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#### Patent reform will pass- its top of the docket and PC is key

Hattern, 3-5 – The Hill Correspondent

[Julian, "Congress gets out club for patent ‘trolls’," The Hill, 3-5-14, thehill.com/blogs/hillicon-valley/technology/199954-lawmakers-look-to-push-patent-troll-bill, accessed 3-13-14]

Proponents of a bill to prevent patent “trolls” from harassing businesses are increasingly optimistic their legislation will become law this year. Lawmakers and a wide swath of different industries have aligned behind the push for a crackdown on the so-called trolls, which sue companies for patent license violations. Supporters of the reform effort claim the lawsuits are often frivolous, but nonetheless force businesses into settlements to avoid lengthy and costly court cases. Plaintiffs in the suits argue they are merely trying to protect their intellectual property and preserve inventors’ ability to innovate. With campaign politics gumming up the works on Capitol Hill, the patent crackdown could be one of the few bills to make it to President Obama’s desk before November, supporters say. “I think that members on both sides of the aisle recognize that this is a big problem affecting people being employed in their district, investments in their district,” said Beth Provenzano, a senior director for government relations at the National Retail Federation. “I think that this does stand a good chance, even in the election year.” The Senate Judiciary Committee, the focus of the patent reform fight, will look to take action on legislation this month, Chairman Patrick Leahy (D-Vt.) said on Tuesday. Sen. Mike Lee (R-Utah) on Wednesday said he hoped the full chamber would vote on the bill in the coming months. In addition to the retailers trade group, associations for restaurants, financial institutions and major tech companies such as Google have pushed for the chamber to approve legislation. The troublesome lawsuits can cost millions, they say, and need to be stopped immediately. Patent-rights holders skeptical of reform claim that bill goes too far and warn it could make it difficult for inventors and universities to profit from their creations. In December, the House overwhelmingly passed the Innovation Act, which would reform much of the patent lawsuit process. Lee and Leahy are pushing a companion bill, the Patent Transparency and Improvements Act, in the Senate. Obama backed the House bill and called for action in his State of the Union address. Supporters hope the president’s backing will help push legislation across the finish line in the Senate. “It meant a lot in the Senate to have the president weigh in like that,” Lee said at an event Tuesday in Washington. “To have it brought up by the president in some very public settings has been very helpful to help focus the public attention on the fact that this is hurting a lot of people.” Obama’s support also created momentum in the House, and convinced Democratic lawmakers who might not have been focused on the issue to hop on board, according to Rep. Jared Polis (D-Colo.).

#### The plan is a huge loss for Obama –Democrats cracking down on war powers makes Obama look weak

Paterno 6/23/2013 (Scott, Writer for Rock the Capital, “Selfish Obama” http://www.rockthecapital.com/06/23/selfish-obama/)

Now we have a Democratic president who wants to make war and does not want to abide by the War Powers Resolution. But rather than truly test the constitutionality of the measure, he is choosing to simply claim that THIS use of US military power is not applicable.¶ This is an extraordinarily selfish act, and one liberals especially should fear. POTUS is setting a precedent that subsequent presidents will be able to use – presidents that the left might not find so “enlightened.” Left as is, President Obama has set a standard where the president can essentially attack anywhere he wants without congressional approval for as long as he wants so long as he does not commit ground forces.¶ That is an extraordinarily selfish act. Why selfish? Because the president is avoiding congress because he fears a rebuke – from his own party, no less. The politically safe way to both claim to be decisive and to not face political defeat at the hands of Democrats – a defeat that would signal White House weakness – is to avoid congress all together. Precedent be damned, there is an election to win after all.

#### Key to innovation and American economic security

Goodlatte, 3-12 -- House Judiciary Committee chair, Rep

[Robert (R-VA), "Bipartisan Road Map for Protecting and Encouraging American Innovation," Roll Call 3-12-14, www.rollcall.com/news/bipartisan\_road\_map\_for\_protecting\_and\_encouraging\_american\_innovation-231413-1.html?pg=2, accessed 3-12-14]

Throughout our nation’s history, great ideas have powered our economic prosperity and security, from the Industrial Revolution to the Internet age. Safeguarding those great ideas were so important to our Founding Fathers that they included patent protection in the U.S. Constitution. Article I, Section 8, Clause 8 of the Constitution charges Congress with overseeing a patent system to “promote the progress of science and useful arts.” As chairman of the House Judiciary Committee, which has oversight of our patent system, I take the charge to uphold our Constitution seriously. In recent years, we have seen an exponential increase in the use of weak or poorly granted patents by “patent trolls” to file numerous patent infringement lawsuits against American businesses with the hopes of securing a quick payday. This abuse of the patent system is not what our Founding Fathers provided for in our Constitution. At its core, abusive patent litigation is a drag on our economy and stifles innovation. Everyone from independent inventors to startups to mid- and large-sized businesses face this constant threat. The tens of billions of dollars spent on settlements and litigation expenses associated with abusive patent suits represent truly wasted capital — wasted capital that could have been used to create new jobs, fund research and development, and create new innovations and technologies. Bad actors who abuse the patent system devalue American intellectual property and are a direct threat to American innovation. Abusive patent litigation is also a drain on consumers. We will never know what lifesaving invention or next-generation smartphone could have been created because a business went bankrupt after prolonged frivolous litigation or paying off a patent troll. When a firm spends more on patent litigation than on research, money is being diverted from real innovation. The patent system was designed to reward inventors and incentivize innovation, bringing new products and technologies to consumers. Last year, I introduced the Innovation Act (HR 3309), legislation designed to eliminate the abuses of our patent system, discourage frivolous patent litigation and keep U.S. patent laws up to date. In December, the House of Representatives, with overwhelming bipartisan support and the support of the White House, passed the Innovation Act. This important bill will help fuel the engine of American innovation and creativity, creating new jobs and growing our economy. Effective patent reform legislation requires the careful balance that was achieved in the Innovation Act. Senate Judiciary Chairman Patrick J. Leahy, D-Vt., ranking member Charles E. Grassley, R-Iowa., and committee members John Cornyn, R-Texas, Orrin G. Hatch, R-Utah, and Mike Lee, R-Utah, among others, are leading efforts in the Senate to combat abusive practices within our patent system that inhibit innovation. I am optimistic that as the Senate moves toward consideration of legislation they will act just as the House did and pass comprehensive patent litigation reform that includes all of the necessary reforms made in the Innovation Act, including heightened pleading standards and fee shifting. In 2011, Republicans and Democrats came together to pass the America Invents Act (PL 112-29), which brought the most comprehensive change to our nation’s patent laws since the 1836 Patent Act. We are continuing to work again in a collaborative, bipartisan way to end abusive patent litigation to help the American economy and American people. I am optimistic that these important reforms will be enacted to stop the abuse of our patent system and restore the central role patents play in our economy. Half measures and inaction are not viable options. The time is now, and the Innovation Act has helped set a clear bipartisan road map toward eliminating the abuses of our patent system, discouraging frivolous patent litigation and keeping U.S. patent laws up to date.

#### Ensures conflict suppression- no alt causes

Hubbard ’10 (Hegemonic Stability Theory: An Empirical Analysis By: Jesse Hubbard Jesse Hubbard Program Assistant at Open Society Foundations Washington, District Of Columbia International Affairs Previous National Democratic Institute (NDI), National Defense University, Office of Congressman Jim Himes Education PPE at University of Oxford, 2010

**Regression analysis of this data shows** that Pearson’s r-value is -.836. **In the case of American hegemony, economic strength is a better predictor of violent conflict than even overall national power**, which had an r-value of -.819. The data is also well within the realm of statistical significance, with a p-value of .0014. While the data for British hegemony was not as striking, the same overall pattern holds true in both cases. During both periods of hegemony, hegemonic strength was negatively related with violent conflict, and yet use of force by the hegemon was positively correlated with violent conflict in both cases. Finally, in both cases, economic power was more closely associated with conflict levels than military power. Statistical analysis created a more complicated picture of the hegemon’s role in fostering stability than initially anticipated. VI. Conclusions and Implications for Theory and Policy To elucidate some answers regarding the complexities my analysis unearthed, I turned first to the existing theoretical literature on hegemonic stability theory. The existing literature provides some potential frameworks for understanding these results. Since economic strength proved to be of such crucial importance, reexamining the literature that focuses on hegemonic stability theory’s economic implications was the logical first step. As explained above, the literature on hegemonic stability theory can be broadly divided into two camps – that which focuses on the international economic system, and that which focuses on armed conflict and instability. This research falls squarely into the second camp, but insights from the first camp are still of relevance. Even Kindleberger’s early work on this question is of relevance. Kindleberger posited that the economic **instability** between the First and Second World Wars **could be attributed to the lack of an economic hegemon** (Kindleberger 1973). But economic instability obviously has spillover effects into the international political arena. Keynes, writing after WWI, warned in his seminal tract The Economic Consequences of the Peace that Germany’s economic humiliation could have a radicalizing effect on the nation’s political culture (Keynes 1919). Given later events, his warning seems prescient. In the years since the Second World War, however, the European continent has not relapsed into armed conflict. What was different after the second global conflagration? Crucially, the United States was in a far more powerful position than Britain was after WWI. As the tables above show, Britain’s economic strength after the First World War was about 13% of the total in strength in the international system. In contrast, the United States possessed about 53% of relative economic power in the international system in the years immediately following WWII. The U.S. helped rebuild Europe’s economic strength with billions of dollars in investment through the Marshall Plan, assistance that was never available to the defeated powers after the First World War (Kindleberger 1973). Theinterwar years were also marked by a series of debilitating trade wars that likely worsened the Great Depression (Ibid.). In contrast, when Britain was more powerful, it was able to facilitate greater free trade, and after World War II, **the United States played a leading role in creating institutions like the GATT that had an essential role in facilitating global trade** (Organski 1958). The possibility that economic stability is an important factor in the overall security environment should not be discounted, especially given the results of my statistical analysis. Another theory that could provide insight into the patterns observed in this research is that of preponderance of power. Gilpin theorized that **when a state has the preponderance of power in the international system, rivals are more likely to resolve their disagreements without resorting to armed conflict** (Gilpin 1983). The logic behind this claim is simple – it makes more sense to challenge a weaker hegemon than a stronger one. This simple yet powerful theory can help explain the puzzlingly strong positive correlation between military conflicts engaged in by the hegemon and conflict overall. It is not necessarily that military involvement by the hegemon instigates further conflict in the international system. Rather, this military involvement could be a function of the hegemon’s weaker position, which is the true cause of the higher levels of conflict in the international system. Additionally, it is important to note that **military power is,** in the long run, **dependent on economic strength**. Thus, it is possible that **as hegemons lose relative economic power, other nations are tempted to challenge them even if their short-term military capabilities are still strong**. This would help explain some of the variation found between the economic and military data. The results of this analysis are of clear importance beyond the realm of theory. As the debate rages over the role of the United States in the world, hegemonic stability theory has some useful insights to bring to the table. What this research makes clear is that a strong hegemon can exert a positive influence on stability in the international system. However, this should not give policymakers a justification to engage in conflict or escalate military budgets purely for the sake of international stability. If anything, **this research points to the central importance of economic influence in fostering international stability**. To misconstrue these findings to justify anything else would be a grave error indeed. Hegemons may play a stabilizing role in the international system, but this role is complicated. **It is economic strength, not military dominance that is the true test of hegemony**. **A weak state with a strong military is a paper tiger** – it may appear fearsome, but it is vulnerable to even a short blast of wind.

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#### Chinese can effectively use soft power now, which is uniquely effective- US model fails

**Hölkemeyer 12-6**-13 [Patricia Rodríguez Hölkemeyer, research professor and deputy director of the School of Political Science at the University of Costa Rica, Honorary Member of the Academy Research Center of Central Private, “China's forthcoming soft power as a natural result of international events,” <http://www.china.org.cn/china/Chinese_dream_dialogue/2013-12/06/content_30822607.htm>]

On the other side, Deng'saphorism that China should never strive to attain global hegemony has been widely respected by its leaders and reformers. Nevertheless, today circumstances have changed. China's ancient thinkers rejected the idea of searching for hegemony through stratagems, and favored instead the accomplishment of what Mencius and Xuzi called humane authority. Nevertheless, at the present moment China does not need to strive for the attainment of a leading role because the present world circumstances are catapulting her to become a world superpower. What are the present world circumstances that have put China in the position to have a say in international affairs without having to strive for hegemony? Why is the Western 'presumptive paradigm' (Rodrik)for development failing contrastingly to the pragmatic and experimental learning paradigm of the Chinese reformers that Joshua Cooper Ramo dubbed the Beijing Consensus? The ex-ante presumption of knowledge, a characteristic of the Western countries and global institutions, very probably will be ceding its place to a Deweyian pragmatic change of paradigm, according to which, even the mere conception of what is the best form of democracy is fallible and contextual. ¶ Very probably, the paradigm of 'arrogance' will be giving place to a paradigm based on what the political scientist, Karl Deutsch, once called 'humility'. Deutsch defined its opposite "arrogance" as the posture of permitting oneself the luxury of not to learn (because it is supposed that one has already learned everything), while he defines 'humility' as the attitude of the political leader who is always open to learning from others. The West has forgotten that the concept of feedback (learning form the other) is the biggest bite to the tree of knowledge that humanity has undertaken in the last two thousand years (Bateson). A new concept of democracy has to take into consideration this advancement as the Chinese reform process has done. Western countries' presumptive frame of mind has been slowly losing momentum. The present circumstances provide a clear indication that one of the most cared institutions, the Western multiparty democracy system, has been losing its ability to learn, and thus, its capacity to offer creative solutions to its own and the world's problems. As a former US Ambassador to China said two years ago, the willingness of Chinese leaders to learn from their errors and adapt to new circumstances "differs sharply from what one encounters in Washington, where there's such concern over our inability to correct the problems that are making our political system — in the eyes of many Americans — increasingly dysfunctional."¶ The US has to enhance its learning capacity if it wants to lead in world affairs in cooperation with the newly emerging superpower. The West has to acknowledge that the so called American values are not universal, that harmony implies unity in diversity, that the concept of democracy is fallible and mutable, and that hegemony has to cede to a well gained humane authority, not only abroad but domestically.¶ Since W. W. II, the US attained the soft power that China lacked. Nevertheless, the US insistence in the maintenance of an hegemonic international order applying the smart power (a new concept of Joseph Nye) stratagems, has culminated in the observed failure of the misnamed Arab Spring, even if the application of smart power (instigation through political activism, and the posterior use of military power if necessary) was partially successful in the so called Color Revolutions (Rodríguez-Hölkemeyer, 2013).¶ Given the present circumstances (as the effects of 9/11, the global financial crisis, the formation of the G20, the global rejection of US espionage stratagems, the failure of the Pivot to the East policy due to the attention the US had to devote to the failed Arab Spring, to an ailing Europe, and to its own domestic financial and political problems) China's possibilities to acquire soft power and to exert its positive influence way the international governing institutions and in international relations, are now real. The world needs a new international relations paradigm, other than the Western style democracy promotion policy through political activism (see the book of the present US Ambassador to Russia, Michael McFaul, Advancing Democracy Abroad)orchestrated by organized minorities (NGOs) who want to impose the so called 'American values' in countries with different historical paths, culture and aspirations. The new paradigm will have to be founded in ethics, wisdom, cooperation, confidence-building, and on the recognition that knowledge is fallible and hypothetical, and that with globalization world circumstances and interactions are prone to change. This new paradigm has already been successfully tested in the 35 years of China's own economic and institutional reform process and diplomatic practice. This adaptive and learning-prone attitude of the Chinese leaders, even to the point of adapting (not adopting) western suggestions and institutions when necessary, is the underlying cause of the success of the admirable and unique Chinese development path. As Mencius and Xuzi's observations suggest that a country cannot exert international influence if its own house is not in order.¶ In sum, the present article states that now China possesses a substantive experiential wisdom to start a very productive dialogue with the World. Especially in a moment when it is beginning to be clear to many in the World, that to strive for maintaining a hegemonic world order (Mearsheimer) by means of dubious stratagemsis --according to Lao Tzu thought—the kind of response when intentions are going against the natural course of events.

#### US influence trades off with China’s- competing narratives

**Dynon ’13** [Nicholas, PhD candidate at Macquarie University and is coordinator of the Line 21 project, an online resource on Chinese public diplomacy, has served diplomatic postings in Shanghai, Beijing and the Fiji Islands, worked in Australia’s Parliament House as a departmental liaison officer to the Immigration Minister, holds postgraduate degrees from the ANU and the University of Sydney, “Soft Power: A U.S.-China Battleground?” June 19, <http://thediplomat.com/2013/06/soft-power-a-u-s-china-battleground/>]

Strip away the ostensibly benign surface of public diplomacy, cultural exchanges and language instruction, and it becomes clear that the U.S. and China are engaged in a soft power conflagration – a protracted cultural cold war. On one side bristles incumbent Western values hegemon, the U.S. On the other is China, one of the non-Western civilizations that Samuel Huntington noted back in 1993 “increasingly have the desire, the will and the resources to shape the world in non-Western ways.”¶ But to shape the world in non-Western ways means engaging in a soft power battlespace against an incumbent who already holds the high ground. Liu comments that in regions deeply influenced by Western cultures, political systems and values, the “latecomer” China is considered a “dissident force." Under such circumstances, “it is rather difficult for China to attract Western countries with its own political and cultural charisma, let alone to replace their positions.”¶ According to this and similar viewpoints, China’s difficulty in projecting soft power across the world is in part due to the way the U.S. leverages its own soft power. Wu Jianmin, the former president of China’s Foreign Affairs University, puts the point well when explaining that U.S. soft power is driven by the imperative of “maintaining US hegemony in changing the world, of letting the world listen to the United States.”¶ Thus, the state of global post-colonial, post-communist ideational hegemony is such that large swathes of the earth’s population see the world through lenses supplied by the West. Through these lenses, perceptions of China are dominated by such concepts as the “China threat theory,” which portrays China as a malevolent superpower upstart.¶ But it’s actually inside China’s borders where the soft power struggle between China and the U.S. is most prominent.¶ Official pronouncements from Chinese leaders have long played up the notion that Western culture is an aggressive threat to China’s own cultural sovereignty. It has thus taken myriad internal measures to ensure the country’s post-Mao reforms remain an exercise in modernization without “westernization.” Since the 1990s, for example, ideological doctrine has been increasingly infused with a new cultural nationalism, and the Party’s previously archaic propaganda system has been massively overhauled and working harder than ever.¶ Especially after the June 4th crackdown and the collapse of the Soviet Union, China’s leaders under Jiang Zemin began addressing the cultural battlespace with renewed vigor. Resolutions launched in 1996 called for the Party to “carry forward the cream of our traditional culture, prevent and eliminate the spread of cultural garbage, [and] resist the conspiracy by hostile forces to ‘Westernize’ and ‘split’ our country….” Hu Jintao trumpeted the same theme in early 2012 when he warned that international hostile forces are intensifying the strategic plot of Westernising and dividing China … Ideological and cultural fields are the focal areas of their long-term infiltration.”

#### Chinese leadership solves warming best- structurally better than the US

**Naam ‘13** [Ramez, professional technologist, holds a seat on the advisory board of the Acceleration Studies Foundation, is a member of the World Future Society, a Senior Associate of the Foresight Institute, and a fellow of the Institute for Ethics and Emerging Technologies, former CEO of Apex Nanotechnologies, “Seven Reasons Why China May Be the World Leader in Fighting Climate Change,” <http://www.slate.com/articles/technology/future_tense/2013/05/china_cap_and_trade_carbon_tax_the_country_may_lead_the_global_climate_change.single.html>]

All of that makes what I’m about to say sound even crazier: China may one day be the world’s leader in combating climate change. In almost every way you cut it, China is already taking a much more aggressive approach toward climate change than the United States is.¶ This is important for two reasons. First, China is seeing the world’s fastest growth in energy consumption and in CO2 emissions. In the United States and Europe, by contrast, energy usage is nearly flat and CO2 emissions are down. So China’s policies exert a huge lever on future CO2 emissions. Second, one of the prime arguments against U.S. action on climate change has been that it doesn’t matter what the United States does if China isn’t on board.¶ Well, China already is on board in a number of ways that the United States isn’t. Consider the following:¶ 1. China is launching a cap-and-trade plan.¶ In the United States, the Waxman-Markey cap-and-trade plan fizzled in the Senate in 2009. In China, meanwhile, authorities have moved forward with pilot cap-and-trade systems covering seven regions, including the manufacturing hub provinces of Guangdong and Hubei, as well as the cities of Beijing, Shanghai, Tianjin, Chongqing, and Shenzhen. The first of those cap-and-trade systems, in Shenzhen, will start operation June 17. By 2020, the Chinese government plans to link those regional systems into a national carbon market. Just last month, the governments of China and Australia announced their intent to link the two countries’ carbon markets into a regional one.¶ 2. China is also launching a carbon tax.¶ In March, the U.S. Senate unceremoniously voted down an amendment that would have opened the way to a carbon tax. Not so, China. Officials there have announced their intent to institute a tax on CO2 emissions, likely starting in 2015 or 2016.¶ 3. China is investing more in renewable energy.¶ Not satisfied with those future plans? Consider the here-and-now. In 2012, the United States spent $35 billion on renewable energy—actually down 37 percent from $56 billion in 2011. China, meanwhile, spent a whopping $65 billion on renewable energy in 2012, or 85 percent more than the United States did in the same year.¶ Yes, China’s population is more than four times the United States’. But China’s economy is only half the size. As a fraction of its overall economy, China invested almost four times as much as the United States in renewable energy in 2012.¶ 4. China dominates in solar production …¶ China has taken a huge lead in the production of solar panels in particular. In 1995, the United States produced nearly 40 percent of the solar panels produced around the world, while China made less than 1 percent. Now Chinese companies produce more than half the solar panels manufactured worldwide, while the United States produces less than 10 percent.¶ Critics have decried this as a case of China’s government using cheap loans and investments to bootstrap an industry. And that’s exactly what it is. Whatever the short-term fluctuations in the solar market may be, whether China is guilty or not of intentionally flooding the market, in the long run the demand for solar power is going to grow by orders of magnitude. Solar power is going to be absolutely essential to meeting growing energy demands while staving off climate change. Chinese banks and Chinese leaders know this, and they plan to be the world leader in that industry.¶ 5. … and is second only to Germany in solar deployment.¶ China doesn’t just manufacture a lot of solar power equipment. In 2012, the only country in the world that installed more solar power for its own needs was Germany. The United States was No. 4, after Italy.¶ 6. China loves wind more than coal, and more than we do.¶ For all this investment in solar power, the energy source most commonly associated with China is coal—dirty, dirty coal, the most CO2-intensive of all the fossil fuels. And yes, China does burn almost as much coal as the rest of the world combined. But in 2012, China actually increased wind power generation more than coal power generation.\* In fact, wind power growth was more than double that of coal power growth in China—26 terawatt-hours of new wind generation in 2012 versus only 12 terawatt-hours of added coal generation in the same year.¶ And when ranked against other countries, China comes in at—you guessed it—No. 1 in terms of the total amount of wind generating capacity installed, about 76 gigawatts compared with the United States’ 60 gigawatts. And that’s after the best-ever year the United States had in deploying new wind power, spurred on by uncertainty as to whether the wind power production tax credit would be extended.¶ 7. China’s leaders are not like America’s. There’s a preponderance of scientists and engineers among China’s rulers. New President Xi Jinping was trained as a chemical engineer. His predecessor, Hu Jintao, earned a degree in hydraulic engineering. His predecessor, Jiang Zemin, held a degree in electrical engineering.¶ You can see this in their public statements. Last year, Xi Jinping said that “global climate change is deeply affecting human beings’ lives and development,” and called for China to develop a “national strategy for [dealing with] climate change.” Among China’s leadership, there simply is no debate about whether climate change is real. The Politburo, too, is stuffed with engineers and scientists. These are men (all men, sadly) who recognize that the world is facing a significant challenge. The conversation in China is not about whether to act against climate change. Rather, it’s about how to tackle climate change, while making room for more than 1 billion Chinese men and women to continue to enjoy the fruits of rapid economic growth.¶ Turning the Ship¶ All that said, what China’s doing still isn’t nearly enough to stop climate change. CO2 emissions in 2012 jumped by record amounts both worldwide and in China. China now has a staggering 363 new coal plants on the drawing boards. And behind China comes rising India, with 455 new coal plants on the drawing boards.¶ But in the end, only one thing matters when it comes to determining what energy technology will be deployed: price. Governments, industry, and consumers choose whatever source of energy comes with the lowest price tag. China, by moving toward cap-and-trade and a carbon tax, is seeking to affect that price tag. And by driving both the manufacturing and deployment of renewable energy, China’s green technology investment is also fueling a tremendous amount of research and development, driving down the intrinsic price of solar panels and wind turbines.¶ When that price gets low enough—through whatever combination of innovation and market-correcting policies get us there—the whole world will shift its behavior.

#### Warming is anthropogenic and causes extinction

Deibel ‘07 (Terry L. Deibel, professor of IR at National War College, Foreign Affairs Strategy, “Conclusion: American Foreign Affairs Strategy Today Anthropogenic – caused by CO2”)

Finally, there is one major existential threat to American security (as well as prosperity) of a nonviolent nature, which, though far in the future, demands urgent action. It is the threat of global warming to the stability of the climate upon which all earthly life depends. Scientists worldwide have been observing the gathering of this threat for three decades now, **and what was once a mere possibility has passed** through probability **to near certainty.** Indeed **not one of more than 900 articles** **on climate change published in refereed scientific journals** from 1993 to 2003 doubted that anthropogenic warming is occurring. “In legitimate scientific circles,” writes Elizabeth Kolbert, “it is virtually **impossible to find evidence of disagreement** over the fundamentals of global warming.” Evidence from a vast international scientific monitoring effort accumulates almost weekly, as this sample of newspaper reports shows: an international panel predicts “brutal droughts, floods and violent storms across the planet over the next century”; climate change could “literally alter ocean currents, wipe away huge portions of Alpine Snowcaps and aid the spread of cholera and malaria”; “glaciers in the Antarctic and in Greenland are melting much faster than expected, and…worldwide, plants are blooming several days earlier than a decade ago”; “rising sea temperatures have been accompanied by a significant global increase in the most destructive hurricanes”; “NASA scientists have concluded from direct temperature measurements that 2005 was the hottest year on record, with 1998 a close second”; “Earth’s warming climate is estimated to contribute to more than 150,000 deaths and 5 million illnesses each year” as disease spreads; “widespread bleaching from Texas to Trinidad…killed broad swaths of corals” due to a 2-degree rise in sea temperatures. “The world is slowly disintegrating,” concluded Inuit hunter Noah Metuq, who lives 30 miles from the Arctic Circle. “They call it climate change…but we just call it breaking up.” From the founding of the first cities some 6,000 years ago until the beginning of the industrial revolution, carbon dioxide levels in the atmosphere remained relatively constant at about 280 parts per million (ppm). At present they are accelerating toward 400 ppm, and by 2050 they will reach 500 ppm, about double pre-industrial levels. Unfortunately, atmospheric CO2 lasts about a century, so there is no way immediately to reduce levels, only to slow their increase, we are thus in for significant global warming; the only debate is how much and how serous the effects will be. As the newspaper stories quoted above show, we are already experiencing the effects of 1-2 degree warming in more violent storms, spread of disease, mass die offs of plants and animals, species extinction, and threatened inundation of low-lying countries like the Pacific nation of Kiribati and the Netherlands at a warming of 5 degrees or less the Greenland and West Antarctic ice sheets could disintegrate, leading to a sea level of rise of 20 feet that would cover North Carolina’s outer banks, swamp the southern third of Florida, and inundate Manhattan up to the middle of Greenwich Village. Another catastrophic effect would be the collapse of the Atlantic thermohaline circulation that keeps the winter weather in Europe far warmer than its latitude would otherwise allow. Economist William Cline once estimated the damage to the United States alone from moderate levels of warming at 1-6 percent of GDP annually; severe warming could cost 13-26 percent of GDP. But the most frightening scenario is runaway greenhouse warming, based on positive feedback from the buildup of water vapor in the atmosphere that is both caused by and causes hotter surface temperatures. Past ice age transitions, associated with only 5-10 degree changes in average global temperatures, took place in just decades, even though no one was then pouring ever-increasing amounts of carbon into the atmosphere. Faced with this specter, the best one can conclude is that “humankind’s continuing enhancement of the natural greenhouse effect is akin to playing Russian roulette with the earth’s climate and humanity’s life support system. At worst, says physics professor Marty Hoffert of New York University, “we’re just going to burn everything up; we’re going to het the atmosphere to the temperature it was in the Cretaceous when there were crocodiles at the poles, and then everything will collapse.” During the Cold War, astronomer Carl Sagan popularized a theory of nuclear winter to describe how a thermonuclear war between the Untied States and the Soviet Union would not only destroy both countries but possible end life on this planet. **Global warming is the post-Cold War era’s equivalent of nuclear winter at least as serious and considerably better supported scientifically**. Over the long run it puts dangers form terrorism and traditional military challenges to **shame**. It is a threat not only to the security and prosperity to the United States, but potentially to the continued existence of life on this planet.

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#### The President of the United States should request his Counsel and the Office of Legal Counsel for coordination over his war powers authority on offensive cyber operations requiring that all offensive cyber operations be made consistent with the law of armed conflict, in accordance with the Tallinn Manual. The President should issue findings over its offensive cyber operations and notify the House and Senate Intelligence Committees over its operations. The president should unify Cyber Command under an expedited approval process over cyber operations and categorize offensive operations under a new Title 60 policy that governs a transparent cyber operations regime.

#### CP is competitive and solves

Trevor Morrison 11, Professor of Law at Columbia Law School, “LIBYA, ‘HOSTILITIES,’ THE OFFICE OF LEGAL COUNSEL, AND THE PROCESS OF EXECUTIVE BRANCH LEGAL INTERPRETATION,” Harvard Law Review Forum Vol.124:42, http://www.harvardlawreview.org/media/pdf/vol124\_forum\_morrison.pdf

Deeply rooted traditions treat the Justice Department’s Office of Legal Counsel (OLC) as the most important source of legal advice wit h- in the executive branch. A number of important norms guide the provision and handling of that advice. OLC bases its answers on its best view of the law, not merely its sense of what is plausible or arguable. 6 To ensure that it takes adequate account of competing perspectives within the executive branch, it typically requests and fully considers the views of other affected agencies before answering the questions put to it. Critically, once OLC arrives at an answer, it is treated as binding within the executive branch unless overruled by the Attorney General or the President. That power to overrule, moreover, is wielded extremely rarely — virtually never. As a result of these and related norms, and in spite of episodes like the notorious “torture memos,” OLC has earned a well-deserved reputation for providing credible, authoritative, thorough and objective legal analysis. The White House is one of the main beneficiaries of that reputation. When OLC concludes that a government action is lawful, its conclusion carries a legitimacy that other executive offices cannot so readily provide. That legitimacy is a function of OLC’s deep traditions and unique place within the executive branch. Other executive offices — be they agency general counsels or the White House Counsel’s Office — do not have decades-long traditions of providing legal advice based on their best view of the law after fully considering the competing positions; they have not generated bodies of authoritative precedents to inform and constrain their work; and they do not issue legal opinions that, whether or not they favor the President , are treated as presumptively binding within the executive branch. (Nor should those other offices mimic OLC; that is not their job.) Because the value of a favorable legal opinion from OLC is tied inextricably to these aspects of its work, each successive presidential administration has a strong incentive to respect and preserve them.

### 1NC

#### Iran is looking to compromise on its nuclear program – Obama’s perceived flexibility is key

Benen, writer for MSNBC and producer of the Rachel Maddow show, 9/20/2013

(Steve, “When crises become opportunities,” http://maddowblog.msnbc.com/\_news/2013/09/20/20599445-when-crises-become-opportunities?lite)

When it comes to the Middle East, progress has never moved in a straight line. There are fits and starts, ebbs and flows. There are heartening breakthroughs and crushing disappointments, occasionally at the same time.¶ That said, while the domestic political establishment's attention seems focused elsewhere, there's reason to believe new opportunities are materializing in the region in ways that were hard to even imagine up until very recently.¶ This morning, for example, the Organization for the Prohibition of Chemical Weapons (OPCW) announced that Syria has taken its first steps towards detailing its stockpiles. Michael Luhan, a spokesperson for the Hague-based chemical weapons regulator, said in a statement, "The OPCW has received an initial disclosure from the Syrian Government of its chemical weapons programme, which is now being examined by the Technical Secretariat of the Organisation."¶ Meanwhile, Iranian President Hasan Rouhani has a new op-ed in the Washington Post arguing that the United States and the rest of the world "must work together to end the unhealthy rivalries and interferences that fuel violence and drive us apart" through a policy of "constructive engagement."¶ The New York Times added that Iranian leaders, "seizing on perceived flexibility in a private letter from President Obama, have decided to gamble on forging a swift agreement over their nuclear program with the goal of ending crippling sanctions."¶ David Sanger summarized the bigger picture nicely.¶ Only two weeks after Washington and the nation were debating a unilateral military strike on Syria that was also intended as a forceful warning to Iran about its nuclear program, President Obama finds himself at the opening stages of two unexpected diplomatic initiatives with America's biggest adversaries in the Middle East, each fraught with opportunity and danger.¶ Without much warning, diplomacy is suddenly alive again after a decade of debilitating war in the region. After years of increasing tension with Iran, there is talk of finding a way for it to maintain a face-saving capacity to produce a very limited amount of nuclear fuel while allaying fears in the United States and Israel that it could race for a bomb.¶ The surprising progress has come so suddenly that a senior American diplomat described this week's developments as "head spinning."¶ So what happens next?¶ The consensus among many foreign policy observers is that developments in Syria and Iran are linked in ways that may or may not be helpful to the United States. Max Fisher explained well yesterday that President Obama's pragmatism "has sent exactly the right signals to Iran, particularly at this very sensitive moment."¶ Obama has been consistently clear, even if some members of his administration were not, that his big overriding goal is for Syrian leader Bashar al-Assad to stop using chemical weapons. First he was going to do that with strikes, meant to coerce Assad. Then, in response to the Russian proposal, Obama signaled he would back off the strikes if Assad gave up his chemical weapons, which is exactly what Obama has always said he wants. He's been consistent as well as flexible, which gave Assad big incentives to cooperate when he might have otherwise dug in his heels.¶ There are some awfully significant -- and promising -- parallels here with the U.S. standoff with Iran. Obama has been clear that he wants Iran to give up its rogue uranium-enrichment program and submit to the kind of rigorous inspections that would guarantee that its nuclear program is peaceful. He's also been clear that the United States is using severe economic sanctions to coerce Tehran to cooperate and that it would use military force if necessary. The implicit (and sometimes explicit) message to Iran has been: If you abandon your enrichment program, we'll make it worth your while by easing off.¶ Here's where the parallel with Syria is really important: Iranian leaders distrust the United States deeply and fear that Obama would betray them by not holding up his end of the bargain. That's been a major hurdle to any U.S.-Iran nuclear deal. But seeing Assad's deal with Obama work out (so far) sends the message to Iran that it can trust the United States. It also sends the message that making concessions to the United States can pay off. Iran's supreme leader has been talking a lot lately about flexibility and diplomacy toward the West. So it's an ideal moment for Obama to be demonstrating flexibility and diplomacy toward the Middle East.

#### The plan undermines Obama’s war power credibility—that kills negotiations

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The last four years should have been a good period for executive-congressional relations in the areas of national security and foreign affairs. The president, vice president, and secretary of state were former Senators. They all viewed President George W. Bush as too inclined to bypass or ignore Congress and they promised to do better. And the Obama administration started with Democratic majorities in the House and Senate.¶ It is thus surprising that the past four years have been notable for inter-branch clashes and paralysis on some major national security agenda items, with the administration failing to engage Congress or operating in a slowly reactive mode, while many congressional Republicans remain in an obstructionist mode. In the second term, the Obama administration will need to pick its legislative priorities more deliberately, engage with allies and opponents in Congress more actively, and be willing to negotiate compromises or wage aggressive campaigns on key issues.¶ Congress has repeatedly stifled the president’s signature counterterrorism promise to close the Guantanamo Bay detention facility. Congress’s opposition has been more than political. Beginning with legislation in 2010 when Democrats controlled both houses of Congress, Congress has consistently placed legal barriers on the president’s ability to transfer Guantanamo detainees or to try them in civilian courts in the United States. After hinting in his speech at the National Archives in 2009 that he would work with Congress on these issues, Obama has put forward no proposal of his own, nor has his administration been willing to explore possible compromises on long-term Guantanamo policies, instead playing defense against moves by congressional blocs with their own Guantanamo agendas. That defensive strategy has included a series of veto threats, which were always abandoned in the end and now carry little credibility.¶ With regard to war powers, the administration barely escaped a significant congressional rebuke after it failed to obtain congressional authorization for the operations in Libya in 2011 or at least to advance a convincing account for why such authorization was not needed. The administration conducted international diplomacy effectively, and obtained UN Security Council and Arab League endorsement of military operations to protect Libyan civilians from slaughter. However, on the domestic front it alienated even congressional supporters of its policy with poor early consultation on the Hill. In the end, Senate Majority Leader Harry Reid prevented the Senate from taking up a resolution passed by the Foreign Relations Committee that would have authorized the operation but rejected the administration’s strained interpretation of the War Powers Resolution. Throughout the Libya crisis, the administration’s approach toward Congress was passive and tentative. It was fortunate for the administration that Congress was splintered and few members were willing to defend its institutional prerogatives, at least within the limited timeframe of the intervention. But Obama might not be so lucky the next time.¶ As to treaties, the administration garnered super-majority Senate advice and consent on a record-low number of agreements in its first term. Despite a strong effort by Secretary of State Hillary Clinton and the Navy leadership, the administration failed to get the UN Convention on the Law of the Sea out of the Senate Foreign Relations Committee. Once again, part of the explanation for failure was the administration’s poorly timed and coordinated engagement of the Senate on the issue. In the face of Senate Republican portrayals of other global treaties as threats to US sovereignty, the White House failed to throw its full weight behind its valid arguments that the Law of the Sea Convention would strengthen the US position with respect, for example, to crisis hotspots in Asia and in commercial spheres.¶ To be clear, the Obama administration has scored successes, too. For example, putting aside the policy merits, it worked reasonably well with Congress on the completed wind-down of the Iraq war. It will need to do the same with respect to the planned wind-down of the Afghanistan war and in developing a long-term strategy for Afghanistan and Pakistan. Much of the blame for policy incoherence on many national security issues such as cybersecurity lies with Congress, which is infected by political polarization and dysfunction as much in international affairs as it is in domestic affairs.¶ Going forward, the Obama administration will need to bring the same kind of sustained attention and hard-nosed strategic thinking to its legislative agenda on national security issues as it has on some major domestic policy issues. First, it will need to be selective in its legislative agenda and then wage aggressive campaigns on matters it labels national security priorities. It did so early in the first term with respect to the New START Treaty, which was in danger of collapse until the administration went all out for it. Obama’s team enlisted influential allies from previous Republican administrations, engaged in a serious communications campaign at the highest levels, and negotiated as necessary to get the key votes in favor of the treaty.¶ On some issues, the administration will need to decide on a coherent policy internally and then more actively engage both its allies and opponents on Capitol Hill. One area where this will be important is the legal architecture of counterterrorism policy. It is widely understood that continuing to rely on the September 2001 congressional Authorization for Use of Military Force as the basis for detention and targeting operations is increasingly problematic as al Qaeda splinters apart and as the United States winds down combat operations in Afghanistan. The Obama administration also maintains publicly a commitment to closing Guantanamo. Yet it has not come forward with proposed legislative frameworks for dealing with these issues. Even though the president has said repeatedly that he wants to work with Congress on a more durable legal architecture for counterterrorism operations, the administration has been reactive and appears to be undecided about what, if anything, it wants from Congress.¶ Another area in which executive-congressional relations will feature heavily is Iran’s nuclear build-up, surely one of the most delicate and complex international crises the administration will face this year. After engaging seriously only at the last minute, it has had to swallow several times congressionally-mandated sanctions that it regards as counterproductive. As the administration tries to ramp up pressure, it will need to convince skeptical members of Congress that it is applying tough diplomatic pressure on other UN Security Council members and on Iran’s trading partners. If—under the most optimistic scenarios—it reaches a satisfactory negotiated solution (or establishes a process toward one) with Iran, it will need Congress onboard; otherwise it will find its freedom to maneuver and deliver on assurances severely constrained.

#### Iran proliferation causes nuclear war

Edelman, distinguished fellow – Center for Strategic and Budgetary Assessments, ‘11

(Eric S, “The Dangers of a Nuclear Iran,” *Foreign Affairs*, January/February)

The reports of the Congressional Commission on the Strategic Posture of the United States and the Commission on the Prevention Of Weapons of Mass Destruction Proliferation and Terrorism, as well as other analyses, have highlighted the risk that a nuclear-armed Iran could trigger additional nuclear proliferation in the Middle East, even if Israel does not declare its own nuclear arsenal. Notably, Algeria, Bahrain, Egypt, Jordan, Saudi Arabia,Turkey, and the United Arab Emirates— all signatories to the Nuclear Nonproliferation Treaty (npt)—have recently announced or initiated nuclear energy programs. Although some of these states have legitimate economic rationales for pursuing nuclear power and although the low-enriched fuel used for power reactors cannot be used in nuclear weapons, these moves have been widely interpreted as hedges against a nuclear-armed Iran. The npt does not bar states from developing the sensitive technology required to produce nuclear fuel on their own, that is, the capability to enrich natural uranium and separate plutonium from spent nuclear fuel. Yet enrichment and reprocessing can also be used to accumulate weapons-grade enriched uranium and plutonium—the very loophole that Iran has apparently exploited in pursuing a nuclear weapons capability. Developing nuclear weapons remains a slow, expensive, and di⁄cult process, even for states with considerable economic resources, and especially if other nations try to constrain aspiring nuclear states’ access to critical materials and technology. Without external support, it is unlikely that any of these aspirants could develop a nuclear weapons capability within a decade.

There is, however, at least one state that could receive significant outside support: Saudi Arabia. And if it did, proliferation could accelerate throughout the region. Iran and Saudi Arabia have long been geopolitical and ideological rivals. Riyadh would face tremendous pressure to respond in some form to a nuclear-armed Iran, not only to deter Iranian coercion and subversion but also to preserve its sense that Saudi Arabia is the leading nation in the Muslim world. The Saudi government is already pursuing a nuclear power capability, which could be the first step along a slow road to nuclear weapons development. And concerns persist that it might be able to accelerate its progress by exploiting its close ties to Pakistan. During the 1980s, in response to the use of missiles during the Iran-Iraq War and their growing proliferation throughout the region, Saudi Arabia acquired several dozen css-2 intermediate-range ballistic missiles from China. The Pakistani government reportedly brokered the deal, and it may have also oªered to sell Saudi Arabia nuclear warheads for the css-2s, which are not accurate enough to deliver conventional warheads eªectively. There are still rumors that Riyadh and Islamabad have had discussions involving nuclear weapons, nuclear technology, or security guarantees. This “Islamabad option” could develop in one of several diªerent ways. Pakistan could sell operational nuclear weapons and delivery systems to Saudi Arabia, or it could provide the Saudis with the infrastructure, material, and technical support they need to produce nuclear weapons themselves within a matter of years, as opposed to a decade or longer. Not only has Pakistan provided such support in the past, but it is currently building two more heavy-water reactors for plutonium production and a second chemical reprocessing facility to extract plutonium from spent nuclear fuel. In other words, it might accumulate more fissile material than it needs to maintain even a substantially expanded arsenal of its own. Alternatively, Pakistan might oªer an extended deterrent guarantee to Saudi Arabia and deploy nuclear weapons, delivery systems, and troops on Saudi territory, a practice that the United States has employed for decades with its allies. This arrangement could be particularly appealing to both Saudi Arabia and Pakistan. It would allow the Saudis to argue that they are not violating the npt since they would not be acquiring their own nuclear weapons. And an extended deterrent from Pakistan might be preferable to one from the United States because stationing foreign Muslim forces on Saudi territory would not trigger the kind of popular opposition that would accompany the deployment of U.S. troops. Pakistan, for its part, would gain financial benefits and international clout by deploying nuclear weapons in Saudi Arabia, as well as strategic depth against its chief rival, India. The Islamabad option raises a host of difficult issues, perhaps the most worrisome being how India would respond. Would it target Pakistan’s weapons in Saudi Arabia with its own conventional or nuclear weapons? How would this expanded nuclear competition influence stability during a crisis in either the Middle East or South Asia? Regardless of India’s reaction, any decision by the Saudi government to seek out nuclear weapons, by whatever means, would be highly destabilizing. It would increase the incentives of other nations in the Middle East to pursue nuclear weapons of their own. And it could increase their ability to do so by eroding the remaining barriers to nuclear proliferation: each additional state that acquires nuclear weapons weakens the nonproliferation regime, even if its particular method of acquisition only circumvents, rather than violates, the NPT.

n-player competition

Were Saudi Arabia to acquire nuclear weapons, the Middle East would count three nuclear-armed states, and perhaps more before long. It is unclear how such an n-player competition would unfold because most analyses of nuclear deterrence are based on the U.S.- Soviet rivalry during the Cold War. It seems likely, however, that the interaction among three or more nuclear-armed powers would be more prone to miscalculation and escalation than a bipolar competition. During the Cold War, the United States and the Soviet Union only needed to concern themselves with an attack from the other. Multipolar systems are generally considered to be less stable than bipolar systems because coalitions can shift quickly, upsetting the balance of power and creating incentives for an attack. More important, emerging nuclear powers in the Middle East might not take the costly steps necessary to preserve regional stability and avoid a nuclear exchange. For nuclear-armed states, the bedrock of deterrence is the knowledge that each side has a secure second-strike capability, so that no state can launch an attack with the expectation that it can wipe out its opponents’ forces and avoid a devastating retaliation. However, emerging nuclear powers might not invest in expensive but survivable capabilities such as hardened missile silos or submarinebased nuclear forces. Given this likely vulnerability, the close proximity of states in the Middle East, and the very short flight times of ballistic missiles in the region, any new nuclear powers might be compelled to “launch on warning” of an attack or even, during a crisis, to use their nuclear forces preemptively. Their governments might also delegate launch authority to lower-level commanders, heightening the possibility of miscalculation and escalation. Moreover, if early warning systems were not integrated into robust command-and-control systems, the risk of an unauthorized or accidental launch would increase further still. And without sophisticated early warning systems, a nuclear attack might be unattributable or attributed incorrectly. That is, assuming that the leadership of a targeted state survived a first strike, it might not be able to accurately determine which nation was responsible. And this uncertainty, when combined with the pressure to respond quickly,would create a significant risk that it would retaliate against the wrong party, potentially triggering a regional nuclear war.

### 1NC

#### Forcing broad executive compliance on cyber disrupts private innovation ---- crushes fragile SEC guidelines and turns cyber-defensive operations

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Driven by relentless cyber attacks stealing billions of dollars of U.S. technology and breaching the privacy of millions of Americans, the race is on to regulate cybersecurity in the public and private sectors. The hard question is how. The failure of Congress to pass comprehensive cybersecurity legislation in the last two years has a direct bearing upon this race to regulate.

On one hand, President Obama sought to fill this void with EO 13636, “Improving Critical Infra structure Cybersecurity.” 78 Fed. Reg. 11739 (2013). This order seeks to build a “cybersecurity frame work” to “align” cybersecurity approaches in the public and private sectors, and to “harmonize and make consistent” cyber requirements for federal procurements. Id. at 11741–42. To implement the executive order’s quest for “harmonized” cybersecu rity standards, the General Services Administration and Department of Defense Joint Working Group on Improving Cybersecurity and Resilience Through Acquisition issued a request for information (RFI) on May 13. 78 Fed. Reg. 27966–68 (2013). This RFI specifically seeks information on conflicting cyber standards and requirements:

Harmonization : In general, DoD and GSA seek information about any conflicts in statutes, regulations, policies, practices, contractual terms and conditions, or acquisition processes affecting federal acquisition requirements related to cyber security and how the federal government might address those conflicts

On the other hand, the lack of comprehensive cybersecurity legislation has created a legal vacuum that has been filled with an ad hoc, sector-by-sector approach to regulating cybersecurity through narrowly targeted federal statutes, regulations and policies. Over the past two years, a few examples include: •

Defense Contractors . The most recent Na tional Defense Authorization Act established requirements for certain defense contractors to report security breaches and provide secu rity audit access.

• Public Companies . The Securities and Ex change Commission issued guidelines for public companies to report on material incidents involving security breaches and cybersecurity safeguards.

• Information Technology Companies . For certain federal agencies buying IT systems, Congress has prohibited such acquisitions unless the Federal Bureau of Investigation has made a risk assessment regarding the potential for “cyber-espionage or sabotage” by the People’s Republic of China.

• Health Care Sector . The Department of Health and Human Services published new information security rules and breach notifi cation obligations for the health care sector. •

Critical Infrastructure Sectors . The new execu tive order calls for a framework for standards for the critical infrastructure sectors, but many already have their own information security requirements and standards that may slow the drive towards common standards.

These recent trends in regulating information security on a piecemeal basis underscore the chal lenges ahead for the executive order policy to “align” and “harmonize” cybersecurity standards and re quirements. Both public- and private-sector entities need to understand these trends towards regulating cybersecurity with a patchwork of cyber laws and regulations, as well as the impact of attempting to comply with multiple cyber standards coming from many directions.

Recent Trends in Patchwork Regulation of Cybersecurity —Over the past few years, Congress has been busy with a host of cybersecurity bills, including “several dozen cybersecurity-related bills before Congress” in 2010 alone. Sen. Sheldon White house (D-R.I.), “We Need to Act on Cybersecurity,” The National Law Journal (May 10, 2010). But none of the comprehensive bills have passed.

Instead, Congress has targeted certain industries or niches of cybersecurity with narrow legislation. At the same time, federal agencies have regulated cybersecurity for specific sectors with their own regulations, rules and standards. As a result, both the public and private sectors need to keep track of the new requirements and emerging trends in cyber law and regulation.

Cyber Requirements for “Cleared Defense Con tractors” : In 2013, Congress imposed cybersecurity requirements specifically aimed at “cleared defense contractors,” defined as “a private entity granted clearance by the Department of Defense to access, re ceive, or store classified information for the purpose of bidding for a contract or conducting activities in sup port of any program of the Department of Defense.” National Defense Authorization Act for Fiscal Year 2013, P.L. 112-239, § 941 (2013).

Section 941 also defined “covered network,” but did not limit the scope to classified networks: “The term ‘covered network’ means a network or informa tion system of a cleared defense contractor that con tains or processes information created by or for the Department of Defense with respect to which such contractor is required to apply enhanced protection.” Federal contractors without a security clearance need not worry about § 941.

But for “cleared” defense contractors, this sec tion leaves open the possibility that it may extend to both classified and unclassified networks. If unclassified networks also fall within the scope of § 941, then the provision could have expansive reach, potentially driving cyber requirements throughout a contractor’s network and organization.

Section 941 established two basic requirements for securing networks and information systems of “each cleared defense contractor”: (1) security breach notification requirements, and (2) security audit ac cess to the networks of such military contractors. Security breach notification requirements already exist in some areas at both the federal and state levels. Now, § 941 adds yet another. Under this new reporting requirement, § 941 requires that covered defense contractors provide “rapid reporting” of suc cessful penetrations of their networks and informa tion systems:

(1) Rapid Reporting. The procedures established pursuant to subsection (a) shall require each cleared defense contractor to rapidly report to a component of the Department of Defense desig nated pursuant to subsection (a) of each success ful penetration of the network or information systems of such contractor that meet the criteria established pursuant to subsection.

Just how “rapid” is not explained in this reporting requirement. DOD’s implementing procedures will presumably provide more detailed guidance on how rapidly to report “successful penetrations” of such networks.

For this “rapid reporting,” § 941 specifies that “[e] ach such report shall include the following”:

• “A description of the technique or method used in such penetration,”

• “A sample of the malicious software, if discov ered and isolated by the contractor, involved in such penetration,” and

• “A summary of information created by or for the Department in connection with any De partment program that has been potentially compromised due to such penetration.”

Given such reporting requirements, covered defense contractors will need to react quickly by gathering forensic evidence and identifying the hack ing tools used. In addition, § 941 includes a “harm” analysis that must address whether DOD information has been compromised by the successful penetration.

Not only must covered defense contractors satisfy the “rapid reporting” requirement, but they must also provide “access” rights for DOD to review their networks and information systems. The implement ing DOD procedures will “include mechanisms for Department of Defense personnel to, upon request, obtain access to equipment or information of a cleared defense contractor necessary to conduct forensic analysis in addition to any analysis conducted by such contractor.”

However, § 941 does impose some limitations on the scope of DOD’s access: (a) the access must be limited to the purpose of determining whether a DOD program suffered an exfiltration of data, and (b) DOD must provide for reasonable protection of the contractor’s trade secrets and other business data

SEC Guidance for Publicly Traded Companies : On Oct. 13, 2011, SEC entered the race to regulate cybersecurity, identifying this area as a potential material risk for publicly traded companies. SEC, “Cybersecurity: CF Disclosure Guidance: Topic No. 2” (Oct. 13, 2011). In this guidance, SEC addressed cer tain risk factors that may trigger a corporate duty to make a public disclosure.

Impact of Cyber Attacks

. As documented in a host of congressional hearings, Government investigations and private-sector reports, cyber attacks have done great damage to corporations of all sizes. In its guid ance, SEC incorporated a panoramic list of potential injuries and impacts from cyber attacks and breaches that corporations may need to report:

The objectives of cyber attacks vary widely and may include theft of financial assets, intellectual property, or other sensitive information belong ing to registrants, their customers, or other business partners. Cyber attacks may also be directed at disrupting the operations of regis trants or their business partners. Registrants that fall victim to successful cyber attacks may incur substantial costs and suffer other nega tive consequences, which may include, but are not limited to:

• Remediation costs that may include liability for stolen assets or information and repairing system damage that may have been caused. Remediation costs may also include incentives offered to customers or other business partners in an effort to maintain the business relation ships after an attack;

• Increased cybersecurity protection costs that may include organizational changes, deploying additional personnel and protection technologies, training employees, and engaging third party experts and consultants;

• Lost revenues resulting from unauthorized use of proprietary information or the failure to retain or attract customers following an attack;

• Litigation; and • Reputational damage adversely affecting cus tomer or investor confidence.

Cyber Risk Assessment . Conducting a risk assess ment of cyber threats represents a common element of an information security program. The SEC guidance underscores the importance for corporations to identify major threats and critical cyber risks that may affect their particular business:

Registrants should disclose the risk of cyber incidents if these issues are among the most sig nificant factors that make an investment in the company speculative or risky. [Footnote omitted.]

In determining whether risk factor disclosure is required, we expect registrants to evaluate their cybersecurity risks and take into account all available relevant information, including prior cyber incidents and the severity and frequency of those incidents. As part of this evaluation, registrants should consider the probability of cyber incidents occurring and the quantitative and qualitative magnitude of those risks, includ ing the potential costs and other consequences resulting from misappropriation of assets or sensitive information, corruption of data or op erational disruption. In evaluating whether risk factor disclosure should be provided, registrants should also consider the adequacy of preventative actions taken to reduce cybersecurity risks in the context of the industry in which they operate and risks to that security, including threatened attacks of which they are aware.

Security Safeguards . Merely identifying and as sessing the cyber threat is just one part of a corpora tion’s cyber defenses. In addition, the SEC guidance instructs corporations to address security controls and any deficiencies that may increase exposure to cyber threats and security breaches:

Registrants are required to disclose conclusions on the effectiveness of disclosure controls and procedures. To the extent cyber incidents pose a risk to a registrant’s ability to record, process, summarize, and report information that is re quired to be disclosed in Commission filings, management should also consider whether there are any deficiencies in its disclosure controls and procedures that would render them ineffective.

[Footnote omitted.] For example, if it is reason ably possible that information would not be re corded properly due to a cyber incident affecting a registrant’s information systems, a registrant may conclude that its disclosure controls and procedures are ineffective.

Security Breaches . In the event of a material security breach, the SEC guidance specifies that corporations should address the impact in their public disclosures:

For example, if material intellectual property is stolen in a cyber attack, and the effects of the theft are reasonably likely to be material, the registrant should describe the property that was stolen and the effect of the attack on its results of operations, liquidity, and finan cial condition and whether the attack would cause reported financial information not to be indicative of future operating results or financial condition. If it is reasonably likely that the attack will lead to reduced revenues [or], an increase in cybersecurity protection costs, including related to litigation, the regis trant should discuss these possible outcomes, including the amount and duration of the ex pected costs, if material. Alternatively, if the attack did not result in the loss of intellectual property, but it prompted the registrant to materially increase its cybersecurity protec tion expenditures, the registrant should note those increased expenditures.

In summary, the SEC guidance on cybersecurity remains relatively new, with limited experience for corporations to apply the guidance and make public disclosures so far. Given the risk of major security breaches, the SEC guidance may ratchet up the pressure on companies to accelerate risk assessments and security safeguards to mitigate the risks of a major cybersecurity incident.

Supply Chain Security for Select Federal Agencies : Protecting the supply chain represents a fundamental element of a typical information security program. In the massive bill to continue funding federal agencies for 2013, Congress again took the ad-hoc approach to cybersecurity by regulating one piece of the supply chain. 2013 Consolidated and Further Continuing Appropriations Act, Division B, § 516(a), P.L. 113-6 (March 20, 2013).

This law applies not to the entire Federal Govern ment, but just to select agencies buying products from Chinese entities:

(a) None of the funds appropriated or otherwise made available under this Act may be used by the Departments of Commerce and Justice, the National Aeronautics and Space Administration, or the National Science Foundation to acquire an information technology system unless the head of the entity involved, in consultation with the Federal Bureau of Investigation or other appropriate Federal entity, has made an assess ment of any associated risk of cyber-espionage or sabotage associated with the acquisition of such system, including any risk associated with such system being produced, manufactured or assembled by one or more entities that are owned, directed or subsidized by the People’s Republic of China.

(b) None of the funds appropriated or otherwise made available under this Act may be used to acquire an information technology system described in an assessment required by sub section (a) and produced, manufactured or as sembled by one or more entities that are owned, directed or subsidized by the People’s Republic of China unless the head of the assessing entity described in subsection (a) determines, and reports that determination to the Committees on Appropriations of the House of Representa tives and the Senate, that the acquisition of such system is in the national interest of the United States.

This patchwork surprise in § 516 raises a host of questions about its scope, meaning and intent. • Why does it apply only to the departments of Commerce and Justice, NASA, and the Na tional Science Foundation?

• May the “head of the entity” delegate the assessment of “any associated risk of cyberespionage or sabotage”?

• What type of consultation is required with the FBI—and who is the “other appropriate Fed eral entity” for consultation?

• Why does this requirement apply only to Chi nese entities?

But § 516 does not include legislative history to guide either the agencies or contractors in how to comply with its terms.

A number of industry trade groups have combined to oppose the restrictions in § 516 as being unworkable. See, e.g., BSA/The Software Alliance et al., Letter to Congressional Leadership (April 4, 2013), available at www.bsa.org . If § 516 remains unchanged, these agencies and contractors will face major challenges in acquiring IT systems due to the difficulties in determining whether such systems include Chinese-derived components and assessing whether any “risk of cyber-espionage or sabotage” may exist.

Security Rules for the Health Care Industry : Al though not new, the Health Insurance Portability and Accountability Act (HIPAA) required implementation of security standards for health information, including “reasonable and appropriate administrative, technical, and physical safeguards” to ensure the integrity and confidentiality of such information, protect against “reasonably anticipated” threats and unauthorized uses and disclosures, and otherwise ensure compli ance. 42 USCA § 1320d-2(d). Years ago, HHS issued regulations incorporating cybersecurity requirements for “protected health information” (PHI).

On January 25, HHS published new HIPAA regu lations making major changes in how the public and private sectors must protect PHI. 78 Fed. Reg. 5566 (2013). Key revisions include subjecting additional entities to cybersecurity requirements (security rule), imposing liability directly upon business associates and downstream subcontractors, and presumptively requiring breach notification in more situations. Some of the key changes include the following.

Breach Notification . Under the prior rule, covered entities had greater flexibility in determining whether breach notification would be required, as HHS only re quired notification if there was a “ significant risk of fi nancial, reputational, or other harm to the individual.” In the final rule, HHS eliminated the more subjective “risk of harm” standard that previously applied when determining whether a security incident constituted a “breach” requiring individual notification.

The final rule establishes a presumption that any impermissible use or disclosure of PHI constitutes a breach that compromises the security or privacy of the information. The covered entity or business as sociate bears the burden of proving a low probability that the PHI has been “compromised,” thus avoiding the need to notify. HHS characterized the previous “risk of harm” standard as too subjective, undermin ing uniformity regarding the duty for notification.

Thus, the new risk assessment standard focuses on whether unauthorized recipients have accessed or had the opportunity to access PHI, rather than the risk of harm to an individual.

Penalty Methodology and Assessment . In the final rule, HHS also raised the stakes for violation and data breaches by widening its enforcement net and invoking tougher penalties. HHS finalized the increased liability structure created by the Health Information Technology for Economic and Clinical Health (HITECH) Act, enacted as part of P.L. 1115, Act by: (1) applying civil monetary penalties to violations of the HITECH Act and implementing regulations, (2) subjecting business associates and all downstream subcontractors to direct liability for certain HIPAA violations (discussed below), and (3) increasing the monetary penalties for such violations. The degree of culpability determines the range of the potential penalty for each violation of a given provision, as illustrated by the following table The precise fine will depend on factors set forth in 45 CFR § 160.408, such as the nature and extent of the violation (including the number of persons af fected and time period during which the violation oc curred), the nature and extent of the resulting harm, the history of prior compliance with the provision, the financial condition of the covered entity or business associate, and “such other matters as justice may require.” The final rule also clarified how HHS will impose fines for “multiple identical violations” where the violation of a provision affects multiple people or is ongoing. In such cases, HHS may impose a separate fine for each person affected by a violation or for each day that the violation continued.

Business Associate Direct Liability . Under the prior rule, the HIPAA obligations applied directly to covered entities, but business associates generally faced only contractual liability to the covered entity depending on what had been flowed down by the covered entity. The final rule makes business associates and their subcon tractors directly liable for violating the HIPAA security rule, as well as certain provisions of the privacy and breach notification rules. These provisions include:

• impermissible uses and disclosures;

• failure to provide breach notification to the covered entity;

failure to provide access to a copy of electronic PHI to either the covered entity, the individual or the individual’s designee (whichever is speci fied in the business associate agreement);

• failure to make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or re quest;

• failure to enter into business associate agree ments with subcontractors that create or re ceive PHI on their behalf;

• failure to disclose PHI where required by the secretary to investigate or determine the busi ness associate’s compliance with the HIPAA rules;

• failure to provide an accounting of disclosures (if subject to those requirements pursuant to the business associate agreement); and

• failure to comply with the requirements of the security rule.

The final rule also establishes a parallel set of contractual requirements for subcontractors of busi ness associates who create, receive, maintain or trans mit PHI on behalf of the business associate. In the final rule, covered entities must obtain satisfactory assurances regarding the protection of PHI from their business associates, and business associates must do the same with their subcontractors, and so on, no mat ter how far “down the chain” the information flows.

Business Associate “Conduit” Exception . The HIPAA regulations previously carved out an excep tion to the definition of “business associate” for enti ties that serve merely as “conduits” through which PHI travels (such as the U.S. Postal Service). Many data storage companies had sought to expand this exception in the final rule to cover arrangements in which an entity stores, but does not normally access, PHI that it maintains on behalf of a covered entity. However, the final rule rejected attempts to exempt more entities from HIPAA compliance.

Instead, business associates now include a wide array of entities, such as: (1) health information or ganizations, E-prescribing gateways, or other persons that provide data transmission services involving PHI to a covered entity and that require routine access to such PHI; and (2) a person who offers a personal health record to one or more individuals on behalf of a covered entity (i.e., a personal health record vendor).

Although the final rule does not provide a bright-line test for what constitutes “routine access,” the rule does clarify that the conduit exception is intended to exclude only those entities providing courier services, such as the Postal Service or United Parcel Service, and their electronic data transmission equivalents, such as internet service providers.

Security Standards for Critical Infrastructure Sectors : As discussed above, President Obama issued EO 13636, “Improving Critical Infrastructure Cy bersecurity,” in February. This latest executive order builds on prior statutory authority under the Home land Security Act of 2002, tasking the Department of Homeland Security to “develop a comprehensive national plan for securing key resources and critical infrastructure of the United States,” including IT. 6 USCA § 121(d)(5).

EO 13636 calls for a “baseline framework” for reducing cyber risk to the various critical infrastruc ture sectors:

Sec. 7 . Baseline Framework to Reduce Cyber Risk to Critical Infrastructure . (a) The Secretary of Commerce shall direct the Director of the National Institute of Standards and Technol ogy (the “Director”) to lead the development of a framework to reduce cyber risks to critical infrastructure (the “Cybersecurity Framework”). The Cybersecurity Framework shall include a set of standards, methodologies, procedures, and processes that align policy, business, and technological approaches to address cyber risks. The Cybersecurity Framework shall incorporate voluntary consensus standards and industry best practices to the fullest extent possible. The Cy bersecurity Framework shall be consistent with voluntary international standards when such international standards will advance the objec tives of this order, and shall meet the require ments of the National Institute of Standards and Technology Act, as amended (15 U.S.C. 271 et seq.), the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113), and [Office of Management and Budget] Circular A-119, as revised.

78 Fed. Reg. 11740–41. In short, this executive order seeks to bring a degree of uniformity—along with minimum standards—to the various sectors of critical infrastructure.

However, the drafters of the cybersecurity framework will not be writing on a blank slate. To the contrary, many critical infrastructure sectors have already been tasked with addressing cyber -security standards. 2007 Homeland Security Appro priations Act, P.L. 109-295, § 550; 6 CFR §§ 27.215, 27.225, 27.230, 27.235, 27.240, 27.245 (chemical sector); Electricity Modernization Act (title XII), P.L. 109-58, § 1211, 119 Stat. 941–42 (2005); 7 CFR §§ 1730.20, 1730.21, 1730.22, 1730.27, 1730.28 (energy sector); 10 CFR § 73.1 (nuclear sector); 9/11 Act, P.L. 110-53, § 1512(d) (railroad and bus carriers).

For sectors and industries that have already invested in cybersecurity defenses built to existing statutory and regulatory standards, the predictable reaction will be to avoid material changes imposing significant rework and additional cost. Thus, the existing patchwork of critical infrastructure cybersecurity standards may serve as a countervailing factor weighing against new cyber standards emerging from the executive order’s cybersecurity framework, particularly for these sectors that have already implemented sector-specific standards.

EO 13636 also requires DOD and GSA to work with the Federal Acquisition Regulatory Council and prepare a report addressing “what steps can be taken to harmonize and make consistent procurement requirements related to cybersecurity.” 78 Fed. Reg. 11742 (2013). In an RFI, the Joint Working Group on Improving Cybersecurity and Resilience Through Ac quisition has sought information “about any conflicts in statutes, regulations, policies, practices, contractual terms and conditions, or acquisition processes affect ing federal acquisition.” 78 Fed. Reg. 27968 (2013). In performing this overview of the federal acquisition process, the joint working group will find a patch work of agency-specific regulations with both major and minor differences in cybersecurity requirements and standards. See, e.g., Defense Federal Acquisition Regulation Supplement § 239.7102-1; GSA Acquisi tion Manual (GSAM) § 539.700; Department of Home land Security (HSAR) § 3004.470; Health and Human Services Acquisition Regulation subpt. 339.71; NASA FAR Supplement § 1804.470-1.

Of greater concern, many agencies incorporate internal instructions and policies into the acquisi tion process, introducing even greater variation and uncertainty regarding federal cybersecurity standards. See, e.g., DFARS § 239.7102-1 (various DOD directives and policies); GSAM § 539.7001(d) (GSA CIO IT Security Procedural Guide); HSAR § 3004.470-2 (various DHS directives and policies). To the extent that such internal guidance has not been published for public notice and comment, this guid ance not only impedes the executive order’s directive to harmonize cybersecurity standards and practices, but also raises questions about compliance with the Administrative Procedure Act. 5 USCA § 552(a); see also NI Indus., Inc. v. U.S., 841 F.2d 1104, 1107 (Fed. Cir. 1988) (declining to enforce internal agency proce dures that had not been previously published in the Federal Register ); 30 GC ¶ 119.

Conclusion —In summary, cybersecurity law and policy have not been static in the past 18 months. While the latest executive order seeks to move cyber standards towards a common framework, the absence of comprehensive cyber legislation has allowed the march towards sector-specific regulation and cyber safeguards to continue without a break in stride. For companies crossing several industries and critical infrastructure sectors, the path towards more robust cybersecurity programs and procedures will be increasingly uneven, as different types of data in sepa rate sectors will trigger sector-specific requirements, thus further complicating the already difficult efforts to build corporate-wide, cost-effective cyber defenses

#### SEC leadership k2 Dodd-Frank success

Mont ’13 – writer for Compliance Week

(Joe, “Dodd-Frank Act Poses Threat to SEC's Independence, Gallagher Says”, Compliance Week, 2-27-2013, http://www.complianceweek.com/dodd-frank-act-poses-threat-to-secs-independence-gallagher-says/article/282203/)

During a speech last week at the Practising Law Institute's annual “The SEC Speaks” conference, Gallagher began by offering a historical note. It was originally intended that the Federal Trade Commission would administer the Securities Exchange Act of 1934. Congress ultimately, however, decided that an independent, bipartisan agency with a high level of technical expertise in securities matters was warranted and the SEC was created. Its core attribute of autonomy, however, is now threatened by a “constant stream of external influences.” ¶ Congress has traditionally provided the Commission with considerable flexibility to exercise its expertise and authority and avoided imposing “minutely detailed mandates,” Gallagher said. In the post-financial crisis regulatory environment, all that is changing. The Dodd-Frank Act, which contains approximately 400 specific mandates, around 100 of which apply directly to the SEC, are highly prescriptive and the Commission faces a demand to issue highly technical rules under all-too-short deadlines, he said. This limits its flexibility, while occupying time and resources that could be better spent fulfilling other responsibilities.¶ Gallagher's plea to fellow Commissioners is to push back.¶ “Although the Commission continues to stare down an overflowing plate of Dodd-Frank mandates in addition to its other responsibilities… it must not allow itself to assume a secondary role in the regulation of matters squarely within its jurisdiction and core competencies,” he said. “This, I'm afraid, is exactly the role that the Commission has taken thus far with respect to critical initiatives.”¶ Among those initiatives is the Volcker Rule, a prohibition on federally-insured, commercial banks engaging in proprietary trading and sponsoring or investing in hedge or private equity funds. Gallagher says the SEC, required to work cooperatively with banking regulators and the Commodity Futures Trading Commission, has “taken a back seat” throughout the rulemaking process, even though many of the specific activities to be regulated fall firmly within its core competencies. “For this rule to get done, and get done properly, the SEC must take a leadership role,” he said.

#### Successful dodd-frank model k2 safe euro-financial reforms

Financial Reform Regulatory Center ’12

(“Better Late Than Never – FSB Reports Regulatory Reform Is Advancing … But Slowly”, 2012, http://financial-reform.weil.com/credit-rating-agencies/late-fsb-reports-regulatory-reform-advancing-slowly/#axzz2NRVnvBig)

FSB member nations have been implementing resolution-planning regimes and other measures to increase SIFIs’ ability to be resolved in a crisis without government support and with limited disruption to the financial system. These measures are guided at a high level by the FSB’s 2011 publication Key Attributes of Effective Resolution Regimes for Financial Institutions (“Key Attributes”) and, in the U.S., have been implemented by the FRB and FDIC’s joint regulations under the Dodd-Frank Act. The FSB has recommended that its member nations prioritize SIFIs’ development of recovery and resolution plans (colloquially known in the U.S. as “Living Wills”), which the FSB views as a critical and, at present, delayed component of global financial reform.¶ The FSB did, however, identify certain examples of progress in resolution planning. It specifically named the U.S.’s regime under Dodd-Frank as an example of progress in implementing the Key Attributes. (The FSB did not specifically mention the U.K.’s regime, though the Financial Services Authority’s resolution-planning requirements have much in common with those under Dodd-Frank.) It also noted that the E.U.’s eventual adoption of recently proposed resolution-planning legislation would be an important step toward consistent implementation of reforms throughout the E.U.

#### Strong EU key to solve extinction

Bruton, 2 -- former prime minister of Ireland

(John, former ambassador of the EU to the US, European Commission Delegation ambassador, "The Future of the European Union," The Irish Times, 1-31-2002, 195.7.33.33/newspaper/special/2002/europe/index.htm)

As the Laeken Declaration put it, "Europe needs to shoulder its responsibilities in the governance of globalisation" adding that Europe must exercise its power in order "to set globalisation within a moral framework, in other words to anchor it in solidarity and sustainable development". Only a strong European Union is big enough to create a space, and a stable set of rules, within which all Europeans can live securely, move freely, and provide for themselves, for their families and for their old age. Individual states are too small to do that on their own. Only a strong European Union is big enough to deal with the globalised human diseases, such as AIDS and tuberculosis. Only a strong European Union is big enough to deal with globalised criminal conspiracies, like the Mafia, that threaten the security of all Europeans. Only a strong European Union is big enough to deal with globalised environmental threats, such as global warming, which threaten our continent and generations of its future inhabitants. Only a strong European Union is big enough to deal with globalised economic forces, which could spread recession from one country to another and destroy millions of jobs. Only a strong European Union is big enough to regulate, in the interests of society as a whole, the activities of profit seeking private corporations, some of which now have more spending power than many individual states. These tasks are too large for individual states. Only by coming together in the European Union can we ensure that humanity, and the values which make us, as individuals, truly human, prevail over blind global forces that will otherwise **overwhelm us.**

### Solvency

#### Secrecy means Congress would be ineffective—no solvency

Stephen Dycus—10, Professor, Vermont Law School, 8/11/10, “Congress’s Role in Cyber Warfare,” <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf>

The National Security Act of 1947 23 showed Congress’s determination to exert some control over this nation’s intelligence apparatus. That determination was strengthened after the disclosure of widespread intelligence abuses by the CIA and other agencies.24¶ In 1991, in response to the Iran-Contra Affair, Congress adopted a measure directing the President to keep the congressional intelligence committees “fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity.”25 The term “intelligence activity” expressly includes “covert actions,”26 which additionally require a written finding by the President that they are “necessary to support identifiable foreign policy objectives of the United States and [are] important to the national security of the United States.”27 Intelligence activities are also understood to include “all activities that elements of the Intelligence Community are authorized to conduct pursuant to [Executive Order No. 12,333],” the executive charter for such activities.28 The “intelligence community” includes the Office of the Director of National Intelligence, CIA, NSA, other Defense Department intelligence components, and other federal intelligence elements,29 which are authorized to engage in, inter alia, intelligence collection and analysis and “activities to protect against international terrorism . . . and other hostile activities directed against the United States by foreign powers, organizations, persons, and their agents.”30 This broad mandate certainly encompasses many U.S. efforts to defend against cyber attack and to employ cyber weapons offensively. By this definition, most preparations for and conduct of cyber warfare should be reported to the intelligence committees as “intelligence activities.” It is significant that the reporting requirement in the 1991 law is not limited to agencies within the intelligence community. ¶ Yet this legislation provides no guarantee that Congress will receive the information it needs to play a meaningful role in the development or execution of cyber warfare policy. It is not known, for example, precisely what it means for the intelligence committees to be “fully and currently” informed, what kinds of intelligence activities are regarded as “significant” enough to report, or who decides.31 Other sections of the 1991 law call on all agencies involved in intelligence activities, not just the President, to keep the intelligence committees informed about those activities, but only “[t]o the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters.”32 The “due regard for” language might be invoked to keep Congress in the dark. ¶ Under the 1991 law, “covert actions,” those with respect to which “it is intended that the role of the United States Government will not be apparent or acknowledged publicly,”33 need only be reported to a small group of legislators known as the “Gang of Eight,”34 and then only in a “timely fashion,” a term not defined by statute.35 Characterization of U.S. planning and execution of electronic warfare as “covert” could enable reporting to the smaller group, making it more difficult for Congress to play a significant role.36 Moreover, any reporting might be delayed indefinitely.37

#### The President would ignore the plan

Stephen Dycus—10, Professor, Vermont Law School, 8/11/10, “Congress’s Role in Cyber Warfare,” <http://jnslp.com/wp-content/uploads/2010/08/11_Dycus.pdf>

Congress’s active role in the development and implementation of cyber warfare policy is no guarantee of national security. The policy might be flawed in various ways. There is also a risk that whatever policy is adopted will not be properly executed or that its execution will have unintended results. The policy might be misunderstood or might not provide clear or appropriate guidance in the urgent circumstances facing its interpreter. The person charged with implementing the policy might make a mistake – for example, by interpreting a potential enemy’s electronic espionage as an attack. Available cyber weaponry might not work as planned. Or a purely defensive move by U.S. operators might be construed by another nation as offensive, and provoke an attack. Nor can the clearest policy, statutory or executive, guarantee compliance by an Executive determined to ignore it.71 The rules might be construed by the President in a way that reduces the importance of Congress’s role. Or they might be challenged in court.

### China

#### No risk of a military conflict – it’ll never reach that level of hostilities

Moss 4/19/13 (Trefor, Independent Journalist for the Diplomat, "Is Cyber war the New Cold War")

Cyberspace is anarchic, and incidents there span a hazy spectrum from acts of protest and criminality all the way to invasions of state sovereignty and deliberate acts of destruction. Cyber attacks that might be considered acts of war have so far been rare. It is certainly hard to characterise the rivalry between China and the U.S. as it stands as cyber warfare, argues Adam Segal, a senior fellow at the Council on Foreign Relations. “I tend to stay away from the term ‘cyber war’ since we have seen no physical destruction and no deaths,” he explains. Segal accepts that there is a conflict of sorts between China and the U.S. in cyberspace, though he says it is “likely to remain below a threshold that would provoke military conflict.”. While there is no internationally accepted categorization of different kinds of cyber activity (individual states have varying definitions), it is self-evident that some episodes are more serious than others. NATO’s Cooperative Cyber Defence Centre of Excellence (CCDCOE) – a unit based, not by accident, in Estonia, which experienced a massive cyber-attack [from Russia](http://news.bbc.co.uk/2/hi/europe/6665145.stm) in 2007 – distinguishes between “cyber crime,”“cyber espionage,” and “cyber warfare.”¶ China’s cyber operations, for all their notoriety, have essentially been acts of theft – either criminals attempting to extract privileged data, or incidents of state-sponsored espionage (some of which, admittedly, had national security implications, such as the [extraction of blueprints](http://www.theaustralian.com.au/news/world/security-experts-admit-china-stole-secret-fighter-jet-plans/story-fnb64oi6-1226296400154) for the F-35 Joint Strike Fighter). But these operations did not seek to cause any physical destruction, and so would be hard to interpret as acts of war. This may explain why the U.S. government has been quite tolerant of Chinese hacking until now, seeing it as an irritant rather than as anything more provocative.

#### No risk of China offensive cyber operation - globalization means it not in their self-interest

Chou 2/8/11 (Ella, Graduate Student in Regional Studies at Harvard Law, "US-China Cyber War Scenario in the Eyes of a Chinese Student" The Atlantic)

In this equation, intent ranges from zero to 100% (100% meaning the country is willing to devote all capability to one mission). Even if China's capability in the cyber arena is increasing, it does not make it a threat to U.S. national security if China does not have the intent to use that capability in an attack against the United States. It would hardly be surprising to learn that China, like all countries with such capabilities, is engaged in cyber espionage. But real or threatened attacks against either U.S. military or the civilian infrastructure would not be in China's interests for a variety of reasons: the negative effects on trade which would have a direct impact on its volatile migrant labor population, the international backlash that would destroy its hard-earned position in the international organizations in which it has strong interests, not to mention the danger of confronting the full weight of U.S. military.

#### Interdependence checks cyber war with China

Austin and Gady 2012(Greg, professorial fellow at the EastWest Institute and senior visiting fellow in the department of War Studies at King’s College London, and Franz-Stefan, associate and foreign policy analyst at the EastWest Institute, "Cyber Detente Between the united States and China: Shaping the Agenda", http://www.ewi.info/system/files/detente.pdf)

That said, the two countries’ economies, though very different in many respects, are each highly dependent on a global Internet and shared communications platforms and hardware. While the Chinese economy is not as dependent on the Internet as the U.S., economy is, the difference between the two is fast shrinking. China’s export-driven economy and its trade in financial services make it as vulnerable to cyber attack as the United States. This interdependence—despite occasional outbursts of confrontational rhetoric coming from both Beijing and Washington— can be leveraged to promote stability in bilateral relations. In fact, this is already happening. We can think of this interdependency as a bal-ance of cyber power. If one accepts that both governments make rational calculations, than this new interconnectedness can be exploited to make conflict less likely. In today’s interconnected, digitalized world, the “opportunity cost” associated with embarking on a confrontational course will deter both parties from engaging in open hostile actions. This of course does not preclude cyber espionage, intellectual property theft, or even what some analysts have called the “long game,” i.e. the slow and gradual infiltration of strategically significant economic ICT systems by hackers on both sides.

#### Interdependence is amplified in cyber war—the potential impacts prevent any potential conflict

Austin and Gady 2012(Greg, professorial fellow at the EastWest Institute and senior visiting fellow in the department of War Studies at King’s College London, and Franz-Stefan, associate and foreign policy analyst at the EastWest Institute, "Cyber Detente Between the united States and China: Shaping the Agenda", http://www.ewi.info/system/files/detente.pdf)

China and the United States do have a com-plementary interest in cooperating on many aspects of cybersecurity. The most significant argument to support a claim for cooperation in China’s international behavior in cyberspace is mutual dependence among the major economic powers (including China, the United States, Japan and the European Union) in the economic sphere, in a situation where trillions of dollars of transactions occur through networked digital communications each day. In speaking of the U.S.’s economic reliance on digital networks and systems, former Director of National Intelligence Mike McConnell observed in 2010: “The United States economy is $14 trillion a year. Two banks in New York City move $7 trillion a day. On a good day, they do eight trillion... All of those transactions are massive reconciliation and accounting. If those who wish us ill, if someone with a different world view was successful in attacking that information and destroying the data, it could have a devastating impact, not only on the nation, but the globe.” 31 The cost to global economic stability would likely be very high if there were a major confrontation between China and the United States. Sustained or repeated interruptions in connectivity, corruption of transaction data, or deletion of commercial records on a large scale could have major negative repercus-sions for the global economy. Whether confidence after such attacks could be restored remains an open question. These costs would be so high that they should at least dampen if not fully deter states from resorting to cyber war. Cyberspace only amplifies traditional interdependence in trade.

#### ‘No China threat

Eland ‘13 (Ivan Eland, Senior Fellow and Director of the Center on Peace & Liberty at The Independent Institute, Ph.D. in Public Policy from George Washington University. He has been Director of Defense Policy Studies at the Cato Institute, and he spent 15 years working for Congress on national security issues, including stints as an investigator for the House Foreign Affairs Committee and Principal Defense Analyst at the Congressional Budget Office. He also has served as Evaluator-in-Charge (national security and intelligence) for the U.S. General Accounting Office (now the Government Accountability Office), “Threat From China Is Being Hyped”, http://original.antiwar.com/eland/2013/06/04/threat-from-china-is-being-hyped/, June 5, 2013)

Articles in the American media usually portray China as a potential adversary, and recent press coverage is no exception. Stories have appeared about China’s military hacking into the computer systems of the American government and business and Chinese oil companies’ reaping of unfair gains in Iraq on the backs of dead American soldiers. Yet the threat from China in the popular American mind instilled by such articles is overblown. Undoubtedly, the U.S. military and intelligence services also attempt to hack into Chinese computer systems; this unseemly fact is glossed over by the usually nationalist American media. Even if Chinese military espionage is taken in isolation, it indicates that the Chinese realize a technological gap exists between China and the West and that they are having trouble developing technologies themselves. Similarly, the same conclusions could be reached about the much-ballyhooed Chinese purchase of Russian military equipment. In contrast, the United States develops its own military technologies, and they are the best in the world. Although Chinese defense spending has been growing at a double digit annual pace for a while now, China’s military started from only a low base. Chinese yearly defense spending is still only a fifth of that of the United States and the results of that annual disparity have [has] accumulated over many years in a vastly superior U.S. military force. Also, much of China’s recent increases in defense spending have been spent increasing military pay to keep people from defecting to the white-hot civilian economy and converting a Maoist people’s land army into one more designed to project power from China’s coasts using air and sea power. Both of these requirements have constrained the purchase of new weaponry. Even so, China has made gains in its ability to project power, recently obtaining a small, old Ukrainian aircraft carrier. Yet carrier operations take a long time to master, and China is still very limited in its power projection capability. Also, China’s imitation of the United States in emphasis on carrier forces could be ill advised. In any naval war, carriers may very well prove vulnerable to submarines using cruise missiles and torpedoes. To the extent that pursuing carriers has an opportunity cost for the Chinese in forgoing more of those potent sea-denial forces, it may lessen China’s ability to defend itself against U.S. carriers. China’s sea-denial forces make up any real threat to the all-in U.S. force of 11 large deck carriers. But of course this threat is to the American Empire, not the United States itself. The U.S. carrier-heavy force is deployed far forward in East Asia to contain China and protect allies, such as Japan, Taiwan, South Korea, and Australia. Those wealthy allies should be doing more to provide their own security but will never do so as long as the United States provides the first line of defense. Japan already has a stronger navy than China and could do much more if it spent more of its large GDP on defense. As for Taiwan, being an easily defended island nation (amphibious assaults are notoriously difficult), it doesn’t need to match China dollar for dollar on defense spending but merely needs to adopt a porcupine strategy by being able to deter the same by inflicting unacceptable damage on the attacker. Finally, an American retraction of its defense perimeter to Hawaii and Guam would undoubtedly motivate these four nations, plus others in the region such as the Philippines and Vietnam, to band together in an alliance to be the first line of defense against China. Because China’s ability to project military power is so limited, the fears that China is expanding in Africa and the Middle East are fanciful. For example, recent press articles have implied that Chinese state-owned oil companies have exploited the American invasion of Iraq to win oil contracts from the Iraqi government. Because they don’t have to satisfy private shareholders, those companies can accept low profit margins on oil contracts that Western companies, such as Exxon, cannot. To some neoconservatives, such as Victor Davis Hanson, such failure of America to economically exploit its military empire is praiseworthy; to other imperialists, it is merely foolish. In any event, such Chinese commercial penetration is little threat to the United States and may actually be of some help. Because a worldwide oil market exists and any new petroleum being produced anywhere lowers the price for everyone, Chinese state-owned companies may be indirectly subsidizing U.S. oil consumers by bringing to market oil deposits that would be uneconomical for private firms to find and pump. Of course, implicitly, a worldwide oil market would also obviate the need for the military forces of the United States, China, or any other nation to “secure” oil. In my award-winning book No War for Oil: U.S. Dependency and the Middle East, I explain why it is cheaper to just pay higher prices caused by any disruption of Middle Eastern oil than to pay for forward-deployed military forces to attempt to prevent this rare occurrence. In conclusion, the Chinese “threat” is being dragged out and hyped to attempt to forestall cuts in U.S. security budgets, not because it severely undermines American security.

**No China-Taiwan war --- no one wants it**

**Pei ’6** (Minxin, senior associate and director of the China program at the Carnegie Endowment for International Peace, 2/8. “Chen’s Gamble to Stay Relevant.” Straits Times, Carnegie Endowment online.)

Not too long ago, the nightmarish scenario of an armed conflict between mainland China and Taiwan captured the attention of East Asia. After winning his re-election to the presidency under controversial circumstances in March 2004, Taiwan's Chen Shui-bian began a high-stakes gamble to test China's bottom line. He not only escalated the rhetoric about making Taiwan a 'normal nation', but also backed up his words with a plan to hold an island-wide referendum on a new Constitution as a legal vehicle to solidify Taiwan's permanent separation from mainland China. Two years later, things could hardly be more different. The spectre of a war across the Taiwan Strait has receded. In the much improved Sino-American relationship, the contentious Taiwan issue no longer dominates the agenda. In fact, Taiwan was largely an afterthought in recent high-level exchanges between Chinese and American leaders. Topping the discussions between Washington and Beijing today are more pressing global and regional security issues: curbing North Korea's nuclear ambition, pressuring Iran to give up its plans for uranium enrichment and, more importantly, searching for a new framework for US-China relations. The reduction of tensions across the Taiwan Strait comes as welcome news to East Asia. In the past year, a combination of developments has turned the tide against the pro-independence Democratic Progressive Party (DPP). The political fortunes of the DPP, which rose to power in 2000 by championing a new Taiwanese identity and recklessly challenged the fragile status quo in the Taiwan Strait, has been waning. Its leadership has lost credibility, both with a majority of Taiwan's voters and with Washington. Indeed, two years before he moves out of the presidential palace in Taipei, Mr Chen is struggling to stay relevant. Broadly speaking, three seismic changes since President Chen's re-election victory two years ago have greatly altered the short- to medium-term political landscape both in Taiwan and across the Taiwan Strait. First, alarmed by Mr Chen's thinly disguised ploy to seek de jure independence through the passage of a new Constitution enacted by a plebiscite, Taiwan's voters decided to end the President's gambit by refusing to give the DPP a majority in the island's legislative chamber (a condition which would be necessary to give a new Constitution any realistic chance of passage) in the watershed election of December 2004. The DPP's electoral nemesis, the so-called pan-blue alliance, consisting of two opposition parties - the Kuomintang and the People First Party – that advocate a moderate approach to mainland China, managed to retain its slim legislative majority. This stunning rebuke by Taiwan's democratic process halted the momentum of the pro-independence movement almost overnight. Constrained by an opposition-controlled legislature and rising public discontent with his poor governing record, President Chen lost his ability to set Taiwan's policy agenda and direction. Of course, things went from bad to worse at the end of last year when the DPP suffered a massive defeat in local elections. Second, China's new leadership adjusted its Taiwan policy in two dramatic directions. On the one hand, Beijing's new leaders concluded that they must make their threat of military action credible. Consequently, the mainland accelerated military preparations for a conflict with Taiwan in light of Mr Chen's vow to pass a new Constitution. Chinese leaders also set in motion a legislative process to obtain pre-authorisation for the use of force - which culminated in the passage of an 'anti-secession law' in March last year. On the other hand, China's President Hu Jintao coupled the threat of the use of force with a charm offensive, inviting the leaders of Taiwan's main opposition parties to visit the mainland and offering a package of economic benefits and goodwill gestures (a pair of pandas) to Taiwan. While wooing the Taiwanese opposition and business community, Beijing also intensified the isolation of Mr Chen, refusing to deal with him unless he accepts the 'one China' principle, which stipulates that the mainland and Taiwan both belong to the same China. Caught offguard by Beijing's 'panda offensive', Mr Chen's government was unable to counter the mainland's new policy initiatives and could offer no reassuring message to a Taiwanese public that had grown increasingly weary of the DPP's divisive ethno-nationalist policies and was interested in **returning the cross-strait relationship to a more stable footing**. Third, President George W. Bush, perhaps the most pro-Taiwan American president in history, re-adjusted his policy in late 2004. Although the Bush administration approved the largest arms package for sale to Taiwan in 2001 and substantially upgraded ties with Taiwan in the past five years, Washington was greatly alarmed by Mr Chen's apparent strategy of taking advantage of US support and seeking a dangerous confrontation with mainland China. Obviously, the United States has **no interest** in fighting for Taiwan's de jure independence even though it continues to deter China from seeking reunification through military means. In addition, with its strategic attention focused on Iraq, the war on terrorism, Iran and North Korea, the Bush administration needs China's cooperation on a wide range of issues and **wants to prevent a needless conflict** between the mainland and Taiwan. Washington has also grown increasingly impatient with Mr Chen, who has surprised the Bush administration on numerous occasions with statements that were viewed as irresponsible, fickle and reckless. Consequently, Washington cooled its support for Taipei and became explicit in its opposition to the so-called 'unilateral change of the status quo', a veiled reference to Mr Chen's plans to alter Taiwan's constitutional and political status. The cumulative effects of these developments significantly undermined Mr Chen's effectiveness and increased his frustrations. Struggling to regain the political initiative after the DPP's disastrous performance in last December's local polls, Mr Chen recently reshuffled his government. He appointed two heavyweight loyalists, Mr Su Tseng-chang and Ms Tsai Ing-wen, as Premier and Vice-Premier respectively. Both are viewed as hardliners on China policy. Defying public expectations that, chastened by his party's electoral losses, he would adopt a more conciliatory tone towards the mainland, the Taiwanese President has apparently decided to escalate tensions with Beijing (and Washington) again. In the past month, Mr Chen has vowed to tighten cross-strait trade and investment, scrap the symbolic National Reunification Council, seek admission to the United Nations under the name 'Taiwan' (not the Republic of China) as well as enact a new Constitution through a plebiscite. All these steps, if carried out, would re-ignite tensions across the Taiwan Strait. Mr Chen conceivably could benefit from the tensions because these acts would energise his base and allow him to dominate Taiwan's policy agenda again. It is too early to tell whether Mr Chen's gamble will pay off. So far, Beijing has reacted coolly to his latest provocations, relying instead on Washington to restrain Taipei. The Bush administration, surprised again by Mr Chen's pronouncements, has made its irritation public and criticised Taipei for trying to change the status quo. But in Taiwan, Mr Chen's confrontational stance has failed to rally the public. For the short term, his gambit has got him enough public attention to show his political relevance.

#### No accidental launch

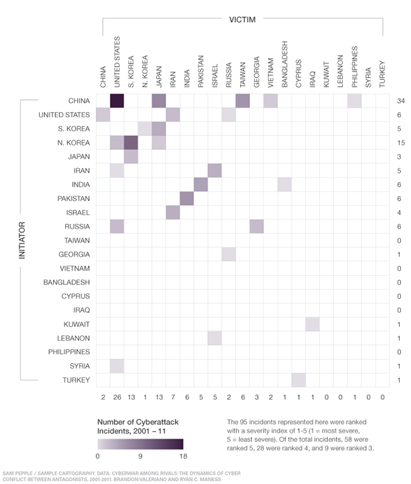
Williscroft ‘10 (Six patrols on the *John Marshall* as a Sonar Technician, and four on the *Von Steuben* as an officer – a total of twenty-two submerged months. Navigator and Ops Officer on *Ortolan* & *Pigeon* – Submarine Rescue & Saturation Diving ships. Watch and Diving Officer on *Oceanographer* and *Surveyor*. “Accidental Nuclear War” http://www.argee.net/Thrawn%20Rickle/Thrawn%20Rickle%2032.htm, 2010)

Is there a realistic chance that we could have a nuclear war by accident? Could a ballistic submarine commander launch his missiles without specific presidential authorization? Could a few men conspire and successfully bypass built-in safety systems to launch nuclear weapons? The key word here is “realistic.” In the strictest sense, yes, these things are possible. But are they realistically possible? This question can best be answered by examining two interrelated questions. Is there a way to launch a nuclear weapon by accident? Can a specific accidental series of events take place—no matter how remote—that will result in the inevitable launch or detonation of a nuclear weapon? Can one individual working by himself or several individuals working in collusion bring about the deliberate launch or detonation of a nuclear weapon? We are protected from accidental launching of nuclear weapons by mechanical safeguards, and by carefully structured and controlled mandatory procedures that are always employed when working around nuclear weapons. Launching a nuclear weapon takes the specific simultaneous action of several designated individuals. System designers ensured that conditions necessary for a launch could not happen accidentally. For example, to launch a missile from a ballistic missile submarine, two individuals must insert keys into separate slots on separate decks within a few seconds of each other. Barring this, the system cannot physically launch a missile. There are additional safeguards built into the system that control computer hardware and software, and personnel controls that we will discuss later, but—in the final analysis—without the keys inserted as described, there can be no launch—it’s not physically possible. Because the time window for key insertion is less than that required for one individual to accomplish, it is physically impossible for a missile to be launched accidentally by one individual. Any launch must be deliberate. One can postulate a scenario wherein a technician bypasses these safeguards in order to effect a launch by himself. Technically, this is possible, but such a launch would be deliberate, not accidental. We will examine measures designed to prevent this in a later column. Maintenance procedures on nuclear weapons are very tightly controlled. In effect always is the “two-man rule.” This rule prohibits any individual from accessing nuclear weapons or their launch vehicles alone. Aside from obvious qualification requirements, two individuals must be present. No matter how familiar the two technicians may be with a specific system, each step in a maintenance procedure is first read by one technician, repeated by the second, acknowledged by the first (or corrected, if necessary), performed by the second, examined by the first, checked off by the first, and acknowledged by the second. This makes maintenance slow, but absolutely assures that no errors happen. Exactly the same procedure is followed every time an access cover is removed, a screw is turned, a weapon is moved, or a controlling publication is updated. Nothing, absolutely nothing is done without following the written guides exactly, always under two-man control. This even applies to guards. Where nuclear weapons are concerned, a minimum of two guards—always fully in sight of each other—stand duty. There is no realistic scenario wherein a nuclear missile can be accidentally launched...ever...under any circumstances...period!

### Norms

#### No cyber attacks

Valeriano and Maness 12. [BRANDON VALERIANO is a Lecturer in Social and Political Sciences at the University of Glasgow. He is the author of *Becoming Rivals* and is working on a long-term project on military spending patterns. RYAN MANESS is a Ph.D. candidate at the University of Illinois at Chicago. Together, they are writing a book on cyberwarfare, to be published early next year. “The Fog of Cyberwar: Why the Threat Doesn’t Live Up to the Hype” November 21, 2012. http://www.foreignaffairs.com/articles/138443/brandon-valeriano-and-ryan-maness/the-fog-of-cyberwar]



The Stuxnet and Flame attacks, however, are not the danger signs that some have made them out to be. First of all, the viruses needed to be physically injected into Iranian networks, likely by U.S. or Israeli operatives, suggesting that the tactic still requires traditional intelligence and military operation methods. Second, Stuxnet derailed Iran’s nuclear program for only a short period, if at all. And Flame did nothing to slow Iran’s nuclear progression directly, because it seems to have been only a data-collection operation. ¶ Some cyberattacks over the past decade have briefly affected state strategic plans, but none has resulted in death or lasting damage. For example, the 2007 cyberattacks on Estonia by Russia shut down networks and government websites and disrupted commerce for a few days, but things swiftly went back to normal. The majority of cyberattacks worldwide have been minor: easily corrected annoyances such as website defacements or basic data theft -- basically the least a state can do when challenged diplomatically. ¶ Our research shows that although warnings about cyberwarfare have become more severe, the actual magnitude and pace of attacks do not match popular perception. Only 20 of 124 active rivals -- defined as the most conflict-prone pairs of states in the system -- engaged in cyberconflict between 2001 and 2011. And there were only 95 total cyberattacks among these 20 rivals. The number of observed attacks pales in comparison to other ongoing threats: a state is 600 times more likely to be the target of a terrorist attack than a cyberattack. We used a severity score ranging from five, which is minimal damage, to one, where death occurs as a direct result from cyberwarfare. Of all 95 cyberattacks in our analysis, the highest score -- that of Stuxnet and Flame -- was only a three. ¶ To be sure, states should defend themselves against cyberwarfare, but throwing vast amounts of money toward a low-level threat does not make sense. The Pentagon estimates it spent $2.6 to $3.2 billion on cybersecurity in fiscal year 2012. And it is likely that such spending will only increase. The U.S. Air Force alone anticipates spending $4.6 billion on cybersecurity in the next year. Even if the looming “fiscal cliff” guts the Defense Department’s budget, Panetta has made clear that cybersecurity will remain a top funding priority. At a New York conference on October 12, 2012, he described the United States as being in a “pre-9/11 moment” with regards to cyberwarfare and said that the “attackers are plotting,” in reference to the growing capabilities of Russia, China, and Iran. ¶ Of the 20 ongoing interstate rivals in our study, China and the United States cybertargeted each other the most. According to our study, Beijing attacked U.S. assets 18 times and Washington returned fire twice. Two notable attacks were the 2011 Pentagon raid, which stole sensitive files from the Defense Department, and the 2001 theft of Lockheed Martin’s F-35 fighter-jet schematics. These attacks get only a moderate severity score because they targeted specific, nonessential state documents and were not intended to affect the general public. Over the same time span, India and Pakistan targeted each other 11 times (India five times, Pakistan six), as did North and South Korea, with North Korea being the aggressor ten times and South Korea launching one return attack. These ranged from minor incidents, such as Pakistan defacing an Indian government website, to more serious ones, such as North Korea stealing sensitive state documents from South Korea. ¶ Israeli-Iranian tensions have risen in recent months, but despite all the talk, this conflict is not playing out in the cybersphere. There were only eight cyberattacks between these states from 2001 to 2011, four launched by Israel, four by Iran. Although Stuxnet and Flame were more severe, Iranian attempts to disrupt government websites have not been very sophisticated. And Israel’s near-insistence on an armed conventional attack proves that even the most sophisticated cyberattacks are not changing state behavior.¶ Cyberattacks are rare, and when they do occur, states are cautious in their use of force. As with conventional and nuclear conflict, some of the principles of deterrence and mutually assured destruction apply. Any aggressor in cyberspace faces the acute threat of blowback: having techniques replicated and repeated against the initiator. Once developed, a cyberweapon can easily be copied and used by a tech-savvy operative with access to a critical system such as the Defense Department’s network, which foreign-government hackers have had success infiltrating. ¶ Far from making interstate cyberwarfare more common, the ease of launching an attack actually keeps the tactic in check. Most countries’ cyberdefenses are weak, and a state trying to exploit an adversary’s weakness may be similarly vulnerable, inviting easy retaliation. An unspoken but powerful international norm against civilian targets further limits the terms of cyberwarfare. ¶ The United States and other responsible powers should restrain their use of the tactic in order to avoid escalation. Attacks such as Flame and Stuxnet are dangerous because they break down the standard of mutually beneficial restraint. These attacks caused little damage in the end, but they still may have encouraged other states to bulk up their own capabilities. The main danger is that one state will overuse the tactic and push other states to do the same. ¶ There is also concern that some countries will overreact to the cyberthreat by clamping down on the freedoms that make the Internet an open and dynamic space. A paranoid government might be tempted to develop extreme defenses, such as a kill switch, that would allow it to shut down all incoming and outgoing cybertraffic. Such a drastic step would have a chilling effect on society, creating more problems than it would solve. This is yet another reason why international standards and communication are crucial. ¶ Cooperation on the cyberwar threat originated in an unlikely place: Estonia. A tiny country with a population of just over one million, it has become a global leader in promoting cyberspace rules and norms that keep states, democratic and autocratic alike, in line. Estonia was thrust into the spotlight after the 2007 cyberattack by and subsequent widespread international condemnation of Russia. Instead of lashing out against its attacker, the small state sought a world forum to discuss its case; since then, it has hosted the International Conference on Cyber Conflict four times. This conference is an outcropping of NATO and hosts countries such as the United States, Canada, the United Kingdom, France, Germany, and Italy. ¶ The gatherings have successfully promoted the adoption of norms and modes of restrained behavior in cyberspace. Developments include the agreement that territorial sovereignty applies to a state’s cyberspace, and that cyberwarfare is covered by Article 51 of the UN Charter, which allows a state to take action in response to an attack. Along these same lines, cyberattacks are now being categorized on an intensity scale to help determine what a proper international response might be. ¶ To be sure, cyberterrorism is still a danger. This is a development that will be more difficult to deter. However, fear of a lone cyberterrorist -- like the recent Bond villain in Skyfall who is capable of bringing a government to its knees -- is unfounded. To be effective, cyberwarfare requires substantial infrastructure, money, and ground operatives. Because these resources are hard to come by, most cyberattacks launched by rogue individuals are trivial or personal. For example, in 2011 the hacker group Anonymous attacked and shut down the PlayStation network in response to a lawsuit against programmers who modified the software. The network was down for weeks, but aside from creating some disgruntled gamers, the attack left no real damage.

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#### No retal

Rogin ‘10 (Josh, “Obama embraces missile defense in nuclear review,” Foreign Policy, <http://thecable.foreignpolicy.com/posts/2010/04/06/obama_embraces_missile_defense_in_nuclear_review>, April 6, 2010)

The document claims that missile defense is critical to allowing the United States to shift away from nuclear weapons, especially now that the U.S. will no longer threaten to use nukes to retaliate against non-nuclear attacks, such as from chemical or biological weapons. The review even features a photo of a missile being shot from an Aegis destroyer in 2007, in what many outside experts saw at the time as a clear demonstration of the fact that U.S. missile defense capabilities can also have offensive uses as well, such as shooting down a satellite. "Major improvements in missile defenses and counter-weapons of mass destruction (WMD) capabilities have strengthened deterrence and defense against CBW attack," reads the document, known as the Nuclear Posture Review, which will stand as the Obama administration's guiding document on all things nuclear. "With the advent of U.S. conventional military preeminence and continued improvements in U.S. missile defenses and capabilities to counter and mitigate the effects of [chemical and biological weapons], the role of U.S. nuclear weapons in deterring non-nuclear attacks -- conventional, biological, or chemical -- has declined significantly," the document claims. Later on in the document, the administration points to Russia and China's nuclear modernization and notes that both countries view U.S. missile-defense expansion as destabilizing. Secretary Clinton addressed that issue in Tuesday's press conference. The NPR itself was careful to mention missile defense as only one of several capabilities needed to counter non-nuclear attacks. But Secretary Clinton was less careful. "It's no secret that countries around the world remained concerned about our missile-defense program," Clinton said, explaining that the NPR weighs in on "the role [missile defense] can and should play in deterring proliferation and nuclear terrorism." Ok, so now missile defense can deter chemical attacks, biological attacks, proliferation of nuclear technology, and suitcase bombs? Regardless, the document makes clear that with fewer nukes to be deployed once the new START agreement goes into effect, and with the role of nuclear weapons now limited to responding to nuclear threats, the administration is now looking to missile defense, among other technologies, to fill in the gap. "As the role of nuclear weapons is reduced in U.S. national security strategy, these non-nuclear elements will take on a greater share of the deterrence burden," the review reads.

#### No impact to cyber war

Fox 11 <Stuart. “Why Cyberwar is Unlikely” July 2, 2011. http://www.securitynewsdaily.com/830-cyberwar-unlikely-deterrence-cyber-war.html>

Even as more and more countries invest in the idea of cyberwarfare, cyberspace remains largely peaceful insofar as actual war is concerned. In the two decades since cyberwar first became possible, there hasn't been a single event that politicians, generals and security experts agree on as having passed the threshold for strategic cyberwar. In fact, the attacks that have occurred have fallen so far short of a proper cyberwar that many have begun to doubt that cyberwarfare is even possible. The reluctance to engage in strategic cyberwarfare stems mostly from the uncertain results such a conflict would bring, the lack of motivation on the part of the possible combatants and their shared inability to defend against counterattacks. Many of the systems that an aggressive cyberattack would damage are actually as valuable to any potential attacker as they would be to the victim. The five countries capable of large-scale cyberwar (Israel, the U.S., the U.K., Russia and China) have more to lose if a cyberwar were to escalate into a shooting war than they would gain from a successful cyberattack. "The half-dozen countries that have cyber capability are deterred from cyberwar because of the fear of the American response. Nobody wants this to spiral out of control," said James Lewis, senior fellow and director of technology and public policy at the Center for Strategic and International Studies in Washington, D.C. "The countries that are capable of doing this don't have a reason to," Lewis added. "Chinese officials have said to me, 'Why would we bring down Wall Street when we own so much of it?' They like money almost as much as we do." Deterrence plays a major factor in preventing cyberwar. Attacks across the Internet would favor the aggressor so heavily that no country has developed an effective defense. Should one country initiate a cyberattack, the victim could quickly counter-attack, leaving both countries equally degraded, Lewis told InnovationNewsDaily. Even if an attacker were to overcome his fear of retaliation, the low rate of success would naturally give him pause. Any cyberattack would target the types of complex systems that could collapse on their own, such as electrical systems or banking networks. But experience gained in fixing day-to-day problems on those systems would allow the engineers who maintain them to quickly undo damage caused by even the most complex cyberattack, said George Smith, a senior fellow at Globalsecurity.org in Alexandria, Va. "You mean to tell me that the people who work the electrical system 24 hours a day don't respond to problems? What prevents people from turning the lights right back on?" Smith told SecurityNewsDaily. "And attacks on the financial system have always been a non-starter for me. I mean, [in 2008] the financial system attacked the U.S.!" Of course, just because political, technological and economic concerns have prevented cyberwar thus far does not mean the situation cannot change. Some analysts believe that the cost of getting caught flatfooted by a cyberattack more than justifies investing in protection against future threats. "The situation could change," said Sami Saydjari, chairman of Professionals for Cyber Defense, a organization formed to "advocate, advise and advance sound cyber defense policy for the United States of America." "For example, if we ended up in a shooting war with China, for whatever reason, they have a capability to take out our infrastructure," Saydjari said. "We don't want them to be able to do that. We don't want our enemies to even have the potential to do that, even if they currently have no incentive to do so." And then there's the issue of terrorism. Undeterred by possible counterattack and unencumbered by economic and political ties, terrorist groups make the most feared attackers in a hypothetical cyberwar. "One day we're going to wake up and find that Al Qaeda or one of these more extreme groups will get this capability. That's what I worry about," Lewis said. "They don't have this capability now. There’s some indication that they know about the black market. But it's like them trying to acquire any other advanced weapon system." But so far, there's no evidence that any terrorist group plans on launching a cyberattack against the U.S. In fact, there's not really any evidence that any country plans on initiating cyberwar against any other country in the near future. For the last 20 years, and into the foreseeable future, it's remained all quiet in the cyber front. "I would give people who say there's an enormous cyber threat the benefit of the doubt. But I've been hearing this for close to twenty years now," said Martin Libicki, a senior policy analyst in cyber issues for the RAND Corporation in Santa Monica, Calif. "Twenty years after Kitty Hawk, airplanes were an integral part of warfare," Libicki said. "By comparison, cyberwar hasn't advanced nearly as quickly."

#### Obama mishandles soft power- he’s running out the clock

**Carafano 1-21**-14 [James Jay Carafano is vice president of defense and foreign policy issues at The Heritage Foundation, “Obama's Foreign Policy to Nowhere,” http://nationalinterest.org/commentary/obamas-foreign-policy-nowhere-9741?page=show]

Sir Hew Strachan, an advisor to the Chief of the British Defense Staff, made some ripples across the pond with his judgment on the U.S. president’s foreign policy. “Obama has no sense of what he wants to do in the world,” Strachan said.¶ Coming from a world-class military historian, it was a stunning rebuke.¶ Strachan gives Mr. Obama’s Middle East policy, specifically his muddled approach to Syria, two thumbs down. Obama's initiative there, he says, has taken the situation on the ground "backwards instead of forwards." That’s just one conclusion he delivers in his forthcoming book, The Direction of War, which evaluates how modern political leaders utilize strategy.¶ Portraying Obama as the Inspector Clouseau of foreign policy may pump Strachan's book sales. (After all, it worked for Gates.) But his assessment seems a bit off the mark.¶ Since the start of his second term, Mr. Obama has exhibited a pretty clear idea of what he wants to do in the world—and that is to have as little as possible to do with it until he gets out of office. The President's primary objective appears to be "no more Benghazis"—just ride out the second term, go build a library, and then mimic the line of his first former defense secretary: “Hey, everything was fine when I left!”¶ A penchant for risk-aversion seems to be the chief hallmark of U.S. foreign policy today. The "red line" over Syria’s use of chemical weapons, a particular target of Strachan's academic scorn, is a case in point. It was a way of doing nothing about that nation’s spiraling civil war. No one appeared more unprepared than the president when it turned out that the red line would actually require the U.S. to get engaged. Likewise, leaping at the chemical weapons deal was all too predictable. It offered the White House a quick exit from getting drawn more deeply into the conflict.¶ But Obama faces an enduring dilemma. As Syria showed, while he might want to leave the world alone, the world doesn't seem to feel the same way about the United States. There is just too much time left in office to coast till the end, pack up the Nobel Prize, and move back to Hawaii. The Oval Office has found it has to do something to fill the vacuum, opening space for other influences to drive foreign affairs—as long as they don’t push the president too far from his chosen path.¶ So a second vector has sprouted up to drive the direction of U.S. foreign policy, one not too far from the president's heart: an infatuation with multilateral process. This scratches Mr. Obama's progressive itch. It is an item of progressive faith that, as long as we’re “engaged in a process" and mean well, we must be making progress. Thus, multilateral process became the fallback solution for Syria, once the red line gave way. The U.S. is currently engaged in multiparty talks about Syria in Geneva. Likewise, the administration is upbeat about “progress” between the Israelis and the Palestinians, because Secretary of State John Kerry has worked hard to get peace "talks" going again. And then, there is the ultimate bright, shiny object: nuclear talks with Iran.¶ A third vector is emerging as well: a kind of magical thinking among administration officials which holds that vectors one and two are actually working so well that, by the end of the president’s term, the entire Middle East will have been transformed. So, for example, there is happy talk that engagement with Iran will lead to working with Tehran on helping the US disengage from Afghanistan, settle things down in Iraq, and end the war in Syria.¶ For now the president seems happy to bundle these three vectors to guide what he sees as his coherent vision of a low-risk, run-out-the-clock strategy.¶ Contrary to what Strachan asserts, the president does have a sense of what he is doing. The president's only problem is there are no signs that the three vectors are converging on anything that makes the region look like the land of milk and honey.¶ The odds of the Geneva talks playing a decisive role in resolving the Syrian civil war grow longer by the day. Vicious infighting among the insurgent groups and ramped-up support for the Assad regime by Moscow and Tehran are far more likely to drive the outcome. The "best case” scenario thus is a Balkanized Syria, with an Al Qaeda safe haven, huge displaced populations, and an occasional stream of car bombings from Damascus to Beirut.¶ As for Iran, while the administration thinks it has bought six months of "wait and see," the reality is that, when the clock stops ticking, the West will be no more confident it can shut down an Iranian nuclear program than it is now. Meanwhile, the once-effective sanctions regime will have fallen apart, and the long sought U.S.-Iranian rapprochement will remain but the stuff of dreams.¶ Meanwhile, the president's policy of disengagement from Iraq is shaping up like a disaster. It is reaffirming Henry Kissinger's truism, "Unilateral withdrawal is not victory." And the Israeli-Palestinian peace process remains moribund. There are no talks, just U.S. officials talking about talks. If Egypt successfully implements its new constitution, elects a government, and puts the Arab Spring back on course, it will be no thanks to a White House that has vacillated between displaying complete indifference and casting annoying catcalls from the sidelines. Strachan's explanation may be off, but the result is the same. It’s hard to see the vectors of Obama's foreign policy leading anywhere but nowhere.

#### US soft power strategies fail and heg doesn’t solve war anymore- doesn’t solve China war

**Mazarr ’12** [Michael J. Mazarr is professor of national security strategy at the U.S. National War College, “The Risks of Ignoring Strategic Insolvency,” <http://csis.org/files/publication/twq12FallMazarr.pdf>]

A third trend is declining U.S. military predominance and a fast-approaching moment when **the U**nited **S**tates **will be unable to project power into key regions** of the world. The reasons are partly technologicalrising actors have burgeoning capabilities in anti-ship missiles, drones, or other ‘‘area denial’’ structures.13 Moreover, actors have also found other ways to counter American power: major states like China or Russia now possess the ability, through financial, space, or energy means, to threaten massive global consequences in response to unwanted U.S. force. This includes cyber mayhem: as one recent survey concluded, cyber weapons ‘‘allow, for the first time in history, small states with minimal¶ defense budgets to inflict serious harm on a vastly stronger foe at extreme ranges,’’¶ a new form of vulnerability that would ‘‘greatly constrain America’s use of force abroad.’’14 An important new RAND report by Paul Davis and Peter Wilson¶ warns of an ‘‘impending crisis in defense planning’’ arising ‘‘from technology¶ diffusion that is leveling aspects of the playing field militarily, geostrategic¶ changes, and the range of potential adversaries.’’15 These challenges are¶ exacerbated by a crisis of defense procurement; **America’s leading**-edge military **systems are becoming less affordable and reliable**. Aircraft carriers, for example, have become prohibitively expensive, with costs set to break through¶ congressionally-imposed limits next year.16 The systems that undergird U.S. military primacy are being whittled down to a small handful that no president will readily risk in anything but the most essential of crises. A fourth threat to U.S. global strategy is that America’s non-military tools of influence have proven incapable of achieving key U.S. goals in the areas nominated as the leading security challenges of the future, transnational, substate threats, and the risks emanating from fragile states. While states have¶ well-established theories for pursuing traditional political-military ends with¶ diplomacy and force, the United States possesses no proven models for achieving progress in the social, psychological, and environmental costs of an integrating globe, areas such as regional instability, terrorism, the complexities of development, radicalism, aggressive nationalism, organized crime, resource shortages, and ecological degradation.17 For half a century, the United States¶ was a dominant global power which identified challenging core goals and tasks, deterring military adventurism, building political-military alliances, erecting¶ mutually-beneficial institutions of tradebut to which Washington could apply¶ established models and techniques. U.S. leadership and power becomes much¶ more problematic in a world of complex problems which generate no broad¶ agreement and which subject themselves to no clear solutions

# 2nc

### 2NC Impact Run v Liberty AB

#### Chinese soft power outweighs and turns the case-

#### Magnitude—warming is the only scenario for extinction-­ destroys oceans, ozone, and biodiversity

#### Chinese soft power restrains aggression- solves regional stability and war with US

**Huang ’13** [Chin-Hao Huang, Ph.D. Candidate and a Russell Endowed Fellow in the Political Science and International Relations (POIR) Program at the University of Southern California (USC). Until 2009, he was a researcher at the Stockholm International Peace Research Institute (SIPRI) in Sweden. He specializes in international security and comparative politics, especially with regard to China and Asia, and he has testified before the Congressional U.S.-China Economic and Security Review Commission on Chinese foreign and security policy, “China’s Soft Power in East Asia,” <http://dornsife.usc.edu/assets/sites/451/docs/Huang_FINAL_China_Soft_Power_and_Status.pdf>]

China’s authoritarian regime is thus the biggest obstacle to its efforts to construct and project soft ¶ power. At the same time, if the government decides to take a different tack—a more constructive ¶ approach that embraces multilateralism—**Chinese soft power could be a positive force multiplier that contributes to peace and stability in the region**. A widely read and cited article published in ¶ Liaowang, a leading CCP publication on foreign affairs, reveals that there are prospects for China being socialized into a less disruptive power that complies with regional and global norms: ¶ Compared with past practices, China’s diplomacy has indeed displayed a new face. If China’s diplomacy before the 1980s stressed safeguarding of national ¶ security, and its emphasis from the 1980s to early this century is on the creation ¶ of an excellent environment for economic development, then the focus at ¶ present is to take a more active part in international affairs and play the role that a responsible power should on the basis of satisfying the security and ¶ development interests.47 The newly minted leadership in Beijing provides China with an opportunity to reset its soft-power approach and the direction of its foreign policy more generally. If the new leadership pursues a ¶ different course, Washington should seize on this opportunity to craft an effective response to ¶ better manage U.S.-China relations and provide for greater stability in the Asia-Pacific region. For example, strengthening regional alliances and existing security and economic architectures could help restrain China’s more bellicose tendencies. At the same time, Washington should be cognizant of the frustrations that are bound to occur in bilateral relations if Beijing continues to define national interest in narrow, self-interested terms. The U.S. should engage more deeply with regional partners to persuade and incentivize China to take on a responsible great-power role commensurate with regional expectations.¶ • The U.S. pivot to the region could be further complemented with an increase in soft-power promotion, including increasing the level of support for Fulbright and other educational exchanges that forge closer professional and interpersonal ties between the U.S. and the Asia-Pacific. Washington should also encourage philanthropy, development assistance, and intellectual engagement by think tanks and civil society organizations that address issues such as public health and facilitate capacity-building projects. China’s rising economic, political, and military power is the most geopolitically significant¶ development of this century. Yet while the breadth of China’s growing power is widely¶ understood, a fulsome understanding of the dynamics of this rise requires a more¶ systematic assessment of the depth of China’s power. Specifically, the strategic, economic,¶ and political implications of China’s soft-power efforts in the region require in-depth analysis.¶ The concept of “soft power” was originally developed by Harvard University professor Joseph Nye¶ to describe the ability of a state to attract and co-opt rather than to coerce, use force, or give money¶ as a means of persuasion.1 The term is now widely used by analysts and statesmen. As originally¶ defined by Nye, soft power involves the ability of an actor to set agendas and attract support on the¶ basis of its values, culture, policies, and institutions. In this sense, he considers soft power to often¶ be beyond the control of the state, and generally includes nonmilitary tools of national power—such¶ as diplomacy and state-led economic development programs—as examples of hard power.¶ Partially due to the obvious pull of China’s economic might, several analysts have broadened Nye’s¶ original definition of soft power to include, as Joshua Kurlantzick observes, “anything outside the¶ military and security realm, including not only popular culture and public diplomacy but also more¶ coercive economic and diplomatic levers like aid and investment and participation in multilateral¶ organizations.”2 This broader definition of soft power has been exhaustively discussed in China¶ as an element of a nation’s “comprehensive national power” (zonghe guoli), and some Chinese¶ commentators argue that it is an area where the People’s Republic of China (PRC) may enjoy some¶ advantages vis-à-vis the United States. These strategists advocate spreading appreciation of Chinese¶ culture and values through educational and exchange programs such as the Confucius Institutes.¶ This approach would draw on the attractiveness of China’s developmental model and assistance¶ programs (including economic aid and investment) in order to assuage neighboring countries’¶ concerns about China’s growing hard power.3 China’s soft-power efforts in East Asia—enabled by its active use of coercive economic and social¶ levers such as aid, investment, and public diplomacy—have already accrued numerous benefits for the PRC. Some view the failure of the United States to provide immediate assistance to East and¶ Southeast Asian states during the 1997 Asian financial crisis and China’s widely publicized refusal¶ to devalue its currency at the time (which would have forced other Asian states to follow suit) as a turning point, causing some in Asia to question which great power was more reliable.4 China also uses economic aid, and the withdrawal thereof, as a tool of national power, as seen in China’s considerable aid efforts in Southeast Asia, as well as in its suspension of $200 million in aid to¶ Vietnam in 2006 after Hanoi invited Taiwan to attend that year’s Asia-Pacific Economic Cooperation¶ (APEC) summit.5

#### Chinese soft power solves escalation over Taiwan war and regional arms races

**Efthymiou ’12** [Pavlos Efthymiou is reading for a PhD in Politics and International Studies at the University of Cambridge, holds an MPhil in International Relations from the University of Cambridge and a BSc in Politics with Economics from the University of Bath, “Chinese Soft Power: Sources And Implications For The US,” December 21, <http://theriskyshift.com/2012/12/chinese-soft-power-sources-andimplications-for-the-us/>]

Weiji, the Chinese word which describes the combination of threat and opportunity, best describes the way China is perceived in its near abroad. Take Taiwan for instance. Taiwan has the greatest justification to feel ‘threatened’ by China’s rise; and it does. Nonetheless, concurrently, the rise of China has presented Taiwan with immense opportunities. China is Taiwan’s largest trading partner and Taiwan one of China’s biggest investors. Economic ties have flourished over the last years (Halper, 2010:18). Now over a million Taiwanese live and work in the mainland, while more and more Taiwanese set up businesses and invest in China (ibid.). Chinese soft power and the concepts that underlie / frame it, have been central for improving relations with Taiwan. The Chinese guarantee of non-forceful (re-)unification with Taiwan is enhanced strongly by the ‘peaceful rise’ policy and associated rhetoric, as well as the ‘good neighbourliness’ concept, epitomized by the saying: ‘A far away relative is less helpful than one living nearby’ (Ramo, 2004:52). Improvement of Taipei’s relations with the mainland is good news for the US, the main protector of Taiwan. It reduces the risk of crisis and escalation, while continuous multi-level bonding in the social and economic sphere coupled with confidence-building exercises has produced solid outcomes as the election of the Kuomintang Party (2008) (Halper, 2010:19). Weiji, the Chinese word which describes the combination of threat and opportunity, best describes the way China is perceived in its near abroad. Take Taiwan for instance. Taiwan has the greatest justification to feel ‘threatened’ by China’s rise; and it does. Nonetheless, concurrently, the rise of China has presented Taiwan with immense opportunities. China is Taiwan’s largest trading partner and Taiwan one of China’s biggest investors. Economic ties have flourished over the last years (Halper, 2010:18). Now over a million Taiwanese live and work in the mainland, while more and more Taiwanese set up businesses and invest in China (ibid.). Chinese soft power and the concepts that underlie / frame it, have been central for improving relations with Taiwan. The Chinese guarantee of non-forceful (re-)unification with Taiwan is enhanced strongly by the ‘peaceful rise’ policy and associated rhetoric, as well as the ‘good neighbourliness’ concept, epitomized by the saying: ‘A far away relative is less helpful than one living nearby’ (Ramo, 2004:52). Improvement of Taipei’s relations with the mainland is good news for the US, the main protector of Taiwan. It reduces the risk of crisis and escalation, while continuous multi-level bonding in the social and economic sphere coupled with confidence-building exercises has produced solid outcomes as the election of the Kuomintang Party (2008) (Halper, 2010:19). Japan, can understandably be worried seeing China modernising the PLA, especially given the fact that Japan has no nuclear deterrent or overwhelming conventional forces. Beijing’s lack of transparency re its military budget is not helping either (Carpenter, 2007). Also, Japan saw China overtaking it as the world’s second largest economy in mid-2010 (Barboza, 2010). Nonetheless, trade and cooperation between Japan and China have seen a great surge. Cooperation through the ‘ASEAN Plus Three’ – (APT) framework has been important in this respect (Foot, 2006:85). Moreover, the ‘peaceful rise’ - ’good neighbourliness’ policies and China’s overall emphasis on peaceful, diplomatic resolution of Sino-Japanese disputes (with the exception of some rather short bursts of Chinese realpolitik assertiveness) has been crucial for preventing so far an Asian ‘arms race’. Chinese assurances, and tangible evidence of backing them, have helped prevent a major security dilemma; hence, Japan feels less pressured to emphasize re-armament and perhaps move rapidly to acquire nuclear weapons. This also means one less worry for the US, who labours to prevent a proliferation race in the region. Moreover, Yoshihara and Holmes (2008:136) also point to the important role of the sizable Chinese ethnic minorities in the region and in Japan, which ‘naturally’ encourages diplomatic solutions over confrontation.

#### Extinction- top-consumers and species interactions- their studies don’t take into account

**Space Daily, 12** -- citing Yale and Uconn ecology professors, and recent studies

(Space Daily staff writers, "Top predators key to extinctions as planet warms," 7-11-12, l/n, accessed 8-15-12, mss)

Global warming may cause more extinctions than predicted if scientists fail to account for interactions among species in their models, Yale and UConn researchers argue in Science. "Currently, **most models** predicting the effects of climate change treat species separately and focus only on climatic and environmental drivers," said Phoebe Zarnetske, the study's primary author and a postdoctoral fellow at the Yale School of Forestry and Environmental Studies. "But we know that species don't exist in a vacuum. They interact with each other in ways that deeply affect their viability." Zarnetske said the complexity of "species interaction networks" discourages their inclusion in models predicting the effects of climate change. Using the single-species, or "climate envelope," approach, researchers have predicted that 15 percent to 37 percent of species will be faced with extinction by 2050. But research has shown that top consumers-predators and herbivores-have an especially strong effect on many other species. In a warming world, these species are "**biotic multipliers**," increasing the extinction risk and altering the ranges of many other species in the food web. "Climate change is likely to have strong effects on top consumers. As a result, these effects can **ripple through an entire food web, multiplying extinction risks along the way**," said Dave Skelly, a co-author of the study and professor of ecology at Yale. The paper argues that focusing on these biotic multipliers and their interactions with other species is a promising way to improve predictions of the effects of climate change, and recent studies support this idea. On Isle Royale, an island in Lake Superior, rising winter temperatures and a disease outbreak caused wolf populations to decline and the number of moose to surge, leading to a decline in balsam fir trees. Studies in the rocky intertidal of the North American Pacific Coast show that higher temperatures altered the ranges of mussel species and their interaction with sea stars, their top predators, resulting in lower species diversity. And in Arctic Greenland, studies show that without caribou and muskoxen as top herbivores, higher temperatures can lead to decreased diversity in tundra plants and, in turn, affect many other species dependent on them. "Species interactions are **necessary for life on Earth**. We rely on fisheries, timber, agriculture, medicine and a variety of other ecosystem services that result from intact species interactions," said Zarnetske. "Humans have already altered these important species interactions, and climate change is predicted to alter them further. Incorporating these interactions into models is crucial to informed management decisions that protect biodiversity and the services it provides."

War doesn’t cause extinction

**Seitz, 11** -- Harvard University Center for International Affairs visiting scholar

(Russell, “Nuclear winter was and is debatable,” *Nature*, 7-7-11, Vol 475, pg37, accessed 8-18-12, mss)

Alan Robock's contention that there has been no real scientific debate about the 'nuclear winter' concept is itself debatable (Nature 473,275-276; 2011). This potential climate disaster, popularized in Science in 1983, rested on the output of a one dimensional model that was later shown to overestimate the smoke a nuclear holocaust might engender. **More refined estimates, combined with** **advanced three-d**imensional **models** (see go.nature.com/ kss8te), have **dramatically reduced the extent and severity** **of** the **projected cooling**. Despite this, Carl Sagan, who co-authored the 1983 Science paper, went so far as to posit "the extinction of Homo sapiens" (C. Sagan Foreign Affairs 63,75-77; 1984). Some regarded this apocalyptic prediction as an exercise in mythology. George Rathjens of the Massachusetts Institute of Technology protested: "Nuclear winter is the worst example of the misrepresentation of science to the public in my memory," (see go.nature.com/yujz84) and climatologist Kerry Emanuel observed that the subject had "become **notorious for its lack of scientific integrity**" (Nature 319, 259;1986). Robock's single-digit fall in temperature is at odds with the subzero (about -25 °C) continental cooling originally projected for a wide spectrum of nuclear wars. Whereas Sagan predicted darkness at noon from a US-Soviet nuclear conflict, Robock projects global sunlight that is several orders of magnitude brighter for a Pakistan-India conflict — literally the difference between night and day. Since 1983, the projected worst-case cooling has fallen from a Siberian deep freeze spanning 11,000 degreedays Celsius (a measure of the severity of winters) to numbers so unseasonably small as to call the very term 'nuclear winter' into question.

#### It’s also irreversible once we trigger the tipping point which means you HAVE to default neg even if this is a question of solvency

**Extinction outweighs- even a one percent risk**

**Bostrom, 5** -- Oxford philosophy professor

(Nick, July 2005, transcribed by Matt Struth, 4:38-6:12 of the TED talk at http://www.ted.com/index.php/talks/view/id/44, accessed 2-2-8, mss)

Now if we think about what just reducing the probability of human extinction by just one percentage point, not very much, that’s equivalent to 60 million lives saved, if we just count the current living people, one percent of 6 billion equivalent to 60 million. So that's a large number. If we were to account for future generations that would never come into existence if we were to blow ourselves up, the figure becomes astronomical. If we could eventually colonize a chunk of the universe, the Vergo supercluster, maybe it will take us a hundred million years to get there, but if we go extinct we never will - then even a one percentage point reduction could be equivalent to this astronomical number 10^32. So if you take into account future generations as much as our own, every other moral imperative just becomes irrelevant. The only thing you should focus on should be existential risk. Because even the tiniest decrease in existential risk would just overwhelm every other benefit you could hope to achieve Even if you just look at the current people and ignore the potential that could be loss if people went extinct it should still have a high priority.

### Central Asia

#### Central Asian stability is on the brink- only Chinese influence can solve

**Giasy 12-9**-13 [Richard Ghiasy is a fellow at the Afghan Institute for Strategic Studies (AISS) in Kabul, and a former analyst at the Embassy of the Islamic Republic of Afghanistan to the PRC, “Central Asian Fortune in Chinese Hands?” <http://thediplomat.com/2013/12/central-asian-fortune-in-chinese-hands/>]

While China’s reemergence is the front-page story of this century, the majority of its Central Asian neighbors are socioeconomically troubled. Undoubtedly developmental challenges have to be met from within, but how important is China to Central Asian stability and economic growth?¶ Economically, China is already the largest trading partner of four out of the five former Soviet Republics (the exception is Uzbekistan), and a main source of foreign investment. China has increasingly brought landlocked Central Asia into its economic orbit: between 2000 and 2012 bilateral trade (Afghanistan excluded) grew a whopping 46-fold, from about $1 billion to $46 billion. China is also a strategic partner of five of the six Central Asian states, and President Xi Jinping accentuated that status by inking large deals in energy and construction during his visit to the region this September.¶ All of this is the culmination of China’s diplomacy paradigm in Central Asia, in place since the mid 1990s. The paradigm been characterized by resource extraction and trade; securing land energy supply by importing gas from Turkmenistan and both gas and oil from Kazakhstan; and protecting China’s western territories from possible insurgency spillovers. While currently these threats seem relatively marginal, domestic and regional stability is key to China’s steady progress, an idea frequently expressed in China by the government and scholars.¶ Correspondingly, China has pushed for regional security cooperation under the auspices of the Shanghai Cooperation Organization (SCO), which Beijing founded in 2001. With observer states included, the SCO accounts for half of the world’s population. Even if in different capacities, it is the only security organization in the world to embrace four major civilizations – a historic feat.¶ Through the SCO political and economic ties have fortified, and member states have developed greater mutual trust in military affairs as cooperation between defense ministries progressively deepens. In practice, so far, this has mainly resulted in collective drug trafficking mitigation, fighting organized crime, and border security enhancement. The SCO still excludes hard security – actual defensive military capacity.¶ While Beijing primarily sees raising living standards in this region as the antidote for instability, Chinese foreign minister Wang Yi has recently stressed that there is opportunity to build the SCO “into a community of interest” by expanding the scope of collaboration and to “build up a security shield” to detect and handle various security threats. Interestingly, this path could deviate from Beijing’s policy of non-interference.¶ The question is whether current economic engagement and soft security provision can prevent and handle potential mayhem in Central Asia. Challenges and threats confront the region – waiting for havoc to justify hard security capacity building is passive. While Kazakhstan is performing impressively as the product of pragmatic economic governance and an impressive natural resources endowment, other Central Asian states are still struggling in their transition to modernity. Leadership succession is not too far down a bumpy road. The four most troubled Central Asian states – Afghanistan, Kyrgyzstan, Tajikistan and Uzbekistan – face grave developmental insecurities: inadequate public services, porous borders, feeble security forces and fledgling economies. Running an indigenous economic growth mechanism in these states without solid foreign partnerships is a major challenge.¶ At the same time, the regional security climate will change after U.S.-led international forces depart Afghanistan in 2014. Afghanistan’s position at the crossroads of Central and South Asia could possibly see insurgency spillover in vulnerable neighboring countries.¶ Moreover, Central Asian states feel little allegiance to one another. As rivalries persist, regional institution building from a Eurasian stakeholder would be most welcome. Given its comprehensive resources and economic prowess, China is the most qualified candidate. While Russia obviously has historic, lingual and cultural ties and still considers Central Asia its “sphere of influence,” it is not the resources-hungry manufacturing powerhouse that China is. Emerging India has too many domestic challenges that need to be addressed first, and the EU is mired in introspection.¶ Understandably, some would state that first and foremost China is responsible for its own developmental challenges. Meeting the needs of its population, one-fifth of all people on earth, is its most important contribution to humanity. Yet while that is irrefutable, instability in Central Asia could stall China’s geostrategic progress in securing land access to the energy riches of the region and the Greater Middle East; jeopardize a shortcut to the Indian Ocean through Pakistan; and threaten Beijing’s ambitions to connect with the major European economies overland.¶ Moreover, look east and China is surrounded on all sides by states friendly with the United States. Japan, South Korea, the Philippines, and Myanmar are a few examples of neighbors that find China’s growing influence disconcerting. That underlines the necessity for Beijing of a regional defensive body that embraces China’s west and north.¶ It would be prudent, then, for Beijing to have the SCO begin a dialogue on clear blueprints for conflict prevention, crisis management, defense cooperation and post-conflict rehabilitation. While this is no easy task given the security calculations of regional powers and the existing overlapping security structures initiated by Moscow, the cost of inaction is higher. The good news is that China and Russia have started to recognize each other as their most important strategic partners in Eurasia, and their relations have never been as sound as they are now. This unique situation affords an excellent opportunity to expedite the common development of SCO members and observers.¶ Nonetheless, there are a few bottlenecks that need to be addressed first. The first is the name Shanghai Cooperation Organization. No regional security body should bear the name of single country or city – it is simply bad diplomacy.¶ The second is the delay in granting current observers – particularly Afghanistan, India and Pakistan – member status. Current members could catalyze the political, legal and technical preparation of these nations for SCO membership through stronger support. India’s member status could (or rather should) dampen any concerns Moscow and Delhi have about Beijing’s geopolitical intentions in Central and South Asia. China should also mitigate the hazard that Russia might lean more westward, as advocated by Zbigniew Brzezinski, through fortified security and economic cooperation. This latter is materializing particularly fast; forecasts have Sino-Russian bilateral trade at $200 billion by 2020.¶ The SCO should also expedite discourse with all Central Asian stakeholders on collective hard-security provision under agreed scenarios of turmoil in the Central Asian states. Defining the threshold for interference is no easy task. To make sure Afghanistan is not forgotten again, an “Afghanistan Mission” under SCO auspices for this economically troubled country could be created once the U.S.-Afghanistan Bilateral Security Agreement is signed – most likely in the next few weeks.¶ While more opportunities than challenges await the SCO, the suggestions made here will not be easy to achieve. It will be difficult for China not to step on toes, as the weight and interests of all stakeholders need to be incorporated. But if China can indirectly support Central Asia in eliminating the conditions that breed social unrest by improving living standards and molding a more prepared and more muscular SCO, good fortune will have befallen Central Asia – and China.

#### Causes nuclear war

**Blank ’00** [Stephen, MacArthur Professor of Research at the Strategic Studies Institute, “AMERICAN GRAND STRATEGY AND THE TRANSCASPIAN REGION,” World Affairs, Fall, Vol. 163, Issue 2 Database: Academic Search Elite, EBSCO]

Thus many structural conditions for conventional war or protracted ethnic conflict where third parties intervene now exist in the Transcaucasus and Central Asia. The outbreak of violence by disaffected Islamic elements, the drug trade, the Chechen wars, and the unresolved ethnopolitical conflicts that dot the region, not to mention the undemocratic and unbalanced distribution of income across corrupt governments, provide plenty of tinder for future fires. Many Third World conflicts generated by local structural factors also have great potential for unintended escalation. Big powers often feel obliged to rescue their proxies and proteges. One or another big power may fail to grasp the stakes for the other side since interests here are not as clear as in Europe. Hence commitments involving the use of nuclear weapons or perhaps even conventional war to prevent defeat of a client are not well established or clear as in Europe. For instance, in 1993 Turkish noises about intervening on behalf of Azerbaijan induced Russian leaders to threaten a nuclear war in that case. Precisely because Turkey is a NATO ally but probably could not prevail in a long war against Russia, or if it could, would conceivably trigger a potential nuclear blow (not a small possibility given the erratic nature of Russia's declared nuclear strategies), the danger of major war is higher here than almost everywhere else in the CIS or the "arc of crisis" from the Balkans to China. As Richard Betts has observed, The greatest danger lies in areas where (1) the potential for serious instability is high; (2) both superpowers perceive vital interests; (3) neither recognizes that the other's perceived interest or commitment is as great as its own; (4) both have the capability to inject conventional forces; and (5) neither has willing proxies capable of settling the situation.(n77)

China is already taking a much more aggressive approach toward climate change than the United States is.¶ This is important for two reasons. First, China is seeing the world’s fastest growth in energy consumption and in CO2 emissions. In the United States and Europe, by contrast, energy usage is nearly flat and CO2 emissions are down. So China’s policies exert a huge lever on future CO2 emissions. Second, one of the prime arguments against U.S. action on climate change has been that it doesn’t matter what the United States does if China isn’t on board.¶ Well, China already is on board in a number of ways that the United States isn’t. Consider the following:¶ 1. China is launching a cap-and-trade plan.¶ In the United States, the Waxman-Markey cap-and-trade plan fizzled in the Senate in 2009. In China, meanwhile, authorities have moved forward with pilot cap-and-trade systems covering seven regions, including the manufacturing hub provinces of Guangdong and Hubei, as well as the cities of Beijing, Shanghai, Tianjin, Chongqing, and Shenzhen. The first of those cap-and-trade systems, in Shenzhen, will start operation June 17. By 2020, the Chinese government plans to link those regional systems into a national carbon market. Just last month, the governments of China and Australia announced their intent to link the two countries’ carbon markets into a regional one.¶ 2. China is also launching a carbon tax.¶ In March, the U.S. Senate unceremoniously voted down an amendment that would have opened the way to a carbon tax. Not so, China. Officials there have announced their intent to institute a tax on CO2 emissions, likely starting in 2015 or 2016.¶ 3. China is investing more in renewable energy.¶ Not satisfied with those future plans? Consider the here-and-now. In 2012, the United States spent $35 billion on renewable energy—actually down 37 percent from $56 billion in 2011. China, meanwhile, spent a whopping $65 billion on renewable energy in 2012, or 85 percent more than the United States did in the same year.¶ Yes, China’s population is more than four times the United States’. But China’s economy is only half the size. As a fraction of its overall economy, China invested almost four times as much as the United States in renewable energy in 2012.¶ 4. China dominates in solar production …¶ China has taken a huge lead in the production of solar panels in particular. In 1995, the United States produced nearly 40 percent of the solar panels produced around the world, while China made less than 1 percent. Now Chinese companies produce more than half the solar panels manufactured worldwide, while the United States produces less than 10 percent.¶ Critics have decried this as a case of China’s government using cheap loans and investments to bootstrap an industry. And that’s exactly what it is. Whatever the short-term fluctuations in the solar market may be, whether China is guilty or not of intentionally flooding the market, in the long run the demand for solar power is going to grow by orders of magnitude. Solar power is going to be absolutely essential to meeting growing energy demands while staving off climate change. Chinese banks and Chinese leaders know this, and they plan to be the world leader

### Ext- Warming

#### Only Chinese influence solves warming

**Davenport ’11** [Deborah Davenport, PhD, Senior Visiting Research Associate in the Environmental Change Institute, Oxford University, consultant to numerous governments and international agencies on forest and climate change politics, “COP17: Will China Lead the Way?” 12-7-11, <http://thinkafricapress.com/cop17/will-china-lead-way>]

As the COP17 climate change talks in Durban near their conclusion, all eyes are on China. At the beginning of the week, China’s chief negotiator Xie Zhenhua vowed that China would accept a legally-binding agreement on carbon emissions after 2020 if certain conditions were also met by other countries. This move has formed a primary talking point at the COP17 meetings and the burgeoning Asian superpower appears to have emerged as the key participant in proceedings. As the world’s biggest polluter and an increasingly influential global economic actor, China’s pledge could be the shot in the arm needed if an agreement is to be made. If China and the EU are able to make progress, supported by other rich nations, countries might be able to find a new way to carry negotiations forward by the end of COP17. At best, China’s stance to some extent calls the US' bluff, already having rejected commitments for itself due to a lack of commitments from countries such as China. If, however, China’s public statements are not matched by movement behind closed doors from other countries, there is little hope that the current stalemate will be resolved by the end of COP17.¶ Repeating history¶ Two years ago, US President Obama brought the US cavalry to the rescue for COP15, leading a select group of key countries to the informal Copenhagen Accord. While the deal was vilified at the time by some of the countries not included in those negotiations, the Copenhagen Accord and the Cancun Agreements that followed at COP16 produced a framework for further negotiations, including agreement in principle on a global climate fund to mobilise financial resources for assisting developing countries with climate change mitigation.¶ Despite this, COP17 faces many of the same questions as at previous talks: Will the Kyoto Protocol survive? Will developed countries agree to new and deep binding cuts in greenhouse gas emissions? Will middle income countries take on any similar commitments (perhaps now influenced by the promise of funding under the proposed Green Climate Fund)?¶ Global concerns?¶ Reaching a strong global agreement requires two essential factors to coincide: a superpower to influence others, and some benefit and self-interest in an agreement being made in the first place.¶ Strong leadership is necessary to induce agreement through credible promises of reward or threats of punishment. The ‘carrot’ of a promise can raise the value of an agreement, making it more enticing, while the "stick" of possible punishment can lower the value of continuing with business as usual. For promises or threats to be effective and credible, however, they must generally be made by a very powerful country or group of countries; Tuvalu, for example, has not yet been able to twist the US’ arm toward making a strong binding commitment. Indeed, those countries most threatened by climate change and with the least wherewithal to adapt tend to be small island states and poor countries, many of which are in Africa.¶ Power by itself, however, is obviously not enough. The powerful country or group of countries must also see some self-interested benefits in forming an agreement. Altruism will not suffice. Unfortunately, it seems the country most able to lead the world to a global agreement has both internationally and domestically lacks incentives to tackle climate change. The US has little domestic support in addressing climate change and because the US never ratified Kyoto, it has no internationally binding commitments to reduce greenhouse gas emissions by any percentage by any deadline.¶ Who can lead the way? With the US unwilling and those most in danger unable to create global consensus, few are left to take a meaningful stance. The EU has an interest in an agreement at COP17, partly due to the market benefits they could gain by being innovators of green technologies. But given the current economic and political problems in the eurozone, they are unlikely to have the power to lead a global agreement. This leaves China. China is in the ascendancy and is arguably in better economic health than either the US or the EU. Plus, it has diplomatic advantages in that it has influence over many states that are ill-disposed towards the US and Europe, and indeed others such as the majority of the African nations. China’s assertiveness in the climate change negotiations could prove very encouraging to them.

### Links- Norms

#### Dynon says that strong US credibility directly hurts China’s ability to leverage soft power– it’s a question of competing narratives, and the US version portrays China as a threat, hurting their global efforts

#### Their Healy evidence links them even harder

#### Strengthening US norms causes Chinese freakout and aggression

**Roy ’13** [Dr. Denny Roy, Ph.D., Political Science, University of Chicago, Senior Fellow at the East-West Center in Honolulu, “More Security for Rising China, Less for Others?” January, http://www.isn.ethz.ch/Digital-Library/Articles/Special-Feature/Detail/?lng=en&id=159877&contextid774=159877&contextid775=159870&tabid=1453528668]

With greater relative capabilities, China’s aspirations will expand. The country will use its economic and diplomatic influence, with expanding military capabilities in the background, to press neighboring governments to conform to its wishes on political issues. For example, the upgraded PRC navy, originally limited to coastal missions, is implementing a new concept of “far sea defense.” Under this doctrine Chinese warships project naval power into distant oceans, even preparing for the contingency of escorting ships from the Persian Gulf through the Indian Ocean. The deputy commander of China’s East Sea Fleet explicitly linked China’s economic growth with a stronger military: “With the expansion of the country’s economic interests,” he said, “the navy wants to better protect the country’s transportation routes and the safety of our major sea lanes . . . [and therefore] needs to develop along the lines of bigger vessels and with more comprehensive capabilities.” [6]¶ As China’s security demands expand, inevitably they will further impinge on the strategic freedom of other Asia Pacific countries. In the case of the “sensitive” issues that involve CCP legitimacy or are within the presumed Chinese sphere of influence, the usual restraints against heavy-handed Chinese behavior are relatively less powerful. The imperative of self-defense takes precedence over Chinese fears of appearing dishonorable or threatening. Yet Chinese actions in their backyard challenge areas of vital interest to other countries.¶ An example is Taiwan. Beijing insists that the government of China (i.e., the CCP) has sovereignty over the island even if Taiwan’s inhabitants may disagree. The PRC asserts a position (backed by the threat of military force) that represents an existential threat to the people of Taiwan and their chosen political and economic system. In the case of the South China Sea, Beijing refuses to renounce its claim to ownership of nearly the entire body of water. This denies the Southeast Asian claimant countries even the coastal exclusive economic zones that are granted by the Law of the Sea Treaty, of which China is a signatory. When high-ranking Chinese military men and many Chinese media organs stridently objected to 2010 US–South Korean naval exercises in the Yellow Sea that were amply justified by North Korean provocations, the PRC implicitly asserted that China should have veto power over US security cooperation with a formal US ally in waters near the ally’s coast.¶ The rise of China has a particular impact on US-China relations. The United States is the principal sponsor of a historically unique regional security order. This order includes an architecture of US alliances, forward-deployed bases, and international institutions, overlaid with a set of widely accepted norms regulating international affairs. This order reflects US interests and values, but not necessarily those of China. As the rising power, China naturally aspires to take leadership of the regional order from the old master and to revise it to China’s liking. History has seen other cases like this, and past experience suggests the scenario is dangerous. The rising challenger may pick a fight because it is impatient and wants to speed up the transition, while the reigning great power may consider starting a preventive war before its power level is surpassed by the rising challenger. Some scholars argue that the risk of war is low in this case: China and the United States lack a compelling reason to go to war against each other; both have nuclear weapons, which makes them cautious about getting into even a conventional conflict; and both would rather concentrate on domestic issues and gain through peaceful trade.[7]¶ Nevertheless, maintaining equilibrium between US accommodation and Chinese patience will become increasingly difficult, posing a stiff challenge to future US and PRC leaders. Beijing clearly aims to ease out the United States as a strategic player in the western Pacific. In the short term, the PRC expects Washington to extract itself from the Taiwan issue (by phasing out arms sales) and from the South China Sea issue. China’s long-term vision for East Asia has no room for US bases or alliances.¶ Selective Global Citizenship¶ On global security issues outside China’s perceived sphere of influence, cooperation between the country and other major powers is potentially easier because the sense of a proprietary Chinese interest is weaker. China, however, only conditionally supports international norms. In the Chinese view, these norms and most of modern international law reflect a relatively recent and anomalous period of Western global dominance. Thus the Chinese are not intrinsically supportive of Western norms and law. Beijing tends to fall in line when it faces a united international consensus to avoid attracting negative attention as an outlier. The Chinese often appeal to widely accepted international laws and principles that bear on international security, but in a selective way in support of specific Chinese policies. As China’s interests become more global and less parochial, Beijing has a greater interest in maintaining stability in far-flung parts of the world. Chinese leaders may therefore take a more managerial view of global affairs and see wisdom in more closely aligning Chinese policy with an evolving set of internationally negotiated rules of international affairs. On the other hand, with continued relative growth the Chinese will be in a stronger position to assert alternative principles to justify actions that suit narrow PRC interests.¶ For the foreseeable future, **Beijing’s objectives will clash with** important **security**-related **norms upheld by** most of the **other** major **powers**. The PRC’s support for multinational efforts to curtail the proliferation of nuclear weapons and ballistic missiles has improved since the 1980s, but the process has been slow and halting. China’s unannounced destruction in 2007 of one of its satellites in orbit, which created a debris field that will imperil other countries’ space equipment for years, was disturbing. China is the source of a massive and well-organized computer hacking campaign against the United States and other countries that attempts not only to steal their industrial secrets but also to compromise their security. [8] Claims of noninvolvement in this outlaw activity by the PRC government have become difficult to take seriously.¶ The Beijing government is highly fearful of attempts by the Western governments (especially the United States) to overthrow Chinese Communist Party rule. This has led to the PRC’s “non-intervention” doctrine, which continues to conflict with the UN-recognized “responsibility to protect.” Beijing often shelters and supports authoritarian regimes, which impedes the global promotion of good governance, civil liberties, and social justice. Lack of progress in these areas contributes to conditions in which terrorist organizations can flourish. ¶ When the major Western countries try to employ sanctions against misbehaving countries with which China has valuable economic and political partnerships, China tends to resist, putting forward the principle that sanctions are unjust and ineffective. [9] Yet Beijing has on several occasions implemented or threatened sanctions against countries that tread on narrow Chinese interests. China’s overall record demonstrates at best selective defense of global security norms. A stronger China is more capable of undermining international efforts to discipline outlaw regimes in cases where the perceived value of a bilateral relationship outweighs Beijing’s sense of international citizenship.¶ Not-So-Pacific Century?¶ If China’s preferences were fulfilled, countries in the region would defer to China on all major international issues. Based on recent positions taken by Beijing, the PRC’s objectives clearly include gaining rule-setting authority over the Yellow Sea, the East China Sea, and the South China Sea; victory for the PRC in all of its claims to disputed territory; greatly reduced security cooperation between the region and the United States, including the elimination of US bases and the “Cold War era” US alliances with Asia Pacific countries; the end of Western efforts to promote democratization in Asia; absorption of Taiwan into the PRC; a militarily weak Japan that accommodates Beijing; and the continued survival of the North Korean government along with deepening economic integration between North Korea and China’s northeastern provinces. These form China’s maximum objectives. ¶ Short of achieving the entirety of these objectives, China’s people can certainly achieve a reasonable amount of security and prosperity while playing within the current international rules or by peacefully seeking to adjust those rules. None of the Asia Pacific governments actively opposes China becoming wealthy or addressing legitimate Chinese security concerns. In striving to realize all of their preferences, however, the Chinese would reduce the security and prosperity of other countries in the region. The question is whether the Chinese can settle for getting much but not all of what they want. Unfortunately, Chinese impatience with aspects of the status quo they dislike can be expected to increase, driven by nationalistic elite groups (led by the People’s Liberation Army) and vociferous segments of PRC public opinion. The current situation features strong cushioning against conflict: China benefits handsomely from peaceful engagement within the current system, while the promise of coordinated international resistance led by the superpower United States helps deter Chinese behavior that other states would consider threatening.¶ Two major concerns emerge. The first is China’s willfulness within the sphere of influence to which the Chinese believe they are entitled. What the Chinese may see as their backyard is other countries’ front yards. Yet persuading the PRC to climb down from contentious positions it has taken on some strategic issues in the near abroad will be difficult. One reason is the expectation that China’s material strength will continue to grow relative to other states in the region. The Chinese have cause to believe their economic and political importance will eventually become so overwhelming as to force regional governments to submit to Chinese preferences.¶ Another reason for China to resist compromising its maximum objectives is that the leadership in Beijing fears the wrath of nationalistic public opinion at home. Understandably, the legitimacy-hungry CCP has tried to gain credit among the Chinese people for establishing China’s international status as a great power. This mood of national triumphalism, however, has the unintended effect of intensifying domestic pressure on the government to stand up to foreign governments in defense of China’s interests. In contrast to the recent past, much of the Chinese public closely follows developments in international affairs and is immediately aware of acts by the Chinese government that Chinese nationalists would consider overly submissive. [10] Generally, the effect of **these** domestic nationalistic **forces** is to **push the Chinese government toward more confrontational foreign policies**. Mobilized public opinion sometimes forces Beijing’s top leadership to take tough actions opposed by the Ministry of Foreign Affairs, requiring subsequent damage control by Chinese diplomats. China’s diplomatic partners must understand that nationalistic domestic forces constrain decision making by the top level of PRC leadership.

#### US will use norms to challenge Chinese power, even if they’re unrelated

**Foot and Walter ’13** [Rosemary Foot, Professor of International Relations, and the John Swire Senior Research Fellow at St Antony's College, Oxford University, Andrew Walter, Reader in International Political Economy at the London School of Economics and Political Science, “Global norms and major ¶ state behaviour: The cases of ¶ China and the United States,” http://ejt.sagepub.com.go.libproxy.wfubmc.edu/content/19/2/329.full.pdf]

What are the implications of our argument for the relationship between major states and ¶ global order and for the role of norms in international society? We do not accept that ¶ global norms and their associated rules and standards are infinitely malleable. They can be difficult for any single actor to change or dislodge, which creates an element of inertia in the global order and a perceived need for states to justify departures from them.¶ However, as we have shown, global norms are not sufficient causes of behavioural ¶ outcomes for major countries — rather, in matters of high domestic social and political ¶ salience, it is the degree of fit between such norms and dominant domestic norms that is ¶ crucial. Although global norms are thus often not fully constraining for major states, they ¶ nevertheless often try to justify their behaviour — not least to domestic audiences — by ¶ appealing to global norms. When they diverge from these norms, they often cast doubt on ¶ the legitimacy of global normative frameworks.¶ Global norms thus remain an inescapable and important part of the decision-making ¶ environment of governments. This is partly because domestic salience is always a matter of degree rather than a simple binary condition, and because salience can be increased by ¶ political action and sometimes by events outside the control of actors. Even for powerful ¶ states such as China and the United States, norms often serve as benchmarks or as framing ¶ devices around which domestic and international debate, interactions and negotiations revolve. States can and do use norms strategically and for purposes for which they were not directly designed — for example, to enhance social status and international image or to rebuke the behaviour of others and to cast doubt on the legitimacy of their words or ¶ deeds. But they are much more than tactically useful weapons for political elites. The fact ¶ that states see value in using norms for ostensibly unintended purposes suggests that they ¶ have vital social significance in the global system and in domestic politics.

### Zero-sum

#### Dynon says that strong US credibility directly hurts China’s ability to leverage soft power– it’s a question of competing narratives, and the US version portrays China as a threat, hurting their global efforts

#### Influence is zero-sum

**Shengjun 12-1**-13 [Zhang, professor at the School of Government, Beijing Normal University, “Zero-sum thinking an inevitable aspect of modern diplomacy,” <http://www.globaltimes.cn/content/828984.shtml#.UrUAqtJDuMU>]

China has been reiterating its resolution to adhere to the path of peaceful development and win-win, open diplomacy in recent years, pushing back against groundless claims of a "China threat." However, the framework of peaceful development is not omnipotent and win-win strategies cannot solve all international issues. Refusing to consider zero-sum issues, or dealing with international affairs by using one fixed mindset, cannot lead to balanced diplomacy.¶ In fact, zero-sum thinking is closer to the true nature of modern diplomacy. Modern diplomacy is derived from the political strife between the secular power and the Pope's theocracy in medieval Europe. Without zero-sum conflicts, there wouldn't be progress. ¶ In other words, it is hard to understand the birth and evolution of modern diplomacy without thinking in zero-sum terms, and it is also impossible to grasp the essence of modern diplomacy, such as the policy of "an eye for an eye."¶ Although globalization is a reality of the modern world, **zero-sum games** are not declining; on the contrary, they **are gaining momentum** along with more international exchanges taking place. Zero-sum thinking is becoming even more applicable than before. **China is no exception** from this tendency. Thus, even if a nation is carrying forward a peaceful development philosophy, this does not mean it can ignore or even abandon zero-sum thinking.¶ However, it should be noted that zero-sum thinking is different from the Cold War mentality. That outdated philosophy, bred by the tit-for-tat ideological confrontation between the US and former Soviet Union, goes against the trend of the times and needs to be abandoned. ¶ The Cold War mentality, the "flower of evil," is the extreme result of zero-sum thinking, but rejecting the Cold War mentality does not mean abandoning zero-sum thinking.¶ Putting an emphasis on zero-sum thinking actually complies with the objective law of international affairs, which can be categorized into three aspects. First, there are non-zero-sum games, such as international trade and economic cooperation, on the basis of economic structural complementarities. Second, there are zero-sum games, such as those involving resources and territorial disputes. Third is the combination of non-zero-sum games and zero-sum games, such as international negotiations over climate change. Thus, zero-sum games are showing their regular presence in international affairs. Competition and confrontation are basic forms of international relations, so adopting zero-sum thinking to deal with these issues is a logical step.¶ Zero-sum thinking will be conducive to China projecting a distinctive image on the international community and enhancing its influence and leadership in regional and global affairs. ¶ This philosophy can enable a nation to keep pace as a proactive stakeholder in international issues, and also maintain its decisiveness in making important strategic choices. ¶ If China wants to take more international responsibilities and play a role of leadership, zero-sum thinking will surely make a difference. Although not as typical, going for more soft power and a bigger say is also a kind of zero-sum game.¶ Zero-sum thinking is not an outdated philosophy, but a normal way of thinking which has taken root in international relations. ¶ Chinese diplomacy should be fully aware that only by integrating win-win strategies with zero-sum thinking, can China meet the challenges imposed by the complicated international environment in a calm manner, especially when the relationship between China and the US is inclining toward being more competitive than cooperative. The world cannot be thought of as a utopia, and ignorance of zero-sum games will cost China significantly. Using necessary zero-sum thinking will give China more confidence in dealing with international issues.

#### Official perception is zero-sum- insiders prove

**Perlez ’12** [Jane, Pulitzer-Prize-winning chief diplomatic correspondent in the Beijing bureau of The New York Times, “Chinese Insider Offers Rare Glimpse of U.S.-China Frictions,” April 2, <http://www.nytimes.com/2012/04/03/world/asia/chinese-insider-offers-rare-glimpse-of-us-china-frictions.html?_r=5&ref=world&>]

The senior leadership of the Chinese government increasingly views the competition between the United States and China as a zero-sum game, with China the likely long-range winner if the American economy and domestic political system continue to stumble, according to an influential Chinese policy analyst. China views the United States as a declining power, but at the same time believes that Washington is trying to fight back to undermine, and even disrupt, the economic and military growth that point to China’s becoming the world’s most powerful country, according to the analyst, Wang Jisi, the co-author of “Addressing U.S.-China Strategic Distrust,” a monograph published this week by the Brookings Institution in Washington and the Institute for International and Strategic Studies at Peking University.¶ Mr. Wang, who has an insider’s view of Chinese foreign policy from his positions on advisory boards of the Chinese Communist Party and the Ministry of Foreign Affairs, contributed an assessment of Chinese policy toward the United States. Kenneth Lieberthal, the director of the John L. Thornton Center for China Studies at Brookings, and a former member of the National Security Council under President Bill Clinton, wrote the appraisal of Washington’s attitude toward China.¶ In a joint conclusion, the authors say the level of strategic distrust between the two countries has become so corrosive that if not corrected the countries risk becoming open antagonists.¶ The United States is no longer seen as “that awesome, nor is it trustworthy, and its example to the world and admonitions to China should therefore be much discounted,” Mr. Wang writes of the general view of China’s leadership.¶ In contrast, China has mounting self-confidence in its own economic and military strides, particularly the closing power gap since the start of the Iraq war. In 2003, he argues, America’s gross domestic product was eight times as large as China’s, but today it is less than three times larger.¶ The candid writing by Mr. Wang is striking because of his influence and access, in Washington as well as in Beijing. Mr. Wang, who is dean of Peking University’s School of International Studies and a guest professor at the National Defense University of the People’s Liberation Army, has wide access to senior American policy makers, making him an unusual repository of information about the thinking in both countries. Mr. Wang said he did not seek approval from the Chinese government to write the study, nor did he consult the government about it.¶ It is fairly rare for a Chinese analyst who is not part of the strident nationalistic drumbeat to strip away the official talk by both the United States and China about mutual cooperation.¶ Both Mr. Wang and Mr. Lieberthal argue that beneath the surface, both countries see deep dangers and threatening motivations in the policies of the other.¶ Mr. Wang writes that the Chinese leadership, backed by the domestic news media and the education system, believes that China’s turn in the world has arrived, and that it is the United States that is “on the wrong side of history.” The period of “keeping a low profile,” a dictum coined by the Chinese leader Deng Xiaoping in 1989, and continued until now by the departing president, Hu Jintao, is over, Mr. Wang warns.¶ “It is now a question of how many years, rather than how many decades, before China replaces the United States as the largest economy in the world,” he adds.¶ China’s financial successes, starting with weathering the 1998 Asian financial crisis and the 2008 global financial crisis, the execution of events like the Beijing Olympics in 2008 and the Shanghai Expo in 2010, contrast with America’s “alarming” deficit, sluggish economic recovery and polarized domestic politics, Mr. Wang says.¶ He does not address head on the far superior strength of the United States in military weaponry. But he notes that Beijing has developed advanced rocketry and space technology and sophisticated weapons systems without the “United States or the U.S.-led world order.”¶ In the face of China’s strengths, and worries that the United States will be displaced from its premier position in the world, Washington is engaged in activities including stepped-up spying by American planes and ships along China’s borders that anger the Chinese, particularly its military, Mr. Wang writes.¶ Promotion of human rights in China by American-supported nongovernmental organizations is viewed as an effort to “Westernize” the country and undermine the Communist Party, a stance the party will not stand for, he says.¶ That China is increasingly confident that it will prevail in the long run against the United States is backed, in part, by Mr. Lieberthal’s appraisal of American policy toward China.¶ Mr. Lieberthal cites findings from American intelligence based on internal discussions among crucial Chinese officials that these officials assume “very much a zero-sum approach” when discussing issues directly and indirectly related to United States-China relations.

#### Yes zero-sum

**Mearsheimer 11-6**-13 [John, PhD, professor of Political Science at the University of Chicago, faculty member in the Committee on International Relations graduate program, and is the co-director of the Program on International Security Policy, “‘Peaceful rise’ will meet US containment,” <http://www.globaltimes.cn/content/823045.shtml#.Ury2k9JDsyB>]

Mearsheimer: I think that from President Xi's perspective - and I think it would be true for any US president as well - the ideal situation would be a win-win situation. There is no question about that. But the fact is there is no win-win situation. International politics among great powers is basically a zero sum game. When one side wins, the other side loses.¶ The US is now by far the most powerful state on the planet, and it is also the most powerful state in East Asia. But as China rises and becomes increasingly powerful, it will want to dominate Asia the way the US dominates the Western hemisphere. The US of course will go to great lengths to prevent China from dominating Asia. In other words, there will be an intense security competition between the two countries.¶ GT: There seems to be increasingly louder voices from Chinese experts that China should adjust its low-profile strategy. Do you agree?¶ Mearsheimer: I believe the smartest strategy for China is to maintain a low-profile approach to international politics and to have a very soft, very light touch when dealing with its neighbors and any crisis that might arise. It's not in China's interest at this point to pursue a hard-nosed foreign policy. And the reason I say this is that I believe that time is on China's side. It becomes more and more powerful with the passage of time. So what China should do is to wait until it is much more powerful than it is now, and then become more assertive, because it is much more likely to get its way in the future when it is more powerful relative to its neighbors as well as the US. So keeping a low profile in the near future is the smartest strategy for China.

#### Soft power is zero-sum with China

**Xuetong ’11** [Yan, Dean of the Institute of Modern International Relations at Tsinghua University and the Chief Editor of The Chinese Journal of International Politics, “How China Can Defeat America,” November 20, <http://www.nytimes.com/2011/11/21/opinion/how-china-can-defeat-america.html?_r=2&pagewanted=all&>]

OVER the next decade, China’s new leaders will be drawn from a generation that experienced the hardships of the Cultural Revolution. They are resolute and will most likely value political principles more than material benefits. These leaders must play a larger role on the world stage and offer more security protection and economic support to less powerful countries.¶ This will mean competing with the United States politically, economically and technologically. Such competition may cause diplomatic tensions, but there is little danger of military clashes.¶ That’s because future Chinese-American competition will differ from that between the United States and the Soviet Union during the cold war. Neither China nor America needs proxy wars to protect its strategic interests or to gain access to natural resources and technology.¶ China’s quest to enhance its world leadership status and America’s effort to maintain its present position is a zero-sum game. It is the battle for people’s hearts and minds that will determine who eventually prevails. And, as China’s ancient philosophers predicted, the country that displays more humane authority will win.

**Consensus of scientists agree warming is caused by humans and the IPCC was conservative**

**McKibben, 2009** (Bill, scholar in residence at Middlebury College, “Think Again: Climate Change,” Foreign Policy, January 1, ()

<http://www.foreignpolicy.com/articles/2009/01/05/think_again_climate_change>)

No, they're not. In the early years of the global warming debate, there was great controversy over whether the planet was warming, whether humans were the cause, and whether it would be a significant problem. That debate is long since **over**. Although the details of future forecasts remain unclear, there’s no serious question about the general shape of what's to come. **Every** national academy of science, **long lists** of Nobel laureates, and in recent years even the science advisors of President George W. Bush have agreed that we are heating the planet. Indeed, there is a more thorough scientific process here than on almost any other issue: Two decades ago, the United Nations formed the Intergovernmental Panel on Climate Change (IPCC) and charged its scientists with synthesizing the peer-reviewed science and developing broad-based conclusions. The reports have found since 1995 that warming is dangerous and caused by humans. The panel's most recent report, in November 2007, found it is "very likely" (defined as **more than 90 percent certain**, or about as certain as science gets) that heat-trapping emissions from human activities have caused "most of the observed increase in global average temperatures since the mid-20th century." If anything, many scientists now think that the IPCC has been **too conservative** -- both because member countries must sign off on the conclusions and because there’s a time lag. Its last report synthesized data from the early part of the decade, not the latest scary results, such as what we're now seeing in the Arctic.

**Massive consensus for anthropogenic warming**

**C2ES 11** (Center for Climate and Energy Solutions - successor to the Pew Center on Global Climate Change, and recently named the world’s top environmental think tank, "Science FAQs," <http://www.c2es.org/global-warming-basics/faq_s/glance_faq_science.cfm>)

Are scientists in agreement about the reality and cause of climate change? A recent [poll](http://tigger.uic.edu/%7Epdoran/012009_Doran_final.pdf) of Earth scientists found that, regardless of their specialty, 82 percent of agreed that the climate is warming and that human activities are contributing to this trend. When specialties are considered, **97 percent** of scientists who specifically study climate system agree that recent warming is real and is almost certainly caused by human activities. Uncertainty remains about how particular aspects of climate change will play out in the future, such as changes in cloud cover or the timing or magnitude of droughts and floods. These **do not reflect uncertainty** about the **basic fact** that the climate is changing or that human activities are the primary cause. [Top](http://www.c2es.org/global-warming-basics/faq_s/glance_faq_science.cfm#Top) How do scientists project the climate of the future and how reliable are their projections? Projections of future changes in climate are typically based on three sources of information:

Knowledge of historical climate variability and change

Scientific understanding of the climate system

Computer models of the climate system that generate projections of future climate based upon a number of variables

Of these three, climate models have received considerable attention. A number of different models exist and each represents the climate in a different way, resulting in large differences among models in projections of future climate change. A mfaore useful way to think about climate models is not as a specific prediction, but rather as a range of possible futures. Most of the current models do a reasonable job of simulating past climate variability on time scales of decades to centuries, but such models are not designed to predict short-term climate variability (days-years) and weather. (Weather forecasters use a different kind of model that can predict the weather but it not designed to project beyond 10 days.) Much of the uncertainty in future projections is due to the assumptions used regarding future trends in greenhouse gas emissions, which is a question of human behavior, not climate science.

**Warming is real and anthropogenic**

**C2ES 11** (Center for Climate and Energy Solutions - successor to the Pew Center on Global Climate Change, and recently named the world’s top environmental think tank, "Science FAQs," <http://www.c2es.org/global-warming-basics/faq_s/glance_faq_science.cfm>)

A more detailed, state-of-the-art attribution of various climate trends is possible using optimal fingerprinting approaches that match individual forcings (for example, greenhouse gases, solar intensity or airborne particles) to observed climate change patterns using global climate models. This technique has detected **human-induced trends** in a wide variety of climate variables including land surface warming, vertical warming of the oceans, loss of Arctic sea ice cover, and changes in precipitation patterns at different latitudes on the Earth. Observations of global land and ocean surface warming and warming of all continents except Antarctica show that **no combination** of forcings that excludes **manmade greenhouse gases** can explain the warming trend of the past half-century (see figure). How do we know greenhouse gases are increasing because of human activity? Some greenhouse gases (GHG), such as **industrial halocarbons, are only made by humans**, and thus their presence in the atmosphere can only be explained by human activity. For naturally occurring GHG, several independent lines of evidence make it **crystal clear** that they are increasing because of **human activities**: First, CO2, methane, and nitrous oxide concentrations were stable for thousands of years. **Suddenly**, they began to rise like a rocket around 200 years ago, about the time that humans began to engage in very large-scale agriculture and industry (see figure). Second, scientists and economists have developed estimates of all the natural and human GHG sources. When they add them up, **only** the human contributions are increasing. In fact, the amount of human-made GHG in the budget are more than enough to explain the rise in concentrations, which means that natural processes are absorbing the excess amount, keeping GHG concentrations from rising even more. For CO2, the most important human-produced GHG, scientists can tell from chemical measurements of the atmosphere that the additional CO2 is from: **combustion** (i.e. burning fossil fuels) because the amount of oxygen in the atmosphere is decreasing in **direct proportion** to the rise in CO2; a prehistoric (fossil) source because the amount of radioactive carbon in the atmosphere has been decreasing over the past century; from plants (i.e. ancient trees that became coal and oil) rather than a geological source (i.e. volcanoes). Together, all of these independent lines of evidence leave no doubt that GHG concentrations are increasing because of human activities.

**Adaptation isn’t sufficient – reducing emissions key**

**C2ES 11** (Center for Climate and Energy Solutions - successor to the Pew Center on Global Climate Change, and recently named the world’s top environmental think tank, "Science FAQs," <http://www.c2es.org/global-warming-basics/faq_s/glance_faq_science.cfm>)

However, different regions and sectors will differ in their ability to adapt. Natural ecosystems have inherent, but **limited capability** to adapt to climate change, which is further impeded by other human impacts to the environment such as development and habitat fragmentation. Even human societies, particularly developing countries, have **limited** resources to respond to the challenge of climate change. Poor countries and poor populations within rich countries will be disproportionately impacted by climate change because of their limited resources for adaptation. Some climate related impacts are difficult to adapt to. For example, extreme weather events, such as storms and floods, are **not easily ameliorated** by adaptation measures. By investing in the reduction of greenhouse gases, it will offset necessary investments in adaptation in addition to protecting against those adverse effects of climate change for which adaptation is particularly difficult. It is **clear** that responding to climate change requires **both** mitigation of greenhouse gases and adaptation to unavoidable change.

**Uncertainty and limitation on tech prevent short-term adaptation**

**Stern ’06** (Sir Nicholas Stern, Head of the Government Economic Service and Adviser to the Government on the economics of climate change and development) “Stern Review Report on the Economics of Climate Change” <http://webarchive.nationalarchives.gov.uk/+/http://www.hm-treasury.gov.uk/media/C/2/Chapter_18_Understanding_the_Economics_of_Adaptation.pdf>)

An inherent difficulty for long-term adaptation decisions is uncertainty, due to limitations in our scientific knowledge of a highly complex climate system and the likely impacts of perturbing it. Even as scientific understanding improves, there will always remain some residual uncertainty, as the size of impacts also depend on global efforts to control greenhouse gas emissions. Effective adaptation will involve decisions that are robust to a range of plausible climate futures and are flexible so they can be modified relatively easily. But there will always be a cost to hedging bets in this way, compared to the expert ‘optimal’ adaptation strategy that is revealed only with the benefit of hindsight. There are clear limits to adaptation in natural ecosystems. Even small changes in climate may be disruptive for some ecosystems (e.g. coral reefs, mangrove swamps) and will be exacerbated by existing stresses, such as pollution. Beyond certain thresholds, natural systems may be unable to adapt at all, such as mountainous habitats where the species have nowhere to migrate. But even for human society, there are technical limits to the ability to adapt to abrupt and large-scale climate change, such as a rapid onset of monsoonn failure in parts of South Asia. Sudden or severe impacts triggered by warming could test the adaptive limits of human systems. Very high temperatures alone could become lethal, while lack of water will undermine people’s ability to survive in a particular area, such as regions that depend on glacier meltwater. Rising sea levels will severely challenge the survival of low-lying countries and regions such as the Maldives or the Pacific Islands, and could result in the abandonment of some highly populated coastal regions, including several European cities.

**Climate change causes war – 5 reasons.**

**Pauchari 07** [R.K., IPCC chairman, December 10, p. 4, http://www.ipcc.ch/]

Peace can be defined as security and the secure access to resources that are essential for living. A disruption in such access could prove disruptive of peace. In this regard, climate change will have several implications, as numerous adverse impacts are expected for some populations in terms of: - access to clean water, - access to sufficient food, - stable health conditions, - ecosystem resources, - security of settlements.

**Accesses their impact – warming is a conflict multiplier – makes their impacts worse**

**Knickerbocker 7** (Brad, Staff writer at the Christian Science Monitor, Apr 19, http://www.csmonitor.com/2007/0419/p02s01-usgn.html , *Christian Science Monitor*)

For years, the debate over global warming has focused on the three big "E's": environment, energy, and economic impact. This week it officially entered the realm of national security threats and avoiding wars as well. A platoon of retired US generals and admirals warned that global warming "presents significant national security challenges to the United States." The United Nations Security Council held its first ever debate on the impact of climate change on conflicts. And in Congress, a bipartisan bill would require a National Intelligence Estimate by all federal intelligence agencies to assess the security threats posed by global climate change. Many experts view climate change as a "threat multiplier" that intensifies instability around the world by worsening water shortages, food insecurity, disease, and flooding that lead to forced migration. That's the thrust of a 35-page report (PDF) by 11 admirals and generals this week issued by the Alexandria, Va.-based national security think tank The CNA Corporation. The study, titled National Security and the Threat of Climate Change, predicts: "Projected climate change will seriously exacerbate already marginal living standards in many Asian, African, and Middle Eastern nations, causing widespread political instability and the likelihood of failed states.... The chaos that results can be an incubator of civil strife, genocide, and the growth of terrorism. "The U.S. may be drawn more frequently into these situations, either alone or with allies, to help provide stability before conditions worsen and are exploited by extremists. The U.S. may also be called upon to undertake stability and reconstruction efforts once a conflict has begun, to avert further disaster and reconstitute a stable environment." "We will pay for this one way or another," retired Marine Gen. Anthony Zinni, former commander of American forces in the Middle East and one of the report's authors, told the Los Angeles Times. "We will pay to reduce greenhouse gas emissions today … or we'll pay the price later in military terms. And that will involve human lives." As quoted in the Associated Press, British Foreign Secretary Margaret Beckett, who presided over the UN meeting in New York April 17, posed the question "What makes wars start?" The answer: "Fights over water. Changing patterns of rainfall. Fights over food production, land use. There are few greater potential threats to our economies ... but also to peace and security itself." This is the concern behind a recently introduced bipartisan bill by Sens. Richard Durbin (D) of Illinois and Chuck Hagel (R) of Nebraska. It would require all US intelligence agencies – the CIA, the NSA, the Pentagon, and the FBI – to conduct a comprehensive review of potential security threats related to climate change around the world.

# 2nc Adv 2

## no china cyber

#### Interdependence is amplified in cyber war—the potential impacts prevent any potential conflict

Austin and Gady 2012(Greg, professorial fellow at the EastWest Institute and senior visiting fellow in the department of War Studies at King’s College London, and Franz-Stefan, associate and foreign policy analyst at the EastWest Institute, "Cyber Detente Between the united States and China: Shaping the Agenda", http://www.ewi.info/system/files/detente.pdf)

China and the United States do have a com-plementary interest in cooperating on many aspects of cybersecurity. The most significant argument to support a claim for cooperation in China’s international behavior in cyberspace is mutual dependence among the major economic powers (including China, the United States, Japan and the European Union) in the economic sphere, in a situation where trillions of dollars of transactions occur through networked digital communications each day. In speaking of the U.S.’s economic reliance on digital networks and systems, former Director of National Intelligence Mike McConnell observed in 2010: “The United States economy is $14 trillion a year. Two banks in New York City move $7 trillion a day. On a good day, they do eight trillion... All of those transactions are massive reconciliation and accounting. If those who wish us ill, if someone with a different world view was successful in attacking that information and destroying the data, it could have a devastating impact, not only on the nation, but the globe.” 31 The cost to global economic stability would likely be very high if there were a major confrontation between China and the United States. Sustained or repeated interruptions in connectivity, corruption of transaction data, or deletion of commercial records on a large scale could have major negative repercus-sions for the global economy. Whether confidence after such attacks could be restored remains an open question. These costs would be so high that they should at least dampen if not fully deter states from resorting to cyber war. Cyberspace only amplifies traditional interdependence in trade.

#### No US-China cyber war and no impact

Sanders 7/6 (Doug Sanders, author and journalist, “Our Computers Are Not Going to Kill Us: Cyber War is Military Fiction,” http://dougsaunders.net/2013/07/our-computers-are-not-going-to-kill-us-cyber-war-is-military-fiction/)

We tend to believe them. To those of us who grew up in the early decades of the Internet, reading William Gibson and watching Tron, the idea of a distinct and tangible “cyberspace,” as Mr. Gibson coined it, seems believable. If war is hell in meatspace, then imagine what it will be like when it moves into the online world, where all our communications and private data are stored, where the machines that control our entire lives can be hacked. If the Internet is everywhere, wouldn’t a cyberwar be a total war?¶ Once we started believing this, the whole world seemed to confirm it. An online virus was used by Israel and the United States to disable a uranium-enrichment facility in Iran. China uses a facility to steal data from the West. France, Britain and the United States, as we’ve recently learned, are mass-harvesting the online communications and phone calls of foreigners (and possibly their own citizens), and the man who revealed this, Edward Snowden, is in the midst of a globe-trotting flight across the settings of vintage James Bond movies. If this is what cyber cold war looks like, how horrid would real cyberwars be?¶ We can imagine them, and make movies about them, but the reality is far more mundane and less threatening.¶ That’s the conclusion made by Thomas Rid, an expert on cybersecurity and intelligence at the department of war studies at London’s King’s College. His forthcoming book’s straight-up title, Cyber War Will Not Take Place, is a call for sanity: There is no distinct “online world,” and the many forms of online crime and mischief are not a threat to our existence or our civilization.¶ “Cyber war has never happened in the past, it does not occur in the present, and it is highly unlikely that it will disturb our future,” Mr. Rid writes.¶ Instead, he says, “the opposite is taking place: a computer-enabled assault on violence itself. All past and present political cyberattacks – in contrast to computer crime – are sophisticated versions of three activities that are as old as human conflict itself: sabotage, espionage and subversion … In several ways, cyberattacks are not creating more vectors of violent interaction; rather, they are making previously violent interactions less violent.”¶ People who understand distributed systems and networks realize this: It may be possible, if hundreds of people work on the problem for years, to damage a single centrifuge facility using a virus – but still only if there’s also a human sabotage agent placed on site. To destroy or disable an entire country’s or region’s infrastructure using lines of code or electromagnetic pulses would be impossible – or, at least, given the need for human agents at each target, it would be the same as using bombs to do so (and bombs would be quicker and easier).

## No us-china war

#### China rise peaceful

Rosecrance et al ‘10 (Richard, Political Science Professor @ Cal and Senior Fellow @ Harvard’s Belfer Center and Former Director @ Burkle Center of IR @ UCLA, and Jia Qingguo, PhD Cornell, Professor and Associate Dean of School of International Studies @ Peking University, “Delicately Poised: Are China and the US Heading for Conflict?” Global Asia 4.4, <http://www.globalasia.org/l.php?c=e251>, April 4, 2010)

Will China and the US Go to War? If one accepts the previous analysis, the answer is “no,” or at least not likely. Why? First, despite its revolutionary past, China has gradually accepted the US-led world order and become a status quo power. It has joined most of the important inter-governmental international organizations. It has subscribed to most of the important international laws and regimes. It has not only accepted the current world order, it has become a strong supporter and defender of it. China has repeatedly argued that the authority of the United Nations and international law should be respected in the handling of international security crises. China has become an ardent advocate of multilateralism in managing international problems. And China has repeatedly defended the principle of free trade in the global effort to fight the current economic crisis, despite efforts by some countries, including the US, to resort to protectionism. To be sure, there are some aspects of the US world order that China does not like and wants to reform. However, it wishes to improve that world order rather than to destroy it. Second, China has clearly rejected the option of territorial expansion. It argues that territorial expansion is both immoral and counterproductive: immoral because it is imperialistic and counterproductive because it does not advance one’s interests. China’s behavior shows that instead of trying to expand its territories, it has been trying to settle its border disputes through negotiation. Through persistent efforts, China has concluded quite a number of border agreements in recent years. As a result, most of its land borders are now clearly drawn and marked under agreements with its neighbors. In addition, China is engaging in negotiations to resolve its remaining border disputes and making arrangements for peaceful settlement of disputed islands and territorial waters. Finally, even on the question of Taiwan, which China believes is an indisputable part of its territory, it has adopted a policy of peaceful reunification. A country that handles territorial issues in such a manner is by no means expansionist. Third, China has relied on trade and investment for national welfare and prestige, instead of military conquest. And like the US, Japan and Germany, China has been very successful in this regard. In fact, so successful that it really sees no other option than to continue on this path to prosperity. Finally, after years of reforms, China increasingly finds itself sharing certain basic values with the US, such as a commitment to the free market, rule of law, human rights and democracy. Of course, there are still significant differences in terms of how China understands and practices these values. However, at a conceptual level, Beijing agrees that these are good values that it should strive to realize in practice. A Different World It is also important to note that certain changes in international relations since the end of World War II have made the peaceful rise of a great power more likely. To begin with, the emergence of nuclear weapons has drastically reduced the usefulness of war as a way to settle great power rivalry. By now, all great powers either have nuclear weapons or are under a nuclear umbrella. If the objective of great power rivalry is to enhance one’s interests or prestige, the sheer destructiveness of nuclear weapons means that these goals can no longer be achieved through military confrontation. Under these circumstances, countries have to find other ways to accommodate each other — something that China and the US have been doing and are likely to continue to do. Also, globalization has made it easier for great powers to increase their national welfare and prestige through international trade and investment rather than territorial expansion. In conducting its foreign relations, the US relied more on trade and investment than territorial expansion during its rise, while Japan and Germany relied almost exclusively on international trade and investment. China, too, has found that its interests are best served by adopting the same approach. Finally, the development of relative pacifism in the industrialized world, and indeed throughout the world since World War II, has discouraged any country from engaging in territorial expansion. There is less and less popular support for using force to address even legitimate concerns on the part of nation states. Against this background, efforts to engage in territorial expansion are likely to rally international resistance and condemnation. Given all this, is the rise of China likely to lead to territorial expansion and war with the US? The answer is no.

## No taiwan war

**No escalation – China won’t use nuclear weapons**

**Pike ’4** (John, Global Security, China’s Options in the Taiwan Confrontation, http://www.globalsecurity.org/military/ops/taiwan-prc.htm)

China would almost certainly not contemplate a nuclear strike against Taiwan, nor would Beijing embark on a course of action that posed significant risks of the use of nuclear weapons. The mainland's long term goal is to liberate Taiwan, not to obliterate it, and any use of nuclear weapons by China would run a substantial risk of the use of nuclear weapons by the United States. An inability to control escalation beyond "demonstrative" detonations would cause utterly disproportionate destruction.

# 2nc Adv 1

## 2nc no cyber attacks

#### Extend valeriano evidence

#### No risk of cyber terror and if it does happen the impact is negligible

#### No cyberterror

– empirics, hollow threats, no capabilities, no motive, disincentives, and focus on other strategies

Healey ‘11 Director of the Cyber Statecraft Initiative at the Atlantic Council of the United States (Jason, “Cyberterror is Aspirational Blather,” <http://www.acus.org/new_atlanticist/cyberterror-aspirational-blather>, October 3, 2011)

The Atlantic Council’s Cyber Statecraft Initiative recently hosted a conference call to discuss the terrorist use of the Internet and how it has evolved in the ten years since 9/11. The call featured Matt Devost of FusionX, Neal Pollard of PriceWaterhouseCooper and Rick Howard of VeriSign/iDefense – who have been tracking this and many other online threats for years. While this conversation was off the record, this blog attempts to capture the spirit. Terms such as “cyber 9/11” and “cyber terrorism” have been used frequently to describe the security threats posed by terrorists online. Cyber technologies, like any other, enable terrorist groups to do their terrorizing more effectively and efficiently. In the past few years it is increasingly common for them to use the Internet for propaganda, fundraising, general support, and convergence. Videos and anonymous discussion forums allow for the dissemination of training information and the call to arms for more individuals to participate and join groups. Importantly, the panelists agreed that these groups have not yet used cyber attack capabilities in any significant way to cause casualties or actually terrorize anyone. While Ibrahim Samudra or Irahabi 007 hacked to raise funds through credit-card fraud, this is a traditional support activity, not “cyber terror”. The US government was a relatively early advocate of a strict definition of cyber terrorism, as nearly a decade ago they were calling it as “a criminal act perpetrated through computers resulting in violence, death and/or destruction, and creating terror for the purpose of coercing a government to change its policies.” Not defacing a webpage, not flooding a website (even of the South Korean president) and not stealing credit card information. Some terrorists groups may talk about waging an e-Jihad, but such talk remains, for now, aspirational blather. For decades, the rule of thumb for intelligence analysts has been that adversaries with motives for damaging cyber attacks do not have the capabilities, while those with the capabilities do not yet have the motives. A large-scale cyber attacks is more difficult than is generally believed and few adversaries have both the motive and capability. Additionally, terrorist groups have many disincentives for pursing cyber capabilities. For example, their leadership tends to be conservative and they tend to stick with what they know will work – suicide bombers, road-side bombs, and kinetic assaults. These actually kill and terrorize people which, as yet, no cyber attack has accomplished. The Congressional Research Service summed this up as “lower risk, but less drama.”

#### No tech

Rid ‘12 (Thomas, PhD, Reader in War Studies @ King's College London, Non-Resident Fellow at the Center for Transatlantic Relations in the School for Advanced International Studies at Johns Hopkins, "Think Again: Cyberwar," Foreign Policy, http://www.foreignpolicy.com/articles/2012/02/27/cyberwar?page=0,0, March/April 2012)

"Cyberattacks Are Becoming Easier." Just the opposite. U.S. Director of National Intelligence James R. Clapper warned last year that the volume of malicious software on American networks had more than tripled since 2009 and that more than 60,000 pieces of malware are now discovered every day. The United States, he said, is undergoing "a phenomenon known as 'convergence,' which amplifies the opportunity for disruptive cyberattacks, including against physical infrastructures." ("Digital convergence" is a snazzy term for a simple thing: more and more devices able to talk to each other, and formerly separate industries and activities able to work together.) Just because there's more malware, however, doesn't mean that attacks are becoming easier. In fact, potentially damaging or life-threatening cyberattacks should be more difficult to pull off. Why? Sensitive systems generally have built-in redundancy and safety systems, meaning an attacker's likely objective will not be to shut down a system, since merely forcing the shutdown of one control system, say a power plant, could trigger a backup and cause operators to start looking for the bug. To work as an effective weapon, malware would have to influence an active process -- but not bring it to a screeching halt. If the malicious activity extends over a lengthy period, it has to remain stealthy. That's a more difficult trick than hitting the virtual off-button. Take Stuxnet, the worm that sabotaged Iran's nuclear program in 2010. It didn't just crudely shut down the centrifuges at the Natanz nuclear facility; rather, the worm subtly manipulated the system. Stuxnet stealthily infiltrated the plant's networks, then hopped onto the protected control systems, intercepted input values from sensors, recorded these data, and then provided the legitimate controller code with pre-recorded fake input signals, according to researchers who have studied the worm. Its objective was not just to fool operators in a control room, but also to circumvent digital safety and monitoring systems so it could secretly manipulate the actual processes. Building and deploying Stuxnet required extremely detailed intelligence about the systems it was supposed to compromise, and the same will be true for other dangerous cyberweapons. Yes, "convergence," standardization, and sloppy defense of control-systems software could increase the risk of generic attacks, but the same trend has also caused defenses against the most coveted targets to improve steadily and has made reprogramming highly specific installations on legacy systems more complex, not less.

### AT: Cyber Arms Race

#### Uncontrollability of cyber-war is a neg warrant --- means countries won’t use them

Thomas P.M. Barnett 13, special assistant for strategic futures in the U.S. Defense Department's Office of Force Transformation from 2001 to 2003, is chief analyst for Wikistrat, March/April 2013, “Think Again: The Pentagon,” Foreign Policy, http://www.foreignpolicy.com/articles/2013/03/04/the\_pentagon?page=full

As for cyber serving as a stand-alone war-fifighting domain, there you'll find the debates no less theological in their intensity. After serving as senior managing director for half a dozen years at a software firm that specializes in securing supply chains, I'm deeply skeptical. Given the uncontrollable nature of cyberweapons (see: Stuxnet's many permutations), I view them as the 21st century's version of chemical weapons -- nice to have, but hard to use. Another way to look at it is to simply call a spade a spade: Cyberwarfare is nothing more than espionage and sabotage updated for the digital era. Whatever cyberwar turns out to be in the national security realm, it will always be dwarfed by the industrial variants -- think cyberthieves, not cyberwarriors. But you wouldn't know it from the panicky warnings from former Defense Secretary Leon Panetta and the generals about the imminent threat of a "cyber Pearl Harbor."¶ Please remember amid all this frenetic scaremongering that the Pentagon is never more frightened about our collective future than when it's desperately uncertain about its own. Given the rising health-care costs associated with America's aging population and the never-ending dysfunction in Washington, we should expect to be bombarded with frightening scenarios of planetary doom for the next decade or two. None of this bureaucratic chattering will bear any resemblance to global trends, which demonstrate that wars have grown increasingly infrequent, shorter in duration, and diminished in lethality. But you won't hear that from the next-warriors on the Potomac.

#### Zero impact to cyber arms race --- overwhelming consensus of qualified authors goes neg

- No motivation---can’t be used for coercive leverage

- Defenses solve---benefits of offense are overstated

- Too difficult to execute/mistakes in code are inevitable

- AT: Infrastructure attacks

- Military networks are air-gapped/difficult to access

- Overwhelming consensus goes neg

Colin S. Gray 13, Prof. of International Politics and Strategic Studies @ the University of Reading and External Researcher @ the Strategic Studies Institute @ the U.S. Army War College, April, “Making Strategic Sense of Cyber Power: Why the Sky Is Not Falling,” U.S. Army War College Press, <http://www.strategicstudiesinstitute.army.mil/pdffiles/PUB1147.pdf>

CONCLUSIONS AND RECOMMENDATIONS: THE SKY IS NOT FALLING¶ This analysis has sought to explore, identify, and explain the strategic meaning of cyber power. The organizing and thematic question that has shaped and driven the inquiry has been “So what?” Today we all do cyber, but this behavior usually has not been much informed by an understanding that reaches beyond the tactical and technical. I have endeavored to analyze in strategic terms what is on offer from the largely technical and tactical literature on cyber. What can or might be done and how to go about doing it are vitally important bodies of knowledge. But at least as important is understanding what cyber, as a fifth domain of warfare, brings to national security when it is considered strategically. Military history is stocked abundantly with examples of tactical behavior un - guided by any credible semblance of strategy. This inquiry has not been a campaign to reveal what cy ber can and might do; a large literature already exists that claims fairly convincingly to explain “how to . . .” But what does cyber power mean, and how does it fit strategically, if it does? These Conclusions and Rec ommendations offer some understanding of this fifth geography of war in terms that make sense to this strategist, at least. ¶ 1. Cyber can only be an enabler of physical effort. Stand-alone (popularly misnamed as “strategic”) cyber action is inherently grossly limited by its immateriality. The physicality of conflict with cyber’s human participants and mechanical artifacts has not been a passing phase in our species’ strategic history. Cyber action, quite independent of action on land, at sea, in the air, and in orbital space, certainly is possible. But the strategic logic of such behavior, keyed to anticipated success in tactical achievement, is not promising. To date, “What if . . .” speculation about strategic cyber attack usually is either contextually too light, or, more often, contextually unpersuasive. 49 However, this is not a great strategic truth, though it is a judgment advanced with considerable confidence. Although societies could, of course, be hurt by cyber action, it is important not to lose touch with the fact, in Libicki’s apposite words, that “[i]n the absence of physical combat, cyber war cannot lead to the occupation of territory. It is almost inconceivable that a sufficiently vigorous cyber war can overthrow the adversary’s government and replace it with a more pliable one.” 50 In the same way that the concepts of sea war, air war, and space war are fundamentally unsound, so also the idea of cyber war is unpersuasive. ¶ It is not impossible, but then, neither is war conducted only at sea, or in the air, or in space. On the one hand, cyber war may seem more probable than like environmentally independent action at sea or in the air. After all, cyber warfare would be very unlikely to harm human beings directly, let alone damage physically the machines on which they depend. These near-facts (cyber attack might cause socially critical machines to behave in a rogue manner with damaging physical consequences) might seem to ren - der cyber a safer zone of belligerent engagement than would physically violent action in other domains. But most likely there would be serious uncertainties pertaining to the consequences of cyber action, which must include the possibility of escalation into other domains of conflict. Despite popular assertions to the contrary, cyber is not likely to prove a precision weapon anytime soon. 51 In addition, assuming that the political and strategic contexts for cyber war were as serious as surely they would need to be to trigger events warranting plausible labeling as cyber war, the distinctly limited harm likely to follow from cyber assault would hardly appeal as prospectively effective coercive moves. On balance, it is most probable that cyber’s strategic future in war will be as a contribut - ing enabler of effectiveness of physical efforts in the other four geographies of conflict. Speculation about cyber war, defined strictly as hostile action by net - worked computers against networked computers, is hugely unconvincing.¶ 2. Cyber defense is difficult, but should be sufficiently effective. The structural advantages of the offense in cyber conflict are as obvious as they are easy to overstate. Penetration and exploitation, or even attack, would need to be by surprise. It can be swift almost beyond the imagination of those encultured by the traditional demands of physical combat. Cyber attack may be so stealthy that it escapes notice for a long while, or it might wreak digital havoc by com - plete surprise. And need one emphasize, that at least for a while, hostile cyber action is likely to be hard (though not quite impossible) to attribute with a cy - berized equivalent to a “smoking gun.” Once one is in the realm of the catastrophic “What if . . . ,” the world is indeed a frightening place. On a personal note, this defense analyst was for some years exposed to highly speculative briefings that hypothesized how unques - tionably cunning plans for nuclear attack could so promptly disable the United States as a functioning state that our nuclear retaliation would likely be still - born. I should hardly need to add that the briefers of these Scary Scenarios were obliged to make a series of Heroic Assumptions. ¶ The literature of cyber scare is more than mildly reminiscent of the nuclear attack stories with which I was assailed in the 1970s and 1980s. As one may observe regarding what Winston Churchill wrote of the disaster that was the Gallipoli campaign of 1915, “[t]he terrible ‘Ifs’ accumulate.” 52 Of course, there are dangers in the cyber domain. Not only are there cyber-competent competitors and enemies abroad; there are also Americans who make mistakes in cyber operation. Furthermore, there are the manufacturers and constructors of the physical artifacts behind (or in, depending upon the preferred definition) cyber - space who assuredly err in this and that detail. The more sophisticated—usually meaning complex—the code for cyber, the more certain must it be that mistakes both lurk in the program and will be made in digital communication.¶ What I have just outlined minimally is not a reluc - tant admission of the fallibility of cyber, but rather a statement of what is obvious and should be anticipat - ed about people and material in a domain of war. All human activities are more or less harassed by friction and carry with them some risk of failure, great or small. A strategist who has read Clausewitz, especially Book One of On War , 53 will know this. Alternatively, anyone who skims my summary version of the general theory of strategy will note that Dictum 14 states explicitly that “Strategy is more difficult to devise and execute than are policy, operations, and tactics: friction of all kinds comprise phenomena inseparable from the mak - ing and execution of strategies.” 54 Because of its often widely distributed character, the physical infrastruc - ture of an enemy’s cyber power is typically, though not invariably, an impracticable target set for physical assault. Happily, this probable fact should have only annoying consequences. The discretionary nature and therefore the variable possible characters feasible for friendly cyberspace(s), mean that the more danger - ous potential vulnerabilities that in theory could be the condition of our cyber-dependency ought to be avoidable at best, or bearable and survivable at worst. Libicki offers forthright advice on this aspect of the subject that deserves to be taken at face value: ¶ [T]here is no inherent reason that improving informa - tion technologies should lead to a rise in the amount of critical information in existence (for example, the names of every secret agent). Really critical information should never see a computer; if it sees a computer, it should not be one that is networked; and if the computer is networked, it should be air-gapped.¶ Cyber defense admittedly is difficult to do, but so is cyber offense. To quote Libicki yet again, “[i]n this medium [cyberspace] the best defense is not necessarily a good offense; it is usually a good defense.” 56 Unlike the geostrategic context for nuclear-framed competition in U.S.–Soviet/Russian rivalry, the geographical domain of cyberspace definitely is defensible. Even when the enemy is both clever and lucky, it will be our own design and operating fault if he is able to do more than disrupt and irritate us temporarily.¶ When cyber is contextually regarded properly— which means first, in particular, when it is viewed as but the latest military domain for defense planning—it should be plain to see that cyber performance needs to be good enough rather than perfect. 57 Our Landpower, sea power, air power, and prospectively our space systems also will have to be capable of accepting combat damage and loss, then recovering and carrying on. There is no fundamental reason that less should be demanded of our cyber power. Second, given that cyber is not of a nature or potential character at all likely to parallel nuclear dangers in the menace it could con - tain, we should anticipate international cyber rivalry to follow the competitive dynamic path already fol - lowed in the other domains in the past. Because the digital age is so young, the pace of technical change and tactical invention can be startling. However, the mechanization RMA of the 1920s and 1930s recorded reaction to the new science and technology of the time that is reminiscent of the cyber alarmism that has flour - ished of recent years. 58 We can be confident that cyber defense should be able to function well enough, given the strength of political, military, and commercial motivation for it to do so. The technical context here is a medium that is a constructed one, which provides air-gapping options for choice regarding the extent of networking. Naturally, a price is paid in convenience for some closing off of possible cyberspace(s), but all important defense decisions involve choice, so what is novel about that? There is nothing new about accepting some limitations on utility as a price worth paying for security.¶ 3. Intelligence is critically important, but informa - tion should not be overvalued. The strategic history of cyber over the past decade confirms what we could know already from the science and technology of this new domain for conflict. Specifically, cyber power is not technically forgiving of user error. Cyber warriors seeking criminal or military benefit require precise information if their intended exploits are to succeed. Lucky guesses should not stumble upon passwords, while efforts to disrupt electronic Supervisory Con - trol and Data Acquisition (SCADA) systems ought to be unable to achieve widespread harmful effects. But obviously there are practical limits to the air-gap op - tion, given that control (and command) systems need to be networks for communication. However, Internet connection needs to be treated as a potential source of serious danger.¶ It is one thing to be able to be an electronic nuisance, to annoy, disrupt, and perhaps delay. But it is quite another to be capable of inflicting real persisting harm on the fighting power of an enemy. Critically important military computer networks are, of course, accessible neither to the inspired amateur outsider, nor to the malignant political enemy. Easy passing reference to a hypothetical “cyber Pearl Harbor” reflects both poor history and ignorance of contemporary military common sense. Critical potential military (and other) targets for cyber attack are extremely hard to access and influence (I believe and certainly hope), and the technical knowledge, skills, and effort required to do serious harm to national security is forbiddingly high. This is not to claim, foolishly, that cyber means absolutely could not secure near-catastrophic results. However, it is to say that such a scenario is extremely improbable. Cyber defense is advancing all the time, as is cyber offense, of course. But so discretionary in vital detail can one be in the making of cyberspace, that confidence—real confidence—in cyber attack could not plausibly be high. It should be noted that I am confining this particular discussion to what rather idly tends to be called cyber war. In political and strategic practice, it is unlikely that war would or, more importantly, ever could be restricted to the EMS. Somewhat rhetorically, one should pose the question: Is it likely (almost anything, strictly, is possible) that cyber war with the potential to inflict catastrophic damage would be allowed to stand unsupported in and by action in the other four geographical domains of war? I believe not.¶ Because we have told ourselves that ours uniquely is the Information Age, we have become unduly respectful of the potency of this rather slippery catch-all term. As usual, it is helpful to contextualize the al - legedly magical ingredient, information, by locating it properly in strategic history as just one important element contributing to net strategic effectiveness. This mild caveat is supported usefully by recognizing the general contemporary rule that information per se harms nothing and nobody. The electrons in cyber - ized conflict have to be interpreted and acted upon by physical forces (including agency by physical human beings). As one might say, intelligence (alone) sinks no ship; only men and machines can sink ships! That said, there is no doubt that if friendly cyber action can infiltrate and misinform the electronic informa - tion on which advisory weaponry and other machines depend, considerable warfighting advantage could be gained. I do not intend to join Clausewitz in his dis - dain for intelligence, but I will argue that in strategic affairs, intelligence usually is somewhat uncertain. 59 Detailed up-to-date intelligence literally is essential for successful cyber offense, but it can be healthily sobering to appreciate that the strategic rewards of intelligence often are considerably exaggerated. The basic reason is not hard to recognize. Strategic success is a complex endeavor that requires adequate perfor - mances by many necessary contributors at every level of conflict (from the political to the tactical). ¶ When thoroughly reliable intelligence on the en - emy is in short supply, which usually is the case, the strategist finds ways to compensate as best he or she can. The IT-led RMA of the past 2 decades was fueled in part by the prospect of a quality of military effec - tiveness that was believed to flow from “dominant battle space knowledge,” to deploy a familiar con - cept. 60 While there is much to be said in praise of this idea, it is not unreasonable to ask why it has been that our ever-improving battle space knowledge has been compatible with so troubled a course of events in the 2000s in Iraq and Afghanistan. What we might have misunderstood is not the value of knowledge, or of the information from which knowledge is quarried, or even the merit in the IT that passed information and knowledge around. Instead, we may well have failed to grasp and grip understanding of the whole context of war and strategy for which battle space knowledge unquestionably is vital. One must say “vital” rather than strictly essential, because relatively ignorant armies can and have fought and won despite their ig - norance. History requires only that one’s net strategic performance is superior to that of the enemy. One is not required to be deeply well informed about the en - emy. It is historically quite commonplace for armies to fight in a condition of more-than-marginal reciprocal and strategic cultural ignorance. Intelligence is king in electronic warfare, but such warfare is unlikely to be solely, or even close to solely, sovereign in war and its warfare, considered overall as they should be.¶ 4. Why the sky will not fall. More accurately, one should say that the sky will not fall because of hostile action against us in cyberspace unless we are improb - ably careless and foolish. David J. Betz and Tim Ste vens strike the right note when they conclude that “[i]f cyberspace is not quite the hoped-for Garden of Eden, it is also not quite the pestilential swamp of the imagination of the cyber-alarmists.” 61 Our understanding of cyber is high at the technical and tactical level, but re - mains distinctly rudimentary as one ascends through operations to the more rarified altitudes of strategy and policy. Nonetheless, our scientific, technological, and tactical knowledge and understanding clearly indicates that the sky is not falling and is unlikely to fall in the future as a result of hostile cyber action. This analysis has weighed the more technical and tactical literature on cyber and concludes, not simply on balance, that cyber alarmism has little basis save in the imagination of the alarmists. There is military and civil peril in the hostile use of cyber, which is why we must take cyber security seriously, even to the point of buying redundant capabilities for a range of command and control systems. 62 So seriously should we regard cyber danger that it is only prudent to as - sume that we will be the target for hostile cyber action in future conflicts, and that some of that action will promote disruption and uncertainty in the damage it will cause.¶ That granted, this analysis recommends strongly that the U.S. Army, and indeed the whole of the U.S. Government, should strive to comprehend cyber in context. Approached in isolation as a new technol - ogy, it is not unduly hard to be over impressed with its potential both for good and harm. But if we see networked computing as just the latest RMA in an episodic succession of revolutionary changes in the way information is packaged and communicated, the computer-led IT revolution is set where it belongs, in historical context. In modern strategic history, there has been only one truly game-changing basket of tech - nologies, those pertaining to the creation and deliv - ery of nuclear weapons. Everything else has altered the tools with which conflict has been supported and waged, but has not changed the game. The nuclear revolution alone raised still-unanswered questions about the viability of interstate armed conflict. How - ever, it would be accurate to claim that since 1945, methods have been found to pursue fairly traditional political ends in ways that accommodate nonuse of nuclear means, notwithstanding the permanent pres - ence of those means.¶ The light cast by general strategic theory reveals what requires revealing strategically about networked computers. Once one sheds some of the sheer wonder at the seeming miracle of cyber’s ubiquity, instanta - neity, and (near) anonymity, one realizes that cyber is just another operational domain, though certainly one very different from the others in its nonphysi - cality in direct agency. Having placed cyber where it belongs, as a domain of war, next it is essential to recognize that its nonphysicality compels that cyber should be treated as an enabler of joint action, rather than as an agent of military action capable of behav - ing independently for useful coercive strategic effect. There are stand-alone possibilities for cyber action, but they are not convincing as attractive options either for or in opposition to a great power, let alone a superpower. No matter how intriguing the scenario design for cyber war strictly or for cyber warfare, the logic of grand and military strategy and a common sense fueled by understanding of the course of strategic history, require one so to contextualize cyber war that its independence is seen as too close to absurd to merit much concern.

## Econ

### 1NR Overview

#### Key to fix so much of our economy

HONDA 12/06/2013 - U.S. Representative for California's 17th District (Honda, Mike. “Increasing Innovation by Removing Patent Threats”, Accessed 3-14-14, http://www.huffingtonpost.com/rep-mike-honda/increasing-innovation-by\_b\_4399342.html)

Yesterday I was proud to support H.R. 3309, the Innovation Act, which will help to rein in patent trolls, which have seriously damaged American businesses and consumers. Patent trolls are companies or individuals who obtain overbroad patents, and then send letters to actual innovators alleging infringement -- often without clearly identifying themselves or the patent at issue -- to demand money. If they sue, they may deliberately run up discovery costs to pressure the defendant into a settlement. Patent trolls may use shell companies in order to obscure ownership of the patent, sensing a large return on investment from threatening lawsuits against small entities that cannot afford to defend themselves in court. Organizations of all sorts are being targeted by patent trolls and face costly but unwarranted licensing fees and settlements. This is affecting non-profits that have been asked for $1,000 per employee just for using scanners, and thousands of small businesses that have received letters seeking licensing fees simply for providing wifi to customers. These businesses and organizations are either faced with the choice of not providing certain services or charging customers exorbitant costs for their use. In most cases, the targeted small organizations cannot afford to go to court to defend themselves. But when they do, the trolls lose over 85 percent of the time -- indicating that most of these lawsuits are not legitimate. In our current system, however, it is too costly and time-consuming to defend against their attacks. Sadly, the impact of patent troll activity is estimated to be $29 billion per year. This is money that could be better spent by Silicon Valley innovators on research and development, and by small businesses on improving customer service or expanding operations. Patent trolls are stifling our economy. I cosponsored and support the Innovation Act because it is an important first step toward addressing this problem. It will allow the targets of patent suits to know what they are alleged to be infringing and who is bringing that allegation forward. It will shift the costs of litigation to patent trolls who lose cases that are deemed to be not reasonably justified, making it easier for defendants to fight off attacks. It will change the rules of discovery so that defendants will not be subject to wide-ranging requests that run up costs and drag out the process -- an effort to drive frivolous cases to settlement. And it will allow manufacturers to step in and assist their customers who are accused of infringing on a patent simply for using a product they purchased off the shelf. H.R. 3309 enjoys broad, bipartisan support because it will make the patent system stronger, stop abusive behavior that has hampered the system, and save the court's time and limited resources. It passed the House easily, and I look forward to working with the Senate so that we can send a bill to the president and remove the threat of patent trolls from the American economy.

#### Patent reform is critical to the pharmaceutical industry

Eli Lilly, October 28, 2010, In Defense of Patent Reform, <http://lillypad.lilly.com/public-policy/in-defense-of-patent-protection>: DA: 1/22/11

A common concern expressed about the pharmaceutical industry is that we do not do enough to ensure that patients have access to our medicines or that we’re withholding medicines that can help alleviate suffering, improve the quality of life and, in some cases, cure disease.  Some even accuse the industry of exploiting patent laws so that we can retain the rights of production and charge more for additional years than we would in a world without patent protection. Patent laws are in place for many reasons, perhaps most importantly so that innovating companies have a fair period of time to recoup the enormous investment required to develop breakthrough products. Without this, innovators and the investors who fund innovation, would be easy prey for copy-cat manufacturers. That is why the U.S. Congress – - and all 100 + member countries of the World Trade Organization – - have established a 20-year term as the basic protection period for patents covering the full gamut of products or their components including planes, trains, and automobiles and, yes, medicines. The biopharma sector faces particular challenges with respect to a patent term in that it often takes a dozen or more years of efforts and, on average, $1.3 billion to bring a new medicine from the laboratory through clinical trials and FDA approval.  By the time a patient may benefit from the new medicine, much of its patent life can have expired.  Even though the 1984 Hatch-Waxman law allows up to five years of patent term restoration, many new drug products reach the market with about only 12 or so years of patent protection – far less than the effective patent lives of many other product classes. We believe in investing in the medicines of the future.  As each approved medicine reaches patients, employees are diligently working on the next medicines that will improve the lives of future generations.  Developing these new medicines is expensive, time consuming and often frustrating.  For every new drug that comes to market, pharmaceutical companies have been working with 5,000 other molecules that failed at some level of testing.  Many times, a new medicine will not make it to market at all.  Only about 2 to 3 of 10 FDA-approved drugs even recoup their cost of development.  Yet, the cost of development must be paid for both these relatively few medically and commercially successful products and the overwhelming majority of drug candidates that fail along the way.   In recent years, Lilly has invested over $4 billion annually (approximately 20% of revenues) in our search for breakthrough medicines.   Without strong intellectual property protection, including patent rights, this simply would not be possible. Pharmaceutical companies continue to invest in innovation not only because it is good for business, but it is what patients expect. If we want to continue to have breakthrough products, we need patent protection and incentives to invest in intellectual property

#### Loss of pharma profits deters companies from using R&D to help solve biowarfare

Bandow 3

(Doug, senior fellow at the Cato Institute, Policy Analysis no 475, “Demonizing Drugmakers: The Political Assault on the Pharmaceutical Industry, May 8, http://www.cato.org/pubs/pas/pa475.pdf)

Such highly visible efforts to weaken patent rights for short-term gains undermine the incentive to create additional treatments and develop drugs to combat other potentially lethal diseases. This is particularly curious behavior when the U. S. government is otherwise working with private drugmakers to develop new and improved anthrax vaccines, when pharmaceutical companies are ransacking their shelves for compounds that might be effective against new diseases, and when researchers are attempting to develop new means to detect and treat anthrax, smallpox, and other potential bioterrorist weapons. 192 Nancy Bradish Myers, an analyst with Lehman Brothers, warned: “If the federal government is going to threaten to break valuable patent rights at the first sign of a crisis, it will likely serve as a significant deterrent to other drug companies who would like to do the ‘right thing’ and use their R&D capabilities to help the government fight bioterrorism. ”193 A better alternative is for the government to negotiate a discount, just like any other bulk buyer (and perhaps include certain legal liability protections), in building reasonable public stockpiles.

#### Extinction

STEINBRUNER ’97 - Brookings senior fellow and chair in international security, vice chair of the committee on international security and arms control of the National Academy of Sciences (John D. Steinbruner, Winter 1997, Foreign Policy, “Biological weapons: a plague upon all houses,” n109 p85(12), infotrac)

Although human pathogens are often lumped with nuclear explosives and lethal chemicals as potential weapons of mass destruction, there is an obvious, fundamentally important difference: Pathogens are alive, weapons are not. Nuclear and chemical weapons do not reproduce themselves and do not independently engage in adaptive behavior; pathogens do both of these things. That deceptively simple observation has immense implications. The use of a manufactured weapon is a singular event. Most of the damage occurs immediately. The aftereffects, whatever they may be, decay rapidly over time and distance in a reasonably predictable manner. Even before a nuclear warhead is detonated, for instance, it is possible to estimate the extent of the subsequent damage and the likely level of radioactive fallout. Such predictability is an essential component for tactical military planning. The use of a pathogen, by contrast, is an extended process whose scope and timing cannot be precisely controlled. For most potential biological agents, the predominant drawback is that they would not act swiftly or decisively enough to be an effective weapon. But for a few pathogens - ones most likely to have a decisive effect and therefore the ones most likely to be contemplated for deliberately hostile use - the risk runs in the other direction. A lethal pathogen that could efficiently spread from one victim to another would be capable of initiating an intensifying cascade of disease that might ultimately threaten the entire world population. The 1918 influenza epidemic demonstrated the potential for a global contagion of this sort but not necessarily its outer limit.

#### Patents are critical to the efficient spread of drugs – innovation.

Institute for Policy Innovation 07, Health Care, July 23, ONLINE http://www.ipi,org

Today, the concept of consumer-driven health care is revolutionizing medicine, and has the potential to not only help hold down health care costs, but also to ensure the availability of revolutionary new health care innovations. A key to improving health care around the world is pharmaceutical innovation, and the efficient distribution of innovative pharmaceuticals around the world. Today innovative pharmaceuticals are substitutes for most costly and more risky surgery. Pharmaceuticals also treat and cure many diseases and conditions, and mitigate pain as never before. But such innovation and distribution depends on the availability of investment capital for R&D purposes, protection of intellectual property, the reliability and safety of distribution channels, and a lowering of trade and tarrif barriers in developing countries.

#### Mutated disease cause extinction

Discover 2000 (“Twenty Ways the World Could End” by Corey Powell in Discover Magazine, October 2000, http://discovermagazine.com/2000/oct/featworld)

If Earth doesn't do us in, our fellow organisms might be up to the task. Germs and people have always coexisted, but occasionally the balance gets out of whack. The Black Plague killed one European in four during the 14th century; influenza took at least 20 million lives between 1918 and 1919; the AIDS epidemic has produced a similar death toll and is still going strong. From 1980 to 1992, reports the Centers for Disease Control and Prevention, mortality from infectious disease in the United States rose 58 percent. Old diseases such as cholera and measles have developed new resistance to antibiotics. Intensive agriculture and land development is bringing humans closer to animal pathogens. International travel means diseases can spread faster than ever. Michael Osterholm, an infectious disease expert who recently left the Minnesota Department of Health, described the situation as "like trying to swim against the current of a raging river." The grimmest possibility would be the emergence of a strain that spreads so fast we are caught off guard or that resists all chemical means of control, perhaps as a result of our stirring of the ecological pot. About 12,000 years ago, a sudden wave of mammal extinctions swept through the Americas. Ross MacPhee of the American Museum of Natural History argues the culprit was extremely virulent disease, which humans helped transport as they migrated into the New World.

### Uniqueness Wall

#### Extend Herten—obama’s push already created momentum and the bill is set to happen before election

#### Will pass and top of the docket- insider knowledge

Meyers, 3-5 -- Politico reporter

[Jessica, "Lawmakers: Patent reform will advance," Politico, 3-5-14, www.politico.com/story/2014/03/patent-reform-104278.html, accessed 3-13-14]

Lawmakers: Patent reform will advance

Two lawmakers immersed in patent reform efforts suggested Wednesday that the president could see a bill on his desk in coming months. “It’s a pretty good bet you could see something on this, this year,” Sen. Mike Lee (R-Utah), who is co-sponsoring the Senate’s main patent reform bill with Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.), said at a POLITICO event. The committee plans to mark up the bill by mid-April. Rep. Jared Polis (D-Colo.), a champion of patent reform in the House, pointed to broad support in the lower chamber but warned that Congress should “make sure it is a substantial bill that actually deals with patent trolls.”

#### Reform will pass in the Senate despite detractors- solves

Crouch, 3-11 -- patent law professor @ University of Missouri, Center for the Study of Dispute Resolution

[Dennis, "The State of Patent Law Reform," 3-11-14, www.linkedin.com/today/post/article/20140311164252-2503830-the-state-of-patent-law-reform, accessed 3-13-14]

Patents rights are defined at the national level and patent reform initiatives are ongoing in all three branches of the US federal government. In particular, President Obama has taken a number of executive actions that push the US Patent Office toward issuing patents whose scope and coverage are more clear and to stop the use of shell corporations to hide patent ownership. In Congress, a bipartisan patent reform bill overwhelmingly passed in the House of Representatives and is now being considered in the Senate. See H.R. 3309. **Although there are** a number of **detractors, the legislation is poised to move forward in the Senate**. The legislation should properly be termed “patent specific tort reform” with most of the provisions designed to create hurdles for patentees attempting to enforce patent rights. Major reforms include presumptive attorney fee shifting so that a winning party will be compensated for its attorney fees; a heightened pleading requirement for patent cases designed to reject mass claims of patent infringement; limited discovery prior to the crucial issue of claim construction as a litigation cost-savings mechanism; etc. These reforms are likely to have a major impact on the marketplace for patent litigation. Finally, the judiciary has also been active in reforming the law in its typical decision-by-decision approach. Because patent appeals are all heard by the Court of Appeals for the Federal Circuit, that one court hears hundreds of cases each year that collectively address almost every substantive patent law issue. In addition, the Supreme Court has become active in the patent context and currently has pending important cases on the patentability of software and business methods; the requirement of clarity for patent claims; district court discretion in awarding attorney fees; and whether a patentee has a cause of action against parties who tacitly cooperate in actions that collectively infringe the patent. Although the focus of patent reform is inside-the-beltway, many State Attorneys General and state legislatures are taking action against fraudulent and overly-aggressive patent enforcement. I see the individual state actions as parallel to fair debt collection practices seen in other contexts. However, because of the traditional federal preemption of patent law policy, states do not have extensive experience in this context. The bottom line here is that we have a number of overlapping and complementary patent reform initiatives that I expect to move forward over the next several months. The vast majority of the reforms are purportedly designed to address a perceived problem of "patent trolls" who file frivolous patent claims. In reality, however, none of the proposed initiatives would be limited to that issue of concern. Rather, the general tenor of the reforms is to place additional burdens and hurdles on patent owners seeking to enforce their rights. For at least the pro patent-reform lobby, that result appears to be just fine.

#### Will pass and top of the docket- PC, bipart

Bachman, 2-28 -- previously editor in chief of Radio Business Report, a reporter at Direct magazine and a staffer for the House Small Business Committee

[Katy, "Senate Bill Targeting Patent Trolls on Fast Track," Ad Week, www.adweek.com/news/technology/senate-bill-targeting-patent-trolls-fast-track-156019, accessed 3-13-14]

Congress doesn't have much time left before lawmakers begin to leave town to campaign, so moving fast is the name of the game. Because patent troll legislation has so much support from the White House down to both sides of the aisle, it's a likely candidate for swift action.

#### Patent reform is bipart and will pass, but its close

Dugan, 2-17 -- Article 3 staff

[Sean, "Congress Cracks Down On Patent Trolling," 2-17-14, www.article-3.com/congress-cracks-down-on-patent-trolling-913500, accessed 3-13-14]

Congress Cracks Down On Patent Trolling

Despite rancorous dialogue between Democrats and Republicans on issues like immigration and the minimum wage, there is one topic attracting bipartisan support: patent reform. Last December, the House of Representatives passed a bill created by Rob Goodlatte (R, VA-6) that would amend portions of the America Invents Act. The proffered amendments specifically target the practice of “patent trolling.” Although the House version easily passed 325-91, some concerns linger. A senate version sponsored by Sen. Patrick Leahy (D-VT) is receiving support and differs from the Goodlatte version in several key areas.

#### Obama pushing, will pass

GamePolitics staff, 2-21 [GamePolitics, "White House Lays Out Ideas to Reform Patent System," 2-21-14, www.gamepolitics.com/2014/02/21/white-house-lays-out-ideas-reform-patent-system#.UyG9kz9dVSl, accessed 3-13-14]

The Obama Administration held a press conference today detailing how it wants to reform the U.S. patent system, with one key ingredient being crowd-sourcing. Michelle Lee, director of the Silicon Valley branch of the US Patent and Trademark Office, was one of the key speakers at a White House patent event today. She laid out plans to reform the patent system and to deal with so-called patent trolls. President Obama said last June that the patent system need to be reformed and something needed to be done about the drain that so-called patent trolls put on America's industries and its citizens. The president reiterated this briefly in his State of the Union address in January. Now the Administration is offering more details. "I don't think we felt like we had a choice but to take action on the issue of patent trolls," said Obama economic adviser Gene Sperling at today's event. "What we were seeing wasn't a trend upward [in patent threats], it was a hockey stick." Sperling hopes that this issue will be an issue that finds bipartisan compromise and that a bill would make it to the president's desk quickly. Dubbed the "Innovation Act," the patent reform proposal contains fee-shifting and customer protection measures for patent lawsuits, and a crowd-sourcing model that would allow the general public and industry experts to help review pending patent applications before they get approval. The House passed the bill last year.

#### Will pass, no thumpers

Chandler, 3-3 – Cisco chief compliance officer

[Mark, and Mike Dillon, senior vice president, general counsel, and corporate secretary of Adobe Systems Incorporated, “Window of opportunity for action on patent reform,” <http://thehill.com/blogs/congress-blog/technology/199566-window-of-opportunity-for-action-on-patent-reform>, accessed 3-13-14]

At a time when Congress is tied up in knots on a range of issues, patent reform is one area where legislation is not only possible, but achievable in short order. The U.S. House of Representatives has acted, approving a patent overhaul by a broad, bipartisan majority. The Obama Administration supported that legislation. Can you think of many other issues where Speaker of the House John Boehner (R-Ohio), House Minority Leader Nancy Pelosi (D-Calif.) and President Obama are on the exact same page? Now it’s up to our leaders in the Senate Judiciary Committee to pass companion legislation in the Senate. We hope that they can find common ground, just as their colleagues in the House have done.

### AT No Impact- Patent Hype

#### Patent trolls crush growth and reform is key to solve ---- the alternative is backlog and crushed start-ups

STROHM 2013- Writing, Editing, Marketing, The Law (Mitch Strohm, “Patent Reform: Supporting Or Stifling U.S. Innovation?”, June 14, 2013, Accessed 3-14-14, http://thelaw.tv/news/2013/06/14/patent-reform-supporting-or-stifling-u-s-innovation/)

On June 4, the Obama Administration issued five executive actions and seven legislative recommendations to improve incentives for high tech patents and to curb abusive litigation by patent assertion entities (PAEs), or “patent trolls,” as they are commonly called. PAEs are often shell companies that assert patents on existing products as a business model, using litigation as their tool. In Obama’s words, these companies “don’t actually produce anything themselves” and instead develop a business model “to essentially leverage and hijack somebody else’s idea and see if they can extort some money out of them.” For example, one company threatened to sue 8,000 coffee shops, hotels and retailers for patent infringement because they had set up Wi-Fi networks for their customers, according to the New York Times. The number of lawsuits brought by PAEs has almost tripled in the last two years, accounting for 62 percent of all patent lawsuits in America. Of course, some of that surge in lawsuits can be traced back to the America Invents Act, which was signed into law in 2011. But start-ups are feeling the pressure from PAEs as well. “In some instances, they put start-ups out of business,” says Julie Samuels, an intellectual-property specialist and staff attorney at the Electronic Frontier Foundation, a San Francisco–based digital-advocacy group. “A big driver in that big increase in the number of patent suits filed, is the America Invents Act just a few years ago, which worked to try to improve the patent system,” says Graham Gerst, patent attorney at Global IP Law Group. One of the provisions in the law eliminated a long-standing practice of allowing a single patentee to file suit against several defendants that infringed a patent in the same way, he notes. After that, patentees were required to file multiple lawsuits instead of a single suit, increasing the amount and overall cost of litigation. According to the Obama Administration, the new actions and recommendations are designed to “protect innovators from frivolous litigation and ensure the highest-quality patents in our system.” Patents and the economy Some say that rampant litigation is stifling innovation. Many major companies like Google and Apple spend more on litigation than on research and development. PAEs can also incentivize start-ups to change their business models, because many start-ups don’t want to pay the litigation fees associated with a patent infringement case, she notes. That can slow down the growth of the economy and the introduction of new technologies. Will the proposals work? “We definitely are encouraged to see the proposals,” says Samuels. Still, like everyone else, the Electronic Frontier Foundation is awaiting specifics. In regard to a broken patent system, the legislative priorities and executive actions would make it harder to be a patent troll, and make it a less attractive business model, notes Samuels. “Right now, part of the problem is, it’s really easy to be a patent troll,” she says. Being a PAE is legal and has high returns, so, frankly, it makes good business sense.

#### It solves all of the components of the patent problem

GRAVES 2013 - Director of digital marketing and a policy analyst, R Street Institute, (Graves, Zachary, “New Proposal to Slay Patent Trolls Would Be a Boon to the Digital Economy”, Accessed 3-14-14, http://www.huffingtonpost.com/zachary-graves/new-proposal-to-slay-pate\_b\_4024831.html)

Daniel Nazer at the Electronic Frontier Foundation does an excellent job summing up Goodlatte’s reform package: Heightened Pleading: Requiring a patent holder to provide basic details (such as which patents and claims are at issue, as well as exactly what products allegedly infringe and how) when it files a lawsuit. Fee shifting: Requiring the loser in a patent case to pay attorney’s fees and costs. This would make it harder for trolls to use the extraordinary expense of patent litigation to force a settlement. Transparency: The draft includes strong language requiring patent trolls to reveal(s) the parties that would actually benefit from the litigation (called the real party in interest). Joinder: If the plaintiff is a shell-company patent troll, the defendant could require the real party in interest to join the litigation. Even better, a prevailing defendant could collect attorney’s fees from the real party in interest if the patent troll can’t or won’t pay. Staying customer suits: Requiring courts to stay patent litigation against customers when there is parallel litigation against the manufacturer. Discovery reform: Shutting down expensive and often harassing discovery until the court has interpreted the patent. This should make it easier for defendants to dispose of frivolous cases early before the legal fees and court costs really add up. Post-grant review: The bill expands an important avenue to challenge a patent's validity at the Patent Office (known as the transitional program for covered business method patents). While this procedure is still too expensive for many of the trolls’ smaller targets, we support efforts to make it easier to knock out bad patents. By restricting the tools patent trolls use to abuse the system, Goodlatte’s proposal would do a lot to kill off the troll problem. But trolls are only half of the problem. There’s also the issue of lots of bad, overly broad patents coming out of the backlogged and underfunded patent office. The Mercatus Center’s Eli Dourado argues, with software patents making up the vast majority of the troll problem, Congress should exclude software from the set of patentable subject matter. I’m sympathetic to Dourado’s argument, but also skeptical this could be politically achievable in the near future. Much closer to the realm of political reality is something Goodlatte’s proposal could improve on: expanding the scope of the covered business method program. Outlined in the AIA, the CBM program allows those who are sued for infringing on certain types of financial business method patents to request a review of the patent’s legitimacy from the USPTO’s Patent Trial and Appeal Board, rather than going through the extortion racket of litigation and settlement. Expanding this program (as Sen. Chuck Schumer, D-N.Y., and Rep. Darrell Issa, R-C.A., have both proposed earlier this year) would create a much needed invalidation process for spurious patent claims. But all things considered, Goodlatte’s draft appears to be a great vehicle to make the patent office more functional and overthrow the trolls gumming up one of the most innovative parts of our economy.

### PC Key

#### Extend Herten—obama push already created momentum, pc is necessary to get it through the finish line

#### PC key and keeps it at the top of the docket

Meyers, 3-5 -- Politico reporter

[Jessica, "Lawmakers: Patent reform will advance," Politico, 3-5-14, www.politico.com/story/2014/03/patent-reform-104278.html, accessed 3-13-14]

The House passed a patent reform bill, known as the Innovation Act, in December. The Senate has held four briefings on Leahy’s bill, but reform advocates want to speed up the pace. The White House has pushed hard on the issue, announcing a series of executive actions and urging lawmakers to work through legislation this year. Polis applauded the administration’s focus and said it gave momentum to a wonky topic. “When it comes to a patent bill, people say, ‘OK, the president likes it so I’m going to give it a look,’” he said. “It opened the bill on the Democratic side.”

[Polis = Rep. Jared Polis (D-Colo.)]

### TOD

#### Obama prioritizing patent reform- State of the Union proves

Tummarello, 2-20 – The Hill reporter

[Kate, "White House pushes new patent actions," The Hill, 2-20-14, thehill.com/blogs/hillicon-valley/technology/198847-white-house-pushes-new-patent-actions, accessed 3-13-14]

White House pushes new patent actions

The Obama administration on Thursday convened members of the tech industry to push a new set of executive actions aimed at combating “patent trolls.” The actions announced Thursday are part of President Obama’s continued push to protect the economy from companies that make money by collecting patents and then threatening infringement lawsuits. The White House announced Thursday that it would be building off of previous executive actions and calls for legislation with three new administration actions. The first is a push to have companies publicly catalogue their “prior art,” or the technical details about the technologies they’re already using. These catalogues would give examiners at the Patent Office more information about what technologies are already in use and therefore shouldn’t be awarded patents. The administration also called on tech companies to help train Patent Office examiners and announced an increase in its pro bono services for small inventors who can’t afford legal resources. “Our country simply must support our trailblazers who make breakthroughs in their garages and dorm rooms,” Commerce Secretary Penny Pritzker said. National Economic Council Director Gene Sperling said the administration developed these actions “over months” and “considered dozens of proposals and settled on actions we thought we could take that would make a difference.” Sperling also told attendees of Thursday’s event that both legislative and administration patent reform measures continue to be a priority for Obama, citing last month’s State of the Union address, during which the president repeated his calls for reform. “The State of the Union is very expensive policy real estate,” Sperling said, making it no “small deal that the president chose to make his call for patent legislation one of the things that he put in the State of the Union.” In addition to the administration making it a priority, the president has “hope for bipartisan action,” Sperling said, repeating the president’s calls to Congress to finish a patent reform bill. He pointed to the House, which passed the Innovation Act, authored by House Judiciary Committee Chairman Bob Goodlatte (R-Va.), last year. Currently, the Senate is considering a bill from Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.). In the House, “we have seen some very constructive bipartisan action,” Sperling said, and “there’s no reason that there shouldn’t be that same ability to work together in the U.S. Senate.”

### Reform Solves

#### Pleading requirements and fee-shifting road-bock frivolous lawsuits

Dugan, 2-17 -- Article 3 staff

[Sean, "Congress Cracks Down On Patent Trolling," 2-17-14, www.article-3.com/congress-cracks-down-on-patent-trolling-913500, accessed 3-12-14]

Goodlatte’s bill is seen as a step in the right direction. The bill sets up several roadblocks against nuisance suits by patent trolls without unnecessarily injuring valid patent claims. At the outset, the bill establishes a heightened pleadings standard. Currently, patent troll claimants need only provide a generalized claim. The Goodlatte bill demands that claimants do their homework before filing a claim. What aspects of the defendant’s patent infringe upon yours? What function, apparatus, or feature specifically are you citing? This information is incredibly valuable to defendants. It gives them a clearer idea of what they may face should they further pursue litigation. The most important feature of the Goodlatte bill, however, is the introduction of a fee-shifting provision. If a patent troll brings a claim against an alleged infringer and loses, they would be responsible for the legal fees accrued by the defendant. This accomplishes three things: first, it makes the decision to sue for patent trolls riskier. If they tussle with the wrong defendant — somebody who believes they’re being targeted with a nuisance suit — the potential for paying big increases. Second, fee-shifting penalties allow defendants who receive frivolous cease and desist letters to aggressively defend their patents. Third, the fee-shifting penalty is not overly burdensome. Plaintiffs with valid patent infringement claims will not be dissuaded from pursuing their rights.

#### Reform is sufficient to solve- delayed discovery and end-user rules

Lee, 13 -- Washington Post technology, policy and patent law reporter

[Timothy, "Patent reform bill passes the house 325 to 91. Here’s what you need to know," Washington Post, www.washingtonpost.com/blogs/the-switch/wp/2013/12/05/the-house-votes-on-patent-reform-today-heres-what-you-need-to-know/, accessed 3-12-14]

How does the bill being considered in the House today try to improve the patent system? The Innovation Act's provisions have a common theme: making procedural changes to the patent system to discourage the tactics preferred by trolls. The major provisions are these: Require specificity in patent lawsuits. Right now, patent plaintiffs can file lawsuits that are vague about exactly how the defendant allegedly infringed the plaintiff's patent. That makes it easier for trolls to sue many people without doing their homework. The bill would require lawsuits to be more specific. Make patent ownership more transparent. Patent holders sometimes form shell companies to engage in troll-like behavior. To discourage this, the Innovation Act requires patent plaintiffs to name anyone who has a financial interest in the patent being litigated. Make losing plaintiffs pay. The Innovation Act makes it easier for a victorious defendant to recover the costs of defending against an unsuccessful patent lawsuit. Also, if a losing plaintiff cannot pay, the bill would allow a judge to order others who had a financial stake in the plaintiff's lawsuit to join the lawsuit and pay the defendant's legal fees. Delay discovery to keep costs down. A big reason patent lawsuits are so expensive is that plaintiffs often force defendants to produce millions of pages of e-mails and other internal documents to help them build their case. The Innovation Act would delay this phase of the litigation process until after the courts have addressed legal questions about the meaning of patent claims. Hopefully, that will allow more frivolous lawsuits to be resolved before defendants have racked up huge legal bills. Protect end users. A common troll tactic is to sue end users (such as coffee shops offering their customers WiFi access) rather than technology vendors (such as the manufacturer of the WiFi equipment). These small-business defendants can often be intimidated into paying regardless of the merits of a plaintiff's case. The Innovation Act allows technology vendors to step into the shoes of their customers and fight lawsuits against trolls on their customers' behalf. Is that going to fix the patent troll problem? The legislation will rein in the most egregious trolling tactics. Fly-by-night companies that send demand letters out to thousands of targets hoping to extract nuisance settlements are likely to find the Innovation Act a significant barrier. **The ability of manufacturers to defend their customers against frivolous** patent **lawsuits could be** particularly powerful, and the loser-pays provision will make frivolous patent lawsuits more expensive in general.

#### Sufficient to solve even if all trolling doesn’t end

Mullin, 13 -- Ars Technica [Joe, "Finally, a bill to end patent trolling; Bipartisan bill has most of what reformers want—and a real chance of passing," Ars Technica, 10-23-12, arstechnica.com/tech-policy/2013/10/its-finally-here-a-bill-to-end-patent-trolling/, accessed 3-13-14]

This bill wouldn't end patent trolling, but it could greatly increase the risks and costs to trolls. One type of troll that won't easily be killed off is the kind that goes after dozens of smaller businesses. It will remain prohibitively expensive for many businesses to spend the $1 million or more it can cost to see out a patent lawsuit. Taking a case through trial often costs more than $2 million. But the landscape will have changed. Businesses will be able to challenge more patents at the PTO for a much lower cost of around $100,000. If they are forced to court, they'll have a decent chance of recouping that giant legal spend. That lowers the bar for defendants who want to fight back and speak out—currently a daunting proposition.

#### Fee-shifting deters violators

Norquist, 13 -- Americans for Tax Reform president

[Grover, ATR PATENT REFORM LITIGATION LETTER, 10-29-13, www.patentprogress.org/documents/atr-patent-reform-litigation-letter/, accessed 3-12-14]

Balanced fee shifting: The threat of bearing the costs if an unsubstantiated claim is brought forward in patent litigation, will serve as an effective deterrent to abusive patent lawsuits. Unless the plaintiff filed an objectively justifiable claim, the court should award reasonable costs and fees (including attorney fees) of the prevailing party. Plaintiffs pursuing cases on questionable grounds should think twice about hauling innovators into costly litigation. Heightened pleading: Requiring a clear statement as to the claimed act of infringement and the patent infringed upon will reduce unnecessary financial burdens on defendants and increase transparency in the legal process. Often, complaints are so vague that targets do not know which claims of the patent they are alleged to have infringed or which products or services are allegedly infringing. Defendants are often forced into incur high legal costs associated with pursuing arguments that are irrelevant once the plaintiff’s case becomes clear. These costs can be prohibitive for defendants, especially independent inventors and small businesses.

### Link Wall

#### The plan is a huge loss for Obama—cracking down on the presidents war powers, is perceived as Congress slapping Obama in the face, which guts any chance of Obama being able to push his 2nd term agenda, since nobody wants to deal with a weak President that’s Paterno

#### Congress has given the green light to OCO – the plan would cost capital

Aftergood 11 (Steven, Global Research Center for Research on Globalization, "Congress Authorizes Pentagon To Wage Internet War" December 2011)

Congress has given the U.S. military a green light to conduct offensive [military activities in cyberspace](http://www.fas.org/irp/congress/2011_cr/cyberwar.html).¶ “Congress affirms that the Department of Defense has the capability, and upon direction by the President may conduct offensive operations in cyberspace to defend our Nation, allies and interests,” said the FY 2012 defense authorization act that was adopted in conference this week ([section 954](http://www.fas.org/irp/congress/2011_cr/cyberwar.html)).¶ The blanket authorization for offensive cyber operations is conditional on compliance with the law of armed conflict, and the War Powers Resolution, which mandated congressional consultation in decisions to go to war.¶ “The conferees recognize that because of the evolving nature of cyber warfare, there is a lack of historical precedent for what constitutes traditional military activities in relation to cyber operations and that it is necessary to affirm that such operations may be conducted pursuant to the same policy, principles, and legal regimes that pertain to kinetic capabilities,” the conference report on the defense authorization act [said](http://www.fas.org/irp/congress/2011_cr/cyberwar.html).¶ “The conferees also recognize that in certain instances, the most effective way to deal with threats and protect U.S. and coalition forces is to undertake offensive military cyber activities, including where the role of the United States Government is not apparent or to be acknowledged.”¶ “The conferees stress that, as with any use of force, the War Powers Resolution may apply.”¶ This is an odd formulation which suggests that the War Powers Resolution may also not apply. In any case, the Resolution is a weak reed that has rarely been used by Congress to constrain executive action.¶ According to the [Congressional Research Service](http://www.fas.org/sgp/crs/natsec/RL33532.pdf), “Debate continues on whether using the War Powers Resolution is effective as a means of assuring congressional participation in decisions that might get the United States involved in a significant military conflict.”

#### Cyber policy would be controversial – Congress has given broad authority to the President

Mills 5/11/12 (Elinor, Director of Content and Media strategy for the Bateman Group, "Wording in CyberWar Bill Begs Question: Who's In Charge" CNET Online)

##### The House Armed Services Committee yesterday approved an amended version of the National Defense Authorization Act that removes language requiring presidential authorization for military offensive operations in cyberspace to defend the country.¶ Congressional sources working with House Armed Services Committee Chairman Howard "Buck" McKeon said the move did not grant the secretary of defense any additional powers and dismissed fears as unwarranted.¶ "We don't interpret this to mean that Congress is giving the Department of Defense new authorities," said a committee source. "It would all be within the context of the Authorization to Use Military Force (50 U.S.C. 1541) which typically requires the request of the President."

### Cyber – Controversial – Republicans

#### The GOP wants broad OCO capabilities – they’d hate the plan

Clayton 12 (Mark, Staff Writer for the Christian Science Monitor, specializes in Cyber-Security, Christian Science Monitor, Jewish World REview Online, "Cybersecurity: Where Do Republicans and Democrats Stand on Threats")

The Democratic platform, on page 60, spends not quite 200 words on cybersecurity, with the GOP giving the topic twice as much space on pages 41-42. The Democratic script cites "unprecedented steps" taken by the Obama administration to defend America from cyberattacks, including creating the military's new Cyber Command. By contrast, the Republican document chides the White House for an overreliance on "defensive capabilities" and talks of a crying need for government and business to do a better job of sharing threat information.¶ Raking over the platforms' statements for shreds of meaning, cyberexperts were alternatively impressed — and depressed.¶ Some of these experts were, for instance, reassured by the Republican Party's focus on developing US "offensive [cyberweapon] capabilities."¶ "For far too long, we have sat in the background hoping that our defenses hold up, while adversaries from China and the Eastern bloc steal American IP, and conduct cyber raids against our critical infrastructure," says Jonathan Pollet, founder of Red Tiger Security, a company that specializes in securing computerized control systems that open and close vital valves and switches in industrial settings.¶ "We are becoming weaker as a nation because of other nation state's aggressive stance on cyber security," he writes in an e-mail. "America must fight back to win, and the GOP statements show me that they actually understand current cyber issues."

### Cyber – Unpopular – Authority

#### The plan is controversial – Congress has already given Obama broad authority for cyber war and any debate about cybersecurity will get wrapped up with the NSA

Inside Cyber Security 7/22/13 ("Congress Shifts Into Cyber Security Oversight Despite Unresolved Liability Questions")

Congress is shifting into an oversight role on cybersecurity and, despite concerns over liability and possible future regulation, lawmakers from both parties appear willing to let the Obama administration take the policy lead by implementing its February executive order.¶ The focus on oversight indicates that additional cybersecurity legislation is on hold for at least several months, as lawmakers continue to sort out appropriate roles for federal agencies and requirements – and inducements – for industry.¶ The House Homeland Security cybersecurity subcommittee held its first oversight hearing July 18 on the executive order and the framework being developed by the National Institute of Standards and Technology that will establish voluntary industry standards on cybersecurity. The subcommittee also held a joint hearing July 17 with a House Oversight subcommittee that focused on privacy, security and other cyber issues related to implementation of the Affordable Care Act.¶ House Homeland Security Chairman Michael McCaul (R-TX) late last month said he was holding off on long-promised legislation, and that oversight of the administration's cyber framework would be his focus -- at least until the controversy over the National Security Agency's surveillance program dies down.¶ House Homeland Security cybersecurity subcommittee Chairman Patrick Meehan (R-PA) told Inside Cybersecurity last week that it doesn't make sense to "fight the headwinds" created by the NSA controversy by trying to move cybersecurity legislation right now -- even if such a bill would deal with very different issues than those raised in the NSA affair.

### A2 Squo Solving – Framing Issue

#### Other solutions can’t solve --- congress is key and our ev assumes their shit

GILLMOR 2013 – American technology writer and columnist. He is director of the Knight Center for Digital Media Entrepreneurship at Arizona State University's Walter Cronkite School of Journalism (Gillmore, Dan. “Patent trolls are a serious threat to US innovation”, Wednesday 5 June 2013, Accessed 3-14-14, <http://www.theguardian.com/commentisfree/2013/jun/05/patent-trolls-threat-innovation>)

The trolls are the chief target of the new measures. As an accompanying report by the National Economic Council and the Council of Economic Advisers (pdf) explains, many of the trolls create nothing and, via a maze of shell companies, are taking advantage of the system's notorious inefficiencies in ways that do the opposite of encouraging innovation; they discourage it, because they create uncertainty in every startup. They are a tax on big enterprises and innovators alike – and, by extension, all of us: "'Patent Assertion Entities' (PAEs) often abuse the US intellectual property system's strong protections by using tactics that create outsize costs to defendants and innovators at little risk to themselves. The PAE business model is based on the presumption that in many cases, targeted firms will settle out of court rather than take the risky, time-consuming course of allowing a court to decide if infringement has occurred. "The practices of this group of firms, which has come to file 60% of all patent lawsuits in the US, act to significantly retard innovation in the United States and result in economic 'dead weight loss' in the form of reduced innovation, income and jobs for the American economy." People in the technology world, in particular, have long known that the system is a mess. (Some of the biggest tech companies have themselves been long-time abusers, using their clout and deep pockets in anti-competitive ways.) In recent years, the situation has become more widely understood as tech activists and a few prominent news organizations have raised alarms. In the latter category, special props to National Public Radio's "This American Life" program. Over the weekend, the network's "Planet Money" correspondents revisited the issue with a report, incorporating an earlier program, that highlighted some of the system's flagrant drawbacks. In particular, it made abundantly clear the effect of one such "troll": Intellectual Ventures, which is headed by a former Microsoft chief technology officer and is widely loathed by Silicon Valley firms. For all the value in the new executive orders – and they are useful at the very least – the Obama administration's efforts won't make much difference unless something else changes: the US Patent and Trademark Office itself. The USPTO has for years applied beyond-lax standards in examining applications, and has issued ridiculously over-broad patents for non-innovative, obvious "inventions", giving the trolls the ammunition they've needed. Usefully, the administration has said the USPTO will (belatedly at best) improve its procedures. If this actually happens, it will be a shock to everyone who has been watching this arena over the past several decades. If Congress doesn't get serious about this, however, don't expect major real improvement in any case. In one key recommendation, the White House urged lawmakers to force patent holders and applicants to disclose who they actually are, rather than allowing the shell company games to continue. And if Congress cares at all about these abuses, it will quickly enact a law preventing the trolls from going after end-users – people who buy or use gear that allegedly contains infringing technology and are themselves the targets of the trolls' quasi-extortion. Nowhere in the administration's recommendations is one that already applies in Europe: an outright ban on software patents, which are among the most widely abused. This is trickier than it sounds: software is increasingly integral to the kinds of machines that have traditionally been patented by actual inventors. How do we separate one from the other? One reason we're seeing even modest action, of course, is that there's some big money on the side of reform. The deep-pocketed constituency for reform has had enough. There's a long way to go, but let's be glad for this much progress. The tech industry is beset by patent abuses, stifling creativity. Executive orders are useful, but we need tough new laws.

### A2 XOs Solve

#### XOs insufficient- congress key

Myslewski, 2-21 -- The Register [Rik, "Handcuffed Obama administration pokes patent trolls, pleads for Senate legislation," The Register, 2-21-14, www.theregister.co.uk/2014/02/21/obama\_administration\_call\_for\_patent\_reform\_legislation/, accessed 3-13-14]

New executive actions but bipartisan compromise needed

The Obama administration has renewed its call for legislation to combat patent trolls, and has issued three new executive actions that – although limited in scope – underline its intent to do whatever it can without Congressional help, as Secretary of Commerce Penny Pritzker put it, "to encourage innovation, not litigation." Pritzker was speaking at a White House event on Thursday, discussing not only the administration's new executive actions, but also the progress it has made on the executive actions it announced last June: to increase patent-ownership transparency; to tighten scrutiny on overly broad patents ("particularly software patents," Pritzker said); to provide help to "Main Street" businesses hounded by trolls; and to step up research and outreach efforts, engaging legal scholars to study patent litigation and reaching out to trade associations, business groups, advocacy organizations, and individuals to both provide help navigating the patent system and gather public opinion on the system and its problems. The three executive actions announced on Thursday are fine in and of themselves, but they sadly illustrate how limited the administration's efforts are doomed to be without help from Congress: 1. Crowdsourcing Prior Art: The US Patent and Trademark Office is launching a new program to gather information from "companies, experts, and the general public" to help patent examiners track down prior art. 2. Improved Technical Training: The USPTO will expand its Patent Examiner Technical Training Program by calling on "technologists, engineers, and other experts" to provide volunteer help in keeping patent examiners up to speed on developments in technical fields. 3. Pro Bono Help to Inventors: The USPTO will appoint a full-time Pro Bono Coordinator to enlist volunteer patent attorneys to provide help to inventors who can't afford legal representation, and expand the current America Invents Act pro bono program to all 50 states. We seriously doubt that patent trolls will be quaking in their finely tooled Italian leather shoes when they hear of these three new initiatives – it will take new laws to rein them in.

#### XOs insufficient but prove Obama is all in on patents- will pass

Mullin, 2-20 – The American Lawyer correspondent

[Joe, "Obama advisers want to “crowdsource” patents, call again for new law," Ars Technica, 2-20-14, arstechnica.com/tech-policy/2014/02/obama-advisers-want-to-crowdsource-patents-call-again-for-new-law/, accessed 3-13-14]

Obama advisers want to “crowdsource” patents, call again for new law

Eight months after a presidential call for patent reform, only small changes.

In June, President Barack Obama called for action against patent trolls. Today the White House held a short conference updating what has happened in the arena of patent policy since then and announced new initiatives going forward—including one to "crowdsource" the review of patents. "I don't think we felt like we had a choice but to take action on the issue of patent trolls," said Obama economic adviser Gene Sperling at today's event. "What we were seeing wasn't a trend upward [in patent threats], it was a hockey stick." Sperling expressed hope that patents could be a "sweet spot" for bipartisan compromise and that a bill would make it to the president's desk. The Innovation Act, which includes fee-shifting and customer protection measures for patent lawsuits, has passed the House and is being debated in the Senate. Multiple speakers noted that the president had mentioned "costly, needless" patent litigation in his State of the Union address, and that the issue still has his attention. Today's statement and conference didn't add too much detail about the crowdsourcing idea. The statement generally suggests that "companies, experts, and the general public" be involved in the "determination of whether an invention is truly novel." Commerce Secretary Penny Pritzker said the program would "encourage the innovation community to uncover and submit hard-to-find... prior art." Tweaks to a system that only says “yes” Currently, getting a patent is a one-on-one proceeding between the applicant and the examiner. Two pilot programs that allowed the public to submit prior art were only applied to a tiny number of patents, and in the first program, all the patents were voluntarily submitted by the applicants. Applying such scrutiny to a few hundred patents, out of the hundreds of thousands issued each year, isn't any kind of long-term solution. Unless the crowd-sourcing initiatives were to put major new burdens on applicants—which would be resisted—the fundamentals of patent examination aren't going to change. Patent examiners get an average of eighteen hours to review a patent. Most importantly, examiners effectively can't say "no" to applicants. They can reject a particular application, but there's no limit to the number of amendments and re-drafts an applicant can submit. "Continuation" applications allow tweaking and updating of claims that may have never been seriously tested. Continuations can be piled on, whether the original application results in a patent or not. The other new initiatives involve increasing training for examiners and providing more pro bono legal assistance for inventors, as well as help for "pro se" applicants without a lawyer. Another development responding to the president's requests is the USPTO's new "online toolkit," basically a government FAQ that answers common questions about patent suits and gives details about specific patents. The site provides information to consumers and companies; categories on the just-launched site read "I've been sued...", "I got a letter," "About patents," and "About patent infringement." The FAQ mostly avoids the really bad news, like the fact that the cost of fighting off a single assertion is likely to cost multiple millions of dollars. "The toolkit will include information and links to services and websites that can help consumers understand the risks and benefits of litigation or settlement and pick their best course of action," according to the statement. "Consumers and citizens who face litigation should understand their rights and get what they need." Other USPTO updates: It has proposed a rule that would require patent owners to provide accurate ownership information to the office when patents are granted and when a patent gets involved in USPTO proceedings after it's granted. The idea is to make "patent troll"-type entities disclose their true parent company or owner. It has developed a training program to help examiners "rigorously examine so-called 'functional claims' to ensure claims are clear and can be consistently enforced. The USPTO will also launch a pilot program that uses glossaries in patent documents to promote clarity. It is also reviewing the standards used when the International Trade Commission issues exclusion orders. **The developments show** that **the White House is maintaining a high level of interest** in changing the patent system. **But** it also **highlights the limits of what can be done** in this area **by the executive** branch **alone**.

#### XOs fail- congress key

Byers, 2-19 -- Politico staff

[Erin Mershon and Alex Byers, "White House pushes forward with patent reforms," Politico, 2-19-14, www.politico.com/story/2014/02/patent-reforms-white-house-103696.html, accessed 3-13-14]

For reform supporters, the administration’s efforts certainly don’t hurt. But they don’t address issues that many see as crucial to meaningful reform, like fee-shifting — a rule that could make companies that lose patent cases pay the winner’s legal fees in some cases. Getting more comprehensive legislation through Capitol Hill, they say, is a must-do. “It’s really encouraging to see the White House and the Patent Office involvement, and it’s particularly encouraging to see them taking actions that will help people who don’t regularly deal with the patent system,” said the Electronic Frontier Foundation’s Julie Samuels, a patent reform advocate who testified on Capitol Hill last year. “But what we really need is legislation. We need the Senate to pass a bill like the Innovation Act that the president will sign.”

### A2 Courts Solve

#### Courts can’t solve

Duan, 2-24 -- Public Knowledge’s Patent Reform Project director

[Charles, "Big Businesses Are Filing Frivolous Patent Lawsuits To Stifle Innovative Small Competitors," Forbes, 2-24-14, www.forbes.com/sites/realspin/2014/02/24/big-businesses-are-filing-frivolous-patent-lawsuits-to-stifle-innovative-small-competitors/, accessed 3-13-14]

There are two ways to fix this problem. One is to use the courts to attack those patent assertors’ abusive practices. Indeed, several state attorneys general have started filing consumer protection lawsuits against patent assertion entities, and Cisco even tried to use a racketeering statute against Innovatio. The problem is that an esoteric rule of Constitutional law makes such attacks difficult to win—precisely for the fact that the courts are being used as the tools of abuse.

#### Courts empirically can’t solve

MERGES 2014 - Wilson Sonsini Goodrich & Rosati Professor of Law and Technology, U.C. Berke- ley School of Law; Co-Director, Berkeley Center for Law and Technology (Merges, Robert P., The Trouble with Trolls: Innovation, Rent-Seeking, and Patent Law Reform, Berkeley Technology Law Journal Volume 24 Issue 4Fall Article 7, Accessed 3-14-14)

The growth of economic activity surrounding information-based assets has, as theory would predict, led to a strengthening of property rights over those assets.' But now, the strengthening of property rights over information assets has also led to a binge of rent-seeking that has put significant pressure on the innovative industries that were the intended beneficiaries of those rights.2 These glaring problems with the current patent system show how property rights institutions can lose traction with the underlying economic situation they govern. In response, property rights must be constantly and continuously updated, so as to maintain the underlying relationship between increased asset values and the appropriate specification of property rights they occasion. This updating, however, is not a straightforward process; it implicates complex details of political economy, including the optimal divi- sion of labor between legislatures and courts, and all of the messy particulars of legislative influence and Congressional action. Among these, one that is quite important is the question of what role courts should play when economic conditions indicate a need for adjustments in property rights specifications, but different industry groups have mutual and reciprocal veto power over legislative enactments. I argue that in the case of damages measures in recent patent reform legislation, we have reached just such an impasse. And I come down on the side of judicial action in the face of the current legislative stalemate. To some extent, the patent system has already embarked in this direction. The most important indication of this is the Supreme Court's 2006 opinion in eBay, Inc. v. MercExchange, LLC. That case, which I will refer to often, re- jected the "automatic injunction" rule of the Federal Circuit (the unified fed- eral appeals court for patent cases), and replaced it with a flexible test based squarely in the traditions of equitable remedies.4 The concurrence by Justice Kennedy (joined by three other Justices) contains the crucial rationale for this move.' He explained that the threat of an injunction was being used by some plaintiffs in patent cases to extract disproportionate settlements from manu- facturers of complex, multi-component products: An industry has developed in which firms use patents not as a basis for producing and selling goods but, instead, primarily for obtain- ing licensing fees.... For these firms, an injunction, and the poten- tially serious sanctions arising from its violation, can be employed as a bargaining tool to charge exorbitant fees to companies that seek to buy licenses to practice the patent.... When the patented invention is but a small component of the product the companies seek to produce and the threat of an injunction is employed simply for undue leverage in negotiations, legal damages may well be sufficient to compensate for the infringement and an injunction may not serve the public interest. This is precisely the sort of institutional adjustment I am arguing for in this Article. The Federal Circuit's injunction standard was part of a sweeping strengthening of patent protection which made sense given the increasing importance of intangible assets in overall economic activity. But rent-seeking ensued in the wake of this sweeping change. Micro-adjustments were there- fore in order. I believe eBay provides an excellent prototype for adjustments of this type in the patent context. When adjustments are made, we see a demonstration of how real-world institutions can adapt property rights to shifting economic conditions. Of course, this is an ongoing process. In the Conclusion, I argue that an adjustment of this sort is now necessary for the doctrines related to damages, and specifically for the need to more rationally apportion damages in patent cases.

### AT: Better internal link to the economy