations with the United States removed China from the disadvantageous position of simultaneously having two superpower enemies and exerted some deterrence on Moscow's military adventurism. As for Deng, he realized that improved relations with the United States would open the path to improved legitimacy and enhance economic performance in China.

For Nixon, the United States stood to gain by dividing Soviet capabilities across two widely separated military fronts, namely Europe and the Soviet Far East. Moreover, U.S. rapprochement with Beijing held out prospects for both a face-saving withdrawal from Vietnam and the opportunity to press Moscow on arms control. For Carter, in addition to the strategic gains of Sino-U.S. normalization allowing his administration to push back more forcefully against Soviet aggression in Afghanistan and the growing stockpile of Soviet missiles, economics became an important consideration, with Deng's China on the cusp of a monumental change of economic strategy—opening and reform. Deng's policy ignited approximately four decades of near 10% annual economic growth, changing both Chinese and global value-added supply chains and trading patterns.

The insights and policies that flowed from the normalization of Sino-U.S. relations endured for the next 40 years, lasting nearly as long as the Cold War itself. Over time, the relationship gradually moved from being an elite-to-elite (or capital-to-capital) relationship to a society-to-society relationship. Unfortunately, nothing lasts forever. [End Page 50]

The signs of declining cooperation between Washington and Beijing over the last decade are everywhere. Tensions are rising in the Taiwan Strait amid greater PRC pressure on Taipei, more assertive behavior by Taipei in cultivating U.S. support for its aspirations, and tighter alignment of Washington and Taipei. With respect to the latter, the most obvious example is the unanimous passage of the Taiwan Travel Act. Though key provisions were the "sense of Congress" (i.e., not mandatory), President Donald Trump signed the act into law in March 2018 without making any signing statement expressing the intention to implement it in a way consistent with the Three Communiqués and the Taiwan Relations Act, documents that have provided the framework for management of the Sino-U.S. relationship for decades.

Similarly, Beijing's rough handling of Hong Kong has weakened the already dubious credibility of its "one country, two systems" approach. It is hard to argue that Hong Kong has been granted the promised "high degree of autonomy," given that a Canadian citizen (Xiao Jianhua) was abducted from the Four Seasons Hotel there. Combined with Beijing's clampdown in Xinjiang following patterns not seen since the Cultural Revolution, this incident triggers every individualist, rights-oriented, and humanitarian reflex in the United States, not to mention that the government's recent mass incarceration actions in Xinjiang violate the PRC's own constitution regarding religious freedom and tolerance. Simply put, with respect to social control, China is acting in ways opposed to Chinese and global values and moving in directions divergent from the PRC's own reform-era thrust.

On the other hand, the United States for almost two decades has undermined its own greatest soft-power asset—orderly governance at home and generally responsible behavior abroad. A series of disastrous decisions has created a sad trail with signposts reading Iraq War, domestic economic mismanagement, global financial crisis, and withdrawal from agreements that Washington had encouraged and signed. All this has reduced U.S. credibility, not least in Beijing. "America first," as currently implemented, is a doctrine with no attraction to anyone but a fraction of the American public.

Other signs of a deteriorating U.S.-China relationship abound. The current trade frictions are inflicting pain on the global economy as well as on the citizens of both countries. Washington speaks increasingly of uniting with "like-minded countries," by which it does not mean China. The PRC sees "hegemony" and "containment" as the ultimate aims of U.S. policies. The alignment of Beijing and Moscow is growing closer as Washington seeks to construct a counter-alignment with its Indo-Pacific strategy, thereby moving the relationship from the realm of mutual strategic [End Page 51] suspicion toward strategic friction and mutual deterrence. Mounting export and foreign investment controls, as well as trade barriers in both directions, represent tangible efforts by each side to hobble the other's economy. Examples include the tit-for-tat imposition of tariffs, the recent tightening of U.S. Export Administration Regulations, and the National Defense Authorization Act for FY 2019, which includes the Foreign Investment Risk Review Modernization Act of 2018. Further, both societies are devoting increased attention to identifying and rooting out spies and subversives; this was a principal purpose of the establishment of the PRC's National Security Commission in 2014 and more recently the National Supervisory Commission.13 Empowered military and security players in both societies are rapidly leading the two countries down the path of an action-reaction arms race, including competition in space and cyberspace, not to mention in traditional military areas such as aircraft carriers. Recent public opinion surveys indicate that citizens in each country increasingly view the other as a "threat." The American public's "unfavorable" ratings of the PRC in 2019 exceed even the very high unfavorable ratings in 1989, the year of the Tiananmen Square violence.14 Last, there now is an unmistakable trend in both the United States and China toward assuming that the civil society and educational organizations working on one another's soil are instruments of subversion rather than of mutual understanding and shared benefit.

In sum, in both societies the wrecking ball is being taken to the three pillars supporting sound U.S.-China relations—security, economics, and culture.

#### No US-China war.

Charles C. Krulak & Alex Friedman 21, former President of Birmingham-Southern College, former Commandant of the US Marine Corps, M.S. from George Washington University; former Chief Financial Officer of the Bill & Melinda Gates Foundation, J.D. from Columbia University, “The US and China Are Not Destined for War,” Project Syndicate, 08-17-2021, https://www.project-syndicate.org/commentary/us-china-not-destined-for-war-by-charles-c-krulak-and-alex-friedman-1-2021-08

True, throughout history, when a rising power has challenged a ruling one, war has often been the result. But there are notable exceptions. A war between the US and China today is no more inevitable than was war between the rising US and the declining United Kingdom a century ago. And in today’s context, there are four compelling reasons to believe that war between the US and China can be avoided.

First and foremost, any military conflict between the two would quickly turn nuclear. The US thus finds itself in the same situation that it was in vis-à-vis the Soviet Union. Taiwan could easily become this century’s tripwire, just as the “Fulda Gap” in Germany was during the Cold War. But the same dynamic of “mutual assured destruction” that limited US-Soviet conflict applies to the US and China. And the international community would do everything in its power to ensure that a potential nuclear conflict did not materialize, given that the consequences would be fundamentally transnational and – unlike climate change – immediate.

A US-China conflict would almost certainly take the form of a proxy war, rather than a major-power confrontation. Each superpower might take a different side in a domestic conflict in a country such as Pakistan, Venezuela, Iran, or North Korea, and deploy some combination of economic, cyber, and diplomatic instruments. We have seen this type of conflict many times before: from Vietnam to Bosnia, the US faced surrogates rather than its principal foe.

Second, it is important to remember that, historically, China plays a long game. Although Chinese military power has grown dramatically, it still lags behind the US on almost every measure that matters. And while China is investing heavily in asymmetric equalizers (long-range anti-ship and hypersonic missiles, military applications of cyber, and more), it will not match the US in conventional means such as aircraft and large ships for decades, if ever.

A head-to-head conflict with the US would thus be too dangerous for China to countenance at its current stage of development. If such a conflict did occur, China would have few options but to let the nuclear genie out of the bottle. In thinking about baseline scenarios, therefore, we should give less weight to any scenario in which the Chinese consciously precipitate a military confrontation with America. The US military, however, tends to plan for worst-case scenarios and is currently focused on a potential direct conflict with China – a fixation with overtones of the US-Soviet dynamic.

This raises the risk of being blindsided by other threats. Time and again since the Korean War, asymmetric threats have proven the most problematic to national security. Building a force that can handle the worst-case scenario does not guarantee success across the spectrum of warfare.

The third reason to think that a Sino-American conflict can be avoided is that China is already chalking up victories in the global soft-power war. Notwithstanding accusations that COVID-19 escaped from a virology lab in Wuhan, China has emerged from the pandemic looking much better than the US. And with its Belt and Road Initiative to finance infrastructure development around the world, it has aggressively stepped into the void left by US retrenchment during Donald Trump’s four-year presidency. China’s leaders may very well look at the current status quo and conclude that they are on the right strategic path.

Finally, China and the US are deeply intertwined economically. Despite Trump’s trade war, Sino-American bilateral trade in 2020 was around $650 billion, and China was America’s largest trade partner. The two countries’ supply-chain linkages are vast, and China holds more than $1 trillion in US Treasuries, most of which it cannot easily unload, lest it reduce their value and incur massive losses.

To be sure, logic can be undermined by a single act and its unintended consequences. Something as simple as a miscommunication can escalate a proxy war into an interstate conflagration. And as the situations in Afghanistan and Iraq show, America’s track record in war-torn countries is not encouraging. China, meanwhile, has dramatically stepped up its foreign interventions. Between its expansionist mentality, its growing foreign-aid program, and rising nationalism at home, China could all too easily launch a foreign intervention that might threaten US interests.

Cyber mischief, in particular, could undercut conventional military command-and-control systems, forcing leaders into bad decisions if more traditional options are no longer on the table. And Sino-American economic ties may come to matter less than they used to, especially as China moves from an export-led growth model to one based on domestic consumption, and as two-way investment flows decline amid escalating bilateral tensions.

A “mistake” on the part of either country is always possible. That is why diplomacy is essential. Each country needs to determine its vital national interests vis-à-vis the other, and both need to consider the same question from the other’s perspective. For example, it may be hard to accept (and unpopular to say), but civil rights within China might not be a vital US national interest. By the same token, China should understand that the US does indeed have vital interests in Taiwan.

The US and China are destined to clash in many ways. But a direct, interstate war need not be one of them.

### Advantage 2

#### No Chinese 5G dominance---their claims are military lies, hyped for funding

SCMP 19 – South China Morning Post, citing a variety of experts, “China Experts: US Still Out Front In Tech Race Despite Pentagon Claim”, 11/3/2019, https://www.abacusnews.com/tech/china-experts-us-still-out-front-tech-race-despite-pentagon-claim/article/3036161

Chinese experts have rejected the claim by a senior Pentagon official that the US is lagging behind China in some key dual-use technologies.

Michael Brown, director of the US Department of Defence’s innovation unit, said at a seminar earlier this week that China was either competitive or catching up in the areas of hypersonics, artificial intelligence, quantum sciences, 5G mobile networks, genetic engineering, and space.

With the exception of hypersonics, these technologies had not only military applications but were also critical for long-term economic prosperity, making them important to the future of US-China competition, he said.

“I believe that national security and economic security are inextricably linked,” Brown told the think tank Centre for Strategic and International Studies in Washington.

China prepares to send its own astronauts to the moon 50 years after Apollo 11

But Chinese experts said China’s progress had been exaggerated and many of its achievements were only partial successes so far.

Hong Kong-based military commentator Song Zhongping said the US had been “unarguably more successful and experienced, far ahead of anyone” in space technology. “Look at Project Apollo and the Space Shuttle programme – decades later no other country has ever matched those achievements,” he said.

Despite breakthroughs in certain fields like 5G, there was more generally a clear gap between China’s digital information and electronics technologies and the world’s technological leaders, according to Beijing-based naval expert Li Jie.

In the field of hypersonics, China may have achieved milestones in glider vehicles, but in another important technology – ramjet engines – there was no evidence of any major breakthroughs, and the US was still far more experienced in the field, said Zhao Tong, senior fellow at the Carnegie-Tsinghua Centre for Global Policy.

China exhibited hypersonic missiles and drones at last month’s National Day parade, and has just launched a commercial 5G – fifth generation mobile network – service on Friday, which is the biggest in the world.

Huawei, China’s telecommunication giant has won contracts to construct the 5G infrastructures for many countries, despite the US campaign to ban Huawei equipment over security concerns.

Brown said China was “already ahead of the US in quantum sciences” – citing the Chinese launch in 2016 of Micius, the world’s first quantum communications satellite. China had also made more launches into space than the US in 2018 as it speeded up its space programme, he said.

Brown added the US had used Chinese equipment for genome sequencing, which meant China had more data on the genetic sequencing of the US population than the US itself, he said, and the US was also playing “a catch up game” with China in AI-based facial recognition.

5G is available now in China for just US$18

For the past 50 to 80 years, the US had led the way and set the standards in almost all important technologies and industries, he said. In doing so, the US had been able to build and shape a global ecosystem and enjoy its advantages since the end of World War II.

But, Brown warned, for China to set the pace for these technologies would be “game-changing”.

“Imagine what the world would look like if China was setting standards,” he said. “Over time, that means we have fewer levers to shape what the US wants to do, both from a global technology standpoint and also what are the values that are highlighted around the world as ones to be looked up to.”

Ni Lexiong, a Shanghai-based military commentator, said Brown had his own agenda in making his comments.

“The US military wants more budget, more new equipment, more new R&D projects. And the theory of a China threat is, of course, a handy excuse,” Ni said.

#### Widespread rollout is years away

Dr. Mohanbir Sawhney 19, McCormick Tribune Professor of Technology at the Kellogg School of Management, “Perspectives: Don't Hold Your Breath For 5G. Most Of Us Won't Be Using It Until 2025”, CNN, 12/10/2019, https://www.cnn.com/2019/12/10/perspectives/5g-technology-t-mobile-att-verizon/index.html

But for now, 5G in 2020 is mostly a hype fest. Slowly, 5G networks in the next few years will expand coverage, as a wider range of affordable 5G smartphones hit the market. Only then will the consumer adoption of 5G start to take off, which could take until 2025 as service gradually expands. Back when 4G was the new frontier, there were still pockets of 3G even though carriers were promoting "nationwide" coverage.

#### ‘5G racing’ is total B.S.

Nilay Patel 19, J.D. from the University of Wisconsin Law School, Editor-in-Chief of The Verge, Former Acting Managing Editor for Vox, AB in Political Science from the University of Chicago, “Wait, Why The Hell Is The ‘Race To 5G’ Even A Race?”, The Verge, 5/23/2019, https://www.theverge.com/2019/5/23/18637213/5g-race-us-leadership-china-fcc-lte

I have a dumb question that no one seems capable of answering directly: *Why is 5G a race?*

Everyone — the wireless industry, Democrats, Republicans, the major media, you name it — frames the building of next-generation 5G networks as a “race” in which the United States needs to demonstrate “leadership.”

Here is The Washington Post declaring America has the lead in the race to 5G. Here’s CNN asking “Who’s winning the race to 5G?” Here’s AT&T CEO Randall Stephenson declaring that China isn’t beating the US to 5G “yet,” as some sort of ominous warning. Here’s T-Mobile CEO John Legere telling the House Subcommittee on Communications and Technology that merging with Sprint will let his company “win the race to 5G.” Here is an entire microsite from industry lobbying group CTIA titled “The Race to 5G.”

Let us never forget AT&T being so desperate to lead this “race” that it rolled out fake 5Ge logos on its phones.

But the stakes of this supposed race are wholly unclear. What happens if we win, besides telecom execs getting slightly richer? More importantly, what are the drawbacks to coming in second, or even third? Where is the list of specific negative outcomes of China building a 5G network a month, a year, or even five years before the United States? I’ve never seen it, and I keep asking about it.

NO ONE CAN SAY WHAT BAD THINGS WILL HAPPEN IF WE DON’T WIN THE RACE TO 5G

For example, here’s FCC Commissioner Geoffrey Starks on The Vergecast this week, when I asked why 5G is a race.

“I think it is important for us to continue to lead the race ... we obviously led to 4G and I think we get to set some of the standards that are ultimately going to be implemented worldwide, which is why there is a little bit of a race.”

Starks went on to say that China wants to be a global leader in supplying 5G equipment and that’s why Huawei has been so aggressively building and pricing its gear. But Huawei depends on American chip technology to make its products, and the US government has just put Huawei on a blacklist anyway. So... the race is so we can set some wireless standards? I suspect Apple, Google, Qualcomm, Verizon, and AT&T can fend for themselves when it comes to that process.

The other main argument for winning the “race” to 5G is that having the world’s best and fastest networks will create new economic opportunities for businesses of all kinds — we’ll enable self-driving cars and telemedicine and all the other stuff you hear about during interminable 5G slideshows at trade conferences. At a hearing before the Senate Committee on Commerce, Science, and Transportation earlier this year, Mississippi Sen. Roger Wicker confidently declared that “failing to win the race to 5G would not only materially delay the benefits of 5G for the American people, it would forever reduce the economic and societal gains that come from leading the world in technology.”

WE WON THE RACE TO LTE AND OUR LTE NETWORKS ARE AMONG THE SLOWEST AND MOST EXPENSIVE IN THE WORLD

Maybe. It is indeed true that better networks lead to better opportunities, and that widespread high-speed broadband is something everyone wants. But I sincerely doubt that all of these companies will pick up and move to China or Europe if the United States builds 5G networks slightly slower. After all, we already have some of the slowest and most expensive networks in the world, and Apple and Facebook have not yet relocated to South Korea.

The more I hear about the race, the more I don’t buy it. I think the “race” framing is there to make some big decisions seem urgent and important — to make it appear as though some serious trade-offs are worth it in order to “win.” And those trade-offs are indeed serious: 5G networks will require a serious rethinking of how we use wireless spectrum. There are incredible privacy implications around putting millions of IoT devices in a “smart city” on 5G. Investment dollars will naturally flow toward building 5G networks in cities instead of expanding our networks to rural areas, exacerbating the digital divide.

THE “RACE” IS TO THERE TO MAKE SERIOUS TRADE-OFFS SEEM WORTH IT SO WE CAN “WIN”

And once the “race” to build out 5G in big cities is “won,” the pressure to expand access to other places in the country will vanish, making that divide even worse. It is worth carefully considering all of these things before giving in to haste.

Oh, and it appears that some of the required 5G spectrum might interfere with important weather sensors, a concern raised by NASA, the Navy, and the NOAA in hearings before Congress last week. How did the wireless industry respond to these concerns? By writing a blog post accusing meteorologists from across three government agencies of “risking our 5G leadership.” The implication, of course, is that worrying about detecting major weather events could make us lose the race.

This race is imaginary bullshit. It’s being foisted on us by huge telecom companies that know internet access is fundamentally a commodity and want something new to sell at high prices instead of competing to improve service and lower prices on the networks they have. After all, the United States “won” the “race” for LTE, but it bears repeating: our LTE networks are among the slowest in the world, and our prices among the highest. What did winning that race accomplish for the millions of people across the country that still can’t get a reliable LTE signal?

#### No Taiwan war---China has pledged to unify since Mao but has zero incentive to actually go to war.

Bush et al. 21, Richard Bush, former Senior Fellow and Director of the Center for East Asia Policy Studies at the Brookings Institution; Bonnie Glaser, Director of the China Power Project at the Center for Strategic and International Studies; Ryan Haas, served on the National Security Council in the Obama administration, Senior Fellow at the Brookings Institution, “Opinion: Don't Help China By Hyping Risk Of War Over Taiwan,” NPR, 04-08-2021, https://www.npr.org/2021/04/08/984524521/opinion-dont-help-china-by-hyping-risk-of-war-over-taiwan

A growing chorus of officials and experts in the United States has been raising alarm about the risk of a Chinese attack against Taiwan. Adm. Philip S. Davidson, the United States Indo-Pacific commander, recently handicapped the threat of a Chinese assault on Taiwan as "manifest during this decade, in fact, in the next six years." China is preparing to invade and unify Taiwan by force, the thinking goes, as soon as it gains the capabilities to do so. Such doomsday predictions deserve interrogation.

China's actions no doubt have earned scrutiny. In recent years, Beijing has grown impatiently aggressive in pursuit of its ambitions. China has drawn blood along the contested Indian border, threatened Vietnam, expanded its military presence in the South China Sea, increased the tempo of its operations near the Senkaku Islands and trampled Hong Kong's autonomy — to say nothing of the atrocities it is perpetrating against its own citizens in Xinjiang and elsewhere.

Beijing also is investing considerably in military capabilities that could be employed in a Taiwan contingency. China has gone on a naval shipbuilding surge in recent years, surpassing the U.S. Navy by a count of hulls. Robert S. Ross of Boston College estimates that the Chinese Navy already has more than 300 ships, while the U.S. Navy has around 280.

China is marshaling its full range of capabilities to intensify pressure on Taiwan below the threshold of conflict. People's Liberation Army forces now operate all around Taiwan. They also have been conducting highly publicized amphibious assault exercises and air penetrations of Taiwan's air defense identification zone at the highest frequency in nearly 25 years.

Contributing to Beijing's unfriendly treatment of Taiwan was its perception that the Trump administration showed stronger support for the island's government, thus reducing any incentive that Taipei had to submit to its demands. Trump officials took initiatives mainly in the diplomatic and security realms, and they did buoy Taiwan's confidence. The Biden administration has shown broad continuity in support for Taiwan during its first months.

As troubling as the trend-lines of Chinese behavior are, it would be a mistake to infer that they represent a prelude to an unalterable catastrophe. China's top priority now and in the foreseeable future is to deter Taiwan independence rather than compel unification. Beijing remains confident in its capacity to achieve this near-term objective, even as it sets the groundwork for its long-term goal of unification. Indeed, based on polling on attitudes regarding defense, we believe the people of Taiwan already are sober to the risks of pursuing independence.

China's leaders also have employed sharp rhetoric, though some of it has been exaggerated. Too much is made of President Xi Jinping's declaration not to pass down cross-strait divisions to future generations. Every Chinese leader since Mao Zedong has projected determination to unify Taiwan with the mainland. Xi is no different. And Xi, now 67, will not likely be around to see if Taiwan is unified with the mainland by the putative deadline, the 100-year anniversary of the founding of the People's Republic of China in 2049.

While it is true that some in China have concluded that time is no longer on China's side and Beijing should use force to compel unification, Xi has resisted such pressure. In the latest five-year plan, launched this year, Beijing reaffirmed the policy guideline of pursuing "peaceful development of cross-strait relations," continuing a line tracing back to the era of Hu Jintao, China's president from 2003 to 2013.

Beijing has its own incentives to avoid war. Foremost among them is that any attempt to take Taiwan by force would very likely invite a military conflict with the United States. Such a conflict would be difficult to limit from escalating or spreading beyond the Taiwan Strait.

Under such circumstances, Beijing could not be assured of absolute victory, and anything short of quick and absolute unification would risk undermining Chinese Communist Party legitimacy at home. China's use of force against Taiwan also would poison China's image in the region and the world, alert neighboring countries to the threat China poses to stability and lead to diversion of resources and focus from Xi's pressing domestic priorities.

Given the unattractiveness of these options, it is little surprise that China has chosen a different path. In recent years, Beijing has unveiled a broad range of tools to deter Taiwan's independence and gradually weaken the will of the people of Taiwan to resist integration with the mainland.

China has targeted Taiwan economically, sought to induce a brain drain of Taiwan's top engineers to the mainland, isolated Taiwan on the world stage, fomented social divisions inside Taiwan, launched cyberattacks and undertaken displays of military force.

Beijing's goal is to constantly remind Taiwan's people of its growing power, induce pessimism about Taiwan's future, deepen splits within the island's political system and show that outside powers are impotent to counter its flexes.

Its approach is guided by the Chinese aphorism, "Once ripe, the melon will drop from its stem." This strategy may require more time than war, but it would come at less cost and risk to Beijing.

Coercion without violence is not just a threat; it's an everyday reality. China does pose a kinetic threat to Taiwan, and Taiwan and the United States must strengthen their capacity to deter war. But the proximate threat is not just military, it's also psychological.

Hyping the threat that China poses to Taiwan does Beijing's work for it. Taiwan's people need reasons for confidence in their own future, not just reminders of their vulnerabilities.

### Advantage 3

#### Extraterritorial antitrust creates the perception of isolationism by wrecking comity

Veneziano ’19 [Alina; 2019; Ph.D. candidate at London’s King’s College with a focus on the early U.S. securities markets; University of Baltimore*,* “Extraterritaterritoriality and the Regulatory Power of the United States: Featured Issues of Sovereignty, Legitimacy, Accountability, and Democracy,” https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=1071&context=ubjil]

Excessive extraterritorial applications have hegemonic implications that both stifle international cooperation and foreign capital flow. Another dangerous consequence is that this practice has the ability to influence. What is referred to here is the ability of the United States to create an example in utilizing extraterritoriality that other states may wish to use themselves to apply their own laws abroad – laws that do not comport with the values and legal system of the United States.77 For instance, Professor Austen Parrish notes that the practice of extraterritoriality is not limited to the United States; in fact, its use by other states is “hardly surprising,” he asserts, as it was the United States that created the “precedent” or “sense of righteousness” in other states.78 Thus, the question to be explored in this subpart is as follows: How does this concept impact the regulatory power of the United States in today’s modern transnational world? The main replies to this inquiry include the adverse implications on foreign relation matters and political/economic considerations which indoctrinates a reluctance within the United States to conceive of different mechanisms to regulate foreign conduct.

Because extraterritoriality involves the application of U.S. law as applied to foreign subjects, it connects to “foreign relations issues that have consequences for the United States.”79 These foreign relations issues can negatively affect the United States’ reputation internationally and in the eyes of its own citizens. Regarding international consequences, an increase in the United States’ power is likely correlated with a reduction in cooperation for international agreements; thus, this “often reflects an inability or unwillingness to engage multilaterally” and depicts the United States as an “isolationist.”80

#### Brink now---perception of anti-trust protectionism collapses global trade.

Murray ’19 [Allison; May; Loyola Law School Juris Doctor; Digital Commons*,* “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?” https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1785&context=ilr]

There is a clear “conflict between the evolving economic and technical interdependence of the globe and the continuing compartmentalization of the world political system composed of sovereign states . . . .”196 This conflict can breed protectionist political views. Unless and until there is a complete paradigm shift away from protectionism, which is impossible, the global economy will not meet the “rational” assumptions necessary to preserve free market efficiency.

Some amount of protectionism is inevitable. Although “inefficient” in economic and academic circles, protectionism preserves the sovereign powers enjoyed by certain countries. In this way, it is a necessity of free trade. This paper is not intended to be a commentary on whether protectionism is right or wrong, but rather a demonstration and prediction that antitrust law, a tool of political and economic power, can and will be wielded by individual countries to promote protectionist policies that will affect the international trade landscape in the near term.

While attempting to act on this protectionism is difficult because of the web of international trade agreements currently in existence, individual countries may still use domestic antitrust law to meet protectionist aims, especially given that an international authoritative body governing the use of antitrust does not exist. Countries serious about preserving free trade may cooperate with one another to adopt realistic economic policies that serve to dull the blade of antitrust law through regional agreements, but ought not to attempt to eliminate it altogether.

Antitrust law, like medicine, must be used appropriately to be effective. While antitrust laws generally should encourage free trade, as promoting competition is the aim of their enforcement, they are also at risk of being used to thwart free trade. That risk is further exacerbated by perceptions of unfair enforcement and the divisive rhetoric of world leaders. In this way, antitrust law has the potential to weaken the already delicate international cooperative framework that exists to foster free trade. Absent a change in perceptions and the protectionist rhetoric fueling the current political landscape, antitrust law is likely to be manipulated to serve protectionist viewpoints, making it increasingly likely to become a nail in free trade’s coffin, instead of the key to its preservation. It may be a nail that nations are able to ignore for the sake of its benefit, or it may be the one that finally puts an end to the pursuit of truly international free trade. Only time will tell, but one thing is clear: anti-trust law is a field that will impact the international economic community significantly for years to come.

#### Trade escalation splits the globe into blocs---nuclear war

Kapustina 20 [Dr. Larisa; Andrei; 2020; PhD in Economics and Professor of Economics at Ural State University, Dr. Ľudmila Lipková, Professor of Economics at the University of Economics in Bratislava, Yakov Silin, Rector of Ural State University of Economics; Senior Lecturer of the Marketing and International Management at Ural State University; SHS Web of Conferences; “US-China Trade War: Causes and Outcomes,”vol. 73, p. 10-11] \*\*[grammar edit]

4.4 Scenario 4. Trade war will escalate into Hot World War III

A trade war can escalate from Cold to Hot stage, which is especially unwanted scenario considering that the US allows limited use of nuclear weapon[s]. According to Terence Tai-Leung Chong & Xiaoyang Li, the trade conflict between China and the US is of fundamental nature and it cannot be easily resolved [29]. The conflict is associated with the race for global economic domination. The US has a serious advantage in cyberspace and it seeks to “digitally colonize” the global economy. According to Ashmanov, almost all neural platforms in the world are US-based, including first of all those belonging to Google and Facebook [35]. “The US shows with its actions, that they are ready to easily throw any inconvenient contracts and obligations away into the trash can, and also to ignore the UN and other international organizations, granting itself the right for unilateral military actions, the US is moving towards the role associated with the British Empire after the World War I” [6]. This scenario seems unlikely now, but it is not excluded.

Trump has made matters worse by acting unilaterally against China in a way that would appear to breach World Trade Organization rules. Indeed, potential allies find Trump’s “America First” rhetoric repulsive. All this has given China the political high ground – “China doesn’t want a trade war, but we’re not afraid to fight a trade war” has become Beijing’s official line [22].

5 Conclusion

The greatest trade war in economic history can result in a change in the international trade architecture, slow-down of financial markets. The countries can be divided into two blocks supporting the US or China, and at the same time, forming the mega-alliances of economies, as well as regional currency zones. The Asia’s role in globalization processes and the development of global supply chains is likely to strengthen. The US strives to weaken its main competitor and maintain dominance in the global arena: in the economy, politics and the national security.

#### No accidents impact

**Quinlan 9** (Michael, Former Permanent Under-Sec. State – UK Ministry of Defense, “Thinking about Nuclear Weapons: Principles, Problems, Prospects”, p. 63-69)

Even if initial nuclear use did not quickly end the fighting, the supposition of inexorable momentum in a developing exchange, with each side rushing to overreaction amid confusion and uncertainty, is implausible. **It fails to consider what the situation of the decisionmakers would really be**. **Neither side could want escalation**. Both would be appalled at what was going on. **Both would be desperately looking for signs that the other was ready to call a halt**. Both, given the capacity for evasion or concealment which modem delivery platforms and vehicles can possess, could have in reserve significant forces invulnerable enough not to entail use-or-lose pressures. (It may be more open to question, as noted earlier, whether newer nuclearweapon possessors can be immediately in that position; but it is within reach of any substantial state with advanced technological capabilities, and attaining it is certain to be a high priority in the development of forces.) As a result, neither side can have any predisposition to suppose, in an ambiguous situation of fearful risk, that the right course when in doubt is to go on copiously launching weapons. And **none of this analysis rests on any presumption of highly subtle or pre-concerted rationality**. The rationality required is plain. The argument is reinforced if we consider the possible reasoning of an aggressor at a more dispassionate level. Any substantial nuclear armoury can inflict destruction outweighing any possible prize that aggression could hope to seize. A state attacking the possessor of such an armoury must therefore be doing so (once given that it cannot count upon destroying the armoury pre-emptively) on a judgement that the possessor would be found lacking in the will to use it. If the attacked possessor used nuclear weapons, whether first or in response to the aggressor's own first use, this judgement would begin to look dangerously precarious. There must be at least a substantial possibility of the aggressor leaders' concluding that their initial judgement had been mistaken—that the risks were after all greater than whatever prize they had been seeking, and that for their own country's , survival they must call off the aggression. Deterrence planning such as that of NATO was directed in the first place to preventing the initial misjudgement and in the second, if it were nevertheless made, to compelling such a reappraisal. The former aim had to have primacy, because it could not be taken for granted that the latter was certain to work. But there was no ground for assuming in advance, for all possible scenarios, that the chance of its working must be negligible. An aggressor state would itself be at huge risk if nuclear war developed, as its leaders would know. It may be argued that a policy which abandons hope of physically defeating theznemy and simply hopes to get him to desist is pure gamble, a matter of who blinks first; and that the political and moral nature of most likely aggressors, almost ex hypothesi, makes them the less likely to blink. One response to this is to ask what is the alternative—it can only be surrender. But a more positive and hopeful answer lies in the fact that the criticism is posed in a political vacuum. Real-life conflict would have a political context. The context which concerned NATO during the cold war, for example, was one of defending vital interests against a postlated aggressor whose own vital interests would not be engaged, or would be less engaged. Certainty is not possible, but a clear asymmetry of vital interest is a legitimate basis for expecting an asymmetry, credible to both sides, of resolve in conflict. That places upon statesmen, as page 23 has noted, the key task in deterrence of building up in advance a clear and shared grasp of where limits lie. That was plainly achieved in cold-war Europe. If vital interests have been defined in a way that is dear, and also clearly not overlapping or incompatible with those of the adversary, a credible basis has been laid for the likelihood of greater resolve in resistance. It was also sometimes suggested by critics that whatever might be indicated by theoretical discussion of political will and interests, the military environment of nuclear warfare—particularly difficulties of communication and control—would drive escalation with overwhelming probability to the limit. But it is obscure why matters should be regarded as inevitably .so for every possible level and setting of action. Even if the history of war suggested (as it scarcely does) that military decision-makers are mostly apt to work on the principle 'When in doubt, lash out', the nuclear revolution creates an utterly new situation. The pervasive reality, always plain to both sides during the cold war, is `If this goes on to the end, we are all ruined'. Given that inexorable escalation would mean catastrophe for both, it would be perverse to suppose them permanently incapable of framing arrangements which avoid it. As page 16 has noted, NATO gave its military commanders no widespread delegated authority, in peace or war, to launch nuclear weapons without specific political direction. Many types of weapon moreover had physical safeguards such as PALs incorporated to reinforce organizational ones. There were multiple communication and control systems for passing information, orders, and prohibitions. Such systems could not be totally guaranteed against disruption if at a fairly intense level of strategic exchange—which was only one of many possible levels of conflict— an adversary judged it to be in his interest to weaken political control. It was far from clear why he necessarily should so judge. Even then, however, it remained possible to operate on a general fail-safe presumption: no authorization, no use. That was the basis on which NATO operated. If it is feared that the arrangements which 1 a nuclear-weapon possessor has in place do not meet such standards in some respects, the logical course is to continue to improve them rather than to assume escalation to be certain and uncontrollable, with all the enormous inferences that would have to flow from such an assumption. The likelihood of escalation can never be 100 per cent, and never zero. Where between those two extremes it may lie can never be precisely calculable in advance; and even were it so calculable, it would not be uniquely fixed—it would stand to vary hugely with circumstances. That there should be any risk at all of escalation to widespread nuclear war must be deeply disturbing, and decision-makers would always have to weigh it most anxiously. But a pair of key truths about it need to be recognized. The first is that the risk of escalation to large-scale nuclear war is inescapably present in any significant armed conflict between nuclear-capable powers, whoever may have started the conflict and whoever may first have used any particular category of weapon. The initiator of the conflict will always have physically available to him options for applying more force if he meets effective resistance. If the risk of escalation, whatever its degree of probability, is to be regarded as absolutely unacceptable, the necessary inference is that a state attacked by a substantial nuclear power must forgo military resistance. It must surrender, even if it has a nuclear armoury of its own. But the companion truth is that, as page 47 has noted, the risk of escalation is an inescapable burden also upon the aggressor. The exploitation of that burden is the crucial route, if conflict does break out, for managing it, to a tolerable outcome--the only route, indeed, intermediate between surrender and holocaust, and so the necessary basis for deterrence beforehand. The working out of plans to exploit escalation risk most effectively in deterring potential aggression entails further and complex issues. It is for example plainly desirable, wherever geography, politics, and available resources so permit without triggering arms races, to make provisions and dispositions that are likely to place the onus of making the bigger, and more evidently dangerous steps in escalation upon the aggressor volib wishes to maintain his attack, rather than upon the defender. (The customary shorthand for this desirable posture used to be 'escalation dominance'.) These issues are not further discussed here. But addressing them needs to start from acknowledgement that there are in any event no certainties or absolutes available, no options guaranteed to be risk-free and cost-free. Deterrence is not possible without escalation risk; and its presence can point to no automatic policy conclusion save for those who espouse outright pacifism and accept its consequences. Accident and Miscalculation Ensuring the safety and security of nuclear weapons plainly needs to be taken most seriously. Detailed information is understandably not published, but such direct evidence as there is suggests that it always has been so taken in every possessor state, with the inevitable occasional failures to follow strict procedures dealt with rigorously. Critics have nevertheless from time to time argued that the possibility of accident involving nuclear weapons is so substantial that it must weigh heavily in the entire evaluation of whether war-prevention structures entailing their existence should be tolerated at all. Two sorts of scenario are usually in question. The first is that of a single grave event involving an unintended nuclear explosion—a technical disaster at a storage site, for example, Dr the accidental or unauthorized launch of a delivery system with a live nuclear warhead. The second is that of some event—perhaps such an explosion or launch, or some other mishap such as malfunction or misinterpretation of radar signals or computer systems—initiating a sequence of response and counter-response that culminated in a nuclear exchange which no one had truly intended. No event that is physically possible can be said to be of absolutely zero probability (just as at an opposite extreme **it is absurd to claim,** as has been heard from distinguished figures, **that nuclear-weapon use can be guaranteed to happen within some finite future span despite not having happened for over sixty years**). But human affairs cannot be managed to the standard of either zero or total probability. We have to assess levels between those theoretical limits and weigh their reality and implications against other factors, in security planning as in everyday life. There have certainly been, across the decades since 1945, many known accidents involving nuclear weapons, from transporters skidding off roads to bomber aircraft crashing with or accidentally dropping the weapons they carried (in past days when such carriage was a frequent feature of readiness arrangements----it no longer is). A few of these accidents may have released into the nearby environment highly toxic material. None however has entailed a nuclear detonation. Some commentators suggest that this reflects bizarrely good fortune amid such massive activity and deployment over so many years. **A more rational deduction from the facts of this long experience would however be that the probability of any accident triggering a nuclear explosion is extremely low**. It might be further noted that the mechanisms needed to set off such an explosion are technically demanding, and that in a large number of ways the past sixty years have seen extensive improvements in safety arrangements for both the design and the handling of weapons. It is undoubtedly possible to see respects in which, after the cold war, some of the factors bearing upon risk may be new or more adverse; but some are now plainly less so. The years which the world has come through entirely without accidental or unauthorized detonation have included early decades in which knowledge was sketchier, precautions were less developed, and weapon designs were less ultra-safe than they later became, as well as substantial periods in which weapon numbers were larger, deployments more widespread and diverse, movements more frequent, and several aspects of doctrine and readiness arrangements more tense. Similar considerations apply to the hypothesis of nuclear war being mistakenly triggered by false alarm. Critics again point to the fact, as it is understood, of numerous occasions when initial steps in alert sequences for US nuclear forces were embarked upon, or at least called for, by, indicators mistaken or misconstrued. **In none of these instances**, it is accepted, **did matters get at all near to nuclear launch**--extraordinary good fortune again, critics have suggested. **But the rival and more logical inference from hundreds of events stretching over sixty years of experience presents itself once more: that the probability of initial misinterpretation leading far towards mistaken launch is remote**. Precisely because any nuclear-weapon possessor recognizes the vast gravity of any launch, release sequences have many steps, and human decision is repeatedly interposed as well as capping the sequences. To convey that because a first step was prompted the world somehow came close to accidental nuclear war is wild hyperbole, rather like asserting, when a tennis champion has lost his opening service game, that he was nearly beaten in straight sets. History anyway scarcely offers any ready example of major war started by accident even before the nuclear revolution imposed an order-of-magnitude increase in caution. It was occasionally conjectured that nuclear war might be triggered by the real but accidental or unauthorized launch of a strategic nuclear-weapon delivery system in the direction of a potential adversary. No such launch is known to have occurred in over sixty years. The probability of it is therefore very low. But even if it did happen, the further hypothesis of it initiating a general nuclear exchange is far-fetched. It fails to consider the real situation of decision-makers as pages 63-4 have brought out. The notion that cosmic holocaust might be mistakenly precipitated in this way **belongs to science fiction**.

## 2nc

### 2nc---States

#### ‘Federal’ government is national.

Thompson ’21 [Thompson School District; 2021; Public school district for Loveland, Colorado and surrounding area; Thompson Schools, “Structures of Government,” <https://www.thompsonschools.org/cms/lib/CO01900772/Centricity/Domain/3627/Structures%20of%20Government.pdf>]

Australia, Switzerland, Canada, Mexico, Germany, India, and some 20 other stats also have federal forms of government today. In the United States, the term ‘Federal Government’ is often used to refer to the National Government, but note that the 50 state governments are unitary in structure, not federal.

#### States can apply antitrust against foreign companies under the ‘domestic injury’ exception of the FTAI---prefer evidence from the leading antitrust firm AND that assumes ongoing litigation.

Bona Law PC ’21 [Bona Law PC; January 16; Antitrust law firm, offering expertise to international firms on antitrust litigation, merger clearances, distribution issues, complex business litigation, appeals and challenges to government conduct; The Antitrust Attorney Blog, “Five U.S. Antitrust Law Tips for Foreign Companies,” <https://www.theantitrustattorney.com/five-u-s-antitrust-tips-foreign-companies/>]

Just because your company isn’t based in the United States doesn’t mean it can ignore US antitrust law. In this interconnected world, there is a good chance that if you produce something, the United States is a market that matters to your company.

For that reason, I offer five points below that attorneys and business leaders for non-U.S. companies should understand about US antitrust law.

But maybe you aren’t from a foreign company? Does that mean you can click away? No. Keep reading. Most of the insights below matter to anyone within the web of US antitrust law.

[Link to original article omitted].

1. Two federal and many state agencies enforce antitrust laws in the United States

The United States government has two separate antitrust agencies—the [Federal Trade Commission](https://www.theantitrustattorney.com/category/ftc/) (FTC) and the [Antitrust Division of the Department of Justice](https://www.theantitrustattorney.com/category/department-of-justice/) (DOJ). The FTC is an independent federal agency controlled by several Commissioners, while the Antitrust Division of the DOJ is part of the Executive Branch, under the President.

Both of them enforce federal antitrust laws (among other laws). Their jurisdictions technically overlaps, but they tend to have informal agreements between each other for one or the other to handle certain industries or subjects. If you are part of a major industry, your antitrust lawyer may be able to tell you whether the DOJ or FTC is likely to oversee competition issues in your field.

The Antitrust Division of the DOJ is the only one of the two to enforce the [criminal antitrust laws](https://www.theantitrustattorney.com/category/criminal-antitrust-issues/), so if you are entangled in a cartel investigation, you will likely hear from them. By the way, if you want to learn about antitrust cartels, read my friend Bob Connolly’s excellent blog [Cartel Capers](http://cartelcapers.com/).

Both the DOJ and FTC review mergers and acquisitions (including [joint ventures](https://www.theantitrustattorney.com/both-during-and-after-covid-19-crisis-antitrust-law-wont-block-pro-competitive-joint-ventures/)), once again informally divided by subject. If you have a significant transaction in the United States, make sure you determine whether you must prepare [a Hart-Scott-Rodino Act filing](https://www.businessjustice.com/what-are-the-requirements-of-an-hsr-antitrust-filing-for-a-merge.html) with the US antitrust agencies.  And, in the meantime, read this article about how to avoid ten minefields in your HSR filing to the antitrust agencies. And this article about private equity companies, small transactions, and HSR rules.

Besides the federal antitrust laws, the Attorney Generals of the many states can enforce their own state antitrust laws. Many of these laws pattern or mimic the federal antitrust laws, but some of them have important differences, like the Cartwright Act in California.

[This federal/state distinction is particularly an issue when it comes to resale price maintenance agreements](https://www.theantitrustattorney.com/resale-price-maintenance-agreements-per-se-illegal-california-antitrust-law/).

You should also know that the position of State Attorney General is often a stepping-stone to running for Governor. And you will often see politically ambitious attorney generals leading (or more accurately following) antitrust pursuits once a federal antitrust agency has announced an antitrust investigation. So if you are ensnared in a federal investigation, be ready for some state antitrust activity as well. If this is your situation, [read our article about what I call an antitrust blizzard](https://www.theantitrustattorney.com/avoid-antitrust-blizzard/).

3. The Federal Courts ultimately decide antitrust cases

The federal antitrust agencies play a significant role in US antitrust enforcement. But compared to the [EU](https://www.theantitrustattorney.com/category/european-union/) and other international jurisdictions, the courts in the US are much more important. In most jurisdictions, the antitrust agency is the center of the antitrust and competition universe. But in the United States, the federal court decides everything.

If a US antitrust agency wants to pursue a claim, it must ultimately either file a claim in court or have its claim upheld in court, perhaps after administrative proceedings in the case of the FTC. The latter may not necessarily differ from other jurisdictions, [but if you come from Europe or elsewhere](https://www.theantitrustattorney.com/2017/04/03/know-whether-company-abusing-dominant-position-european-union/), it might surprise you how relatively little the courts defer to the antitrust agencies.

Sure, there is some deference and if [an appellate court](https://www.businessjustice.com/appellate-litigation.html) is reviewing an FTC administrative ruling, they will formally defer on the facts to a certain extent. But the courts are independent and they make the decisions. And the federal judges—with lifetime appointments—have no trouble concluding that a federal antitrust agency (or any other agency, for that matter) is wrong.

That is not to say that the agencies don’t matter—an investigation is expensive and time-consuming. But when you receive that tap on the shoulder from your friendly investigator, you need not necessarily concede everything and beg for mercy. If you are right on the facts and the law, you might consider taking your chance in court. But call an antitrust attorney first.

3. Sometimes it’s okay to have a monopoly

If you are accustomed to antitrust and competition law in Europe, for example, [you probably consider that having “dominance,”—the EC term for monopoly—entails special duties](https://www.theantitrustattorney.com/2017/04/03/know-whether-company-abusing-dominant-position-european-union/). And that word—“duty”—is important. It represents a different perspective on antitrust than prevails in the United States.

I’ll try to explain. In the United States, [a monopolist, or dominant company](https://www.theantitrustattorney.com/category/monopoly-and-dominance/), cannot engage in certain conduct that a non-monopolist might take without consequence. [That is, there are certain types of claims under Section 2 of the Sherman Act that aren’t available unless the defendant has monopoly power](https://www.theantitrustattorney.com/2017/02/22/elements-monopolization-claim-federal-antitrust-laws/). But in the United States, we don’t think of this as a positive “duty” of a monopolist, as if it must give something up because of its great riches.

Instead, we recognize that, under accepted economic theory, absent monopoly power, certain conduct simply doesn’t cause anticompetitive harm. It is not that monopolists have extra responsibilities, it is that an entity—no matter what its market position—does not harm competition by certain conduct unless it has monopoly power. And without harm to competition, antitrust enforcement has no place.

In Europe and elsewhere, there is a moral component to this “duty” of a dominant company not to take certain action that doesn’t exist in the United States.

I don’t know the exact reason for this distinction, but I suspect it stems from two factors: (1) economics has served as a foundation for antitrust and competition law for a longer period in the US than in Europe; and (2) the United States is more libertarian and free market than Europe.

Of course, in the United States, there seems to be a resurgence of anti-monopoly sentiment brewing, so I wouldn’t be surprised to see the United States move the direction of Europe when it comes to monopolization enforcement.

4. It might surprise you that you are subject to the US antitrust laws

The Foreign Trade Antitrust Improvements Act (FTAIA) limits the extraterritorial scope of US antitrust law by excluding conduct involving non-import trade or commerce with foreign nations. Well, that doesn’t sound so bad, right?

It doesn’t until you keep reading and see that there is a “domestic injury” exception that could swallow the limit. If the foreign anticompetitive conduct has a “direct, substantial, and reasonably foreseeable effect” on US commerce and this effect gives rise to plaintiff’s claim, the FTAIA limits don’t apply. If you want to learn more about how the FTAIA works, I recommend that you read the many articles on the topic at [Robert Connolly’s Cartel Capers Blog](http://cartelcapers.com/blog/judge-donato-issues-ftaia-order-capacitors-civil-litigation/).

The exact interpretation and scope of this exception is currently in dispute among the federal appellate courts. Indeed, we’ve  recently litigated it ourselves in one of our cases in which we are defending an [antitrust class action](https://www.theantitrustattorney.com/challenging-class-action-certification-classic-antitrust-case-comcast-v-behrend/). But the bottom line is that more conduct than you probably realized is subject to US antitrust jurisdiction. So be careful and get advice. Don’t just assume that the US courts and agencies don’t have jurisdiction.

5. Much of US antitrust law is enforced through private antitrust lawsuits

Most jurisdictions do not have near the private antitrust litigation that exists in the United States. This is a surprise for many foreign companies that are accustomed to agency-centric antitrust models.

In the US, an agency investigation often leads to dozens of private antitrust lawsuits against the targets filed throughout the country. One antitrust agency investigation can spawn a multi-front war for the company in several jurisdictions. [Class-action antitrust litigation is big business in the United States](https://www.theantitrustattorney.com/category/class-actions/). [You can read about the requirements for class-certification in an antitrust class action here](https://www.theantitrustattorney.com/2016/05/01/challenging-class-action-certification-classic-antitrust-case-comcast-v-behrend/#more-946).

#### Signaling is offense. The fed can’t signal effectively---the states can.

Spiegel ’21 [Julia; March 3; Deputy County Counsel in the Santa Clara County Counsel’s Office and Lecturer in International Policy Studies and Law at Stanford University, J.D. from Yale University, M.P.A. from the Princeton School of Public and International Affairs; Lawfare, “Embracing Foreign Affairs Federalism in a Post-Trump Era,” <https://www.lawfareblog.com/embracing-foreign-affairs-federalism-post-trump-era>]

Nearly a year into the coronavirus pandemic, it is hard to be optimistic about the future of global cooperation and the institutions that are supposed to support it. Absent major power leadership, anarchic tendencies have prevailed. The human toll alone is devastating, with more than [114 million](https://www.cnn.com/interactive/2020/health/coronavirus-maps-and-cases/) people having been infected with the virus globally and many more expected to fall victim to the virus before the pandemic’s defeat.

The global community’s bungled response to the pandemic has laid bare the often-yawning gap between the crises the world faces and the responses that major powers manage to mount. With growing political gridlock and dysfunction on national and global levels—from pandemics and climate change to election interference and terrorism—it is clear that national and global bodies are struggling to meet the moment. While these are serious shortcomings, the picture is not all bleak.

In underappreciated ways, states and localities have been stepping in to fill the foreign policy void by taking a range of actions that bear directly on foreign relations. Subnational governments make these policy decisions because they do not have the luxury of waiting for national or multilateral leadership to tackle crises like pandemics or wildfires on their doorsteps. States and localities are also the government entities on the frontlines delivering essential goods and services, giving them a finer-tuned sense of constituent needs and how best to meet them. Further, subnational governments are central foreign policy implementers. They make the concrete commitments needed to actualize and add “[stickiness](http://opiniojuris.org/2018/02/20/law-and-stickiness-in-the-times-of-the-great-unglued/),” or staying power, to many of the global agreements the U.S. seeks to join.

That subnational governments are the frontline responders to many foreign affairs matters creates real advantages. Rather than merely bemoaning the shortcomings of national and global bodies (which can and should be addressed), the U.S. should embrace the role that states and localities play as force multipliers and divisors of solutions to the foreign policy dilemmas the global community faces. Such an embrace requires a better understanding of the types of foreign affairs federalism that exist today and a strategy to employ local powers to tackle global challenges in a post-Trump era.

#### Congress won’t supersede, the Court would block it, and states are undeterred by the Fed.

De la Cruz ’19 [Peter; June 26; Senior Counsel, J.D. from the University of Toledo; The National Law Review, “States Flex Their Muscles and Antitrust Skills to Block Sprint/T-Mobile Merger,” <https://www.natlawreview.com/article/states-flex-their-muscles-and-antitrust-skills-to-block-sprintt-mobile-merger>]

A highly respected antitrust professor wrote: “When Congress enacted the federal antitrust laws it chose not to foreclose state antimerger activity. The legislative histories of the antitrust laws indicate that the congressional purpose was to supplement, not supplant, state activity. This intention has repeatedly been affirmed by the Supreme Court. Critics fear negative effects from ascendant state merger scrutiny. Many believe that the government’s position towards exceptionally large transactions should be a fundamental matter of national economic policy. Enforcement and nonenforcement decisions, they say, should be made by officials appointed by the President with the approval of the U.S. Senate. Such critics fear that the prospect of challenge by any of fifty states adds uncertainty and delay into an already problematic process, and will cause beneficial transactions never to be attempted.” The year was 1989.1

Since the enactment of the Hart-Scott-Rodino Act in 1976, we have grown accustomed to premerger notification at the federal level for all larger mergers and acquisitions. For the most part, State Attorneys General have participated via comments or supplemental filings in large transactions subject to premerger review. A generation of antitrust lawyers have lived in this environment. Indeed, some years ago lawyers were surprised that the federal government could challenge mergers after the fact given the long lapse in the governments exercise of that power, but that power was never removed, and private merger enforcement action also remains possible.

Can the states seek to block the merger? Yes. Will FCC and US Department of Justice approval stop the state litigation? No. What’s the biggest obstacle facing the state challenge? Limited state funding. Antitrust litigation is often protracted and costly. T-Mobile and Sprint, with their largest stockholders — Deutsche Telekom AG and SoftBank Group Corp., respectively — will certainly dedicate resources to defeat the states via litigation siege. These pressures, coupled with Justice Department clearance, may push the states to settle, although the terms of a successful settlement for the states is unclear. Meanwhile, T-Mobile and Sprint may be delayed in completing the transaction, which is a costly complication without a certain outcome.

The Redacted Complaint filed by nine states and the District of Columbia, and later joined by an additional four states, presents a solid facial argument against the merger. There are only four companies with networks that serve at least 90% of the U.S. population. Verizon and AT&T are the largest. “T-Mobile and Sprint are the third and fourth largest [mobile network operators] MNOs in the United States and serve approximately 80 million and 55 million customers, respectively.”2

The states allege that T-Mobile’s controlling shareholder, Deutsche Telekom AG, believes that it could earn a greater return on its investment by reducing competition.3 The states argue that:

“The proposed transaction would eliminate Sprint as a competitor and reduce the number of [mobile network operators] MNOs with nationwide networks in the United States from four to three. The combined company would have a retail market share larger than the two largest MNOs today, Verizon and AT&T. In some areas, including in the New York City metropolitan area, the combined company’s share of subscribers would exceed 50%. The combined market share of Sprint and T-Mobile would result in an increase in market concentration that significantly exceeds the thresholds at which mergers are presumed to violate the antitrust laws. This increased market concentration will result in diminished competition, higher prices, and reduced quality and innovation.”4

Although the data table is redacted, the Complaint claims that the nation’s top 50 cellular market areas (CMAs) encompass about 50% of the U.S. population, and competition would be substantially lessened in each of the top 50 CMAs. The complaint argues many, particularly those with lower incomes who cannot pass a credit check and must purchase mobile wireless telecommunications service on a prepaid basis, rely on mobile wireless telecommunications services as their primary form of communications and do not have traditional wireline phone or broadband connections. If the merger is permitted, the “merger will negatively impact all retail mobile wireless telecommunications service subscribers but will be particularly harmful to prepaid subscribers”5

The states rely upon these claims to allege that “the transaction likely would substantially lessen competition in these local markets,” creating an actionable harm to the state’s citizens that justify the states’ standing to challenge the merger.

The complaint contains other supporting arguments and detail. The merger “would cost Sprint and T-Mobile subscribers more than $4.5 billion annually.”6 Other countries that have allowed consolidation from four to three competitors recorded an average price increase “between 17.2% and 20.5%.7There are significant barriers to entry that will be faced by any new provider, so potential competition will not be a factor. Finally, the states argue that the proposed commitments made to the FCC are insufficient to protect competition.8

The states have set a solid foundation from which to proceed. There is no obvious precedent that will permit T-Mobile and Sprint to end the case quickly, but protracted litigation will test the resolve and resources of all the parties.

#### It spills up to federal policy AND innovates the best version of the plan.

Spiegel ’21 [Julia; March 3; Deputy County Counsel in the Santa Clara County Counsel’s Office and Lecturer in International Policy Studies and Law at Stanford University, J.D. from Yale University, M.P.A. from the Princeton School of Public and International Affairs; Lawfare, “Embracing Foreign Affairs Federalism in a Post-Trump Era,” <https://www.lawfareblog.com/embracing-foreign-affairs-federalism-post-trump-era>]

When Others Have Failed to Act. In the current political climate, a more common scenario is when the federal government and/or global bodies have failed to act in response to a crisis. The global community’s halting response to the coronavirus pandemic is now the paradigmatic example. The absence of national and global action is a form of [quiescence](https://www.law.cornell.edu/supremecourt/text/343/579)—when national governments and global bodies effectively abdicate power—and localities should seize it.

Local to corporate and local to global action would be particularly impactful in the absence of national and global action or guidance. Such local initiatives could play a significant role in places like the [Rust Belt](https://www.forbes.com/sites/adammillsap/2017/01/09/the-rust-belt-didnt-adapt-and-it-paid-the-price/?sh=47b8b6787a3d), where many communities have felt that foreign affairs issues like global trade have failed to serve their interests. A more assertive approach to foreign affairs—driven by localities—could help to shift that dynamic. While this approach could create a “[patchwork](https://www-nejm-org.stanford.idm.oclc.org/doi/full/10.1056/NEJMp2006740)” of local responses, patchworks and coordination are not mutually exclusive. And innovation at the local level often spawns more robust and meaningful action at the federal and multilateral levels.

There may be instances where the patchwork creates competing outcomes or confusion with global partners over who represents America’s interests. But, due in part to globalization’s reach, a multifaceted approach to foreign affairs is already a feature of the American political landscape, as California’s shaping of the global car market has shown. The U.S. has more to gain by embracing this reality than by fighting it.

#### States embed national policy---the showcase effect triggers follow through.

Kinkcaid ’17 [John; 2017; Robert B. and Helen S. Meyner Professor of Government and Public Service and Director of the Meyner Center for the Study of State and Local Government at Lafayette College, Ph.D. from Temple University; State and Local Government Review, “Introduction: The Trump Interlude and the States of American Federalism,” vol. 49]

Relegitimizing States’ Rights

Coercive federalism has ironically relegitimized states’ rights as a consolation prize for whichever party is out of power in Washington, DC. As Democratic Governor Jerry Brown proclaimed in promising California’s support for America’s Pledge—a coalition of states, cities, and private entities committed to arresting climate change: “In the United States, we have a federal system, and states have real power, as do cities” (Jordans and Thiesing 2017, B8). Liberals have labeled such state and local actions as “progressive federalism” (Gerken 2012). Although both parties seek first and foremost to nationalize their policy preferences, they also have strong incentives to capture state governments, especially to use them for congressional redistricting, deploy them as weapons to resist the party holding federal power, especially the president, showcase public policies as laboratories of democracy in order to attract voter support for their nationalization, and enact policies reflecting their preferences. The party holding the White House and/or Congress also seeks to capture states, not only to prevent their takeover by the opposing party, but also to ensure faithful implementation of their national policies.

#### States may prosecute identical conduct as the federal government, including foreign cases.

Bravin ’19 [Jess; June 17; Supreme Court Correspondent, J.D. from the University of California at Berkeley; Wall Street Journal, “Supreme Court Upholds Both Federal and State Prosecution for Same Act,” <https://www.wsj.com/articles/supreme-court-upholds-both-federal-and-state-prosecution-for-same-act-11560789570>]

Resoundingly reaffirming its view of double jeopardy, the Supreme Court ruled on Monday that federal and state governments each can prosecute a defendant for the identical conduct despite the Constitution’s bar against trying someone twice for the same crime.

Several justices in recent years, from the liberal Ruth Bader Ginsburg to the conservative Clarence Thomas, had raised concerns over successive prosecutions by different government bodies.

In taking Terance Gamble’s appeal—he had been convicted by both federal and Alabama courts of being a felon in possession of the same 9mm handgun discovered during a 2015 traffic stop—the court appeared poised to roll back a longstanding feature of American criminal justice.

Instead, “we affirm that precedent,” Justice Samuel Alito wrote in the majority opinion in a 7-2 ruling. The text of the Constitution’s double jeopardy clause, “other historical evidence, and 170 years of precedent” convinced the majority that nothing required revising the practice, he said; his opinion was joined by Chief Justice John Roberts and Justices Thomas, Stephen Breyer, Sonia Sotomayor, Elena Kagan and Brett Kavanaugh.

Justice Ginsburg and Justice Neil Gorsuch filed separate dissents, emphasizing the proliferation of federal criminal law since the founding and the power that successive prosecutions gives the government over those it targets for enforcement.

But Justice Thomas joined the majority, adding in a separate opinion that a review of “the historical record does not bear out my initial skepticism of the dual-sovereignty doctrine,” which is the legal theory that state and federal governments are separate sovereigns and hold independent power to define and punish offenses for the identical conduct.

The Fifth Amendment doesn’t explicitly address the question; it says that no person shall “be subject for the same offence to be twice put in jeopardy of life or limb.”

Justice Alito said it was important to distinguish between successive prosecution for the same “offence” as opposed to the same conduct. While identical crimes couldn’t be twice prosecuted, identical conduct could constitute different violations of separate state and federal laws.

To hold otherwise, Justice Alito wrote, would suggest that the U.S. couldn’t prosecute a terrorist suspected of killing an American if he first were acquitted by a foreign court. Or, by the same token, prosecute an American for crimes committed abroad that a foreign court had cleared.

That a person might be exposed to criminal liability from two levels of government was a feature of the federal system, the court said, just as both state and federal governments may levy taxes on the same income. “While our system of federalism is fundamental to the protection of liberty, it does not always maximize individual liberty at the expense of other interests,” Justice Alito wrote.

Some successive prosecutions have come in famous cases; for instance, after a California state jury acquitted four Los Angeles police officers accused of beating a black motorist, Rodney King, in 1992, federal prosecutors brought civil rights charges that led to the conviction of two officers.

In May, the New York Legislature [passed a bill](https://www.nysenate.gov/legislation/bills/2019/s4572) clarifying that a presidential pardon or clemency wouldn’t prevent state prosecutors from bringing charges for the same conduct against certain presidential appointees, relatives and campaign affiliates, a move lawmakers in Albany said was aimed at ensuring criminal liability [should President Trump pardon individuals](https://www.wsj.com/articles/new-york-attorney-general-takes-aim-at-presidential-pardons-1524088955?mod=article_inline) suspected of wrongdoing in the state.

### 2nc---adv 1

#### The aff causes retaliation, blocking statutes and anti-suit injunctions and jeopardizes all global antitrust

Greenfield et al ’15 [Leon Greenfield; Steven Cherry; Perry Lange; Jacquelyn; Spring 2015; Partner at WilmerHale; Partner at Wilmerhale; Counsel at Wilmerhale; Asscoiate at WilmerHale; Antitrust; “Foreign Component Cartels and the U.S. Antitrust Laws: A First Principle Approach,” vol. 29, no. 2]

Extending U.S. antitrust enforcement to overseas sales of components could create substantial problems for enforcement efforts by foreign antitrust agencies. The effectiveness of those efforts, and particularly foreign governments’ leniency programs (which are an important element of efforts to detect cartels), may be diminished if potential amnesty applicants in foreign jurisdictions must weigh the advantages of amnesty in the country in which they did business against the potentially far-reaching criminal or civil exposure in the United States, even if they never or only rarely sold components into the United States. 48 This is particularly true because of the availability of private treble damages remedies in the United States, a feature that is not common in other jurisdictions. 49

Most U.S. cartel enforcement actions in the last two decades have involved some element of international coordination among enforcement agencies. 50 Overreaching by the United States could easily threaten foreign political support for cooperation with U.S. antitrust authorities—or for robust antitrust enforcement of any sort—if foreign countries come to believe the United States will intrude on their authority to sanction anticompetitive conduct affecting the operation of their own markets and affecting U.S. markets only indirectly and derivatively. 51 Concern about perceived overreaching by U.S. courts and antitrust agencies has provoked strong protests and opposition from foreign nations, resulting in measures such as blocking statutes, anti-suit injunctions, and other retaliatory conduct. 52 The last two decades have brought about a more cooperative approach by both the United States and its major trading partners abroad, and it would be counterproductive to allow overreach of U.S. antitrust laws in component cartel cases to jeopardize this cooperation. A rational and harmonious system of global competition enforcement should leave each nation the exclusive authority to use competition law to safeguard the process of competition in its own markets, not in the markets of other nations.

Applying U.S. antitrust laws to wholly foreign sales in the component cases could also undermine the United States’ own interests in another way. If U.S. antitrust agencies seek criminal fines or courts award civil damages based on transactions in foreign markets that only derivatively affect U.S. consumers, what is to stop other countries’ enforcers from seeking their own (redundant) penalties based on wholly U.S. transactions that cause only indirect, pass-on effects to their consumers? Forexample, in 2011, U.S. manufacturersexported over $4 billion in civilian aircraft and related parts to Japan. Under the approach taken in the component cases, the Japan FairTrade Commission would be justified in imposing fines—and injured private parties would bejustified in bringing civil actions—against a conspiring American avionics manufacturer that imposes an overcharge when it sells auto pilot devices in the United States to U.S. aircraft companies, simply because aircraft containing the auto pilot devices are later exported to Japan. Such actions would be a sharp departure from international competition enforcement norms and would interfere with U.S. antitrust enforcement in U.S. markets, but that is precisely what the component cases invite. 53

#### Cooperation is a matter of degrees – even if the aff only has a small impact on comity, it has a vast impact on cooperation

Connolly ‘15 [Robert; Jan. 2015; partner in the Washington, D.C. office of GeyerGorey, LLP; CPI Antitrust Chronicle; “Why the Motorola Mobility Decision was Good for Cartel Enforcement and Deterrence,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2559149]

There has been something of a time lag in the international community’s acceptance of mechanisms by which persons injured by cartels may be compensated for the damages suffered. The landscape, however, is changing rapidly on that front. Today, there is an ever-increasing ability for price-fixing victims to obtain damages. The European Union recently adopted a Directive that “makes it a lot easier for victims of antitrust violation to claim compensation.”10 And, damage actions can already be brought in the Member States.

A few examples of cartel members who have faced damage demands or civil proceedings in various EU Member States are gas-insulated switchgears, vitamins, rubber chemicals, elevators and escalators, cement, hydrogen peroxide, and rail.11 So far, England, Germany, and the Netherlands have emerged as litigation hotspots. According to one report “Interestingly enough, a vying for the label of the best competition litigation forum for claimants in Europe seems to be evolving.”12

As new cartel enforcers enter the picture, they are including victim redress as an enforcement goal. In India, for example, damages can be awarded to victims, but the system is completely different than the U.S. class-action system. Victims can make claims to the Competition Appellate Tribunal after the Competition Commission of India has successfully brought an action.13 And China took an interesting tack against the LCD cartel members. Besides imposing fines, the six defendants were required to refund the overcharged amount directly to the Chinese TV makers. China also required the defendants to offer extended warranties to consumers of the price-fixed products.14

Collective redress or damage actions are proliferating, as cartel enforcement has, around the globe. To be sure, the regimes may be different; the U.S. class action system is not seen as a model to emulate. Some foreign regimes may be better than the U.S. system, some worse, and— in some jurisdictions—damage claims may still not be allowed at all. But as with cartel enforcement, allowing each jurisdiction to create its own system of enforcement in cooperation, not competition, may be the best long-term way to further increase worldwide cartel deterrence.

The Motorola Mobility opinion cited the Supreme Court warning that rampart extraterritorial reach of the Sherman Act “creates a serious risk of interference with a foreign nation’s ability independently to regulate its own commercial affairs.”15 The Seventh Circuit went on to state, “The position for which Motorola contends would if adopted increase the global reach of the Sherman Act, creating friction with many foreign countries and ‘resent[ment at] the apparent effort of the United States to act as the world’s competition police officer.”16

Do I think that had the sovereignty interests of foreign governments (as expressed in their amicus briefs) been ignored in Motorola Mobility, these and other governments would have stopped cooperating in international cartel investigations? Would we return to the days of “blocking” statutes and “claw back” provisions? Probably not. But cooperation is a matter of degree and requires mutual trust and respect between partners. And it is required in a number of areas. The timing of dawn raids is currently a subject of effective international cooperation. Confidentiality of information is another key area of cooperation that have been essential to the proliferation of leniency programs. Even small areas of increased friction in these or other areas could help kill the golden goose—the governmental enforcement actions that precede civil damage cases. Optimal continued cooperation sometimes means respecting partners’ views and processes, even though you’re sure you know best.

In short, deterrence against international cartels has increased substantially and will continue to do so as long as enforcement agencies cooperate. The recent cooperation of China with nations coordinating dawn raids in the relatively new international capacitor investigation is a deterrent development probably not yet fully appreciated. And the ability of price-fixing victims to assert damage claims is also on the rise.

#### *Motorola* doesn’t prevent criminal enforcement – that solves illegal activity

Masingill ‘18 [Megan; 2018; Senior Staff Member, American University Law Review, J.D. Candidate at American University Washington College of Law; American University Law Review; “Extraterritoriality of Antitrust Law: Applying the Supreme Court's Analysis in RJR Nabisco to Foreign Component Cartels,” vol. 68, iss. 2, https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=2083&context=aulr]

Lastly, the Motorola decision—holding that the foreign plaintiff did not have a private right of action—did not hinder the DOJ in criminally pursuing illegal activity directly affecting commerce of the United States.224 This holding reflects the understanding that there is a critical distinction between private actions and those brought by the DOJ.225 Such a concept is consistent with the Supreme Court’s clear distinction between the application of substantive law and existence of a private right of action under RICO, and courts should treat them differently in determining the extraterritoriality of the law.226 To underscore this distinction, the Seventh Circuit made clear that to deny the private claim would not inhibit the DOJ’s ability to seek a criminal claim, provided the impact to cellphone prices in the Unites States met the statutory requirements.227 This holding not only aligns with Supreme Court precedent, but did not directly conflict with outcome in Hsiung, in which the Ninth Circuit allowed the DOJ to bring the cause of action.228

#### Turns the whole aff – countries will backlash against US companies

Connolly ‘15 [Robert; Jan. 2015; partner in the Washington, D.C. office of GeyerGorey, LLP; CPI Antitrust Chronicle; “Why the Motorola Mobility Decision was Good for Cartel Enforcement and Deterrence,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=2559149]

Another concern I have related to the reach of the FTAIA is “what’s good for the goose is good for the gander.” Many foreign companies do business in the United States, either directly or through subsidiaries. What would the reaction be of a U.S. company, for example, if it was hauled into court in China for sales made in the United States to a Chinese subsidiary because the subsidiary operating in the United States felt the laws (courts) in China would be more favorable? The quote below, while in relation to FCPA enforcement, expresses my concern better than I can:

It’s most certainly not good economics that one court jurisdiction gets to fine companies from all over the world on fairly tenuous grounds. Who would really like it if Russia’s legal system extended all the way around the world? Or North Korea’s? And I’m pretty sure that the non-reciprocity isn’t good public policy either. Eventually it’s going to start getting up peoples’ noses and they’ll be looking for ways to punish American companies in their own jurisdictions under their own laws. And there won’t be all that much that the U.S. can honestly do to complain about it, given their previous actions.17

#### Empirics are decisive in favor of de-escalation

**Taylor 14** Brendan – Head of the Strategic and Defence Studies Centre at the Australian and PhD – National Australian University, “The South China Sea is Not a Flashpoint,” The Washington Quarterly, Spring 2014, Volume 34, Issue 1, Taylor & Francis

Finally, the capacity of Beijing and Washington to navigate crises in their bilateral relationship further suggests that the South China Sea is not a flashpoint. Over the past two or more decades, the United States and China **have gone to great lengths** to manage bilateral tensions and prevent them from spiraling out of control. A recent example occurred in May 2012, when the two arrived at a mutually acceptable solution after the blind Chinese activist Chen Guangcheng sought refuge at the U.S. embassy in Beijing.48 In the South China Sea, two major, modern Sino–U.S. crises have been successfully managed. The first occurred in April 2001, when a U.S. EP-3 conducting routine surveillance in airspace above the South China Sea collided with a Chinese J-8 jet fighter and was forced to make an emergency landing on Hainan Island. To be sure, efforts to address this crisis did not initially proceed particularly smoothly, as Chinese officials refused to answer incoming calls from the U.S. Embassy. Ultimately, however, those most intimately involved in the crisis—such as then-Commander of the U.S. Pacific Command, Admiral Dennis Blair—have written subsequently how top U.S. officials “**made every effort to exercise** prudence and **restraint** while they collected more information about the nature of the incident.” They have also acknowledged that their Chinese counterparts “made a series of grudging concessions that ultimately resulted in success…after they decided that **it was important to overall Sino–U.S. relations to solve the incident**.”49 Again in March 2009, while diplomatic tensions between Beijing and Washington heightened in the immediate aftermath of an incident involving the harassment of the USNS Impeccable by five Chinese vessels, good sense also prevailed as senior U.S. and Chinese officials issued statements maintaining that such incidents would not become the norm and pledging deeper cooperation to ensure so.50 Added to these examples of effective crisis management, it is also worth noting that Washington reportedly facilitated a compromise to the April 2012 Scarborough Shoal standoff.51

#### Doesn’t go nuclear

Dennis C. **Blair 18**. 12-11-18. Dennis Cutler Blair is the former United States Director of National Intelligence and is a retired United States Navy admiral who was the commander of U.S. forces in the Pacific region. “Would China Go Nuclear?” [https://www.foreignaffairs.com/articles/2018-12-11/would-china-go-nuclear //](https://www.foreignaffairs.com/articles/2018-12-11/would-china-go-nuclear%20//) BBM

I read with interest Caitlin Talmadge’s article “Beijing’s Nuclear Option” (November/December 2018), in which she quotes me estimating in 2015 that the odds of a U.S.-Chinese nuclear exchange were “somewhere between nil and zero.” She then goes on to make a case against remaining complacent in the face of the risk of escalation, with no discussion of what is in fact a very high nuclear threshold in a U.S.-Chinese confrontation or conflict. I continue to believe that the chances of nuclear use are very small. Talmadge’s basic argument is that in any conflict with China, the United States will immediately launch a full-scale air and missile assault against military targets in mainland China and against Chinese attack submarines at sea. In so doing, she argues, the United States will inadvertently hit either China’s ballistic missile submarines or its mobile nuclear missiles. That, in turn, will present Chinese leaders with a “use it or lose it” dilemma concerning their nuclear arsenal, and they may well decide to launch a nuclear attack against the United States. Such a scenario is extremely unlikely; indeed, I would say the odds are somewhere between nil and zero. A U.S.-Chinese conflict would be a maritime campaign in which the two sides tried to conquer or defend islands. Attacks on land targets beyond the contested islands and the waters around them, whether carried out by the United States against Chinese territory or by China against U.S. overseas bases, would be aimed at military installations and systems that supported the maritime campaign—ports, air bases, and command-and-control centers. The intercontinental nuclear deterrent forces of both countries are physically separate from these facilities. In addition, U.S. planners are very mindful of the danger of attacking any state’s nuclear arsenal and take extraordinary precautions to avoid doing so. Although there is always a chance for an isolated mistake, it is in fact possible to distinguish nuclear-armed submarines from conventional ones. Likewise, it is possible to distinguish the shorter-range, dual-use missiles that threaten Taiwan, China’s neighbors, and U.S. bases in the Pacific from the intercontinental missiles that threaten the United States. If by mistake a U.S. strike destroyed a land-based medium-range nuclear missile or sank a ballistic missile submarine, China would be greatly concerned, but it is highly unlikely that Beijing would respond by reflexively launching a nuclear attack against the United States. Rather, before even considering violating their long-held “no first use” doctrine, Chinese leaders would wait to see if a concerted, sustained U.S. campaign against their nuclear arsenal was under way. The United States has no incentive to attempt such a campaign and in fact would take every precaution to avoid it. The real danger of escalation in these conflicts would be when a Chinese attempt to capture a disputed island—Taiwan, one of the Diaoyu/Senkaku Islands, or an island in the South China Sea—was failing. A failed attempt to regain territory that the Chinese government has claimed as its own would undermine the legitimacy of the Chinese Communist Party and could make Beijing desperate enough to threaten the use of nuclear weapons. Again, U.S. planners are aware of that danger and would seek to manage the end of a maritime conflict with China in a way that minimized the incentives for escalation.

### 2nc---adv 2

#### It seriously does nothing

**McCarthy 18** Kieren McCarthy, reporter, citing statements by industry officials like Michael Powell, a former head of the Federal Communications Commission, and Ernesto Falcon, the Electronic Frontier Foundation’s legislative counsel. [What can I say about this 5G elixir? Try it on steaks! Cleans nylons! It's made for the home! The office! On fruits! 10-26-18, https://www.theregister.co.uk/2018/10/26/5g\_hype/]//BPS

Once in a generation, a technology comes along that changes everything: how we work, communicate, trade, live. And based on a year of seemingly endless coverage, you could be forgiven for believing that "5G", the next advance in wireless technology, is it. It will make the internet-of-things a reality; it will fix internet access for rural areas; it will create entire new markets; it will change literally everything that we do on a day-to-day basis. Except it won't. And more and more people are getting fed up with the hype. Hype that, incidentally, has led pretty much every Congressman and woman to believe that the United States is in a global "race to 5G" – and why mobile operators should be subsidized to expand their money-making networks, and why new rules and laws must be passed to override local and state government who are simply getting in the way of this incredible technology. So it may come as a surprise to find that some big names are not quite so enamored with 5G. Earlier this week, at the Cable-Tec Expo in Atlanta – the annual get-together for folks that send information through cables rather than over the air – the CTO of Cox Communications Kevin Hart was in a rambunctious mood when he told a room full of attendees: "You know 5G is going to be great, because it’s got 25 per cent more G." The truth, as many in the industry know but constantly forget to point out, is that all these "Gs" – from 2G to 3G to 4G – are gross simplifications. Almost by accident, the term "3G" was picked up by consumers and lodged in society's collective memory, which led to mobile phone companies and operators using the term "4G" as a way to push their new phones and services. Testing... testing... But the "5G" moniker has stretched that already tenuous link to breaking point. In almost all cases right now, when people talk excitedly about 5G they are really talking about advanced version of 4G, such as 4G LTE. The actual 5G spec hasn't been fully decided yet, and is still in flux in many ways. Plus, despite a year's worth of talk about how vital 5G is, the truth is that the most advanced installations of 5G right now are still effectively test facilities. They only got a 5G phone to actually work last month. Don't believe us? At the same Cable-Tec Expo, the head of the NCTA (the Internet and Television Association) Michael Powell – a former head of the Federal Communications Commission (FCC) – came out with this gem: "5G is 25 per cent technology, 75 per cent marketing." He also called it the wireless industry's "latest widget" and pointed out that 5G wireless technology isn't magic: it still requires lots of connections to wired connections – cables in the ground – to work. "You know what the wireless guys like most?" he asked the audience mischievously. "Wireline networks." Not only does 5G rely on a wired network, there is also good reason to believe that it won't work as wonderfully as everyone insists it will. Sure, you when you are sitting next to a 5G transmitter, you will get that HD video at super speed. But if you are in a built-up city with skyscrapers and you turn the corner… or if you are in rural areas and there is a big tree in between you and the transmitter. Or if the fog comes rolling in… Well, then things are going to get a lot more 3G pretty fast. False equivalency Which makes it all the more baffling that companies like Verizon keep insisting that 5G is going to provide an alternative to wired broadband. It isn't. But the current FCC administration keeps pretending that it will, even trying – and failing – to legally equate wireless and wired networks when it comes to broadband access. The FCC is also behind measures to expand 5G at the lowest possible cost to mobile operators, purposefully overriding the concerns of state and local government and insisting that 5G cell sites should be approved wherever possible and at a single flat fee. The FCC and the White House have also effectively forced federal buildings to approve new 5G sites. It's all too much for some. The Electronic Frontier Foundation (EFF) has grown so fed up with the fake hype that this week it produced a long piece solely on this topic. "All across the country right now, major wireless Internet Service Providers (ISPs) are talking to legislators, mayors, regulators, and the press about the potential of 5G wireless services as if they will cure all of the problems Americans face right now in the high-speed access market," complained the EFF's legislative counsel Ernesto Falcon. "But the cold hard reality is the newest advancements in wireless services will probably do very little about the high-speed monopolies that a majority of this country faces." He goes on: "In reality, we are already woefully behind South Korea and many countries in the EU. In essence, 5G is being aggressively marketed in policy circles because it provides a useful distraction from the fundamental fact that the United States market is missing out on 21st century broadband access, affordable prices, and extraordinary advancements coming from fiber to the home (FTTH) networks."

#### The 5G arms race is corporate propaganda.

**Dawson 19** Doug Dawson, president of the company Consulting for Telecommunications Carriers. [There’s No 5G Race, 3-15-2019, https://potsandpansbyccg.com/2019/03/15/the-non-existing-race-for-5g/]//BPS

This talk is just more hype and propaganda from the wireless industry that is trying to create a false crisis concerning 5G in order to convince politicians that we need to break our regulatory traditions and give the wireless carriers everything they want. After all, what politician wants to be blamed for the US losing the 5G race? This kind of propaganda works. I was just at an industry trade association show and heard three or four people say that the US needs to win the 5G race. There is no 5G race; there is no 5G war; there is no 5G crisis. Anybody that repeats these phrases is wittingly or unwittingly pushing the lobbying agenda of the big wireless companies. Some clever marketer at one of the cellular carriers invented the imaginary 5G race as a great way to emphasize the importance of 5G. Stop and think about it for a second. 5G is a telecom technology, not some kind of military secret that some countries are going to have, while others will be denied. 5G technology is being developed by a host of multinational vendors that are going to sell it to anybody who wants it. It’s not a race when everybody is allowed to win. If China, or Germany, or Finland makes a 5G breakthrough and implements some aspect of 5G first, within a year that same technology will be in the gear available to everybody. What I really don’t get about this kind of hype and rhetoric is that 5G is basically a new platform for delivering bandwidth. If we are so fired up to not lose the 5G race, then why have we been so complacent about losing the fiber race? The US is far down on the list of countries in terms of our broadband infrastructure. We’ve not deployed fiber optics nearly as quickly as many other countries, and worse we still have millions of households with no broadband and many tens of millions of others with inadequate broadband. That’s the race we need to win because we are keeping whole communities out of the new economy, whch hurts us all. I hope that my readers don’t think I’m against 5G because I’m for any technology that improves access to bandwidth. What I’m against is the industry hype that paints 5G as the technology that will save our country – because it will not. Today, more than 95% of the bandwidth we use is carried over wires, and 5G isn’t going to move that needle much. There are clearly some bandwidth needs that only wireless will solve, but households and businesses are going to continue to rely on wires to move big bandwidth. When I ask wireless engineers about the future they almost all have painted the same picture. Over time we will migrate to a mixture of WiFi and millimeter wave spectrum indoors to move around big data. When virtual and augmented reality was first mentioned a few years ago, one of the big promises we heard was for telepresence, where we’ll be able to meet and talk with remote people as if they are sitting with us. That technology hasn’t moved forward because it requires huge broadband beyond what today’s WiFi routers can deliver. Indoor 5G using millimeter wave spectrum will finally unleash gigabit applications within the home. The current hype for 5G has only one purpose. It’s a slick way for the wireless carriers to push the government to take the actions they want. 5G was raised as one of the reasons to kill net neutrality. It’s being touted as a reason to gut most of the rest of existing telecom legislation. 5G is being used as the reason to give away huge blocks of mid-range spectrum exclusively to the big wireless companies. It’s pretty amazing that the government would give so much away for a technology that will roll out slowly over the next decade. Please think twice before you buy into the 5G hype. It takes about five minutes of thinking to poke a hole in every bit of 5G hype. There is no race for 5G deployment and the US, by definition, can’t be ahead or behind in the so-called race towards 5G. This is just another new broadband technology and the wireless carriers and other entrepreneurs will deploy 5G in the US when it makes economic sense. Instead of giving the wireless companies everything on their wish list, a better strategy by the FCC would be to make sure the country has enough fiber to make 5G work.

#### No readiness impact---other factors check rogue states.

John Mueller 21, Adjunct Professor of Political Science and Senior Research Scientist at the Mershon Center for International Security Studies, "Proliferation, Terrorism, Humanitarian Intervention, and Other Problems," in The Stupidity of War: American Foreign Policy and the Case for Complacency, Chapter 7, 02/17/2021, pg. 183-184.

Over the course of the last several decades, alarmists have often focused on potential dangers presented by rogue states, as they came to be called in the 1990s. These were led by such devils du jour as Nasser, Sukarno, Castro, Gaddafi, Khomeini, Kim Il-sung, Saddam Hussein, Milosˇevic´, and Ahmadinijad, all of whom have since faded into history’s dustbin.66 Today the alarm has been directed at Iran as discussed in Chapter 6 and also at North Korea as discussed in this one. However, neither country really threatens to commit major direct military aggression. Iran, in fact, has eschewed the practice for several centuries.

Nonetheless, it might make some sense to maintain a capacity to institute containment and deterrence efforts carried out in formal or informal coalition with concerned neighboring countries – and there are quite a few of these in each case. However, the military requirements for effective containment by their neighbors, by the United States, and by the broader world community are far from monumental and do not necessarily require the United States to maintain large forces-in-being for the remote eventuality.

This is suggested by the experience with the Gulf War of 1991 when military force was successfully applied to deal with a rogue venture – the conquest by Saddam Hussein’s Iraq of neighboring Kuwait. As noted earlier, Iraq’s invasion was rare to the point of being unique: it was the only case since World War II in which one United Nations country has invaded another with the intention of incorporating it into its own territory. It scarcely appears, as laid out in Chapter 3, that Iraq’s pathetic forces required a large force to be thrown at them to decide to withdraw: over a period of half a year, they did not erect anything resembling an effective defensive system and, when the chips were down, they proved to lack not only defenses, but strategy, tactics, leadership, and morale as well.

Countries opposed to provocative rogue behavior do not need to have a large force-in-being because there would be plenty of time to build one up (should it come to that) if other measures such as economic sanctions and diplomatic forays (including appeasement) fail to persuade.

#### No readiness impact.

**Fettweis 18** Christopher J. Fettweis, Political Science Professor at Tulane University. [Psychology of a Superpower: Security and Dominance in US Foreign Policy, Columbia University Press]//BPS

How would the system respond? Could the New Peace survive without its policeman? Good counterfactual analysis minimizes the number of both assumptions and alterations of reality. It is also obviously wise to choose relatively simple cases, ones that do not involve many potentially confounding variables. 127 The ramifications of an actual supervolcanic blast would not be contained in the United States; the massive amount of material ejected into the atmosphere would blot out the sun and cause global temperatures to drop for years. To keep this thought experiment manageable, let us imagine a natural disaster that only affects the United States, one resulting in the effective disappearance of U.S. military and political engagement with the rest of the world. The effect of an aloof United States on some regions need not be imagined because it already exists. In South America, the U.S. Southern Command has a minuscule operating budget and no troops to speak of, despite its theoretical “responsibility” for the entire continent. The United States maintains no significant physical presence in Africa or large swaths of Asia. A Yellowstone supereruption would presumably not change security calculations in these areas much at all. Europe would be similarly unaffected, sat least in the short term. The United States currently maintains 95,000 troops from all services in its European Command, none of whom are tasked with maintaining the internal stability of its allies. During the Cold War, U.S. troops did not involve themselves in the domestic conflicts of their host states, unlike their Soviet counterparts. Their job was always to protect Europe from without, not within. The continent is the world’s most stable, its countries the most cooperative

, and its people the least martial. It would probably take more than the removal of U.S. troops for ash-cleaning duties to bring back security dilemmas, arms races, and conflict. Borders have hardened, as have norms of conflict resolution. No one can know for sure, of course, but Europe does not seem to be a good candidate for chaos in the absence of the United States. Without the presence of U.S. forces, much of the Middle East would be unstable and chaotic. With the presence of U.S. forces, much of the Middle East is unstable and chaotic. A supervolcano erupting in Wyoming would not have much impact on the security of the world’s most dangerous region. Israel would be just as safe as it was before, since its marked military superiority over all potential rivals is the ultimate guarantor of its security, not U.S. troops or ships. Without the prospect of help from Uncle Sam, the failing governments of Iraq and Libya, as well as the rebels in Syria and our allies in Saudi Arabia, Yemen, Jordan, and elsewhere, would learn to become more self-sufficient. Perhaps they would even make long-term deals with their rivals. It might be good to throw them out of the U.S. nest and encourage them to fly on their own or crash. Fears of a resurgent Iran would be articulated by the usual suspects, no doubt, but both history and the realities of power suggest Tehran would find it hard to dominate its neighbors, even if it had the will to do so. The regions that would be of most concern in such a scenario would be the peripheries of those once and potentially future great powers, Russia and China. To believers in the “deterrence model,” first described by Robert Jervis four decades ago, weakness is provocative, and the post-U.S. world would seem everywhere weak. 128 Moscow and Beijing would attempt to expand their influence, and ultimately perhaps their borders, once they were assured that they would face no pushback from Washington. Perhaps gradual interference in their near-abroads, such as we have already seen in eastern Ukraine, northern Georgia, and the South China Sea, would occur with increasing frequency in the vacuum left by a U.S. withdrawal. While such expansion cannot be ruled out, especially in the long run, large border adjustments would probably not occur in the absence of U.S. power, for least two reasons. First, the removal of American troops would not alter the calculations regarding the costs and benefits of conquest in the twenty-first century. Although absorbing neighbors sometimes paid substantial dividends in the pre–information age, today territory is unrelated to wealth. 129 The people of larger states are not automatically better off than those of small ones. India is not richer than Singapore; Russia would not benefit from invading Ukraine; China would hardly be materially better off if it ruled Taiwan. The other members of the international system might not be able to stop such adventurism militarily, but they can certainly punish it economically. The costs related to invasion and the inevitable problems that arise during occupation would outweigh any possible benefits that may accrue. Conquest in a trading system is profoundly irrational, and the incentives for peace are strong. Rational calculations are not the only motivations for cross-border violence. As Norman Angell argued a century ago, people have to believe that war is not worth the cost before they will forswear it. 130 The quest for glory and prestige has sent many an army into motion over the centuries; Alfred Thayer Mahan responded to Angell’s rationalism a century ago by pointing out that “nations are under no illusion as to the unprofitableness of war itself” but honor often compels them to fight anyway. 131 By 2017, however, those calculations have changed. It is not at all clear that glory still automatically accompanies conquest. The second reason to believe that Russia and China might not dominate their near-abroads in an essentially U.S.-free world is that the behavioral norms of the New Peace discourage aggression. Imperialism invites opprobrium, not admiration. This does not mean that such assaults could not happen—Genghis Khan was unconcerned about opprobrium, for instance, and Vladimir Putin might be too—but surely it is significant that conquest has been all but absent since the Second World War. The unipole is not the only thing restraining potential combatants; both their material and reputational interests do so as well. If and when a catastrophic supervolcanic eruption weakens the United States, other countries would still have substantial interest in maintaining the overlapping network of international economic and political institutions that serve the interests of all members. All would want to see free trade and investment continue unmolested, whether or not the global policeman could punish violators. Most would continue to place some value on international law, human rights, and the UN system. Why any state would want to move backward to a mercantilist time of pure self-help and violence would be difficult to imagine. It is 2017, not 1717. Volcanologists assure us that someday Yellowstone will awaken with terrifying fury. The human and material cost will be immense, but the ramifications for international security may not be as dramatic. While it might take that kind of event to settle the questions concerning hegemonic-stability theory once and for all, we can still use our imaginations to anticipate the kind of reaction that the system would have if the global 911 is taken off the hook. Even more decisively than a Trump superpresidency, a supervolcano eruption would test the New Peace and settle forever debates over the importance of unipolarity. Until then, one can only imagine what the system would be like without the United States. And the smart money would be with those who say that it would probably look pretty much the same, with very small amounts of conflict and warfare, even if few people seem to notice. In the end, what can be definitely said about the relationship between U.S. power and international stability? Probably not much that will satisfy partisans. The pacifying virtue of U.S. hegemony will remain largely an article of faith in some circles in the policy world. Like most beliefs, it will resist alteration by logic and evidence. Beliefs rarely change, so debates rarely end. For those not yet fully converted, however, perhaps it will be significant that corroborating evidence for the relationship is extremely hard to identify. If indeed hegemonic stability exists, it does so without leaving much of a trace. Neither Washington’s spending, nor its interventions, nor its overall grand strategy seem to matter much to the levels of armed conflict around the world (apart from those wars that Uncle Sam starts). The empirical record does not contain much support for the notion that unipolarity and the New Peace are related. At the same time, three common psychological phenomena suggest that hegemonic stability is particularly susceptible to misperception. U.S. leaders probably exaggerate the degree to which their power matters. Researchers will need to look elsewhere to explain why the world has entered the most peaceful period in its history

#### It’s impossible

**Babones 15** Salvatore Babones is an associate professor of sociology & social policy at the University of Sydney, Foreign Policy in Focus, March 12, 2015, “Is China a threat? The Devil’s in the details”, http://salvatorebabones.com/is-china-a-threat/

What about regional conflict? China’s growing military certainly sounds like a regional menace. But a menace to whom? Here again the details get in the way of the China threat story. To the east, Japan’s government is responding to Chinese expansion by boosting its own defense spending to record levels, proposing to change its pacifist constitution to allow greater military flexibility, and making a renewed push to resolve the long-standing Kuril Islands dispute with Russia. If Prime Minister Shinzo Abe finally succeeds in making peace with Russia, that would leave China and its ally North Korea as the sole focus for Japan’s entire military capacity. Japan is a rich, technologically advanced country of 127 million people. It can look after itself. For very different reasons, China poses little threat to South Korea. China increasingly views North Korea more as a burden than as an advance column for an attack on the South. And China has recently been courting South Korean technology investment in order to reduce its dependence on Japan. Political relations across the Taiwan Strait are inevitably dominated by questions over the status of Taiwan. Every election in Taiwan sparks talk about and fears of Chinese invasion. But no country in the world has staged a large-scale amphibious assault since the U.S. landings at Incheon, South Korea in 1950. For more than half a century, even American adventures abroad have been small-scale (Grenada) or launched from land bases (Iraq). The Chinese military will never have the capacity to invade Taiwan against armed resistance — not now, not later, not ever. It just can’t be done in the contemporary military context in which a single cruise missile can sink a transport ship carrying thousands of troops. It makes no sense to worry about something that is not technically possible. The Philippines? Why would China want to invade the Philippines? Vietnam, Laos, Myanmar? Ditto, ditto, ditto. China is involved in a plethora of minor border disputes with its neighbors, but none of these involve core territorial interests or serious legal claims that China (or most of its neighbors, for that matter) have historically been interested in pushing. They’re all frozen conflicts that are unlikely ever to thaw.

### 2nc---adv 3

#### No accidents---BUT even if, no escalation

Steven **Pinker 18**. Johnstone Family Professor in the Department of Psychology at Harvard University. 2018. “CHAPTER 19 EXISTENTIAL THREATS.” Enlightenment Now: The Case for Reason, Science, Humanism, and Progress, Viking, an imprint of Penguin Random House LLC.

The first is to stop telling everyone they’re doomed. The fundamental fact of the nuclear age is that no atomic weapon has been used since Nagasaki. If the hands of a clock point to a few minutes to midnight for seventy-two years, something is wrong with the clock. Now, maybe the world has been blessed with a miraculous run of good luck—no one will ever know—but before resigning ourselves to that scientifically disreputable conclusion, we should at least consider the possibility that systematic features of the international system have worked against their use. Many antinuclear activists hate this way of thinking because it seems to take the heat off countries to disarm. But since the nine nuclear states won’t be scuppering their weapons tomorrow, it behooves us in the meantime to figure out what has gone right, so we can do more of whatever it is. Foremost is a historical discovery summarized by the political scientist Robert Jervis: “The Soviet archives have yet to reveal any serious plans for unprovoked aggression against Western Europe, not to mention a first strike against the United States.”89 That means that the intricate weaponry and strategic doctrines for nuclear deterrence during the Cold War—what one political scientist called “nuclear metaphysics”—were deterring an attack that the Soviets had no interest in launching in the first place.90 When the Cold War ended, the fear of massive invasions and preemptive nuclear strikes faded with it, and (as we shall see) both sides felt relaxed enough to slash their weapon stockpiles without even bothering with formal negotiations.91 Contrary to a theory of technological determinism in which nuclear weapons start a war all by themselves, the risk very much depends on the state of international relations. Much of the credit for the absence of nuclear war between great powers must go to the forces behind the decline of war between great powers (chapter 11). Anything that reduces the risk of war reduces the risk of nuclear war. The close calls, too, may not depend on a supernatural streak of good luck. Several political scientists and historians who have analyzed documents from the Cuban Missile Crisis, particularly transcripts of John F. Kennedy’s meetings with his security advisors, have argued that despite the participants’ recollections about having pulled the world back from the brink of Armageddon, “the odds that the Americans would have gone to war were next to zero.”92 The records show that Khrushchev and Kennedy remained in firm control of their governments, and that each sought a peaceful end to the crisis, ignoring provocations and leaving themselves several options for backing down. The hair-raising false alarms and brushes with accidental launches also need not imply that the gods smiled on us again and again. They might instead show that the human and technological links in the chain were predisposed to prevent catastrophes, and were strengthened after each mishap.93 In their report on nuclear close calls, the Union of Concerned Scientists summarizes the history with refreshing judiciousness: “The fact that such a launch has not occurred so far suggests that safety measures work well enough to make the chance of such an incident small.

But it is not zero.”94 Thinking about our predicament in this way allows us to avoid both panic and complacency. Suppose that the chance of a catastrophic nuclear war breaking out in a single year is one percent. (This is a generous estimate: the probability must be less than that of an accidental launch, because escalation from a single accident to a full-scale war is far from automatic, and in seventytwo years the number of accidental launches has been zero.)95 That would surely be an unacceptable risk, because a little algebra shows that the probability of our going a century without such a catastrophe is less than 37 percent. But if we can reduce the annual chance of nuclear war to a tenth of a percent, the world’s odds of a catastrophe-free century increase to 90 percent; at a hundredth of a percent, the chance rises to 99 percent, and so on.

## 1nr

### 1nr---politics

#### Link ---wasted political capital laws won’t be followed and triggers war.

Sensiba, 11/6/2020 --- MA in Emergency Management and Homeland Security at American Military University (Jennifer - long time efficient vehicle enthusiast and writer, “Don’t Encourage Biden To Waste Political Capital,” <https://cleantechnica.com/2020/11/06/dont-encourage-biden-to-waste-political-capital/>, accessed on 11/8/2020, JMP)

It’s All About Political Capital

In short, political capital is a way to think about political power in democratic countries. Yes, winning elections does give some political power, but you can’t effectively use it unless you have coalitions, alliances, trust, goodwill, and influence. Your earned trust and connections are like money (capital). You can work hard to earn it and build it up, but it’s easy to spend it and even waste it, just like money.

If you get power from an election and then quickly spend all of the political capital impressing loyalists, you’ll get to the point where you can’t win future elections (Trump is a great example of this), can’t get votes together for legislation, and can’t get people to help you in a variety of other ways. At worst, a political leader who has run completely out of political capital might not even be able to get normal citizens to follow laws. As the consent of the governed is withdrawn, you see protests, riots, violence, terrorism, and even war.

#### Warming does causes extinction

Cribb ’17 [Julian; 2017; Principal of Julian Cribb & Associates, Fellow of the Australian Academy of Technological Sciences and Engineering, former Director of National Awareness at the Commonwealth Scientific and Industrial Research Organisation; *Surviving the 21st Century*, “The Baker,” Ch. 4, p. 91-93; DML]

This event, known as the Palaeocene-Eocene Thermal Maximum or PETM, happened only about ten million years after the dinosaurs were smashed by an asteroid impact. This ‘hyperthermal’ period took place quite suddenly (in geological terms)—in less than 2000 years—and lasted for about 170,000 years before the planet again cooled. The heat spike was accompanied by a major wipe-out of ocean life in particular, though most small land mammals survived. Investigating the records of old marine sediments Zeebe was able to show there had been a sharp, 70 %, leap in atmospheric CO 2 concentrations at the time. However, he concluded there was only sufficient carbon available to force the climate to warm by 1–3 °C and that some other mechanism must have been triggered by the initial warming, which then drove the Earth’s temperature to fever pitch, up by another 4–6 °C (Zeebe et al. 2009). This process is the ‘ runaway global warming ‘ which now menaces us.

The significance of PETM is that it appears that about the same volume of carbon was dumped by natural processes into the Earth’s atmosphere and oceans as humans are currently dumping with the burning of fossil fuels and clearing of the world’s forests—about 3 trillion tonnes in all—and it was this that triggered the hyperthermal surge in planetary heating.

As to the mechanism that could suddenly release a huge amount of extra carbon into the atmosphere and oceans and project global temperatures up by 6–9 °C, the most likely explanation is the one described at the start of this chapter—the rapid melting and escape of billions of tonnes of frozen methane, CH 4 , currently locked in tundra and seabed sediments. This phenomenon, dubbed the “clathrate gun ” (Kennett et al. 2003), is now linked by scientists not only with the PETM event but also, according to palaeontologist Peter Ward, with the Great Death of the Permian, the worst annihilation in the history of life on Earth (Ward 2008). The significance of the clathrates is that they consist of methane, a gas that is 72 times more powerful than CO 2 as a climate forcing agent in the short run, and 25 times stronger over a century or so. The clathrates could be released by a process known as ‘ ocean overturning ’, a shift in global current patterns caused by moderate warming, which brings warmer water from the surface down into the depths, to melt the deposits of frozen gas. Unlocking several trillion tonnes of methane would cause global temperatures to rocket upwards sharply. Once such a process gets under way, most experts consider, warming will happen so fast it is doubtful if humans could do anything to stop it even if they instantly ceased all burning of fossil fuels.

This ‘double whammy’ of global warming caused by humans releasing three trillion tonnes of fossil carbon which then precipitates an uncontrollable second phase driven by the melting of all or part of the five trillion tonnes of natural methane deposits (Buff et & Archer 2004) is the principal threat to civilisation in the twenty-first century and, combined with nuclear conflict (Chap. 4), to the survival of the human species.

The IPCC’s fifth report states that the melting of between 37 and 81 % of the world’s tundra permafrost is ‘virtually certain’ adding “There is a high risk of substantial carbon and methane emissions as a result of permafrost thawing ” ((IPCC 2014a), p. 74). This could involve the venting of as much as 920 billion tonnes of carbon. However, the Panel did not venture an estimate for methane emissions from the melting of the far larger seabed clathrates and a number of scientists have publicly criticised the world’s leading climate body for remaining so close-lipped about this mega-threat to human existence. The IPCC’s reticence is thought to be founded on a lack of adequate scientific data to make a pronouncement with confidence—and partly to fear of the mischief which the fossil fuels lobby would make of any premature estimates. However, it critics argue, by the time we know for sure that the Arctic and seabed methane is escaping in large volumes, it will be too late to do anything about it.

The difficulty is that no-one knows how quickly the Earth will heat up, as this depends on something that cannot be scientifically predicted: the behaviour of the whole human species and the timeliness with which we act. Failure to abolish carbon emissions in time will make a 4–5 °C rise in temperature likely. As to what that may mean, here are some eminent opinions :

• Warming of 5 °C will mean the planet can support fewer than 1 billion people—Hans-Joachim Shellnhuber, Potsdam Institute for Climate Impact Research (Kanter 2009)

• With temperature increases of 4–7 °C billions of people will have to move and there will be very severe conflict—Nicholas Stern, London School of Economics (Kanter 2009)

• Food shortages, refugee crises, flooding of major cities and entire island nations, mass extinction of plants and animals, and a climate so drastically altered it may be dangerous for people to work or play outside during the hottest times of the year—IPCC Fifth Assessment (IPCC 2014b)

• Corn and soybean yields in the US may decrease by 63–82 %—Schlenker and Roberts, Arizona State University (Schlenker & Roberts 2009a)

• Up to 35% of the Earth’s species will be committed to extinction—Chris Thomas, University of Leeds (Thomas et al. 2004)

• Total polar melting combined with thermal expansion could involve sea levels eventually rising by 65 m (180 ft), i.e. to the 20th floor of tall buildings, drowning most of the world’s coastal cities and displacing a third or more of the human population (Winkelmann et al. 2015)

• Intensified global instability, hunger, poverty and conflict. Food and water shortages, pandemic disease, disputes over refugees and resources, and destruction by natural disasters in regions across the globe—Chuck Hagel, US Secretary for Defence (Hagel 2014)

• “Almost inconceivable challenges as human society struggles to adapt… billions of people forced to relocate.… worsening tensions especially over resources… armed conflict is likely and nuclear war is possible”— Kurt Campbell, Center for Strategic and International Studies (Campell et al. 2007).

• “Unless we get control of (global warming), it will mean our extinction eventually”—Helen Berry, Canberra University (Snow & Hannam 2014).

#### Executive action trades off with the agenda.

Christenson ’15 [Dino and Douglas L. Kriner; 2015; Assistant and Associate Professors of Political Science at Boston University; Case Western University Law Review, “Political Constraints on Unilateral Executive Action,” vol. 65, no. 4]

A second constraining force is public opinion. In addition to anticipating the reaction of Congress, presidents also anticipate the reaction of the American people to a bold assertion of presidential unilateral power.42 Unilateral action may provide a potent mechanism for the president to carry the day and move policy closer to his ideal preferences on a specific issue. However, if it erodes his overall support among the general public, it could come at a significant long-term cost in terms of future policy priorities that overwhelm any short-term policy gain. Decades of scholarship have shown that presidential approval is a vitally important resource for presidents as they pursue their policy agendas in Congress.43 Stripped of public support and the political pressure it generates, presidents with low approval ratings face long odds in advancing their programmatic agendas in Washington.

How does the public respond to bold assertions of unilateral power? Relevant polling data are rather scarce; however, the extant evidence, despite its limitations, suggests that the public holds deep reservations about broad assertions of unilateral presidential power.44 For example, in January 2014 an ABC News/Washington Post poll revealed an evenly divided public on the idea of unilateral action in the abstract. The question began, “Presidents have the power in some cases to bypass Congress and take action by executive order to accomplish their administration’s goals.” Respondents were then asked whether they supported or opposed this approach. Just more than 40 percent strongly or somewhat supported presidents pursuing their policy goals via executive order; 46 percent opposed a unilateral leadership approach, with 25 percent strongly opposing it.45 Polling data on more concrete issues often reveal even greater public concern with a unilateral approach. For example, a July 2014 poll referencing President Obama’s unilateral changes to the ACA, which prompted the House lawsuit with which this Article began, asked Americans, “Do you think President (Barack) Obama exceeded his authority under the Constitution when he changed the health care law on his own by executive order?” A substantial majority, 58 percent, said yes, the president had exceeded his constitutional authority. Only 37 percent replied that no, he had not done so.46

Finally, polls that explicitly measure public support for policy action through presidential unilateral initiatives versus through the legislative process show a strong preference for the latter. For example, a December 2001 poll reveals a widespread public preference for joint presidential-congressional action—even in the immediate aftermath of 9/11 when President George W. Bush enjoyed the highest approval ratings ever recorded. After a series of questions measuring popular support for a number of potential changes to criminal procedures after 9/11, a CBS/New York Times poll asked, “Do you think changes to the way in which government agencies seek, investigate and prosecute suspected criminals should be decided by the President alone through an executive order, or through legislation enacted by the Congress and approved by the President?” A full 82 percent said that such changes should be made by both branches through the legislative process. Only 12 percent supported the president acting alone through executive order.47 Thus, presidents have good reason to worry that acting unilaterally on a high-profile issue or too frequently may trigger a public backlash that will undermine their efforts to achieve other policy priorities. Presidents face strong incentives to be strategic in their use of unilateral powers.

Moreover, other institutions, particularly Congress, may play an important role—even when presidents know that efforts to overturn an executive action will fail—by engaging in the political debate and mobilizing public pressure against the president should he act unilaterally contra congressional preferences. Decades of political science scholarship have demonstrated that the public lacks systematic knowledge of politics and therefore relies heavily on heuristics when forming their political judgments.48 Political elites thus become key cue-givers who help inform and shape public opinion.49 Finally, citizens acquire most of their knowledge about politics from the mass media. Scholars have long noted that the media depend on official Washington sources for information. However, a robust literature in political communications goes further and argues that the media tend “to ‘index’ the range of voices and viewpoints in both news and editorials according to the range of views expressed in mainstream government debate about a given topic.”50 When other political actors, particularly members of Congress, object and criticize presidential actions in the public sphere, they are all but assured of receiving considerable media coverage, and they are well-positioned to influence public opinion against the executive branch.51

In essence, we argue that while the statutory and legal constraints on presidential unilateral power are weak, the political constraints are quite robust.52 Unilateral actions that could provoke public ire and erode the president’s political capital, thereby undermining later efforts to pursue other aspects of the president’s programmatic agenda, may fail a simple cost-benefit calculation. The informal political costs of acting—even when Congress and the courts are almost certainly unwilling or unable to strike down the action—may outweigh the policy benefits of acting unilaterally. These political costs, which are not accounted for in most extant models of unilateral politics, are tangible and substantial; indeed, they may explain why presidents fail to act unilaterally as aggressively and on as many issues across the gamut of policy as formal models suggest they should.

#### The President gets blamed.

Kovacs ’18 [Kathryn E; Summer; Professor at the University of Rutgers School of Law; Administrative Law Review, “Rules About Rulemaking and The Rise of the Unitary Executive,” vol. 70]

Clearly, there are other reasons for this phenomenon: among them, the President's desire to take political credit or, on the flip side, his recognition that, whatever the outcome, he will be saddled with the political blame. The American public seems to equate the President with the Fourth Branch. Advances in technology and media may be exacerbating this effect. This phenomenon, however, cuts both ways. The President may be inclined to make policy decisions himself so that he can take the credit if the outcome is politically popular, but he may prefer to leave policymaking to his subordinates so that he can distance himself if the outcome is not politically popular. This does not, therefore, account fully for the dramatic [\*557] rise in presidential direct action described below.

[FOOTNOTE]

Daniel A. Farber, Presidential Administration Under Trump 23 (Aug. 9, 2017) (unpublished manuscript), https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3015591 (envisioning a "feedback cycle in which presidents take control of major agency decisions, fortifying the public's tendency to assign blame to the president for unpopular outcomes, which in turn strengthens the pressure on the president to assert control"); see also COOPER, supra note 333, at 65, 95; Cary Coglianese & Kristin Firth, Separation of Powers Legitimacy: An Empirical Inquiry into Norms About Power, 164 U. PA. L. REV. 1869, 1900 (2016) (finding that people are more likely to blame the President for poor agency outcomes than they are to credit him for positive agency outcomes); Kagan, supra note 1, at 2310; Stack, supra note 334, at 264, 317.

#### No antitrust now because it requires PC.

Folio ’21 [Joseph Charles Folio III, Lisa M. Phelan, Jeff Jaeckel, and Alexander Paul Okuliar; March 22; International law firm representing investment funds and startup companies; Morrison & Foerster, “Antitrust Update: Up and Down the Avenue,” <https://www.mofo.com/resources/insights/210322-atr-update.html> KS]

The path for meaningful legislative reform remains extremely complicated. The prospect for reform depends significantly on whether members of Congress, congressional leadership, and the Biden administration are willing to expend the time and political capital necessary to pass a reform bill (which also assumes the relevant parties can agree on what should be included—or, perhaps more importantly, excluded—from that bill). In light of competing priorities, the absence of key personnel, and the already narrowing congressional calendar (major non-appropriations legislation typically will not move after July in an election year (2022)), those prospects appear to be slim. In the meantime, we expect that Congress will continue to focus attention on these issues with more hearings and new legislative proposals, but it remains to be seen when attention will become action.

#### Unites industry against Biden.

Kang ’21 [Cecilia Kang; January 26; reporter; the New York Times, “Democratic Congress Prepares to Take on Big Tech,” https://www.nytimes.com/2021/01/26/technology/congress-antitrust-tech.html]

Her bill, as well as other laws proposed to limit the power of the tech companies, will face steep opposition. In 2020, tech companies again spent more than other industries in Washington. Facebook, with lawsuits from federal and state enforcement officials, spent almost $20 million on lobbying, up 18 percent from the previous year. Amazon spent about $18 million in lobbying, up about 11 percent from the prior year.

Internet start-ups are also wary of regulations that could stymie their exit strategies to merge with larger companies as well as changes to rules that could hold them liable for the content they host. And agriculture, pharmaceutical and other industries will also probably balk at changes in antitrust laws.

#### Ida is a selling point for infrastructure.

Goldiner ’9-6 [Dave; 2021; reporter; New York Daily News, “Hurricane Ida’s devastation is selling point for Biden’s infrastructure plans,” https://www.nydailynews.com/news/politics/us-elections-government/ny-biden-infrastructure-ida-damage-20210906-hcxdf7oilbfrlb4tpzichf7boa-story.html]

You haven’t heard the last of Ida just yet.

The shocking cross-country devastation wrought by Hurricane Ida is set to play a starring role in Washington D.C. in the coming weeks as President Biden seeks to push his infrastructure bills through Congress.

From the New York area to the Gulf Coast, the jarring damage wrought by 150-mile per hour winds and also flooded roads and subways will be Exhibit A when lawmakers return this week to tackle the two sprawling plans worth a combined $4.5 trillion.

“Global warming is upon us,” said Senate Majority Leader Chuck Schumer (D-N.Y.) “When you get all the changes that we have seen in weather, that’s not a coincidence. ... It’s going to get worse and worse and worse, unless we do something about it.”

Schumer and House Speaker Nancy Pelosi plan to use Ida as proof positive of the need to upgrade the nation’s aging infrastructure network.

But Democrats still face a daunting task to simultaneously pass both sprawling plans, which they are pushing through Congress in a delicate political tightrope act set to reach a climax by an end of September deadline.

#### Political capital is finite and decisive. It passes 5 bills a year.

Cohen ’19 [Jeffrey E; June; Political Science Professor at Fordham University; the President on Capitol Hill: A Theory of Institutional Influence, “Conclusions: Presidential Influence in Congress,” Ch. 11, p. 241-243]

The present study rehabilitates the idea of presidential influence in Congress. Instead of viewing influence as derived from personal characteristics, this study conceptualizes presidential influence in institutional terms. The major finding here is that presidents have a measurable amount of influence. Although presidents do not possess enough influence to dominate Congress, to force the legislature to accede to their every demand, they do possess enough influence to win on a significant number of roll calls that the president's side would otherwise lose. By winning on more roll calls because of this influence, presidents can affect the public policies produced through the legislative process.

This study conducted several types of analyses to estimate the amount of presidential influence. Since it can be hard to isolate causal effects with observational data, this research paired regression with quasi-experimental treatment effects analyses. The treatment effects analysis for the years 1953 to 2012 suggests that when the president takes a roll call position, the president’s side will win an additional 9% of House floor votes, or about five out of the fifty-four roll call positions that presidents take, on average, annually. Although five additional victories may not sound like much, if it leads to five major policy enactments, it may be consequential for the lives of citizens.2

Moreover, five additional pieces of legislation add up over the years—in a four-year term, there might be twenty additional enactments. From another perspective, Ansolabehere, Palmer, and Schneer (2016, 2018) estimate that there are eight or nine major legislative enactments per Congress from 1789 to 2010 and about seventeen from 1953 to 2010. The estimated five additional pieces of legislation presidents receive from position taking is nearly 30% of major enactments in the late modern period, assuming all the additional presidential wins are on major legislation. Through position taking, presidents can have consequential impacts on the nation's policies.

As conceptualized here, presidential influence is rooted in the office and in the surrounding political environment, termed "institutional presidential influence." There is some similarity between this conceptualization of influence and studies that emphasize the importance of contextual and political factors for presidential success (Bond and Fleisher 1990; Edwards 1990). But presidents still must decide whether to apply those institutional and contextual levers of influence; they need to be strategic decision makers, too. Hence, presidential influence is not merely a matter of dumb luck (Rockman 1981). Some presidents may be luckier than others, in that the office and the political environment provide them with greater resources, such as party control, upon which they can draw. But presidents still decide whether, when, how, and with whom they will exert effort, and how much, when trying to influence Congress.

#### Bill solves grid collapse – immediate action is key to mitigate growing risks

PPG 3/4/21 [Pittsburgh Post-Gazette Editorial Board. Invest in infrastructure. March 4, 2021. https://www.post-gazette.com/opinion/editorials/2021/03/05/Invest-in-infrastructure/stories/202102270028]

Now is the time for a reckoning, a realization: While it’s important to study the past to avoid repeating the same mistakes, the country must also look to its future and see the obvious — that America’s infrastructure as a whole needs some serious upkeep. Democrats and Republicans alike have flirted with the idea of a sweeping infrastructure bill in recent years, and President Joe Biden’s team is working to outline such legislation. These efforts should proceed swiftly — now is the time for Congress to invest in infrastructure, not only to help prevent crises, but also to jump-start an economy mired in the coronavirus pandemic. Despite being one of the richest countries in the world, the U.S. seems constantly to hover on the edge of disaster, with news of natural forces smashing through power grids and levies and fire prevention strategies on a yearly or monthly basis. Texas is only the most recent state to have been pushed over the edge. The American Society of Civil Engineers just this week gave America’s infrastructure an overall grade of C-minus in its quadrennial report card. The last grade was D-plus and that report cited decades of underfunding and unheeded recommendations. C-minus is an improvement but deserves not just federal attention but actual intervention. The report notes “we are heading in the right direction, but a lot of work remains.” There is opportunity in the recent economic and environmental devastation that grabs headlines and breaks hearts. In the aftermath of the Great Depression, the government put millions to work improving parks and building roads and bridges and airports. President Dwight Eisenhower’s interstate highway system remains the life veins of interstate travel. A new and vigorous infrastructure package for America would fix what needs to be fixed and offer the promise of an economic boon. The purpose of the federal government is to address the needs of American society in a way that can’t be tackled by states in a piecemeal fashion. What has happened in recent days within The Lone Star State demonstrates keenly that this is the time — actually past the time — that our federal leaders must shore up the foundations of our federation. Congress should act swiftly to lead states in reversing the entropy chewing away at America’s foundations. Until this happens, society stands on shifting sands.

#### Grid resilience solves extinction – it’s a threat buffer and the impact is understated

Greene 19 [Sherrell R. Greene Mr. Greene received his B.S. and M.S. degrees in Nuclear Engineering from the University of Tennessee. He is a recognized subject matter expert in nuclear reactor safety, nuclear fuel cycle technologies, and advanced reactor concept development. Mr. Greene is widely acclaimed for his systems analysis, team building, innovation, knowledge organization, presentation, and technical communication skills. Mr. Greene worked at the Oak Ridge National Laboratory (ORNL) for over three decades. During his career at ORNL, he served as Director of Research Reactor Development Programs and Director of Nuclear Technology Programs. . "Enhancing Electric Grid, Critical Infrastructure, and Societal Resilience with Resilient Nuclear Power Plants (rNPPs)." https://ans.tandfonline.com/doi/pdf/10.1080/00295450.2018.1505357?needAccess=true]

Societies and nations are examples of large-scale, complex social-physical systems. Thus, societal resilience can be defined as the ability of a nation, population, or society to anticipate and prepare for major stressors or calamities and then to absorb, adapt to, recover from, and restore normal functions in the wake of such events when they occur. A nation’s dependence on its Critical Infrastructure systems, and the resilience of those systems, are therefore major components of national and societal resilience. There are a variety of events that could deal crippling blows to a nation’s Grid, Critical Infrastructure, and social fabric. The types of catastrophes under consideration here are “very bad day” scenarios that might result from severe GMDs induced by solar CMEs, HEMP attacks, cyber attacks, etc.5 As briefly discussed in Sec. III.C, the probability of a GMD of the magnitude of the 1859 Carrington Event is now believed to be on the order of 1%/year. The Earth narrowly missed (by only several days) intercepting a CME stream in July 2012 that would have created a GMD equal to or larger than the Carrington Event.41 Lloyd’s, in its 2013 report, “Solar Storm Risk to the North American Electric Grid,” 42 stated the following: “A Carrington-level, extreme geomagnetic storm is almost inevitable in the future…The total U.S. population at risk of extended power outage from a Carrington-level storm is between 20-40 million, with durations of 16 days to 1-2 years…The total economic cost for such a scenario is estimated at $0.6-2.6 trillion USD.” Analyses conducted subsequent to the Lloyd’s assessment indicated the geographical area impacted by the CME would be larger than that estimated in Lloyd’s analysis (extending farther northward along the New England coast of the United States and in the state of Minnesota),43 and that the actual consequences of such an event could actually be greater than estimated by Lloyd’s. Based on “Report of the Commission to Assess the Threat to the United States from Electromagnetic Pulse (EMP) Attack: Critical National Infrastructures” to Congress in 2008 (Ref. 39), a HEMP attack over the Central U.S. could impact virtually the entire North American continent. The consequences of such an event are difficult to quantify with confidence. Experts affiliated with the aforementioned Commission and others familiar with the details of the Commission’s work have stated in Congressional testimony that such an event could “kill up to 90 percent of the national population through starvation, disease, and societal collapse.” 44,45 Most of these consequences are either direct or indirect impacts of the predicted collapse of virtually the entire U.S. Critical Infrastructure system in the wake of the attack. Last, recent analyses by both the U.S. Department of Energy46 and the U.S. National Academies of Sciences, Engineering, and Medicine47 have concluded that cyber threats to the U.S. Grid from both state-level and substatelevel entities are likely to grow in number and sophistication in the coming years, posing a growing threat to the U.S. Grid. These three “very bad day” scenarios are not creations of overzealous science fiction writers. A variety of mitigating actions to reduce both the vulnerability and the consequences of these events has been identified, and some are being implemented. However, the fact remains that events such as those described here have the potential to change life as we know it in the United States and other developed nations in the 21st century, whether the events occur individually, or simultaneously, and with or without coordinated physical attacks on Critical Infrastructure assets.