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**The United States, American Exceptionalism, and UNCLOS: Paradox in
the Persian Gulf, Patterns in the Pacific, and the Polar Vortex**

Master of Arts in Law and Diplomacy

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All of them, all except Phineas, constructed at infinite cost to themselves these Maginot Lines against this enemy they thought they saw across the frontier, this enemy who never attacked that way – if he ever attacked at all; if he was indeed the enemy.

– John Knowles, *A Separate Peace* (1959)

Paradoxically, a chief source of insecurity in Europe since medieval times has been this false belief that security was scarce. This belief was a self-fulfilling prophecy, fostering bellicose policies that left all states less secure. Modern great powers have been overrun by unprovoked aggressors only twice, but they have been overrun by provoked aggressors six times – usually by aggressors provoked by the victim's fantasy-driven defensive bellicosity. Wilhelmine and Nazi Germany, Imperial Japan, Napoleonic France, and Austria-Hungary were all destroyed by dangers that they created by their efforts to escape from exaggerated or imaginary threats to their safety...

– Stephen Van Evera, “Offense, Defense, and the Causes of War” (1998)

If actors believe that war is imminent when it is not in fact certain to occur, the switch to implemental mind-sets can be a causal factor in the outbreak of war, by raising the perceived probability of military victory and encouraging hawkish and provocative policies.

– Dominic D.P. Johnson and Dominic Tierney, “The Rubicon Theory of War” (2011)

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Executive Summary:

The 2019 crisis in the Persian Gulf, Chinese military activity in the Pacific, and emergent U.S. Arctic policy are all linked by a critical factor: the United States' failure – whether by design or by neglect – to accede to the United Nations Convention on the Law of the Sea (UNCLOS).

This thesis is divided into four sections. Part I: Paradox in the Persian Gulf analyzes the ongoing crisis with regard to events in mid-2019 in the Gulf of Oman and their ramifications for U.S. hegemony. The author argues that this point in time may be a watershed moment for the United States: whereas Washington was able to form maritime coalitions quickly in the past, Washington now finds itself at odds with longtime U.S. allies and is struggling to form a coalition of the unwilling. Moreover, had the United States been a party to UNCLOS, this crisis would likely have been avoided, or, at the least, would have had the mechanisms to resolve it without resorting to armed conflict. In Part II: The United States, American Exceptionalism, and UNCLOS, this thesis argues that increasingly unilateralist behavior by the United States toward international treaty regimes paradoxically places America at risk of becoming the *precedent* – rather than the *exception* – in international law, as U.S. behavior encourages other great powers to adopt similar tactics. Part III: Patterns in the Pacific, and Part IV: the Polar Vortex, explore how the United States' lack of accession to UNCLOS and unilateralist behavior increases the potential for crises similar to that in the Gulf to arise in other geostrategic regions, and analyzes how U.S. unilateralist behavior places U.S. interests and international security at risk in these areas. This paper concludes that the United States must promptly reassess its lack of accession to UNCLOS; must reassess its unilateralist behavior toward international treaty regimes; and must reevaluate its relationships with China—and with Russia in particular—going forward.

Part I: Paradox in the Persian Gulf

1.1 *The Ongoing Crisis in the Gulf of Oman*

On 13 June 2019 two tankers – one Norwegian-owned and one Japanese-owned – were attacked in the Gulf of Oman.¹ The attacks occurred just south of the Strait of Hormuz, the geostrategic marine chokepoint through which some 20 to 30 percent of the world's crude oil is transported by ship every day.² After weeks of simmering tensions with Iran, U.S. President Donald Trump was quick to place blame on Iran for the attacks, which the Iranian government denied. Despite the release of declassified U.S. intelligence on the matter, U.S. allies initially demurred on U.S. claims that Iran was behind the attacks. International leaders, including Germany and the flagged owners of the tankers, Japan and Norway, called for additional hard evidence as the United States pressed for military action.³ President Trump later said he had stopped short of unilaterally⁴

¹ Jon Gambrell. "Tankers struck near Strait of Hormuz; US blames Iran." *Associated Press*, June 13, 2019. Accessed on August 7, 2019. <https://apnews.com/d67714ab8ac344a3b3af19cca1c20192>

² Rockford Weitz. "Why is the Strait of Hormuz important?" *The Conversation*, July 9, 2018. Accessed on August 7, 2019. <http://theconversation.com/why-is-the-strait-of-hormuz-important-99496>; Justine Barden. "The Strait of Hormuz is the world's most important oil chokepoint." *U.S. Energy Information Administration*, June 20, 2019. Accessed on August 7, 2019. <https://www.eia.gov/todayinenergy/detail.php?id=39932>.

³ Robbie Gramer and Lara Seligman. "Some U.S. Allies Balk at Blaming Iran for Tanker Attack." *Foreign Policy*, June 14, 2019. <https://foreignpolicy.com/2019/06/14/some-us-allies-balk-at-blaming-iran-for-tanker-attack-gulf-oman/>; Mark Landler, Julian E. Barnes and Eric Schmitt. "U.S. Puts Iran on Notice and Weighs Response to Oil Tankers." *New York Times*, June 14, 2019. Accessed on August 7, 2019. <http://web.archive.org/web/20190615152951/https://www.nytimes.com/2019/06/14/us/politics/trump-iran-tanker-hormuz.html?module=inline>.

ordering a conventional military attack against Iran in response to the incident; instead, he approved offensive cyber-attacks against Iran's military command and control systems, in addition to further economic sanctions.⁵ The European Union (EU) has instead called for "maximum restraint" and de-escalation of the situation in contrast to the "maximum pressure" policy of the current U.S. administration towards Iran.⁶

Later in June 2019, U.S. allies again demurred at a NATO defense ministerial meeting where then acting U.S. Defense Secretary, Mark Esper, proposed "Operation Sentinel." The U.S. led plan calls for a coalition of U.S. allies for naval patrols and the escort of flagged ships in the Strait of Hormuz and elsewhere.⁷ At the June meeting, no U.S. allies would give firm commitments to the plan, while French Defense Minister Florence Parly stated outright that the United States should not involve NATO in any military mission in the Gulf region.⁸

In early July 2019, the Iranian oil tanker *Grace 1* was seized by the British in Gibraltar, arguably at the request of the United States.⁹ The tanker's suspected destination was Syria, and the British stated that they were enforcing EU sanctions that prohibit the export of Iranian oil, Iran's primary export.¹⁰ The economic sanctions against Syria stem from the United States' withdrawal in May 2018 from the Joint Comprehensive Plan of Action (JCPOA), a multilateral nuclear accord signed with Iran in 2015.¹¹ Weeks later, Iran responded to the British seizure of *Grace 1* with its retaliatory seizure of the British flagged tanker *Stena Impero* on 21 July, escalating the crisis.¹²

⁴ Kimberly Dozier. "The 'Special' U.S.-U.K. Relationship is Bruised After Officials Left U.K. Out of Iran Strike Planning." *Time*, last updated on July 23, 2019. Accessed August 7, 2019. <https://time.com/5632630/iran-u-s-uk-drone-relationship/>

⁵ Ellen Nakashima. "Trump approved cyber-strikes against Iran's missile systems." *Washington Post*, June 22, 2019. Accessed August 7, 2019. https://www.washingtonpost.com/world/national-security/trump-approved-cyber-strikes-against-iran/2019/06/22/250d3740-950d-11e9-b570-6416efdc0803_story.html?utm_term=.87203497baf1

⁶ Steven Erlanger. "Distrusting both Iran and U.S., Europe Urges 'Maximum Restraint.'" *New York Times*, June 14, 2019. Accessed on August 7, 2019. <http://web.archive.org/web/20190614185204/https://www.nytimes.com/2019/06/14/world/europe/tanker-europe-strait-of-hormuz.html>

⁷ Kimberly Dozier. "The 'Special' U.S.-U.K. Relationship is Bruised After Officials Left U.K. Out of Iran Strike Planning." *Time*, last updated on July 23, 2019. Accessed August 7, 2019. <https://time.com/5632630/iran-u-s-uk-drone-relationship/>

⁸ Robin Emmott and Sabine Siebold. "U.S. tells NATO it wants to avoid war with Iran: diplomats." *Reuters*, June 27, 2019. Accessed on August 7, 2019. <https://www.reuters.com/article/us-mideast-iran-usa-nato/us-tells-nato-it-wants-to-avoid-war-with-iran-diplomats-idUSKCN1TS1TG>

⁹ Dan Sabbagh and Stephen Burgen. "Ex-military chief urges Iran to seize UK ship in Gibraltar tit-for-tat." *The Guardian*, July 5, 2019. Accessed on August 7, 2019. <https://www.theguardian.com/world/2019/jul/05/spain-to-lodge-complaint-over-british-seizure-of-oil-tanker-gibraltar>

¹⁰ Patrick Wintour. "Gulf crisis: story began with UK's seizure of Iranian-flagged ship in Gibraltar." *The Guardian*, July 19, 2019. Accessed on August 7, 2019. <https://www.theguardian.com/world/2019/jul/20/gulf-crisis-tanker-retaliation-iran-hormuz> and <https://www.nytimes.com/2019/07/28/world/europe/iran-tanker-britain-nuclear.html>

¹¹ CRS Staff. Congressional Research Service Report No: RS20871: "Iran Sanctions." Updated July 12, 2019. Accessed via <https://fas.org/spp/crs/mideast/RS20871.pdf> on August 7, 2019.

¹² Adam Taylor and James McAuley. "The U.S. and Europe are pursuing sharply different plans for patrols in the Persian Gulf." *Washington Post*, July 24, 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/world/middle-east/the-us-europe-and-iran-have-sharply-different-views-on-security-patrols-in-the-persian-gulf/2019/07/24/8fd8973a-ad55-11e9-9411-a608f9d0c2d3_story.html?noredirect=on&utm_term=.77758aca9c8a

The seizure of *Stena Impero* prompted the UK to then propose its own “European-led plan” for a multinational maritime security effort. The European-led plan expressly separates itself from the United States’ “maximum pressure” policy toward Iran, but still seeks some degree of U.S. military support. The remaining signatories to the JCPOA – the United Kingdom, Russia, China, France, and Germany – have all reaffirmed their commitment to the treaty, and their resolve to preserve the agreement has had a powerful impact on their response to U.S. proposals for military action in the Gulf.¹³ While the European-led plan has gained more international traction than Operation Sentinel, the fear that any U.S. military involvement could jeopardize the preservation of the JCPOA and/or provoke Iran further has made France, and in particular, Germany, unwilling to participate in any military efforts that involve the United States.¹⁴ Meanwhile, Russia has signed new defense agreements with Iran, including plans for joint military drills in the Gulf of Oman, and China has been circumventing U.S. sanctions against Iran for months by stockpiling millions of barrels of Iranian crude oil in “bonded storage.”¹⁵ Additionally, Beijing has recently partnered with Iran to counter U.S. “unilateralism and hegemony” in cyber operations.^{16 17}

Thus far, Iran has rejected both the U.S.-led and the European-led proposals for naval coalitions. Moreover, European signatories to the JCPOA have formed the Instrument in Support of Trade Exchanges (INSTEX) to circumvent U.S. sanctions, thereby providing Iran with economic relief in a bid to save the treaty.^{18 19} In early August, Iran threatened further violations to the JCPOA, in addition to threats to block energy exports out of the Strait of Hormuz. On August 16, having received “written assurances” from Iran that the ship would not be traveling to Syria, a court in Gibraltar ordered the release of *Grace 1*.²⁰ The United States then issued a warrant for the ship’s

¹³ Kylie MacLellan and Michael Georgy. “Britain calls for European naval mission to counter Iran’s ‘piracy.’” *Reuters*, July 22, 2019. Accessed on August 7, 2019. <https://www.reuters.com/article/us-mideast-iran/britain-calls-for-european-naval-mission-to-counter-irans-piracy-idUSKCN1UH16E>; Tom O’Connor. “U.S. struggles to get help from Europe as Iran plans military moves with Russia, seeks support from China.” *Newsweek*, July 30, 2019. Accessed August 7, 2019. <https://www.newsweek.com/us-struggles-europe-help-iran-russia-military-moves-1451752>

¹⁴ Tom O’Connor. “Germany says it will not support U.S. military in Gulf, where Iran is ready for talks with Saudi Arabia.” *Newsweek*, July 31, 2019. Accessed August 7, 2019. <https://www.newsweek.com/germany-wont-back-us-gulf-iran-talks-saudi-arabia-1452011>

¹⁵ Tom O’Connor. “Iran says it will expand military ties with Russia, hold joint drills as U.S. tries to build rival coalition.” *Newsweek*, July 29, 2019. Accessed on August 7, 2019. <https://www.newsweek.com/iran-says-it-will-expand-military-ties-russia-hold-joint-drills-us-tries-build-rival-coalition-1451630>

¹⁶ Natasha Turak. “Millions of barrels of Iranian crude are sitting in Chinese ports—and could disrupt oil markets.” *CNBC*, August 2, 2019. Accessed August 7, 2019. <https://www.cNBC.com/2019/08/02/millions-of-barrels-of-iranian-crude-are-sitting-in-chinese-ports.html>

¹⁷ Zak Doffman. “Cyber warfare threat rises as Iran and China agree ‘United Front’ against U.S.” *Forbes*, July 6, 2019. Accessed on August 7, 2019. <https://www.forbes.com/sites/zakdoffman/2019/07/06/iranian-cyber-threat-heightened-by-chinas-support-for-its-cyber-war-on-u-s/#510704e942eb>

¹⁸ Patrick Wintour. “Iran rejects UK’s proposal for European-led maritime force.” *The Guardian*, July 23, 2019. Accessed on August 7, 2019. <https://www.theguardian.com/politics/2019/jul/23/jeremy-hunts-plan-of-european-led-maritime-force-in-gulf-hits-opposition>

¹⁹ Staff. “Europe says Iran trade channel operational - statement.” June 28, 2019. Accessed on August 7, 2019. <http://news.trust.org/item/20190628181924-3xr0i/>; Babak Dehghanpisheh. “Iran says it will further breach nuclear deal in one month unless Europeans act.” *Reuters*, August 5, 2019. Accessed on August 7, 2019. <https://www.reuters.com/article/us-mideast-iran/iran-says-it-will-further-breach-nuclear-deal-in-one-month-unless-europeans-act-idUSKCN1UV1TV>

²⁰ Kim Hjelmgaard. “U.S. issues warrant to seize Iran oil tanker ‘Grace 1’ after Gibraltar judge orders its release.” *USA Today*, August 17, 2019. Accessed on August 19, 2019.

seizure; this was subsequently rejected by the Gibraltar court, which ruled that U.S. economic sanctions against Iran did not apply to Gibraltar, the European Union, or to the United Kingdom. The ship assumed a new name, *Adrian Darya 1*, and is at the time of this writing reportedly en route to Greece.²¹

1.2 The Elephant(s) in the Room

In brief, the ongoing Gulf Crisis demonstrates the following:

1. **That the U.S. failure to ratify UNCLOS threatens U.S. interests and international security in geostrategic regions;**
2. **weakening U.S. hegemony and the emergence of a multipolar world;**
3. **a crisis of trust in U.S. foreign policy and an emergent lack of confidence in U.S. global leadership;**
4. **growing cracks in the present Euro Atlantic order;**
5. **a crisis of Euro Atlantic leadership;**
6. **and the dangers of continuing unilateralist international treaty behavior by the United States.**

First, the current Gulf crisis demonstrates how the United States' failure to ratify UNCLOS puts U.S. national interests and international security at risk.

An overlooked but critical piece at issue in the ongoing Gulf crisis is the United Nations Convention on the Law of the Sea (UNCLOS). Although the United States was instrumental in its creation, Washington has neither signed nor ratified the treaty, while Iran has signed the treaty but has never ratified it. The situation is further complicated by the lack of official diplomatic ties between Washington and Tehran; it is complicated further still by the selective application of some of the treaty's contents by both countries and the dismissal of others: this is especially true as it relates to navigational freedoms.²² Accordingly, there is no shared, clear legal framework that both Iran and the United States subscribe to with which to judge the current conflict. Legal scholars, such as David Sandalow, argue that where UNCLOS is stable, clear, and consistent, customary international law is by contrast open to interpretation, inconsistent, and defines state rights less clearly.^{23 24} Thus, in terms of international law, Iran and the United States are both operating in a hazardous legal gray zone.

<https://www.usatoday.com/story/news/world/2019/08/17/u-s-issues-warrant-seize-iran-oil-tanker-grace-1/2038461001/>

²¹ Liz Sly. "Gibraltar rejects U.S. request to seize Iranian oil tanker, ship leaves for Greece." *Washington Post*, August 19, 2019. Accessed on August 20, 2019. https://www.washingtonpost.com/world/middle_east/gibraltar-rejects-us-request-to-seize-iranian-oil-tanker/2019/08/18/ac573758-c1c4-11e9-8bf7-cde2d9e09055_story.html

²² Mark Nevitt. "The missing piece in US-Iran Drone Dispute: Navigational freedoms and the Strait of Hormuz." *Just Security*, June 28, 2019. Accessed on August 7, 2019. <https://www.justsecurity.org/64725/the-missing-piece-in-us-iran-drone-dispute-navigational-freedoms-and-the-strait-of-hormuz/>

²³ Kraska, James. "*Legal Vortex in the Strait of Hormuz*." *Virginia Journal of International Law*. Vol. 54, No. 2 (2014): 326. Accessed on August 7, 2019.

²⁴ Side note: although both the United States and Iran do follow to some degree customary international law, this legal area contains many ambiguities and differences of opinion on its definitions and applications. See: [Sandalow, David B.](#) Law of the Sea Convention: Should the U.S. Join?. Brookings Institution: Washington, D.C., August 2004 (7p). : <https://www.brookings.edu/research/law-of-the-sea-convention-should-the-u-s-join/>. Accessed on August 7, 2019.

James Kraska of the U.S. Naval War College argues that as a non-party to UNCLOS, “the United States enjoys only the right of nonsuspendable innocent passage in the Strait of Hormuz” rather than full transit rights, while Iran “is limited to enforcement of only a three nautical mile territorial sea rather than the contemporary standard of twelve nautical miles” that is afforded under the Convention.²⁵ Moreover, Kraska underscores the fact that UNCLOS is the one document that was designed with the idea of preventing conflicts like the one at hand in the Gulf, and whose contents could resolve it. It was also designed as a “package deal” so as to prevent the “cherry picking” of rights and duties by state actors. Since the United States is not a party to UNCLOS, it is not entitled to exercise transit passage in the Strait of Hormuz, and Kraska argues that “to permit the United States to enjoy transit passage is to indulge Washington in the very type of ‘cherry picking’ among the provisions of UNCLOS that the package deal was designed to prevent.” Kraska maintains that the regime of transit passage is reserved only for parties to UNCLOS.²⁶

Owing to the United States’ unilateralism toward UNCLOS, Kraska predicted in 2014 that the Strait of Hormuz would be “the ground zero in any war” in the Persian Gulf.²⁷ He warns that this “lack of agreement over the application of the international law of the sea” between Iran and the United States in the Strait of Hormuz has created “a legal vortex” that increases the chances of war in the Gulf. Accordingly, it can be argued that the United States’ decision not to ratify UNCLOS also increases the chances of preventable conflicts – if not outright war – in other geostrategic regions: namely, the South China Sea, and the Arctic.²⁸ More broadly, it can also be argued that unilateralist behavior by the United States toward other international treaty regimes increases the possibilities of preventable conflicts in general.

Second, the Gulf Crisis demonstrates the shifting power dynamics of the current international system.

The ongoing Gulf crisis is both an example and a product of the United States’ increasingly unilateralist behavior in relation to international treaties and U.S. foreign policy. In exposing tensions and fundamental policy differences between the United States and some of its closest allies, the Gulf crisis has also exposed the waning hegemony of the United States in the present world order. The crisis demonstrates how U.S. behavior has encouraged Europe to draw closer together as a region, while positioning Europe for greater solidarity and increased partnership with the United States’ main competitors: China and Russia. It also typifies the more myopic aspects of the United States’ foreign policy, such as Washington’s limited geopolitical awareness and problems with U.S. strategic preparedness for future challenges – namely, with China and with Russia.

While much of Washington has focused on Russia as being poised to gain the most from the ongoing Gulf crisis, upon closer inspection, it is actually China.^{29 30} Gaining access to the Gulf of Oman and other geostrategic regions is central to China’s geopolitical goals, as facilitated by Beijing’s impressively comprehensive Belt and Road Initiative (BRI). China has already built a port close to the Iranian border in Gwadar, Pakistan, and is mulling the possibility of a naval base

²⁵ Kraska, James. “*Legal Vortex in the Strait of Hormuz*.” *Virginia Journal of International Law*. Vol. 54, No. 2 (2014): 326.

²⁶ *Ibid.* Page 350-360 in particular.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ Lara Seligman. “Pentagon wary of Russia-Iran cooperation.” *Foreign Policy*, May 31, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/05/31/trump-putin-syria-tehran-pentagon-wary-of-russia-iran-cooperation/>

³⁰ Robert D. Kaplan. “This isn’t about Iran. It’s about China.” *New York Times*, June 26, 2019. Accessed on August 7, 2019. <https://www.nytimes.com/2019/06/26/opinion/trump-iran-china.html>

there. Beijing has also invested some 60 billion USD in what it calls the China Pakistan Economic Corridor (CPEC), which seeks to link Western China with Pakistan, and by extension the Gulf of Oman and Strait of Hormuz.^{31 32 33} India, acting as a counterweight to Iran, has invested heavily in the Iranian port of Chabahar, but U.S. sanctions mean that India will be forced to abandon its projects there. Some experts now predict that the Gwadar port will likely become “the only access route to the Arabian Sea and Indian Ocean trade for Afghanistan and Central Asia” – which would exponentially increase China’s geopolitical power.

China’s stakes in the Gulf crisis demonstrates how countries “with economic ties to China but strategic alliances with the United States” will face an increasingly difficult tug-of-war in the coming years.³⁴ For example, Beijing is quickly establishing a presence in the Pacific via the Philippines – an American ally. The U.S.-Philippine Alliance has been on shaky ground in recent years, and Beijing’s political and economic influence on Manila has gained traction.³⁵ Chinese firms are now funding multiple infrastructure projects in the Philippines:³⁶ these projects involve areas such as Subic Bay – which was formerly the site of a historic U.S. naval base – as well as in areas of the former U.S. Clark Air Base.³⁷ Owing to the alliance, U.S. forces are allowed access to Philippine military bases at the invitation of the Philippine government, and American access to Philippine airfields is especially critical from the angle of maritime security: in the event of armed conflict in the South China Sea, the Philippines would provide Washington with its only point of fighter-range access.³⁸ China is clearly cognizant of this and is seeking to deter future American access.³⁹ Likewise, the ongoing gulf crisis also exposes how U.S. allies in Europe – and in particular, Germany – face a similar tug-of-war between U.S. interests on the one hand, and competing Russian and Chinese interests and influence on the other. European countries have increasing economic ties and energy dependence on Russia,⁴⁰ while China is also increasing its presence in Europe: as of 2019, Chinese

³¹ Lara Seligman. “Pentagon wary of Russia-Iran cooperation.” *Foreign Policy*, May 31, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/05/31/trump-putin-syria-tehran-pentagon-wary-of-russia-iran-cooperation/>

³² Vali Nasr. “Trump’s Iran strategy is helping China.” *The Atlantic*, July 12, 2019. Accessed on August 7, 2019. <https://www.theatlantic.com/ideas/archive/2019/07/trumps-iran-strategy-helping-china/593764/> and

³³ Syed Fazl-E-Haider. “Trump’s bungled Iran gambit is helping China become a naval power with global reach.” *The Daily Beast*, July 17, 2019. Accessed on August 7, 2019. <https://www.thedailybeast.com/trumps-bungled-iran-gambit-is-helping-china-become-a-naval-power-with-global-reach>

³⁴ Michael Schuman. “Trump’s trade war with China is already changing the world.” *The Atlantic*, June 25, 2019. Accessed on August 7, 2019. <https://www.theatlantic.com/international/archive/2019/06/trumps-trade-war-with-china-is-changing-the-world/592411/>

³⁵ Kristina Wong. “Philippine president announces his ‘separation’ from the U.S.” *The Hill*, October 20, 2016. Accessed on August 11, 2019. <https://thehill.com/policy/defense/301982-philippine-president-announces-his-separation-from-the-us>

³⁶ Reuters. “China commits \$3.4 billion for Philippine infrastructure projects.” *The Japan Times*, March 7, 2017. <https://www.japantimes.co.jp/news/2017/03/07/asia-pacific/china-commits-3-4-billion-philippine-infrastructure-projects/>

³⁷ Seth Robson. “Chinese firms could gain footholds at both Subic and Clark in the Philippines.” *Stars and Stripes*, May 7, 2019. Accessed on August 11, 2019. See also: Timothy McLaughlin. “A U.S. Ally is Turning to China to ‘Build, Build, Build.’” *The Atlantic*, May 8, 2019. Accessed on August 11, 2019.

³⁸ Hasik, James. “Why the U.S. Military Should Worry If the Philippines Says Goodbye (And It Involves China).” *National Interest*, October 26, 2016. Accessed April 22, 2018. <http://nationalinterest.org/blog/the-buzz/why-the-us-military-should-worry-if-the-philippines-dumps-18189?page=show>

³⁹ Timothy McLaughlin. “A U.S. Ally is Turning to China to ‘Build, Build, Build.’” *The Atlantic*, May 8, 2019. Accessed on August 11, 2019.

⁴⁰ Gordon Sondland. “Reliance on Russian gas has big risks for Europe.” *Financial Times*, March 12, 2019. Accessed on August 11, 2019. See also: Andrea Thomas. “Russia’s trade with the west surges even as sanctions mount.” *Wall*

firms now hold controlling stakes in over a dozen Mediterranean and European ports.⁴¹ In the words of expert Kimberly Ann Elliot, the current crisis shows that “the world is no longer a place where the United States is powerful enough to set the agenda and expect other countries to fall in line.”⁴²

The ongoing crisis has encouraged Iran to increase its strategic cooperation – and dependence – on both China and Russia.^{43 44} President Trump’s simultaneous trade war with China has also negatively affected financial markets and the global economy. Combined with the current Gulf crisis, Trump’s recent plans for additional tariffs have raised fears of a currency war and of a crash in oil prices, adding to the instability of global financial markets.^{45 46} Secondly, the U.S. handling of the crisis has also given China and Russia more to agree on and more shared international leverage.⁴⁷ It also provides additional context for increased strategic cooperation between Beijing and Moscow, as well as additional capability for acting as a counterweight (or as a spoiler) to U.S. objectives if either so chooses.^{48 49}

Third, with regard to the tanker attacks on 13 June, the U.S. narrative of events has been publically questioned in an unprecedented way, indicating a crisis of trust in U.S. foreign policy and an emergent lack of confidence in U.S. global leadership. Some of the United States’ closest allies – namely the United Kingdom, Japan, and Germany – publically questioned U.S. intelligence, and in some cases publically resisted U.S. conclusions on the tanker attacks. Further, much of the U.S. domestic press as well as the international press initially treated

Street Journal, April 12, 2018. Accessed on August 11, 2019. <https://www.wsj.com/articles/russias-trade-with-the-west-surges-even-as-sanctions-mount-1523534781>

⁴¹ Joanna Kakissis. “Chinese Firms Now Hold Stakes in Over a Dozen European Ports.” *NPR*, October 9, 2018. Accessed on August 8, 2019. <https://www.npr.org/2018/10/09/642587456/chinese-firms-now-hold-stakes-in-over-a-dozen-european-ports>

⁴² Kimberly Ann Elio. “Preserving the power of U.S. economic sanctions in a multipolar world.” *World Politics Review*, April 2, 2019. Accessed on August 7, 2019. <https://www.worldpoliticsreview.com/articles/27722/preserving-the-power-of-u-s-economic-sanctions-in-a-multipolar-world>

⁴³ Chris Horton. “Trump’s attacks on Iran complicate trade war with China.” *Nikkei Asian Review*, June 10, 2019. Accessed on August 7, 2019. <https://asia.nikkei.com/Politics/International-relations/Trump-s-attacks-on-Iran-complicate-trade-war-with-China>

⁴⁴ Tom O’Connor. “U.S. struggles to get help from Europe as Iran plans military moves with Russia, seeks support from China.” *Newsweek*, July 30, 2019. Accessed on August 7, 2019. <https://www.newsweek.com/us-struggles-europe-help-iran-russia-military-moves-1451752>

⁴⁵ Schott Horsley. “U.S.-China trade war spreads from tariffs to a battle over currencies.” *NPR*, August 6, 2019. Accessed on August 7, 2019. <https://www.npr.org/2019/08/06/748775639/u-s-china-trade-war-spreads-from-tariffs-to-a-battle-over-currencies>

⁴⁶ Ariel Cohen. “Trump’s China trade war hammering oil markets.” *Forbes*, August 6, 2019. Accessed on August 7, 2019. <https://www.forbes.com/sites/arielcohen/2019/08/06/trumps-china-trade-war-hammering-oil-markets/#6fd5a74b323f>

⁴⁷ Tom O’Connor. “Donald Trump’s trade wars are brining Russia and China together, making it easier for them to challenge U.S.” *Newsweek*, June 12, 2019. Accessed on August 7, 2019. <https://www.newsweek.com/donald-trump-trade-war-russia-china-1443621>

⁴⁸ Gurmeet Kanwal. “Pakistan’s Gwadar port: a new naval base in China’s string of pearls in the Indo-Pacific.” *CSIS*, April 2, 2018. Accessed on August 7, 2019. <https://www.csis.org/analysis/pakistans-gwadar-port-new-naval-base-chinas-string-pearls-indo-pacific>

⁴⁹ Bruno Macaes. “The Coming Wars.” *Politico*, February 17, 2019. Accessed on August 7, 2019. <https://www.politico.eu/blogs/the-coming-wars/2019/02/russia-china-alliance-rule-the-world/>

the U.S. version of events with doubt and suspicion. Prominent news outlets published accusations of U.S. warmongering, and some contributors made comparisons of the events in the Gulf of Oman to the Gulf of Tonkin incident, and to the U.S. invasion of Iraq.^{50 51 52}

Much of this questioning of a government's narrative of events is due to the internet, whereby a profusion of open source information is now available to the public in ways it never was before: ordinary people now have unprecedented access to information, while social networks facilitate the rapid spread of both accurate and inaccurate information and ideas.⁵³ Some academics, such as Tom Nichols, have emphasized that while access to information has become more ubiquitous and more convenient with the rise of the internet, this access does not necessarily bring with it authenticity, accurate analysis and/or genuine comprehension – all of which are less convenient, less accessible, and more difficult to come by. In other words, this increased access to information does not necessarily encourage or guarantee the critical thinking and analysis of the users who consume the information (or for those who produce content and those who amplify it). Nichols has described the internet as “less a library than a giant repository where anyone can dump anything;” he and other scholars argue that the internet “tends to generate communities of ... like-minded groups, dedicated to confirming their own preexisting beliefs rather than challenging them,” while social media “amplifies” echo chambers of political and intellectual biases.^{54 55} Others, such as Thomas View, say that rather than a marketplace of ideas, the internet now offers “a marketplace of realities.”⁵⁶ While many experts emphasize how the internet has facilitated and exacerbated cognitive biases, there is also the question of how much the internet has merely increased the *visibility* of biases that have always existed – but until recently were more difficult to quantify, less visible, and much easier to contain. Experts are split on whether information literacy will improve or worsen in the

⁵⁰ Joseph DeBor, in letters to the editor section. “Beware a Gulf of Tonkin incident with Iran.” *New York Times*, June 23, 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/opinions/beware-a-gulf-of-tonkin-incident-with-iran/2019/06/23/247abf02-93a3-11e9-956a-88c291ab5c38_story.html?noredirect=on&utm_term=.477d741e57f3

⁵¹ Sandra Petersmann. “Tanker attacks in the Gulf – evidence or warmongering?” *Deutsche Welle*, June 21, 2019. Accessed on August 7, 2019. <https://www.dw.com/en/tanker-attacks-in-the-gulf-evidence-or-warmongering/a-49295596>

⁵² Eliot Higgins. “Was Iran behind the Oman tanker attacks? A look at the evidence.” *New York Times*, June 14, 2019. Accessed August 7, 2019. <https://www.nytimes.com/2019/06/14/opinion/iran-tanker-attacks.html>

⁵³ Benkler, Yochai, Faris, Rob, and Roberts, Hal. *Network Propaganda: Manipulation, Disinformation, and Radicalization in American Politics*. Oxford University Press. Published October 2018. Accessed on August 7, 2019 <https://www.oxfordscholarship.com/view/10.1093/oso/9780190923624.001.0001/oso-9780190923624>; for complexities of negotiating competing narratives:

⁵⁴ Tom Nichols. “How America lost faith in expertise.” *Foreign Affairs*, March/April 2017. Accessed on August 7, 2019. See also: Tomas Chamorro-Premuzic. “How the web distorts reality and impairs our judgement skills.” *The Guardian*, May 13, 2014. <https://www.theguardian.com/media-network/media-network-blog/2014/may/13/internet-confirmation-bias>; “Farhad Manjoo. How the internet is loosening our grip on the truth.” *New York Times*, November 2, 2016. Accessed on August 7, 2019. <https://www.nytimes.com/2016/11/03/technology/how-the-internet-is-loosening-our-grip-on-the-truth.html>

⁵⁵ Giovanni Luca Ciampaglia and Filippo Menczer. “Biases make people vulnerable to misinformation spread by social media.” *The Conversation (U.S. edition)*, June 21, 2018. Updated on January 10, 2019. Accessed on August 7, 2019. <http://theconversation.com/misinformation-and-biases-infect-social-media-both-intentionally-and-accidentally-97148>

⁵⁶ Alyssa Rosenberg. “I understand the temptation to dismiss QAnon. Here’s why we can’t.” *Washington Post*, August 7, 2019. Accessed on August 11, 2019.

coming years.⁵⁷ Ultimately, these internet trends significantly impact domestic and international politics in the real world.

The reaction to the 13 June incident came after the U.S. *New York Times* newspaper published an exposé in March: the article countered the U.S. government's claim that Venezuelan President Nicolas Maduro had ordered a convoy of humanitarian aid to be set on fire, and included unreleased footage which contradicted U.S. claims.⁵⁸ Thus, the later response of U.S. allies, of domestic and international media, and of much of the greater public to the U.S. government's narrative of the events in the Gulf of Oman demonstrates a greater erosion of U.S. credibility that cannot be disregarded.⁵⁹ It also demonstrates a larger-scale trend toward the public questioning of U.S. government narratives of events (as well as those of other countries); different groups' rejection and embrace of competing narratives; and signifies the emergent challenges to the U.S. government's narrative (and that of other governments' respective narratives) at large in the 21st century.^{60 61}

Fourth, the Gulf Crisis exposes the growing cracks in the present Euro Atlantic order.⁶² The cracks in the transatlantic alliance, having grown wider during the current U.S. administration, have only been exacerbated by the ongoing Gulf crisis. NATO members and non-members alike have openly rejected U.S. proposals, resisted U.S. leadership efforts on the crisis, and criticized U.S. foreign policy on Iran. It is significant that the United Kingdom – heretofore one of the United States' closest allies – has attempted to craft a “European-led” operation that expressly separates itself from U.S. foreign policy. Although there is some irony in that the United Kingdom has proposed a “European-led” coalition just as it is poised to leave the EU, these actions demonstrate that the UK and Europe at large have begun to draw closer together in reaction to U.S. unilateralism, and in spite of Brexit.⁶³ Moreover, the United States also withheld information from Britain on Trump's initial plans to conventionally attack Iran; this decision not to inform Britain is

⁵⁷ Pew Research Center. “The Future of Truth and Misinformation Online.” *Pew Research Center*, October 19, 2017. Page 26; entire report as a reference. Online access. <https://www.pewinternet.org/2017/10/19/the-future-of-truth-and-misinformation-online/>

⁵⁸ Nicholas Casey, Christoph Koettl, and Deborah Acosta. “Footage Contradicts U.S. Claim That Nicolas Maduro Burned Aid Convoy.” *New York Times*, March 10, 2019. Accessed on August 7, 2019. <https://www.nytimes.com/2019/03/10/world/americas/venezuela-aid-fire-video.html>

⁵⁹ William A. Galston. “Allies’ Trust for America Has Sunk in the Gulf.” *Wall Street Journal*, June 18, 2019. Accessed on August 7, 2019. <https://www.wsj.com/articles/allies-trust-for-america-has-sunk-in-the-gulf-11560897659>

⁶⁰ Carnegie Council for Ethics in International Affairs. *Misconnecting with the U.S. Public: Narrative Collapse and U.S. Foreign Policy: Interim Report of the project on U.S. Global Engagement*, Carnegie Council, Winter 2018-2019. December 5, 2018. Accessed on August 7, 2019.

https://www.carnegiecouncil.org/publications/articles_papers_reports/20181205-misconnecting-with-us-public-narrative-collapse-and-us-foreign-policy

⁶¹ Glenn Greenwald. “NYT's expose on the lies about burning aid trucks in Venezuela shows how U.S. government and media spread pro-war propaganda.” *The Intercept*, March 10, 2019. Accessed on August 7, 2019.

<https://theintercept.com/2019/03/10/nyts-expose-on-the-lies-about-burning-humanitarian-trucks-in-venezuela-shows-how-us-govt-and-media-spread-fake-news/>

⁶² Krishnadev Calamur. “In Europe, standing up to America is now patriotic.” *The Atlantic*, May 18, 2018. Accessed on August 7, 2019. <https://www.theatlantic.com/international/archive/2018/05/iran-deal-us-europe/560354/>

⁶³ Laurence Norman. “Europe pulls together in bid to preserve Iran Deal.” *Wall Street Journal*, May 9, 2018. Accessed on August 7, 2019. <https://www.wsj.com/articles/europe-pulls-together-in-bid-to-preserve-iran-deal-1525869615>

noteworthy, as are recent comments by U.S. military officials suggesting that Japan – rather than Britain – may be the United States’ closest ally, much to Britain’s chagrin.⁶⁴

These events also expose the lopsided balance of power between the United States and Europe: the EU is not yet able to rival U.S. economic or military power, and Brussels’ struggle for leverage in the crisis illuminates the EU’s dependence on the United States.⁶⁵ In the wake of Iran’s retaliatory seizure of British *Stena Impero* – after the British-led seizure of Iranian tanker *Grace 1* at the United States’ request – the UK and other U.S. allies are also wary of the risks and costs of becoming collateral damage in the crisis.⁶⁶ Thus, the most recent combination of decision-making and rhetoric by the Trump administration during the Gulf crisis has served to further alienate Britain and other U.S. allies, and undermines Euro Atlantic institutions like the EU and NATO at a critical time.

Since assuming office, President Trump has harshly criticized NATO and the EU with unprecedented public comments. Trump has publically called the EU a “foe” on matters of trade, and has accused the EU and NATO of taking advantage of the United States economically and militarily.⁶⁷ Trump has also imposed tariffs on the EU and other major American trading partners, including Japan, Canada, Mexico, and China – actions which U.S. academic Joel Trachtman has likened to America shooting itself in the foot.^{68 69} In the midst of the ongoing Gulf crisis, Trump announced that the United States is ready to impose billions of dollars in additional tariffs that would greatly affect the European Union, to which Brussels has announced that it is ready to impose retaliatory measures of its own.⁷⁰ In addition to imposing tariffs and criticizing EU trade policies, President Trump has demanded that NATO allies contribute more to defense expenditures.⁷¹ While the United States does indeed provide the bulk of NATO defense expenditures, President Trump has made misleading and exaggerated claims on spending

⁶⁴Kimberly Dozier. “The ‘Special’ U.S.-U.K. Relationship is Bruised After Officials Left U.K. Out of Iran Strike Planning.” *Time*, last updated on July 23, 2019. Accessed August 7, 2019. <https://time.com/5632630/iran-u-s-uk-drone-relationship/>

⁶⁵ Tom McTague. “What the Iran crisis reveals about European power.” *The Atlantic*, June 25, 2019. Accessed on August 7, 2019. <https://www.theatlantic.com/international/archive/2019/06/us-iran-sanctions-eu/592489/>

⁶⁶ Adam Taylor. “U.S. allies risk becoming collateral damage in Iran fight.” *Washington Post*, July 12, 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/world/2019/07/12/us-allies-risk-becoming-collateral-damage-iran-fight/?utm_term=.a87e1e7e927c

⁶⁷ Maegan Vazquez. “Trump calls the European Union a ‘foe’ of the United States.” *CNN*, July 16, 2018. Accessed on August 7, 2019. <https://www.cnn.com/2018/07/15/politics/donald-trump-european-union-foe/index.html>

⁶⁸ David J. Lynch, Josh Dawsey, and Damian Paletta. “Trump imposes steel and aluminum tariffs on the EU, Canada, and Mexico.” *Washington Post*, May 31, 2018. Accessed on August 7, 2019. https://www.washingtonpost.com/business/economy/trump-imposes-steel-and-aluminum-tariffs-on-the-european-union-canada-and-mexico/2018/05/31/891bb452-64d3-11e8-a69c-b944de66d9e7_story.html

⁶⁹ Joel Trachtman. “Rare earth minerals are powerful arrow in China’s quiver.” *The Hill*, May 31, 2019. Accessed on August 7, 2019.

<https://thehill.com/opinion/finance/446194-rare-earth-minerals-are-a-powerful-arrow-in-chinas-quiver;> @thefletcherschool. The Fletcher School official Instagram account, public post with remarks by Joel Trachtman on August 7, 2019. Accessed on August 7, 2019. <https://www.instagram.com/p/B03V0yBgx6O/>

⁷⁰Keith Johnson. “What’s Trump’s plan with the latest tariffs on China?” *Foreign Policy*, August 2, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/08/02/whats-trumps-plan-with-the-latest-tariffs-on-china/>

⁷¹ Eli Stokols. “Trump heads to London amid Brexit furor and political upheaval in Europe. What could go wrong?” *Los Angeles Times*, May 31, 2019. Accessed on August 7, 2019. <https://www.latimes.com/politics/la-na-pol-trump-europe-visit-brexit-britain-france-20190602-story.html>

proportions.^{72 73 74} Moreover, Trump has publically questioned the United States' obligation to uphold NATO's Article 5, and has privately discussed withdrawing the United States from NATO on repeated occasions.^{75 76} As a result, U.S. allies have voiced understandable doubts and concerns over whether the United States is a reliable ally, leaving the future structural integrity of NATO in some doubt.^{77 78}

While successful in encouraging a greater degree of self-reliance amongst European partners and less reliance on Washington for defense purposes, the current U.S. administration's pattern of behavior has also gradually encouraged Europe to consider alternative security options to NATO. To the irritation of Washington, such proposals include the European Defense Fund and the Permanent Structured Cooperation (PESCO), which was formed in 2017. While the Trump administration has been critical of NATO, it has also criticized greater European military cooperation, and has characterized proposals such as PESCO as rivals for NATO and its resources.⁷⁹ Supporters of the proposals argue that the models would complement rather than compete with NATO.⁸⁰ Although not necessarily optimistic about such proposals, Russia has notably expressed a much more neutral view towards PESCO than towards NATO. Russian officials have stated that Moscow does not see PESCO as a threat, thus leaving – at the very least – some extant potential for greater security cooperation between Europe and Russia.⁸¹

Finally, the European signatories to the JCPOA have formed the Instrument in Support of Trade Exchanges (INSTEX), a special-purpose vehicle to circumvent U.S. economic sanctions and

⁷² Glenn Kessler. "Trump on NATO funding: Still misleading after months of fact checks." *Washington Post*, May 31, 2017. Accessed on August 7, 2019. https://www.washingtonpost.com/news/fact-checker/wp/2017/05/31/trump-on-nato-funding-still-misleading-after-months-of-fact-checks/?noredirect=on&utm_term=.bcd8ab55519e

⁷³ Robert E. Litan and Rober Noll. "As Trump twists NATO's arm, let's run the math on defense spending" The Brookings Institution. July 12, 2018. Accessed on August 7, 2019. <https://www.brookings.edu/blog/up-front/2018/07/12/as-trump-twists-natos-arm-lets-run-the-math-on-defense-spending/>

⁷⁴ Holly Ellyatt. "Trump's NATO criticism is 'valid,' Europe isn't spending enough on defense, UK ex-minister says." *CNBC*, July 11, 2018. Accessed on August 7, 2019. <https://www.cnn.com/2018/07/11/trumps-nato-criticism-is-valid-europe-isnt-spending-enough-on-def.html>

⁷⁵ Michael Crowley. "Trump's NATO comments 'unprecedented.'" *Politico*, July 21, 2019. Accessed on August 7, 2019. <https://www.politico.com/story/2016/07/donald-trump-nato-reaction-225967>

⁷⁶ Julian E. Barnes and Helen Cooper. "Trump discussed pulling U.S. from NATO, aides say amid new concerns over Russia." *New York Times*, January 14, 2019. Accessed on August 7, 2019. <https://www.nytimes.com/2019/01/14/us/politics/nato-president-trump.html>

⁷⁷ David S. Cloud. "Analysis: Trump's attacks weaken transatlantic security relationship, but Europe has few alternatives." *Los Angeles Times*, July 20, 2018. Accessed on August 7, 2019. <https://www.latimes.com/nation/la-na-pol-trump-europe-20180718-story.html>

⁷⁸ Nicholas Burns and Douglas Lute. Harvard Kennedy School Belfer Center. "NATO at Seventy: An Alliance in Crisis." February 2019. Accessed via <https://www.belfercenter.org/publication/nato-seventy-alliance-crisis> on August 7, 2019.

⁷⁹ Steven Erlanger. "Europe vows to spend more on defense, but U.S. still isn't happy." *New York Times*, June 6, 2019. Accessed on August 7, 2019. <https://www.nytimes.com/2019/06/06/world/europe/us-defense-spending-nato.html>

⁸⁰ DW Staff. "US warns EU over €13 billion defense spending." *Deutsche Welle*, July 15, 2019. Accessed on August 7, 2019. <https://p.dw.com/p/3IV7q>

⁸¹ Andrea Shalal. "Russian official: not worried about EU's moves on defense pact." *Reuters*, November 28, 2017. Accessed on August 7, 2019. <https://www.reuters.com/article/us-europe-security/russian-official-not-worried-about-eus-moves-on-defense-pact-idUSKBN1DS1TW>

facilitate trade with Iran.⁸² These actions underscore the growing divide between the United States and European allies on foreign policy matters such as the Iran crisis and potentially other future crises.

Notably, the U.S. Defense Department's most recent National Defense Strategy underscores the importance of "strengthening alliances" and attracting new U.S. partners. Page 8 of the document asserts that "by working together with allies and partners we amass the greatest possible strength for the long-term advancement of [U.S.] interests, maintaining favorable balances of power that deter aggression and support the stability that generates economic growth."⁸³ The Gulf Crisis thus demonstrates what happens when the United States chooses *against* working together with its allies and its partners: the U.S. advancement of short-term interests; the promotion of unfavorable balances of power that promote aggression; and the support of instability that generates greater economic decline.

Fifth, the Gulf Crisis also exposes a crisis of Euro Atlantic leadership on several levels. Major players in the Euro Atlantic order have all exhibited a degree of significant domestic political dysfunction and upheaval, which in turn threatens the structural integrity of Euro Atlantic institutions like NATO and the European Union. Major actors – including the United States, the United Kingdom, Germany, and France – have each experienced rising levels of populism and nationalism, which have had a significant impact on domestic and international politics.⁸⁴ In addition to a surge of anti-establishment sentiment, members of the EU are also facing economic issues, unemployment, a migration crisis, terrorist threats, and issues with Russia and China.⁸⁵

Brexit has placed the United Kingdom at a critical juncture. In the midst of the ongoing Gulf crisis, British Prime Minister Theresa May stepped down and Boris Johnson assumed office on 24 July. May's resignation came after she failed to negotiate an agreement on the terms of Brexit, itself a product of populism. Comparisons have also been made between the new British Prime Minister and U.S. President Donald Trump on the basis of some similarities between the two divisive public figures, including that both leaders have populist bases of support.^{86 87 88} Thus far, Britain has been unable to reach an agreement on a deal for the United Kingdom's controversial withdrawal from the European Union, upon which much depends for the European, British, and

⁸² Reuters staff. "Europe says Iran trade channel operational-statement." *Reuters*, June 29, 2019. Accessed on August 7, 2019. <http://news.trust.org/item/20190628181924-3xr0j/>

⁸³ U.S. Department of Defense. (2018). *Summary of the 2018 National Defense Strategy of the United States of America*. Washington: D.C. U.S. government. See page 8 in particular.

⁸⁴ Dan Balz. "Instability and populist unrest in the new world order." *Washington Post*, December 11, 2018. Accessed on August 7, 2019. https://www.washingtonpost.com/politics/instability-and-populist-unrest-is-the-new-world-order/2018/12/11/0959c858-fd7b-11e8-862a-b6a6f3ce8199_story.html?utm_term=.00f4a94499d5

⁸⁵ U.S. Congressional Research Service. (2019). CRS Report R45745: "Transatlantic Relations: U.S. Interests and Key Issues." May 31, 2019. Washington: D.C. U.S. Government. 2019. Accessed via <https://fas.org/sgp/crs/row/R45745.pdf> on August 7, 2019.

⁸⁶ Jonah Shepp. "Britain needs strong leadership. Now it has showman Boris Johnson." *New York magazine: Intelligencer*, July 23, 2019. Accessed on August 7, 2019. <http://nymag.com/intelligencer/2019/07/boris-johnson-new-uk-prime-minister.html>

⁸⁷ Frank Langfitt. "The similarities between Boris Johnson and Donald Trump." *NPR*, July 23, 2019. Accessed on August 7, 2019. <https://www.npr.org/2019/07/23/744076619/boris-johnson-britains-next-prime-minister-shares-similarities-with-trump>

⁸⁸ Ian Bremmer. "What Boris Johnson's premiership means for Brexit and the U.K." *Time*, July 26, 2019. Accessed on August 7, 2019. <https://time.com/5636590/what-boris-johnsons-premiership-means-for-brexit-and-the-u-k/>

American economies.⁸⁹ Prime Minister Johnson is currently struggling to maintain a majority in the British Parliament, while some experts have also argued that in addition to threatening the integrity of the European Union, Brexit may also threaten the integrity of the United Kingdom.⁹⁰

Pro-EU French President Emmanuel Macron has faced historic unrest during his administration, with regular riots in Paris, falling approval ratings, and competition with far-right opposition groups.⁹¹ Macron's proposals for EU reform have been met with a mixed response from other EU members; they have also generated some tension with Germany, the "gatekeeper" of the European Union.^{92 93} Meanwhile, Germany has experienced its own domestic political scandals,⁹⁴ as well as a changing of the guard: in 2018, longtime Chancellor Angela Merkel announced that she would not run for political office after the end of her current Chancellorship. In effect, Merkel is surrendering leadership of her ruling party – the Christian Democrats (CDU) – a position she has held for some eighteen years. Owing to recent political turmoil within the CDU and other German political parties, there are some fears that Merkel's government may collapse, and force her to resign before the end of her Chancellorship.⁹⁵ As the de facto leader of the EU, her waning influence and impending exit from politics adds to the anxiety and uncertainty felt by the EU and other European institutions at present.^{96 97}

Meanwhile, the United States has been experiencing its own political dysfunction, with divisive domestic politics and domestic and international criticism over the administration of incumbent President Trump. Government agencies including the Department of Defense and

⁸⁹ Holly Ellyatt. "What Brexit could mean for the US economy." *CNBC*, July 18, 2019. Accessed on August 7, 2019. <https://www.cnbc.com/2019/07/18/brexit-impact-on-the-us.html>

⁹⁰ Jonathan Gorvett. "Will Brexit be the end of the United Kingdom?" *Foreign Policy*, July 29, 2019, accessed on August 7, 2019. <https://foreignpolicy.com/2019/07/29/will-brexit-be-the-end-of-the-united-kingdom/>

⁹¹ Bojan Pancevski. "EU compromise exposes Merkel's waning influence." *Wall Street Journal*, July 4, 2019. Accessed on August 7, 2019. <https://www.wsj.com/articles/eu-compromise-exposes-merkels-waning-influence-11562261932>

⁹² James Shields. "Macron's reckoning: The European Parliament elections in France." London School of Economics: European Politics and Policy blog. May 16, 2019. Accessed on August 7, 2019.

<https://blogs.lse.ac.uk/euoppblog/2019/05/16/macrons-reckoning-the-european-parliament-elections-in-france/>

⁹³ Alex Barker, Victor Mallet, Guy Chazan. "Franco German tensions complicates race for EU's top jobs." *Financial Times*, June 13, 2019. Accessed on August 7, 2019. <https://www.ft.com/content/17e9d336-8cfa-11e9-a24d-b42f641eca37>

⁹⁴ Janosch Delcker. "The scandal hanging over Ursula von der Leyen." *Politico*, July 15, 2019. Updated on July 17, 2019. Accessed on August 7, 2019. <https://www.politico.eu/article/the-scandal-hanging-over-ursula-von-der-leyen/>

⁹⁵ Sam Meredeith. "Angela Merkel's future in doubt as Germany's coalition partners hold crisis talks." *CNBC*, June 3, 2019. Accessed on August 7, 2019. <https://www.cnbc.com/2019/06/03/germany-merkels-future-in-doubt-as-coalition-partners-hold-crisis-talks.html>

⁹⁶ Steven Erlanger. "As Merkel eyes exit, nervous E.U. wonders who'll take the stage." *New York Times*, October 30, 2018. Accessed on August 7, 2019. <https://www.nytimes.com/2018/10/30/world/europe/angela-merkel-european-union.html>; Bojan Pancevski. "EU compromise exposes Merkel's waning influence." *Wall Street Journal*, July 4, 2019. Accessed on August 7, 2019. <https://www.wsj.com/articles/eu-compromise-exposes-merkels-waning-influence-11562261932>

⁹⁷ Dan Balz and Griff Witte. "Europeans fear Trump may threaten not just the transatlantic bond, but the state of their union." *Washington Post*, February 4, 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/politics/europeans-fear-trump-may-threaten-not-just-the-transatlantic-bond-but-the-state-of-their-union/2019/02/04/a874e9f4-25ad-11e9-81fd-b7b05d5bed90_story.html?noredirect=on

Department of State are experiencing what some have termed as leadership crises.^{98 99} President Trump's Cabinet has experienced the highest turnover rate of any U.S. President.¹⁰⁰ The U.S. Secretary of Defense, Mark Esper, was confirmed on 23 July 2019, during the middle of the Gulf crisis. Prior to Esper, the U.S. Defense Department had gone through four leaders in six months. The U.S. navy has also experienced upheaval in its leadership: on 31 July 2019, Vice Admiral Michael Gilday was confirmed as the chief of naval operations after Admiral Bill Moran, the original nominee, abruptly resigned and withdrew from consideration in the wake of a scandal.¹⁰¹ Under the Trump administration, many top leadership positions in the Pentagon, State Department, and other government agencies have remained unfilled or held by temporary officials – signaling the Trump administration's emphasis on keeping the White House as the powerbroker.¹⁰² Current Secretary of State Mike Pompeo has supported additional funding cuts to his own Department, and President Trump's most recent budget proposals have prompted criticism and alarm from retired U.S. military officials and diplomats alike.^{103 104} These agency vacancies, high turnover, and disproportionate federal funding between the Defense and State Departments have impeded the effective implementation, coherence, and consistency of U.S. foreign policy objectives.¹⁰⁵

Further, global trust in U.S. leadership has declined considerably in recent years. An international poll by the Pew Research Center in 2018 showed that many countries trust Chinese President Xi and Russian President Putin more than Trump to “do the right thing regarding world affairs.” The poll of twenty-five countries included major U.S. allies. An average of 70 percent of respondents said that they had no confidence in Trump, and another 70 percent said that the United States does not take into account the interests of other countries.¹⁰⁶ At present, President Trump is

⁹⁸ Danielle Allen. “We are in our Articles of Confederation moment.” *Washington Post*, July 25, 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/opinions/we-are-in-our-articles-of-confederation-moment/2019/07/25/93bd43c4-ae4e-11e9-8e77-03b30bc29f64_story.html

⁹⁹ Dave Deptula. “A Department of Defense leadership crisis?” *Forbes*, June 19, 2019. Accessed on August 7, 2019. <https://www.forbes.com/sites/davedeptula/2019/06/19/a-department-of-defense-leadership-crisis/#876e119725e3>

¹⁰⁰ Nancy Cook. “Trump's cabinet has become severe headache for his White House.” *Politico*, July 16, 2019. Accessed on August 7, 2019. <https://www.politico.com/story/2019/07/16/trump-cabinet-turnover-1416134>

¹⁰¹ Geoff Ziezulewicz. “Adm. Bill Moran out as Navy's next CNO.” *Navy Times*, July 8, 2019. Accessed on August 7, 2019. <https://www.navytimes.com/news/your-navy/2019/07/08/adm-bill-moran-out-as-navys-next-cno/>; Leo Shane III. “Senate confirms Gilday as next chief of naval operations.” *Military Times*, August 1, 2019. Accessed on August 7, 2019. <https://www.militarytimes.com/news/pentagon-congress/2019/08/01/senate-confirms-gilday-as-next-chief-of-naval-operations/>

¹⁰² Dareh Gregorian. “Help wanted: Trump administration riddled with vacancies.” *NBC News*, March 28, 2019. Accessed on August 7, 2019. <https://www.nbcnews.com/politics/donald-trump/help-wanted-trump-administration-riddled-vacancies-n983036>

¹⁰³ Courtney McBride. “Trump keeps the pressure on State Department spending.” *Wall Street Journal*, March 11, 2019. Accessed on August 7, 2019. <https://www.wsj.com/articles/trumps-keeps-the-pressure-on-state-department-spending-11552326475>

¹⁰⁴ Michele Kelemen. “Secretary of State Mike Pompeo marks a year on the job at State Department.” *NPR*, April 26, 2019. Transcript of audio remarks. Accessed on August 7, 2019. <https://www.npr.org/2019/04/26/717616233/secretary-of-state-mike-pompeo-marks-a-year-on-the-job-at-state-department>

¹⁰⁵ Nancy Cook. “Trump's Cabinet has become severe headache for his White House.” *Politico*, July 16, 2019. Accessed on August 7, 2019. <https://www.politico.com/story/2019/07/16/trump-cabinet-turnover-1416134>

¹⁰⁶ Richard Wike, Bruce Stokes, Jacob Poushter, Laura Silver, Janell Fetterolf, and Kat Devlin. “Trump's International Ratings Remain Low, Especially Among Key Allies.” *Pew Research Center*, October 1, 2018. Accessed

also facing the possibility of an impeachment inquiry, which could throw the United States into further political turmoil and distract from foreign policy objectives and priorities including the ongoing Gulf crisis.¹⁰⁷

Sixth, the Gulf Crisis demonstrates the dangers of U.S. unilateralist international treaty behavior and the increasing militarization of U.S. foreign policy.¹⁰⁸ The United States unilaterally withdrew from the JCPOA on 8 May 2018 and immediately re-imposed sanctions on Iran. Trump has lambasted the treaty, and justified U.S. withdrawal on the basis that the JCPOA did not promote U.S. national security interests but instead enabled attempts by the Iranian regime to develop nuclear weapons capabilities.¹⁰⁹ Critics have said, however, that the treaty was effective and that the International Atomic Energy Agency had repeatedly verified Iran's compliance, making the United States' withdrawal a strategic error that harms U.S. national interests, damages U.S. credibility, and undermines the rules-based international system and international institutions.¹¹⁰ As the Gulf crisis escalated in July 2019, Iran announced that it had breached the treaty's terms of agreement by increasing its uranium enrichment past the agreed threshold. As retaliation for increasingly crippling U.S. economic sanctions, Iran has maintained that these breaches are reversible if the remaining JCPOA signatories can compel the United States to ease these sanctions.¹¹¹

The remaining JCPOA signatories – the UK, France, Russia, China, and Germany on behalf of the EU – have reiterated their commitment to the treaty in the wake of the crisis. Whereas supporters of U.S. withdrawal have argued that Trump's withdrawal has been vindicated by Iran's recent actions, critics argue that the United States is actually inducing a self-fulfilling prophecy toward Iran's becoming a nuclear threat.¹¹² Moreover, critics have accused Trump of being inconsistent in his foreign policy and in his approach to nuclear disarmament: this inconsistency is on prominent display in President Trump's austere approach toward Iran, which is in sharp contrast to his warmer approach toward North Korea (however, it should be remembered that that, too, had a rocky start). This juxtaposition was epitomized by Trump's historic meeting with North Korean

on August 7, 2019. <https://www.pewresearch.org/global/2018/10/01/trumps-international-ratings-remain-low-especially-among-key-allies/>

¹⁰⁷ Adam Edelman. "After majority of House Democrats call for impeachment, Pelosi vows Trump 'will be held accountable' " *NBC News*, August 2, 2019. Accessed on August 7, 2019.

<https://www.nbcnews.com/politics/congress/after-majority-house-dems-call-impeachment-pelosi-says-trump-will-n1038871>

¹⁰⁸ Daniel W. Drezner. "Diplomacy is dangerous business—a fact Washington needs to remember." *Foreign Policy*, November 19, 2012. <https://foreignpolicy.com/2012/11/19/diplomacy-is-dangerous-business-a-fact-washington-needs-to-remember/>

¹⁰⁹ The White House. (2018). "President Donald J. Trump is Ending United States Participation in an Unacceptable Iran Deal." May 8, 2019. Washington: D.C. U.S. government. Accessed on August 7, 2019.

<https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-ending-united-states-participation-unacceptable-iran-deal/>

¹¹⁰ Dan Smith. "The US withdrawal from the Iran deal: one year on." Stockholm International Peace Research Institute, May 7, 2019. Accessed on August 7, 2019. <https://www.sipri.org/commentary/expert-comment/2019/us-withdrawal-iran-deal-one-year>

¹¹¹ Patrick Wintour. "Iran nuclear deal in jeopardy after latest enrichment breach." *The Guardian*, July 7, 2019. Accessed on August 7, 2019. <https://www.theguardian.com/world/2019/jul/07/un-inspectors-to-verify-iran-claim-it-has-broken-nuclear-deal>

¹¹² David Ibsen. "Trump's withdrawal from the Iran nuclear deal has been vindicated." *NBC News*, May 8, 2019. Accessed on August 7, 2019. <https://www.nbcnews.com/think/opinion/trump-s-withdrawal-iran-nuclear-deal-has-been-vindicated-ncna1003091>; Paul R. Pillar. "What Iran really wants." *The National Interest*, April 16, 2018.

Accessed on August 7, 2019. <https://nationalinterest.org/feature/what-iran-really-wants-25410>

leader Kim Jong-Un in the DMZ at the height of the ongoing Gulf Crisis on 30 June 2019, and in spite of Pyongyang's continuing nuclear missile tests.^{113 114 115}

Washington has largely isolated itself during the Gulf crisis as major U.S. allies have worked to separate themselves from U.S. policy on Iran. The UK, Germany, and Japan have insisted on a strategy of seeking first a diplomatic rather than a military solution to the Gulf crisis. The U.S. administration's immediate reach for a unilateral, tactical military operation during the present Gulf crisis – instead of the strategic, multilateral decision-making and exploration of diplomatic solutions favored by its allies – also demonstrates what academic Daniel Drezner has called “the creeping militarization” of U.S. foreign policy.¹¹⁶ The U.S. Department of Defense now greatly eclipses the Department of State in terms of funding priorities, and thus political primacy, in U.S. foreign policy.^{117 118 119 120 121} President Trump's budget proposals for FY2020 proposes a military budget that is approximately 19 times that of the budget for diplomacy, foreign aid, and development.¹²² Former top military leaders including retired U.S. Naval Admiral and NATO commander James Stavridis have criticized this trend as harmful to the United States' long-term interests, arguing that diplomacy should come first, and military action should be a last resort.¹²³ In 2018, a U.S. bipartisan,

¹¹³ Tim Fernholz. “Why does Trump ignore North Korea's non-nuclear troublemaking?” *Quartz*, February 24, 2019. Accessed on August 7, 2019. <https://qz.com/1558132/trumps-risky-nuclear-double-standard-on-north-korea-and-iran/>

¹¹⁴ Meghan Keneally. “From ‘fire and fury’ to ‘rocket man,’ the various barbs traded between Trump and Kim Jong Un.” *ABC News*, June 12, 2018. Accessed on August 7, 2019. <https://abcnews.go.com/International/fire-fury-rocket-man-barbs-traded-trump-kim/story?id=53634996>

¹¹⁵ Natasha Turak. “Trump becomes first sitting US president in history to cross border into North Korea.” *CNBC*, June 30, 2019. Accessed on August 7, 2019. <https://www.cnbc.com/2019/06/30/rtrs-190630-trump-kim-quotes-dmz-eu.html>; Choe Sang-Hun. “North Korea launches projectiles despite ‘beautiful letter’ from Kim Jong-un to Trump.” *New York Times*, August 9, 2019. Accessed on August 10, 2019.

<https://www.nytimes.com/2019/08/09/world/asia/north-korea-missile-launch-trump-kim-letter.html>

¹¹⁶ Daniel W. Drezner. “Diplomacy is dangerous business—a fact Washington needs to remember.” *Foreign Policy*, November 19, 2012. Accessed on August 7, 2019. <https://foreignpolicy.com/2012/11/19/diplomacy-is-dangerous-business-a-fact-washington-needs-to-remember/>

¹¹⁷ David Oakely. “The problems of a militarized foreign policy for America's premier intelligence agency.” *War on the Rocks*, May 2, 2019. Accessed on August 7, 2019. <https://warontherocks.com/2019/05/the-problems-of-a-militarized-foreign-policy-for-americas-premier-intelligence-agency/>

¹¹⁸ Ilan Goldenberg. “The State Department is already running on fumes.” *Politico*, February 28, 2017. Accessed on August 7, 2019. <https://www.politico.com/magazine/story/2017/02/state-department-diplomacy-budget-214841>

¹¹⁹ Robbie Gramer and Colum Lynch. “Despite Pompeo's Call for ‘Swagger,’ Trump slashes diplomatic budget.” *Foreign Policy*, March 11, 2019. <https://foreignpolicy.com/2019/03/11/trump-federal-budget-steep-cuts-to-state-department-foreign-aid-development-diplomacy-pompeo/>

¹²⁰ Susanna V. Blume. “Dear Pentagon: it's not how big your budget is. It's how you use it.” *Foreign Policy*, January 10, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/01/10/pentagon-defense-budget-trump/>

¹²¹ Courtney McBride. “Trump keeps the pressure on State Department spending.” March 11, 2019. Accessed on August 7, 2019. <https://www.wsj.com/articles/trumps-keeps-the-pressure-on-state-department-spending-11552326475>

¹²² Robbie Gramer and Colum Lynch. “Despite Pompeo's calls for ‘swagger,’ Trump slashes diplomatic budget.” *Foreign Policy*, March 11, 2019. Accessed on August 20, 2019. <https://foreignpolicy.com/2019/03/11/trump-federal-budget-steep-cuts-to-state-department-foreign-aid-development-diplomacy-pompeo/>

¹²³ NPR staff. “Ex-military leaders bemoan Trump's proposed cuts to diplomacy.” *NPR*, March 12, 2019. Transcript of remarks between James Stavridis and David Greene. Accessed on August 7, 2019. <https://www.npr.org/2019/03/12/702464526/ex-military-leaders-bemoan-trumps-proposed-cuts-to-diplomacy>

“congressionally mandated study by former high-ranking national security officials”¹²⁴ quietly concluded that there is a significant “imbalance in civil-military relations on critical issues of strategy development and implementation.”¹²⁵ The full name of this study is “Providing for the Common Defense: The Assessments and Recommendations of the National Defense Strategy Commission.” The Commission also concluded that this imbalance in U.S. civil-military relations is actively “undermining the concept of civilian control” of the U.S. military.”¹²⁶ The study’s results were disputed by then Joint Chiefs of Staff General Dunford, but nevertheless reinforce growing questions over the effectiveness of the Pentagon’s sizeable allocation of funding and of broader U.S. security strategy.¹²⁷

In addition to criticizing the need for certain multilateral treaties, President Trump has also criticized the need for major U.S. alliances – including those with Japan and South Korea, respectively. Japanese Prime Minister Shinzo Abe was in Iran at the time of the tanker attacks on 14 June, having gone to Tehran with the aim of easing tensions between Iran and the United States by acting as a diplomatic go-between.¹²⁸ Just after Abe’s noble but ultimately unsuccessful diplomatic efforts in Tehran, Trump called the Japan Treaty “unfair,” and reportedly mused in private about withdrawing the United States from the treaty – an action that would have enormous global ramifications.¹²⁹ President Trump has also made similar criticisms of the United States’ Mutual Defense Treaty with South Korea. Some experts have deemed a hypothetical withdrawal from the treaty as “potentially destabilizing” for the region, and would further undermine U.S. credibility with regard to international agreements.¹³⁰ Meanwhile, bilateral relations between Tokyo and Seoul continue to deteriorate, with some experts arguing that President Trump has failed to facilitate

¹²⁴ Michael R. Gordon and Gordon Lubold. “Military sway at Pentagon undermines tenet of civilian control, study finds.” *Wall Street Journal*, November 14, 2018. Accessed on August 10, 2019. <https://www.wsj.com/articles/military-sway-at-pentagon-undermines-tenet-of-civilian-control-study-finds-1542171661>.

¹²⁵ Pages 69-70. National Defense Strategy Commission. *Providing for the Common Defense*. Washington, D.C.: November 13, 2018. <https://www.usip.org/publications/2018/11/providing-common-defense> (Accessed on November 1, 2019).

¹²⁶ Ibid. Page 47.

¹²⁷ Michael R. Gordon and Gordon Lubold. “Military sway at Pentagon undermines tenet of civilian control, study finds.” *Wall Street Journal*, November 14, 2018. Accessed on August 10, 2019. <https://www.wsj.com/articles/military-sway-at-pentagon-undermines-tenet-of-civilian-control-study-finds-1542171661>. See also: James Fallows. “The tragedy of the American military.” *The Atlantic*, January/February 2015 issue. Online access on August 11, 2019. <https://www.theatlantic.com/magazine/archive/2015/01/the-tragedy-of-the-american-military/383516/>

¹²⁸ Ishaan Tharoor. “Shinzo Abe’s mission to Iran ends in flames.” *Washington Post*, June 14 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/world/2019/06/14/shinzo-abes-mission-iran-ends-flames/?noredirect=on&utm_term=.67483107d640

¹²⁹ Reuters staff. “Trump says ‘unfair’ defense treaty with Japan needs to be changed.” *Reuters*, June 29, 2019. Accessed on August 7, 2019. <https://www.reuters.com/article/us-g20-japan-trump/trump-says-unfair-defense-treaty-with-japan-needs-to-be-changed-idUSKCN1TU0AJ>; Hiroyuki Akita. “Take Trump seriously when he bashes Japan-US security treaty.” *Nikkei Asian Review*, July 11, 2019. Accessed on August 7, 2019. <https://asia.nikkei.com/Spotlight/Comment/Take-Trump-seriously-when-he-bashes-Japan-US-security-treaty>; Isabel Reynolds. “Everything you need to know about the U.S.-Japan defense treaty irking Trump.” *Washington Post*, June 25, 2019. Accessed on August 7, 2019. https://www.washingtonpost.com/business/everything-you-need-to-know-about-the-us-japan-defense-treaty-irking-trump/2019/06/25/4ddd5a7e-971f-11e9-9a16-dc551ea5a43b_story.html?noredirect=on&utm_term=.bdb9e5cce424

¹³⁰ Simon Denyer and David Nakamura. “Trump appears again to take North Korea’s side against his own military, allies.” *Washington Post*, August 10, 2019. Accessed on August 20, 2019.

stronger ties between the two countries – to Washington’s own strategic disadvantage.¹³¹ Experts such as Michael J. Green have argued that the current administration has worsened regional stability in East Asia by failing “to create a sense that there is a team of allies in Asia.” Others still have said that the worsening situation between Tokyo and Seoul signifies Washington’s diminished standing in the region, if not the world.¹³²

In addition to fostering greater insecurity amongst U.S. allies, the United States’ unilateralist behavior has also bred greater militarization. As two of the United States’ most important allies, Germany and Japan are comparable in the military constraints of their respective post-war constitutions due to their former status as Axis powers in World War II. In Germany’s case, its constitution emphasizes the use of its military for defense purposes only.¹³³ With the advent of the Cold War, however, Germany expanded its constitutional definition of defense to include international operations.¹³⁴ Likewise, Japan’s post-war constitution has similar constraints, but its Article 9 – also known as the Pacifist clause – is arguably more explicit than the constitutional language of other former Axis powers in its renunciation of “war as a sovereign right of the nation and the threat or use of force as means of settling international disputes.”¹³⁵ Historically, Japan has restricted its armed forces to self-defense purposes only. Nonetheless, Japan appears to be following a similar constitutional track with Germany: in 2015, the Japanese Diet passed laws permitting Japan to use its armed forces to assist its allies in the event of an attack.¹³⁶ Thus, Germany and Japan respectively have gradually broadened their constitutional interpretations of “defense” with regard to the use of their armed forces, largely at the impetus of their mutual ally, the United States.

Accordingly, it can be argued that the continuing trend of U.S. unilateralism has to some extent encouraged the militarization of U.S. allies and adversaries alike, ultimately adding to international insecurity.^{137 138}

Recent U.S. withdrawals from major international treaties are of course not limited to the JCPOA. They also include the United States’ withdrawal from the Paris Climate Accord on 1 June

¹³¹ Andrew InJoo Park and Elliot Silverberg. “For U.S., Japan-South Korea ties are too important to fail.” *Japan Times*, July 6, 2019. Accessed on August 10, 2019.

<https://www.japantimes.co.jp/opinion/2019/07/16/commentary/japan-commentary/u-s-japan-south-korea-ties-important-fail/#.XU8h1-hKg2w>

¹³² Motoko Rich, Edward Wong, and Choe Sang-Hun. “As Japan and South Korea feud intensifies, U.S. seems unwilling, or unable to help.” *New York Times*, August 4, 2019. Accessed on August 7, 2019.

<https://www.nytimes.com/2019/08/04/world/asia/japan-south-korea-feud.html>

¹³³ The Federal Government of Germany. (2019). “Basic Law.” Accessed on August 7, 2019. Berlin: Germany. The German government. <https://www.bundesregierung.de/breg-en/chancellor/basic-law-470510>

¹³⁴ Glenn McDonald. “Why Germany and Japan are expanding their militaries.” *Seeker*, July 26, 2016. Accessed on August 7, 2019. <https://www.seeker.com/why-germany-and-japan-are-expanding-their-militaries-1945271191.html>

¹³⁵ The government of Japan (2019). “The Constitution of Japan.” Accessed on August 7, 2019. Tokyo, Japan: the Japanese government. http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html

¹³⁶ Matt Ford. “Japan Curtails its Pacifist Stance.” *The Atlantic*, September 19, 2015. Accessed on August 12, 2019. <https://www.theatlantic.com/international/archive/2015/09/japan-pacifism-article-nine/406318/>

¹³⁷ “Melvin A. Goodman. “The Militarization of U.S Foreign Policy.” *Institute for Policy Studies*, September 30, 2005. Accessed on August 7, 2019. https://ips-dc.org/the_militarization_of_us_foreign_policy/

¹³⁸ Jeremi Suri. “The Long Rise and Sudden Fall of American Diplomacy.” *Foreign Policy*, April 17, 2019. Accessed August 7, 2019. <https://foreignpolicy.com/2019/04/17/the-long-rise-and-sudden-fall-of-american-diplomacy/>

2017¹³⁹ and U.S. withdrawal from the Intermediate-Range Nuclear Forces Treaty with Russia on 2 August 2019.¹⁴⁰ President Trump has also expressed criticism over the Open Skies Treaty.¹⁴¹

Thus, it can also be argued that in the wake of the Gulf crisis, American exceptionalism has largely helped to undermine the international system and the very institutions that Washington helped create.

1.3 The Writing on the Wall (and in the Water)

Washington is struggling to maintain its hegemony and contain rival powers. The geopolitical undercurrents of the ongoing situation typify the growing dysfunction in the United States' relationships with its allies and other global actors. It is also possibly a watershed moment: whereas the United States was able to form maritime coalitions quickly in the past, it now finds itself as the minority, rather than as the exception. Moreover, the current crisis exposes the geopolitical realities of the 21st century: that China and Russia are both global powers who will continue to be increasingly prominent in global affairs for the foreseeable future. In the words of scholar Rockford Weitz and others, "this is what a multipolar world looks like."¹⁴² Others,¹⁴³ such as scholar Fareed Zakaria, have expressed similar sentiments in more pessimistic terms: American hegemony is more or less dead.¹⁴⁴

Accordingly, in order to avoid future conflicts with similar scenarios, the United States will have to rethink its decision not to ratify UNCLOS; must reassess its unilateralist behavior toward international treaty regimes; and must reevaluate U.S. relationships with China and Russia going forward. If the United States continues to cherry-pick international law such as UNCLOS, Washington will reap more costs than benefits in the mid- and long-term. The remainder of this paper will seek to demonstrate that U.S. exceptionalism toward international treaties – and the U.S. failure to ratify UNCLOS specifically – increasingly places U.S. interests in danger and reduces international security. Moreover, with regard to China and other global powers, this unilateralist behavior increasingly places the United States at risk of becoming the *precedent* – rather than the *exception* – in international law.

Part II: The United States, American Exceptionalism, and UNCLOS

1. American Exceptionalism

1.1 An Overview

¹³⁹ <https://foreignpolicy.com/2019/05/19/leaving-the-paris-agreement-is-a-bad-deal-for-the-united-states/>

¹⁴⁰ The government of Japan. (2019). "The Constitution of Japan." Accessed on August 7, 2019. Tokyo, Japan: the Japanese government. https://www.washingtonpost.com/politics/2019/08/03/us-officially-withdrew-inf-treaty-heres-what-you-need-know/?utm_term=.9dd814f223d1

¹⁴¹ Alexandra Bell and Anthony Wier. "Open Skies Treaty: A Quiet Legacy Under Threat." *Arms Control Association*, January/February 2019. <https://www.armscontrol.org/act/2019-01/features/open-skies-treaty-quiet-legacy-under-threat> Accessed on August 14, 2019.

¹⁴² Tom O'Connor. "U.S.-Iran oil crisis: what it means for both countries and the rest of the world." *Newsweek*, July 18, 2019. Accessed on August 7, 2019. <https://www.newsweek.com/iran-us-oil-crisis-1450034>

¹⁴³ "Globalization as 'one world' dominated by the US and the West is already behind us..." Dmitri Trenin. "Russia, China are key allies and close partners." *Carnegie Moscow Center*, June 5, 2019. Accessed on August 9, 2019. <https://carnegie.ru/2019/06/05/russia-china-are-key-and-close-partners-pub-79262>

¹⁴⁴ Fareed Zakaria. "What happened to the American Century?" *Foreign Affairs*, July/August 2019. Online access on August 7, 2019. <https://www.foreignaffairs.com/articles/2019-06-11/self-destruction-american-power>

Since its inception over two hundred years ago, the United States has subscribed to a roving brand of uniqueness, in which “American values, [the American] political system, and [American] history are considered to be “unique and worthy of universal admiration.”¹⁴⁵ Accordingly, this ideology of American exceptionalism involves an overriding moral superiority on the part of the United States over other state actors in international affairs and international institutions. Contemporary scholars have attributed the enduring success of American exceptionalism to a combination of important and fortuitous factors: these include the United States’ geopolitical power; democratic stability; political and structural decentralization; deep-rooted conservatism and weak liberalism; a “unique” American rights culture; grassroots politics; and simply good fortune, among others.^{146 147}

As the United States has continued to enjoy a privileged and powerful position in the twenty-first century world order, the ideology of American exceptionalism has permeated U.S. domestic policies and U.S. foreign policy.¹⁴⁸ It has also permeated U.S. behavior in the international legal system: American exceptionalism includes the belief that the United States is “both destined and entitled to play a distinct and positive role” in the international legal order and global affairs at large.¹⁴⁹ More precisely, Michael Ignatieff defines American exceptionalism as having three distinct elements with regard to international law (and to international human rights law in particular):

First, the United States signs on to international treaties and then exempts itself from their provisions by explicit reservation, nonratification, or noncompliance. Second, the United States maintains double standards: judging itself and its friends by more permissive criteria than it does its enemies. Third, the United States denies jurisdiction to human rights law within its own domestic law, insisting on the self-contained authority of its own domestic rights tradition.¹⁵⁰

Both “lauded and criticized” for its exceptionalism in the past, the United States’ employment of this ideology has attracted increasing disdain from the international community in recent years; this is particularly true concerning U.S. behavior toward international treaties. Legal scholars such as Antonia Chayes argue that the United States has demonstrated a pattern of inconsistent and unreliable behavior toward international agreements, resulting in derision as well as confusion from state actors and non-state actors alike. Chayes argues that most, but not all, characteristics of U.S. behavior toward international treaties are negative. They include the following actions:

¹⁴⁵ Walt, Stephen M. “The Myth of American Exceptionalism,” *Foreign Policy*, October 11, 2011.

<http://foreignpolicy.com/2011/10/11/the-myth-of-american-exceptionalism/> Accessed on May 2, 2018.

¹⁴⁶ Chayes, in reference to Michael Ignatieff. Antonia Chayes, *American Treaty Behavior: an Obstacle to National Security*, INTERNATIONAL SECURITY, Vol. 33, No. 1 (Summer 2008), pp. 45-81.

¹⁴⁷ Walt, Stephen M. “The Myth of American Exceptionalism,” *Foreign Policy*, October 11, 2011.

<http://foreignpolicy.com/2011/10/11/the-myth-of-american-exceptionalism/> Accessed on May 2, 2018.

¹⁴⁸ Morton Abramowitz. “How American Exceptionalism Dooms U.S. Foreign Policy,” *National Interest*, October 22, 2012. Accessed on August 7, 2019. <http://nationalinterest.org/commentary/how-american-exceptionalism-dooms-us-foreign-policy-7640?page=show>.

¹⁴⁹ Ibid.

¹⁵⁰ Michael Ignatieff, “Introduction: American Exceptionalism and Human Rights,” in Ignatieff, ed., *American Exceptionalism and Human Rights* (Princeton, NJ: Princeton University Press, 2005), p. 3.

- i. a failure to ratify certain international treaties;
- ii. reservations, understandings, and declarations (RUDs);
- iii. failure to support certain international treaty regimes;
- iv. noncompliance (rare);
- v. active undermining of certain international treaty regimes;
- vi. the last-in-time rule;
- vii. the application of international law in U.S. courts;
- viii. and withdrawal from certain international treaties.¹⁵¹

Although not alone in this behavior, the United States has performed (and continues to perform) each of these actions with regard to various international treaties.¹⁵² To reiterate, some of the most recent examples of U.S. withdrawal include: the Paris Accord; the Intermediate-Range Nuclear Forces treaty; and the JCPOA treaty.

Over time, these actions have created an unfavorable and increasingly harmful international perception of the United States with respect to its behavior in the international legal system. This negative international perception is compounded by the double standard that the United States sets for other countries: according to political scholar Daniel W. Drezner, the United States, as a global superpower, “can evade international laws and treaties that conflict with [its] current interests by seeking out regimes with different laws” through what is known as “forum-shopping.” In this way, the United States chooses “to adhere to some but not all international agreements,” thus ensuring “that favored multilateral arrangements...expand rather than constrain U.S. options.” Moreover, Drezner points out that official U.S. documents – such as the United States’ National Security Strategy of 2006 – have, at times, even explicitly endorsed “the creation of new international institutions if pre-existing institutions cannot be reformed” to align with U.S. interests.¹⁵³ Nevertheless, the United States bluntly expects other nation-states to obey and to operate according to the rule of law, and it exhorts nation-states to alter their behavior toward international law when and where the United States deems it appropriate.¹⁵⁴

A more recent example can be found in the United States’ National Security Strategy document of 2017. The NSS document’s introduction recognizes the fact that the United States worked with its allies and partners “to shape the post-war order through the United Nations, the Marshall Plan, the North Atlantic Treaty Organization (NATO), and other institutions designed to advance our shared interests,” but then asserts that the United States “stood by while countries exploited the international institutions we helped to build.” Further on in the same document, there is the admonishment that “state and non-state actors project and advance their objectives by exploiting...international institutions.”¹⁵⁵ Thus, in this way the United States censures other countries for their exploitation of international institutions for the sake of their own national interests, but considers itself exempt from such criticism when it employs the same methods and the

¹⁵¹ Chayes, Antonia Handler. “How American Treaty Behavior Threatens National Security” in 33 *International Security*, 45 (2008).

¹⁵² *Ibid.* Pages 45-47 in particular.

¹⁵³ Daniel Drezner, “The Tragedy of Global Institutional Commons,” in Martha Finnemore and Judith Goldstein, Eds., *Back to Basics: State Power in a Contemporary World* (Oxford: Oxford University Press, 2013), pp. 280-310. See “Conclusion” in particular. [JC330 .B255 2013]

¹⁵⁴ Antonia Chayes, *American Treaty Behavior: an Obstacle to National Security*, *INTERNATIONAL SECURITY*, Vol. 33, No. 1 (Summer 2008), pp. 45-81.

¹⁵⁵ United States. *The National Security Strategy of the United States of America*. The White House and President Donald J. Trump. December 2017. Pages 2 and 37 in particular.

same behavior for the same objectives. In summary, the United States employs “selective multilateralism” to and/or “withdraw[s] from treaties it deems critical of United States positions,” and also shows “disdain for long-standing international obligations which the United States itself helped create.”¹⁵⁶

Some scholars argue that the United States employs this kind of selective multilateralism or “a la carte multilateralism” in order to follow treaty obligations that serve U.S. interests, while transparently rejecting treaty obligations that do not.¹⁵⁷ Others, such as legal scholar Michael J. Glennon, have said more bluntly that such behavior in the international legal system is the prerogative of a global superpower, but not one without risk:

The needs of the powerful are different from the needs of the weak; the powerful don’t need to be concerned about penalties for violation that might dissuade the weak. Obligation is therefore a function of power and influence. A rule that obliges the weak may not oblige the powerful – even though the powerful may miscalculate and flout that rule to their peril.¹⁵⁸

Likewise, scholars such as Drezner argue that the current system endows great powers – and the United States, in particular – with “fewer constraints and greater capabilities to affect outcomes” in the international legal system.¹⁵⁹ Drezner argues that this kind of behavior by the United States toward international law thus serves to undermine the international legal system as a whole, and paradoxically produces a Hobbesian environment with power-based rather than rules-based outcomes.¹⁶⁰ Moreover, Chayes goes so far as to argue that the present-day ambivalence of the U.S. attitude toward international law is inconsistent to the point of being irrational, and places the United States in “near contempt for the law of nations” with “deleterious effects.”¹⁶¹

In terms of these adverse effects, Chayes stresses that current U.S. treaty behavior may actually serve to damage U.S. national interests rather than promote them. She underscores that this “pattern of U.S. treaty actions...collectively may hurt the United States when it seeks support for agreements or other foreign policy efforts that it deems important.”¹⁶² The current crisis in the Gulf – with the United States’ unilateralist withdrawal from the JCPOA, and Washington’s later difficulty in assembling a coalition – fully demonstrates Chayes’ point.

In addition, Chayes and other scholars maintain that current U.S. treaty behavior encourages the unfavorable perception of the United States as a free rider adhering to a double-standard, and invites imitative, “copycat” behavior from other states. When this is

¹⁵⁶ William J. Aceves, “Murphy v. Netherland,” *American Journal of International Law*, Vol. 12 No. 3 (Spring 2005), pp. 5, 6.

¹⁵⁷ *Ibid.* Page 47.

¹⁵⁸ “Force and the Settlement of Political Disputes” (Debate with Alain Pellet, The Hague Colloquium on Topicality of the 1907 Hague Conference, 7 September 2007, p. 5.

[https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1092212] Accessed on May 1, 2018.

¹⁵⁹ Daniel Drezner, “The Tragedy of Global Institutional Commons,” in Martha Finnemore and Judith Goldstein, Eds., *Back to Basics: State Power in a Contemporary World* (Oxford: Oxford University Press, 2013), pp. 280-310. See “Conclusion” in particular. [JC330 .B255 2013]

¹⁶⁰ *Ibid.*

¹⁶¹ Chayes, Antonia Handler. “How American Treaty Behavior Threatens National Security” in *33 International Security*, 45 (2008).

¹⁶² Chayes. Page 51.

done by other nation-states – and by other global powers, especially – it not only serves to hinder an international treaty’s effectiveness, but undercuts the efficacy of the entire international legal system. In turn, this is detrimental to the integrity of international treaty regimes, in addition to being detrimental to the legitimacy of international law and international institutions.¹⁶³

Furthermore, Drezner maintains that the United States has effectively used its privileged position as a global hegemon to shift international regime complexes closer to preferred U.S. policy positions, and continues to do so in the present-day. The United States is able to achieve this by switching “from what it perceive[s] to be an ineffective or weak regime to a club regime inhabited by like-minded states” when it deems it necessary for securing U.S. interests. In this way, powerful incentives are created for “pre-existing organizations – and member states in those organizations – to skew their policies” toward the United States and U.S. partners.¹⁶⁴

However, this behavior also incentivizes other great powers to employ similar behavior and methods such as forum-shopping and selective multilateralism. Drezner cautions that the U.S. benefits from forum-shopping have thus far been facilitated by a unipolar distribution of power in the United States’ favor. Yet current trends suggest that an ongoing shift “towards a more multipolar distribution of power will encourage other states to act in a similar manner to the United States” regarding international treaties. Drezner argues that the resultant scenario would generate “policies that are at odds with great power interests, decoupled from stated norms, or so inchoate that they cannot be implemented or enforced.” **The ultimate result would be the accelerated decline in both the legitimacy and the effectiveness of international institutions, to the detriment of the United States’ longer term interests and security, and to the detriment of the international legal order and international security.**

To some extent, such a scenario – where American exceptionalism toward an international treaty has fostered mimetic behavior and hampered mid and long-term U.S. goals in geostrategic regions – is already playing out in the maritime arena. Two especially illustrative cases involve the South China Sea, and the Arctic, which this paper will examine in the forthcoming sections.

2. The Case of the United States and the United Nations Convention on the Law of the Sea

2.1 UNCLOS: An Overview

The United Nations Convention on the Law of the Sea (UNCLOS) is an “international agreement governing international maritime zones,”¹⁶⁵ including “all uses of the oceans and their resources.”¹⁶⁶ Consisting of 320 articles and nine annexes, the Convention “was created to codify various customary maritime laws and establish [the] responsibilities and rights of nations.”¹⁶⁷

¹⁶³ Ibid.

¹⁶⁴ Ibid. Page 20 of the Conclusion in particular.

¹⁶⁵ Franki, Julie. “Seize the Sea: The Territorial Conflict Between the United States and China Over Military Operations in the South China Sea.” *Emory International Law Review*, Vol. 31. 2017. Pages 1021-1031 (2017).

¹⁶⁶ United Nations, Oceans & Law of the Sea. “United Nations Convention on the Law of the Sea of 10 December 1982: Overview and full text.” Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations. Updated March 28, 2018.

http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm. Accessed on May 7, 2018.

¹⁶⁷ Daniel W. Gray, Lieutenant Commander, U.S. Coast Guard. “Changing Arctic: A Strategic Analysis of United States Arctic Policy and the United Nations Convention on the Law of the Sea” Master’s Thesis, National Defense University, Joint Forces Staff College: Joint Advanced Warfighting School. May 02, 2013.

UNCLOS thus governs “all aspects of ocean space, such as delimitation, environmental control, marine scientific research, economic and commercial activities, transfer of technology, and the settlement of disputes relating to ocean matters.”¹⁶⁸

UNCLOS is the product of the longest treaty-making conference in history¹⁶⁹: the Convention was signed on 10 December 1982 in Montego Bay, Jamaica, after some fourteen years of negotiations.¹⁷⁰ It entered into force on 16 November 1994, and as of the year 2019, 168 parties have ratified the Convention. These include 167 nation-states in addition to the European Union, Palestine, the Cook Islands, and the island country Niue.¹⁷¹ Countries that have formally ratified the Convention include all permanent member-states of the United Nations Security Council; all members of the Arctic Council; and all major maritime powers, including China and Russia, but with one exception: the United States.

2.2 *The United States and UNCLOS*

The attitude of the United States toward UNCLOS is consistent with the aforementioned pattern of exceptionalism in American treaty behavior, as described by Chayes et alia. While the United States played a major role in the Convention’s development and its negotiations, it remains as the only Arctic nation and the only permanent UN Security Council member that has not formally ratified the treaty. The issue of ratification of UNCLOS continues to be debated in the United States; however, as of August 2019 the Convention has never been brought to a vote before the full Senate of the United States Congress, where a two-thirds majority of the Senate must approve an international treaty in order for ratification to take place.^{172 173} As of August 2019, UNCLOS is one of thirty-eight treaties that are pending in the United States Senate.¹⁷⁴

Historically, the United States has taken issue with certain aspects of the treaty. During the negotiation process in the 1980s, the United States and other industrialized nations opposed Part XI of the Convention, which dealt with seabed mining and national jurisdiction. The United States subsequently led the push for the “Agreement relating to

¹⁶⁸ Ibid.

¹⁶⁹ Franki, Julie. “Seize the Sea: The Territorial Conflict Between the United States and China Over Military Operations in the South China Sea.” *Emory International Law Review*, Vol. 31. 2017. Pages 1021-1031 (2017).

¹⁷⁰ United Nations, Oceans & Law of the Sea. “United Nations Convention on the Law of the Sea of 10 December 1982: Overview and full text.” Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations. Updated March 28, 2018.

http://www.un.org/depts/los/convention_agreements/convention_overview_convention.htm. Accessed on May 7, 2018.

¹⁷¹ United Nations. “Chronological lists of ratifications of, accessions, and successions to the Convention and the related Agreements.” Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations. Updated June 28, 2019. Accessed on August 7, 2019.

https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=en#1.

¹⁷² U.S. Department of State. “Law of the Sea Convention.” Bureau of Oceans and International Environmental and Scientific Affairs, U.S. Department of State. 2018. <https://www.state.gov/law-of-the-sea-convention/>. Accessed on August 7, 2019.

¹⁷³ U.S. Senate. (2019). “Treaties.” Washington, D.C.: United States government. 2019. Accessed on August 7, 2019. <https://www.senate.gov/artandhistory/history/common/briefing/Treaties.htm>

¹⁷⁴ U.S. Department of State. “Treaties Pending in the Senate.” Bureaus/Offices Reporting Directly to the Secretary, Office of the Legal Adviser, U.S. Department of State. Updated March 29, 2019. <https://www.state.gov/treaties-pending-in-the-senate/>. Accessed August 7, 2019.

Implementation of Part XI of the Convention,” which was adopted on July 28, 1994. The Convention was formally submitted to the U.S. Congress in 1994 (two years before the Agreement pertaining to Part XI entered into force on July 28, 1996) but has remained in legislative limbo in the Senate ever since.¹⁷⁵

In 2002, UNCLOS was designated by U.S. President George W. Bush as one of five treaties in urgent need for Senate approval. However, despite unanimous approval by President Bush and the Senate Foreign Relations Committee, the incumbent Senate Majority Leader Bill Frist refused to schedule a vote on the Convention.¹⁷⁶ Since that point in time, the general consensus is that the United States’ failure to ratify UNCLOS is attributable to Republican opposition in the Senate.¹⁷⁷ In the U.S. Congress, one of the primary arguments against ratification of the Convention is the claim that U.S. approval of UNCLOS would undermine the national sovereignty of the United States.¹⁷⁸ Another argument is that the United States would set a flawed precedent by empowering “an international organization – the International Seabed Authority (ISA) – to regulate commercial activity and distribute revenue from that activity” (to the contrary, however, the 1994 Agreement ensured that the United States “would have a veto power over how the ISA distributes funds if [the United States] ever ratified the treaty).¹⁷⁹ Another main argument against ratification is that the United States should remain “free to define the parameters of its acceptance of jurisdictional assertions by others consistent with its legal rights and obligations, and...in a position to influence the development and definition of customary international law.” Further, critics maintain that the United States can largely enjoy the benefits of the Convention without its ratification, without having to adhere to its limitations.¹⁸⁰ More extreme criticisms include the allegations that ratification of UNCLOS will bring about UN taxes and/or a UN Navy, among other claims.¹⁸¹ Nevertheless, the disadvantages to ratification of the Convention appear to be asymmetrical to the advantages of ratification.

In spite of being a non-party to the Treaty, the United States largely accepts and complies with UNCLOS in practice. In 1979, the Carter administration introduced the Freedom of Navigation (FON) Program to contest “unilateral acts of other states designed to restrict the rights

¹⁷⁵ Roncevert Ganon Almond. “U.S. Ratification of the Law of the Sea Convention.” *The Diplomat*, May 24, 2017. Accessed on August 7, 2019. <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>.

¹⁷⁶ Kolcz-Ryan, Marta. “An Arctic Race: How the United States’ Failure to Ratify The Law of the Sea Convention Could Adversely Affect Its Interests In the Arctic.” *University of Dayton Law Review* Vol. 35. (2009-2010): 149-173.

¹⁷⁷ Thomas Wright. “Outlaw of the Sea: The Senate Republicans’ UNCLOS Blunder.” *Brookings*, August 7, 2012. Accessed on August 9, 2019. <https://www.brookings.edu/articles/outlaw-of-the-sea-the-senate-republicans-unclos-blunder/>.

¹⁷⁸ Kolcz-Ryan, Marta. “An Arctic Race: How the United States’ Failure to Ratify The Law of the Sea Convention Could Adversely Affect Its Interests In the Arctic.” *University of Dayton Law Review* Vol. 35. (2009-2010): 149-173. Page 163 in particular.

¹⁷⁹ Thomas Wright. “Outlaw of the Sea: The Senate Republicans’ UNCLOS Blunder.” *Brookings*, August 7, 2012. <https://www.brookings.edu/articles/outlaw-of-the-sea-the-senate-republicans-unclos-blunder/>. Accessed on May 7, 2018.

¹⁸⁰ Kolcz-Ryan, Marta. “An Arctic Race: How the United States’ Failure to Ratify The Law of the Sea Convention Could Adversely Affect Its Interests In the Arctic.” *University of Dayton Law Review* Vol. 35. (2009-2010): 149-173. Page 165 in particular.

¹⁸¹ James Kraska, U.S. Commander. “Missing the Boat,” *Armed Forces Journal*, April 1, 2009. <http://armedforcesjournal.com/missing-the-boat/> (accessed on May 7, 2018).

and freedom of the international community” relating to maritime and territorial claims.¹⁸² The program was bolstered by the following administration: in 1983, U.S. President Ronald Reagan issued the United States Ocean Policy Statement, which was reinforced by National Security Decision Directive 83.¹⁸³ In this way, the United States formally claimed that it accepted UNCLOS as a reflection of customary international law to a certain degree. These particular documents also set an official precedent for successive presidential administrations, and the Freedom of Navigation Program has become a core element of the United States’ contemporary maritime security strategy.^{184 185} In reality, however, the United States still has not ratified UNCLOS and is not a party to the treaty. Despite failing to ratify the Convention, the United States still reaps benefits from the Convention, and uses its selective observance of UNCLOS to legitimize its maritime maneuvers and operations.¹⁸⁶ However, this stance does nothing to bolster the integrity of the Convention or the United States’ legitimacy in the eyes of the international community. The United States’ exceptionalist stance on UNCLOS is also not without significant consequences for U.S. national interests and national security.¹⁸⁷ In addition to strategic marine chokepoints like the Strait of Hormuz, this is also true concerning U.S. interests in the Asia Pacific region, and in the Arctic.

Part III: Patterns in the Pacific

1. Chinese Exceptionalism

1.1 Militarization in the South and East

China Seas

It can be argued that the hazards of American exceptionalism – as discussed above – are also on exhibit in the Pacific. In the South China Sea alone, anywhere from 3.4 trillion to 5.3 trillion USD in trade passes through these strategic waters on an annual basis, making it a critical maritime region. It is especially important to China, as some 40 percent of China’s total trade transits through the South China Sea.¹⁸⁸ Since at least 2012, China has commenced an aggressive “land reclamation” campaign in the South China Sea and the East China Sea, respectively. These areas are rich in natural resources, such as fish, as well as hydrocarbons. In the South China Sea alone, estimates on barrels of oil have ranged anywhere between 28 and 213 billion barrels, while gas has been estimated to be even

¹⁸² Cid Standifer. “Updated: A Brief History of U.S. Freedom of Navigation Operations in the South China Sea,” *United States Naval Institute*, July 2, 2017. <https://news.usni.org/2017/05/29/brief-history-us-freedom-navigation-operations-south-china-sea>. Accessed on May 5, 2018.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ U.S. Department of State. “Maritime Security and Navigation.” Bureau of Oceans and International Environmental and Scientific Affairs, United States State Department. 2018.

<https://www.state.gov/e/oes/ocns/opa/maritimesecurity/> Accessed on May 5, 2018.

¹⁸⁶ Antonia Chayes, *American Treaty Behavior: an Obstacle to National Security*, INTERNATIONAL SECURITY, Vol. 33, No. 1 (Summer 2008), pp. 49.

¹⁸⁷ Kraska, James. “Missing the Boat: Failure to join the Law of the Sea Convention harms U.S. interests.” *Armed Forces Journal*, April 1, 2009. <http://armedforcesjournal.com/missing-the-boat/> Accessed on August 7, 2019.

¹⁸⁸ CSIS China Power staff. “How much trade transits the South China Sea?” *CSIS: China Power*, August 2, 2017. Updated October 27, 2017. Accessed on August 7, 2019. <https://chinapower.csis.org/much-trade-transits-south-china-sea/>

higher.¹⁸⁹ The U.S. Geological Survey has estimated that the “sum total of reserves and undiscovered resources in the offshore basins of the South China Sea” are at 266 trillion cubic feet.¹⁹⁰ Despite prior promises not to militarize its manmade islands in the South China Sea, China’s rapid militarization has become increasingly evident and indisputable.^{191 192}

As of 2018, these efforts have involved the construction of artificial islands atop “reefs and partially-submerged islets,”¹⁹³ complete with unambiguous military installations such as aircraft hangers, barracks facilities, radar facilities, weapon emplacements (and) 10,000-foot runways.¹⁹⁴ Other militant actions include the organization of a maritime fishing “militia” trained to sail into disputed waters;¹⁹⁵ the entry of Chinese government vessels into the contiguous waters of other countries including Japan, Vietnam, and the Philippines;¹⁹⁶ and the installation of radar equipment under the pretense of gas exploration platforms, among other actions.¹⁹⁷ China’s activities have raised tensions in the region, prompting a reaction from the United States and its partners by way of more frequent freedom of navigation operations in the Asia Pacific.¹⁹⁸ In turn, an increase in the scale and frequency of these operations also increases the risk of military-to-military “confrontation, escalation, misunderstanding, and unplanned skirmishes at sea.”¹⁹⁹ Moreover, China’s militarization has spurred weaker countries, such as Vietnam, to employ similar tactics in the defense of its maritime claims against China, further contributing to international insecurity. In sum, this adds both to the militarization and destabilization of the Asia Pacific maritime region.²⁰⁰

¹⁸⁹ Tim Daiss. “How oil drives the South China Sea conflict.” *Oil Price*, March 14, 2018. Accessed on August 7, 2019. <https://oilprice.com/Energy/Energy-General/How-Oil-Drives-The-South-China-Sea-Conflict.html#>

¹⁹⁰ Tim Daiss. “South China Sea Energy Politics Heat Up.” *Oil Price*, March 2, 2019. Accessed on August 7, 2019. <https://oilprice.com/Geopolitics/Asia/South-China-Sea-Energy-Politics-Heat-Up.html#>

¹⁹¹ Neil Connor. “China triggers new storm over military build-up on artificial islands.” *Telegraph*, January 9, 2018. <https://www.telegraph.co.uk/news/2018/01/09/diplomatic-protests-china-shows-militarised-artificial-islands/> Accessed on May 7, 2018.

¹⁹² Scott N. Romaniuk and Tobias Burgers. “China’s next phase of militarization in the South China Sea.” *The Diplomat*, March 20, 2019. Accessed on August 7, 2019. <https://thediplomat.com/2019/03/chinas-next-phase-of-militarization-in-the-south-china-sea/>

¹⁹³ Ibid.

¹⁹⁴ Kyodo News. “China has 7 new military bases in S. China Sea: U.S.” *ABS-CBN News*, February 16, 2018. Accessed on May 7, 2018. <http://news.abs-cbn.com/focus/02/16/18/china-has-7-new-military-bases-in-s-china-sea-us>. (working link): <https://www.scmp.com/news/china/diplomacy-defence/article/2133483/china-has-built-seven-new-military-bases-south-china>

¹⁹⁵ Megha Rajagopalan. “China trains ‘fishing militia’ to sail into disputed waters.” *Reuters*, April 30, 2016. <https://www.reuters.com/article/us-southchinasea-china-fishingboats-idUSKCN0XSORS> Accessed on May 7, 2018.

¹⁹⁶ Zack Cooper. “Flashpoint East China Sea: Potential Shocks.” *CSIS*, April 27, 2018. <https://amti.csis.org/flashpoint-east-china-sea-potential-shocks/>. Accessed on May 7, 2018.

¹⁹⁷ Reuters Staff. “Japan protests over China’s radar unit, coastguard ships.” *Reuters*, August 6, 2016. <https://www.reuters.com/article/us-japan-china-protest-idUSKCN10I05E>. Accessed May 8, 2018.

¹⁹⁸ Jesse Johnson. “U.S. accuses Beijing of ‘provocative militarization’ in South China Sea.” *The Japan Times*, January 10, 2018. <https://www.japantimes.co.jp/news/2018/01/10/asia-pacific/u-s-accuses-beijing-provocative-militarization-south-china-sea/>. Accessed on May 8, 2018.

¹⁹⁹ Jonathan G. Odom. “Merely Avoiding Conflict in the South China Sea Is Not Good Enough.” *The Diplomat*, June 24, 2017. <https://thediplomat.com/2017/06/merely-avoiding-conflict-in-the-south-china-sea-is-not-good-enough/> Accessed on May 9, 2018.

²⁰⁰ Ralph Jennings. “Vietnam’s Fishing ‘Militia’ to Defend Maritime Claims Against China.” *Voice of America*, April 6, 2018. <https://www.voanews.com/a/vietnam-fosters-fishing-militia-to-defend-maritime-claims-against-china/4335312.html> Accessed on May 7, 2018.

China is a party to UNCLOS, having ratified the treaty in 1996.²⁰¹ In a landmark case in 2013, the Philippines (also a party to the treaty) referred its ongoing maritime dispute with China to the Permanent Court of Arbitration at The Hague. The dispute is based on the legality of China's claim to the so-called "nine-dash line" – a marine area which includes approximately 90% of the South China Sea – on historic grounds. On 12 July 2016, the international tribunal found that China's expansive claim over waters in the South China Sea "had no legal basis," thus ruling in favor of the Philippines. China, having refused to participate in the arbitration, rejected the tribunal's decision as "invalid" and as a piece of paper "without binding force." This latter claim is accurate: although the decision is "legally binding," no mechanism exists for enforcing the ruling, as the only means available would have to be through the United Nations Security Council. As both China and the United States are permanent members of the UN Security Council with veto power, any unfavorable resolution to either country's interests would be easily shut down.^{202 203} In reaction to pressure from the United States and its supporters, China has made the valid argument that "the United States has no legitimacy to intervene in a maritime conflict when it has not itself ratified the UN Convention on the Law of the Sea (UNCLOS)."²⁰⁴ In the weeks leading up to the ruling, China managed to gain the support of some sixty countries for the PRC's stance on the dispute and its rejection of international arbitration. Thus, this was both a bid to enhance China's legitimacy and a testament to its growing international influence, largely by means of its enormous financial investments in geostrategic areas.²⁰⁵ Experts have criticized the United States, Russia, the UK, and other global powers for setting the precedent for Beijing's behavior, with the expert Ali Wyne positing that the ramifications of this ruling are "likely to produce a drama that plays out over years, even decades."²⁰⁶

As of 2019, China has overlapping maritime territorial disputes with six other actors in the Asia Pacific region: Taiwan, Japan, Vietnam, the Philippines, Malaysia, and Brunei. In addition, as of 2014 Indonesia has challenged China's newer drawings of its "nine-dash-line," arguing that Beijing has included territorial Indonesian waters in violation of UNCLOS. Indonesia has also criticized

²⁰¹ Zheng Wang. "China and UNCLOS: An Inconvenient History." *The Diplomat*, July 11, 2016. Accessed on August 7, 2019. <https://thediplomat.com/2016/07/china-and-unclos-an-inconvenient-history/>

²⁰² Jane Perlez. "Tribunal Rejects Beijing's Claims in the South China Sea." *New York Times*, July 12, 2016. <https://www.nytimes.com/2016/07/13/world/asia/south-china-sea-hague-ruling-philippines.html>. Accessed on May 7, 2018.

²⁰³ Ramesh Thakur. "China takes lesson from U.S." *Japan Times*, July 20, 2016. <https://www.japantimes.co.jp/opinion/2016/07/20/commentary/world-commentary/china-takes-lesson-u-s/> Accessed on May 8, 2018.

²⁰⁴ Kolcz-Ryan, Marta. "An Arctic Race: How the United States' Failure to Ratify The Law of the Sea Convention Could Adversely Affect Its Interests In the Arctic." *University of Dayton Law Review* Vol. 35. (2009-2010): 149-173. Page 165 in particular.

²⁰⁵ Simon Denyer. "U.S. 'hypocrisy' and Chinese cash strengthen Beijing's hand in South China Sea." *Washington Post*, June 19, 2016. https://www.washingtonpost.com/world/asia_pacific/us-hypocrisy-and-chinese-cash-strengthen-beijings-hand-in-south-china-sea/2016/06/18/6907943a-330a-11e6-ab9d-1da2b0f24f93_story.html?noredirect=on&utm_term=.7a74c7400b4b Accessed on August 7, 2019.

²⁰⁶ Ali Wyne. "U.S. hypocrisy in the South China Sea." *Foreign Affairs*, July 14, 2016. Online access on August 7, 2019. <https://www.foreignaffairs.com/articles/china/2016-07-14/us-hypocrisy-south-china-sea>

China's lack of transparency with its "nine-dash-line," such as Beijing's failure to provide precise coordinates, adding to Beijing's legal inconsistencies in its historical claims to contested areas.²⁰⁷

Nevertheless, China has brazenly moved ahead with establishing a presence and engaging in activities in contested waters, much to the dismay of the actors these disputes involve. U.S. ally Japan, for example, has repeatedly protested against China's oil and gas-related activities in the region.²⁰⁸ As recently as June 2019, Tokyo lodged an official complaint against Beijing for its deployment of a drilling ship in the East China Sea, in an area where gas fields are located.²⁰⁹ Whereas China has described its activities as resource "exploration," Japan has officially labeled China's activities as "unilateral development of natural resources."²¹⁰

Accordingly, the argument can be made that the Philippines case – and China's domineering stance in the East and South China Seas – demonstrates that, as a rising global power with considerable power in international institutions, China has been "a diligent pupil" of American exceptionalism.²¹¹ This can be exemplified in at least three ways: first, in that "both the United States and China prefer an approach that privileges customary international law...over the provisions of UNCLOS," with an emphasis on historic rights and claims;²¹² second, similar to the United States, China has adopted a dismissive attitude toward the Convention's dispute settlement mechanism; and third, China is exhibiting its willingness to create parallel "club regimes" with like-minded states in order to better protect and pursue its national interests. China's attempts to create "club regimes" is also demonstrated by the Shanghai Cooperation Organization (SCO), an intergovernmental organization formed by China, Russia, Kazakhstan, Kyrgyzstan, and Tajikistan, later joined by Uzbekistan and more recently by India and Pakistan.²¹³ Since its formation in 2001, some experts have likened the SCO's aims to that of NATO, but its leaders, China and Russia, have described it as more of a partnership rather than an alliance.²¹⁴ Thus far, its results have been mixed, but there are some

²⁰⁷ Zachary Keck. "China's newest maritime dispute." *The Diplomat*, March 20, 2014. Accessed on August 7, 2019; Siswo Pramono. "China's nine-dash line revisited." *Jakarta Post*, July 12, 2016. Accessed on August 7, 2019.

<https://www.thejakartapost.com/academia/2016/07/12/chinas-nine-dash-line-revisited.html>

²⁰⁸ Tim Daiss. "Stop building the East China Sea, Japan tells China." *Forbes*, June 9, 2016. Accessed on August 7, 2019. <https://www.forbes.com/sites/timdaiss/2016/06/09/stop-building-in-the-east-china-sea-japan-tells-china/#7059d1fe3ab0>

²⁰⁹ Kyodo news agency. "Japan protests Chinese development work in East China Sea gas field." *Japan Times*, February 7, 2019. Accessed on August 7, 2019. https://www.japantimes.co.jp/news/2019/02/07/national/politics-diplomacy/japan-protests-chinese-development-work-east-china-sea-gas-field/#.XUw_2ehKg2w

²¹⁰ Ministry of Foreign Affairs of Japan. "The current status of China's unilateral development natural resources in the East China Sea." Tokyo, Japan: government of Japan. March 28, 2019. Accessed on August 7, 2019.

https://www.mofa.go.jp/a_o/c_m1/page3e_000356.html

²¹¹ Ramesh Thakur. "China takes lesson from U.S." *Japan Times*, July 20, 2016.

<https://www.japantimes.co.jp/opinion/2016/07/20/commentary/world-commentary/china-takes-lesson-u-s/>
Accessed on May 8, 2018.

²¹² Arun Mohan Sukumar. "Beyond claims, South China Sea is a battleground for US, Chinese exceptionalism." *The Wire*, July 12, 2016. Accessed on August 7, 2019. <https://thewire.in/external-affairs/south-china-sea-caught-between-chinese-claims-and-us-exceptionalism>

²¹³ Eleanor Albert. "The Shanghai Cooperation Organization: A vehicle for cooperation or competition?" *The Diplomat*, June 21, 2019. Accessed on August 7, 2019. <https://thediplomat.com/2019/06/the-shanghai-cooperation-organization-a-vehicle-for-cooperation-or-competition/>

²¹⁴ William Piekos and Elizabeth C. Economy. "The Risks and Rewards of SCO Expansion." *Council on Foreign Relations: Expert Brief*, July 7, 2015. Accessed on August 7, 2019. <https://www.cfr.org/expert-brief/risks-and-rewards-sco-expansion>

reasons to believe that the organization could gain in geopolitical influence in the coming years, and should be treated accordingly.²¹⁵

While China is still a party to UNCLOS (whereas the United States is not and never was), China is attempting – and arguably succeeding – in utilizing its growing, multi-dimensional clout to “influence the development and definition of customary international law,” while also attempting to assert its right “to define the parameters of its acceptance of jurisdictional assertions by others consistent with its legal rights and obligations.”²¹⁶ Further, as China continues to grow in global clout, some scholars now muse whether China could in fact withdraw from UNCLOS: such an action would allow China to cherry-pick the Convention’s provisions as the United States does now, while likewise seeking “to alter the interpretation of international law in its favor” in the long-run.²¹⁷ However, as discussed in the following sections, there is evidence that Beijing is already engaging in these activities in the present, while still being a party to the treaty – underscoring China’s mimicry of American exceptionalism.

Despite China’s extensive 18,000 kilometer coastline, its geopolitical reality is that its maritime security advantages are quite modest: although it has access to four seas (the Bohai Sea, the Yellow Sea, the East China Sea, and the South China Sea), its access to oceans is restricted by island states.²¹⁸ Thus, geographically, China is actually quite contained. As the Washington-based Center for Strategic International Studies (CSIS) points out, the South China Sea alone is “critical for China, Taiwan, Japan, and South Korea, all of which rely on the Strait of Malacca, which connects the South China Sea, and, and by extension, the Pacific Ocean with the Indian Ocean.”²¹⁹ In addition to the South China Sea and East China Sea, attempts by China to exert its own form of exceptionalism are also evident in other geostrategic regions, largely by means of its Belt and Road Initiative.

1. The Belt and Road Initiative

Worth at least \$4 trillion in Chinese investments, China’s massive Belt and Road Initiative (BRI) is emerging as a key piece in China’s multi-dimensional grand strategy.²²⁰

²¹⁵ David Howell. “Take the Shanghai Cooperation Organization seriously.” *Japan Times*, June 7, 2018. Accessed on August 7, 2019. <https://www.japantimes.co.jp/opinion/2018/06/07/commentary/world-commentary/take-shanghai-cooperation-organization-seriously/>

²¹⁶ Statement by Tommy T.B. Koh, A Constitution for the Oceans, in 1 UNITED NATIONS CONVENTION ON THE LAW OF THE SEA 1982 11, 12 (Myron H. Nordquist ed., 1985); Hasjim Djalal, The Effects of the Law of the Sea Convention on the Norms That Now Govern Ocean Activities, in CONSENSUS AND CONFRONTATION: THE UNITED STATES AND THE LAW OF THE SEA CONVENTION 50, 54 (Jon M. Van Dyke ed., 1985) [*supra* note 62, at 40.] Drawn from the secondary study: Kolcz-Ryan, Marta. “*An Arctic Race: How the United States’ Failure to Ratify the Law of the Sea Convention could Adversely Affect its Interests in the Arctic*.” *University of Dayton Law Review*. Vol. 35. (2009-2010): 149-173.

²¹⁷ Mark J. Valencia. “Might China withdraw from the UN Law of the Sea treaty?” *The Diplomat*, May 3, 2019. Accessed on August 7, 2019. <https://thediplomat.com/2019/05/might-china-withdraw-from-the-un-law-of-the-sea-treaty/>

²¹⁸ Zheng Wang, in reference to research by Liu Feng. “China and UNCLOS: An inconvenient history.” *The Diplomat*, July 11, 2016. Accessed on August 7, 2019. <https://thediplomat.com/2016/07/china-and-unclos-an-inconvenient-history/>

²¹⁹ CSIS China Power staff. “How much trade transits the South China Sea?” *CSIS: China Power*, August 2, 2017. Updated October 27, 2017. Accessed on August 7, 2019. <https://chinapower.csis.org/much-trade-transits-south-china-sea/>

²²⁰ Andrew Chatzky and James McBride. “China’s Massive Belt and Road Initiative.” *Council on Foreign Relations*, last updated on May 21, 2019. Accessed on August 7, 2019. <https://www.cfr.org/backgrounders/chinas-massive-belt-and-road-initiative>; Kliman, Daniel. “Wanted: A U.S. Strategic Response to China’s Belt and Road Initiative.”

Launched as the “One Belt, One Road” initiative in 2013, China’s renamed “Belt and Road Initiative” now spans at least 70 countries, potentially covering two-thirds of the world’s population through proposed land, maritime, and even digital corridors. The BRI seeks to promote worldwide economic integration and development through comprehensive infrastructure projects. These projects include the construction of airports, pipelines, railways, roads, ports, and communications projects in Africa, the Arctic, Eurasia, Latin America, and Southeast Asia.²²¹ Some estimates of Chinese investments in the BRI are as high as \$8 trillion.²²² If fully implemented, the BRI will impact some 4.4 billion people, and capture over a third of global GDP.²²³

The BRI has two main prongs: the Silk Road Economic Belt, which runs through Central Asia and Europe; and the 21st Century Maritime Silk Road, which traverses through Africa, Europe, and Southeast Asia. It also launched the Polar Silk Road in January 2018,²²⁴ and, as part of the larger Belt and Road Initiative, the Digital Silk Road was multilaterally launched in December 2017. Formerly known as the “Digital Economy in International Cooperation Initiative,” the Digital Silk Road officially aims to expand broadband access, promote digital transformation, and further economic and business cooperation between other countries and China.²²⁵ Collectively, these prongs propose impressive levels of integration – and thus extensive security implications for U.S. interests and those of U.S. allies.²²⁶

China has aggressively targeted the needs of underdeveloped countries, including strategic U.S. partners in Southeast Asia like the Philippines and Cambodia.²²⁷ Having been

National Interest, September 7, 2017. Accessed April 22, 2018. <http://nationalinterest.org/feature/wanted-us-strategic-response-chinas-belt-road-initiative-22205?page=show>

²²¹ Daly Robert and Matthew Rojansky. “China’s Global Dreams Give Neighbors Nightmares.” *Foreign Policy*, March 12, 2018. Accessed on August 7, 2019. <http://foreignpolicy.com/2018/03/12/chinas-global-dreams-are-giving-its-neighbors-nightmares/>; Staff. “China’s Belt and Road Initiative: Five Years Later.” *CSIS*, January 25, 20a18. Accessed April 22, 2018. <https://www.csis.org/analysis/chinas-belt-and-road-initiative-five-years-later-0>

²²¹ Meltzer, Joshua P. “China’s One Belt One Road initiative: A view from United States.” *Brookings*, June 19, 2017. Accessed April 22, 2018. <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>

²²² Staff. “China’s Belt and Road Initiative: Five Years Later.” *CSIS*, January 25, 20a18. Accessed April 22, 2018. <https://www.csis.org/analysis/chinas-belt-and-road-initiative-five-years-later-0>

²²³ Meltzer, Joshua P. “China’s One Belt One Road initiative: A view from United States.” *Brookings*, June 19, 2017. Accessed April 22, 2018. <https://www.brookings.edu/research/chinas-one-belt-one-road-initiative-a-view-from-the-united-states/>

²²⁴ Economy, Elizabeth C. “Beijing’s Silk Road Goes Digital,” *Council on Foreign Relations*, June 6, 2017. Accessed April 22, 2018. <https://www.cfr.org/blog/beijings-silk-road-goes-digital>

²²⁵ China.org.cn, “Digital Economy Cooperation to Empower Belt, Road,” December 04, 2017. Accessed April 12, 2018. http://www.china.org.cn/world/2017-12/04/content_50083923.htm.

²²⁵ Justina Crabtree. “China is teaming up with a slew of countries to build a new Silk Road—but not everyone is happy.” *CNBC*, December 28, 2017. Accessed April 22, 2018. <https://www.cnb.com/2017/12/28/china-belt-road-partnerships.html>

²²⁶ Perlez, Jane and Yufan Huang. “Behind China’s \$1 Trillion Plan to Shake Up the Economic Order.” *New York Times*, May 13, 2017. Accessed April 22, 2018. <https://www.nytimes.com/2017/05/13/business/china-railway-one-belt-one-road-1-trillion-plan.html>

²²⁷ Staff. “China’s Belt and Road Initiative: Five Years Later.” *CSIS*, January 25, 2018. Accessed April 22, 2018. <https://www.csis.org/analysis/chinas-belt-and-road-initiative-five-years-later-0>

²²⁷ Miller, Tom. “China’s clout has few limits. Shouldn’t we be worried about its new Silk Road?” *The Guardian*, September 4, 2017. Accessed April 22, 2018. <https://www.theguardian.com/commentisfree/2017/sep/04/china-economic-clout-new-silk-road>

presented with few alternatives, the BRI is too attractive for most of these countries to reject, in spite of reservations by some countries over China's true intentions.²²⁸ Out of 68 countries that China has listed as Belt and Road partners in 2018, twenty-seven countries had a sovereign debt rating of junk (below investment grade), while another fourteen countries were not rated or had withdrawn requests for ratings.²²⁹ Many of these countries have limited ability to pay back these massive loans, and their long-term indebtedness to China is already having far-reaching ramifications: China is gaining military access to geostrategic ports belonging to other countries.

1.1 *The World's Loan Shark?*

Beijing has made great efforts to promote the BRI as a benign influence, and consistently describes the project with positive and nonthreatening terminology (at times to the point of sounding saccharine). China has described the BRI as “the blueprint of a diversified and harmonious world,” claiming the project promotes “connectivity, development strategy alignment, advantage complementarity and interconnected development” and aims to create a “community of common destiny.”²³⁰ ²³¹ Supporters argue that the initiative promotes greater prosperity in underdeveloped regions by providing much needed infrastructure and investment, especially in impoverished and “neglected” countries.²³² Some scholars have compared the BRI with the Marshall Plan, although the BRI is exponentially far greater in monetary scope.²³³ However, whereas Beijing has called the BRI an “economic pie,”²³⁴ anxieties about the project have increased in recent years, with some critics frankly calling the initiative “a debt trap.”²³⁵

The BRI has had a significant impact on the African continent, where China has been steadily increasing trade, investment, and exchange programs targeted

²²⁸ Miller, Tom. “China’s clout has few limits. Shouldn’t we be worried about its new Silk Road?” *The Guardian*, September 4, 2017. Accessed April 22, 2018. <https://www.theguardian.com/commentisfree/2017/sep/04/china-economic-clout-new-silk-road>; Daly Robert and Matthew Rojansky. “China’s Global Dreams Give Neighbors Nightmares.” *Foreign Policy*, March 12, 2018. Accessed April 22, 2018.

<http://foreignpolicy.com/2018/03/12/chinas-global-dreams-are-giving-its-neighbors-nightmares/>

²²⁹ Staff. “China Belt-Road Plan May Create Debt Problems from Djibouti to Laos.” *Bloomberg*, March 5, 2018. Accessed April 22, 2018. <https://www.bloomberg.com/news/articles/2018-03-05/china-belt-road-plan-seen-adding-debt-risk-from-djibouti-to-laos>

²³⁰ Embassy of the People’s Republic of China. “Ambassador Lu Shaye published a signed article about the Belt and Road Cooperation.” Government of China. April 16, 2019. Accessed on August 7, 2019. <http://ca.china-embassy.org/eng/sgxw/t1654646.htm>

²³¹ Ministry of Foreign Affairs of China. “Full text of President Xi’s speech at opening of Belt and Road forum.” Government of China. May 15, 2017. Accessed on August 7, 2019. https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1465819.shtml

²³² Akhil Ramesh. “China in South Asia: Loan Shark or Lender of Last Resort?” *The Diplomat*, May 6, 2019. Accessed on August 7, 2019. <https://thediplomat.com/2019/05/china-in-south-asia-loan-shark-or-lender-of-last-resort/>

²³³ Shaffer and Gao, 2019. Page 5.

²³⁴ Ibid.

²³⁵ Deborah. Brautigam. “Is China the world’s loan shark?” *New York Times*, April 26, 2019. Accessed on August 7, 2019. <https://www.nytimes.com/2019/04/26/opinion/china-belt-road-initiative.html> accessed on August 7, 2019.

at rising political and business leaders in Africa.²³⁶ Critics of the BRI have characterized its lending practices in particular as predatory in nature. Former U.S. Secretary of State Rex Tillerson called out the BRI as imperialist, and said that behind the BRI's attractive price were the costs of imported labor, unfair trading practices, "onerous loans, and unsustainable debt." He argued that the project offered short-term gains "for long-term dependency" to vulnerable countries, and also accused China of using "economic statecraft" to pull different regions, like Latin America, into Beijing's orbit, thereby gaining a foothold in diverse regions.²³⁷ Current U.S. Secretary of State Mike Pompeo's remarks have been even harsher. In 2018, Pompeo implied that Beijing was trying to buy an "empire" through "bribes."²³⁸ In August 2019 he went further, accusing China of "building roads to pave...[its] national sovereignty" in foreign countries, and of funding "bridges to close gaps of loyalty" through the BRI's "predatory tactics" and "protectionism."²³⁹ Scholars note that the negative aspects of the BRI include "hostile economic practices, military expansion, and coercive political and ideological tactics," but acknowledge that the overall impact of the BRI is at least positive in part, with both costs and gains.²⁴⁰

There is some debate among scholars over whether the political, security, and economic effect of the BRI are merely externalities of the initiative, or whether they were indeed the intent behind the design. Scholars who have come out against the characterization of China as "the world's loan shark" and the BRI as "debt-trap diplomacy" have instead described the project as merely "globalization with Chinese characteristics."²⁴¹ Experts such as Deborah Brautigam say that perceptions of the BRI and of the intentions behind its formation are "widely misunderstood."²⁴² On the other hand, experts critical of the BRI have described it more much more negatively as "colonization with Chinese characteristics."²⁴³ In any case, the "de facto colonial" aspects of China's BRI are especially evident in the significant maritime gains the initiative delivers to China.²⁴⁴

²³⁶ Lily Kuo. "Beijing is cultivating the next generation of African elites by training them in China." *Quartz*, December 14, 2017. Accessed on August 7, 2019. <https://qz.com/africa/1119447/china-is-training-africas-next-generation-of-leaders/>; Abdi Latif Dahir and Yomi Kazeem. "China is pushing Africa into debt, says America's top diplomat." *Quartz*, March 7, 2018. Accessed on August 7, 2019. <https://qz.com/africa/1223412/china-pushes-africa-into-debt-says-trumps-top-diplomat-rex-tillerson/>

²³⁷ Remarks by former U.S. Secretary of State Rex Tillerson. "U.S. Engagement in the Western Hemisphere." February 1, 2018 at the University of Texas at Austin. Source: U.S. Department of State, 2019. <https://www.state.gov/u-s-engagement-in-the-western-hemisphere/>

²³⁸ Remarks by U.S. Secretary of State Michael R. Pompeo. "Interview with Hugh Hewitt of the Hugh Hewitt Show." October 26, 2018. Source: U.S. Department of State, 2019. <https://www.state.gov/interview-with-hugh-hewitt-of-the-hugh-hewitt-show/>

²³⁹ Remarks by U.S. Secretary of State Michael R. Pompeo. "Secretary of State Michael R. Pompeo on the U.S. in Asia: Economic Engagement for Good." Remarks on August 2, 2019 in Bangkok, Thailand. Source: U.S. Department of State, 2019. <https://www.state.gov/secretary-of-state-michael-r-pompeo-on-the-u-s-in-asia-economic-engagement-for-good/>

²⁴⁰ Pearl Risberg. "The Give-and-Take of BRI in Africa." *CSIS*, April 2019. Accessed on August 7, 2019. <https://www.csis.org/give-and-take-bri-africa>

²⁴¹ Deborah. Brautigam. "Is China the world's loan shark?" *New York Times*, April 26, 2019. Accessed on August 7, 2019. <https://www.nytimes.com/2019/04/26/opinion/china-belt-road-initiative.html> accessed on August 7, 2019.

²⁴² Ibid.

²⁴³ Anthony Kleven. "Belt and Road: colonialism with Chinese characteristics." *The Interpreter*, May 6, 2019. Accessed on August 7, 2019. <https://www.lowyinstitute.org/the-interpreter/belt-and-road-colonialism-chinese-characteristics>

²⁴⁴ Dara Sakor. "China construction points to military foothold in Cambodia." *Financial Times*, July 24, 2019. Accessed on August 7, 2019.

1.2 *Plucking out Ports for China’s “String of Pearls:” A Chokehold on Marine Chokepoints?*

The BRI has served Beijing’s national interests and maritime security interests remarkably well, but arguably at the expense of other countries’ sovereignty, which has not gone unnoticed. In the space of just a few years, China has gained sea port ownership in seven foreign countries in the Indo-Pacific region, with leases ranging anywhere from 10 to 99 years. Much of the BRI is opaque in nature, and so are its terms: the exact years of these lease agreements have not been made transparently clear. Thus far, such ports are in Gwadar, Pakistan (2015); Kyaukpyu, Myanmar (2015); Kuantan, Malaysia (2016); Obock, Djibouti (2016); Melaka Gateway, Malaysia (2016); Hambantota, Sri Lanka (2017); Muara, Brunei (2017); and Feydhoo Finolhu, in the Maldives (2017).²⁴⁵ These locations have been dubbed by some as “pearls,” in that having access to each location brings valuable geostrategic advantages. At least some of these leases have come as the result of defaulting on debts. In 2018, some 23 countries were highlighted as being at high risk of experiencing “debt distress” due to BRI projects, with 8 countries at high risk of default: Djibouti, Kyrgyzstan, Laos, the Maldives, Mongolia, Montenegro, Pakistan, and Tajikistan.²⁴⁶ Some experts estimate that Beijing now has as many as “17 naval or potential naval bases external to China” in its sights through the BRI.²⁴⁷ Most recently, as of 24 July 2019 Beijing has also established a military presence in Cambodia, possibly with an agreement involving the Ream naval base there.²⁴⁸

At least two of these leased ports – Djibouti and the Maldives – are located in geostrategic marine chokepoints, while Djibouti is also the site of Beijing’s first foreign military base.²⁴⁹ In June 2017, a U.S. Pentagon report concluded that China will “most likely seek to establish additional military bases” in other countries, and that “this initiative, along with regular naval vessel visits to foreign ports, both reflects and amplifies China’s growing influence, extending the reach of its armed forces.”²⁵⁰ Analysts of the BRI report that “almost all the ports and transport infrastructure being built can be dual-use for commercial

²⁴⁵ Richard Ghiasy, Fei Su, and Lora Saalman. 2018. “The 21st Century Maritime Silk Road: Security implications and ways forward for the European Union.” SIPRI (Stockholm International Peace Research Institute). Accessed on August 7, 2019. Page 6 in particular.

²⁴⁶ Cheang Ming. “China’s mammoth Belt and Road Initiative could increase debt risk for 8 countries.” *CNBC*, March 5, 2018. Accessed on August 7, 2019. <https://www.cnbc.com/2018/03/05/chinas-belt-and-road-initiative-raises-debt-risks-in-8-nations.html>

²⁴⁷ Shaun Turton. “China’s Belt and Road raise red flags over military plans.” *Nikkei Asian Review*, July 23, 2019. Accessed on August 7, 2019. <https://asia.nikkei.com/Spotlight/Asia-Insight/China-s-Belt-and-Road-ports-raise-red-flags-over-military-plans>

²⁴⁸ Dara Sakor. “China construction points to military foothold in Cambodia.” *Financial Times*, July 24, 2019. Accessed on August 7, 2019.

²⁴⁹ Lily Kuo and Niko Kommenda. “What is China’s Belt and Road Initiative?” *The Guardian*, July 30, 2018. Accessed on August 7, 2019. <https://www.theguardian.com/cities/ng-interactive/2018/jul/30/what-china-belt-road-initiative-silk-road-explainer>; Tyler Headley. “China’s Djibouti base: a year one update.” *The Diplomat*, December 4, 2018. Accessed on August 7, 2019.

²⁵⁰ Lolita C. Baldor of the Associated Press. “Pentagon report cites China military buildup around the world.” *Military Times*, June 6, 2017. Accessed on August 7, 2019. <https://www.militarytimes.com/news/pentagon-congress/2017/06/07/pentagon-report-cites-china-military-buildup-around-world/>

and military purposes.” In the blunt words of one analyst at the U.S. Center for Strategic Studies, if a vessel “can carry goods, it can carry troops.”²⁵¹ Increased Chinese military presence could “challenge the presence of the United States” in various geostrategic regions. Some experts, however, argue that China is assuming a defensive posture more so than an offensive one, but a posture nonetheless that could be easily perceived as offensive; this is especially so in a zero-sum game mindset, thereby raising the chances of a security dilemma.²⁵²

In April 2019, China’s top diplomat, Yang Jiechi, responded to increasing criticism over the nature of the BRI by stating that “the Belt and Road is open, inclusive and transparent. It does not play little geopolitical games.” He has also maintained that critics of the BRI are “prejudiced.”²⁵³ However, acting U.S. representative to the United Nations Jonathan Cohen has called the BRI “an infrastructure vanity project” that has “known problems with corruption, debt distress, environmental damage, and lack of transparency.”²⁵⁴ As of August 2019, Italy is the only country out of the Group of Seven to have formally signed onto the BRI. In other words, the world’s most advanced economies – in addition to much of the EU and the West – are wary of the project, and have kept a distance.²⁵⁵ China has been making inroads in Europe, however, largely via what is known as the 16+1, which is a summit formed in 2012 that includes China (the +1) along with 11 European Union member-states and 5 Balkan countries (the 16). Although the 16+1 predates the BRI, it is now largely seen as an extension of the BRI and a mechanism for China to use in order to form bilateral agreements.²⁵⁶ In this way, Beijing has increased its economic ties with Greece, Bulgaria, the Czech Republic, Poland, Romania, and other European countries – largely at Russia’s economic loss, it should be noted;²⁵⁷ moreover, the European Commission has called China a “systemic rival.”²⁵⁸

Viewed through the prism of U.S. security interests – and maritime security interests in particular – aspects of the BRI increasingly threaten U.S. influence and interests in geostrategic regions around the world. By means of the BRI, Beijing is “expanding its access to foreign ports to pre-position the necessary logistics support required to regularize and sustain deployment” in different regions. Establishing a military presence in the region is thus a major boon for Chinese maritime security interests, in that it enables China “to project and sustain military

²⁵¹ Lily Kuo and Niko Kommenda. “What is China’s Belt and Road Initiative?” *The Guardian*, July 30, 2018. Accessed on August 7, 2019. <https://www.theguardian.com/cities/ng-interactive/2018/jul/30/what-china-belt-road-initiative-silk-road-explainer>; Tyler Headley. “China’s Djibouti base: a year one update.” *The Diplomat*, December 4, 2018. Accessed on August 7, 2019.

²⁵² Junaid Ashraf. “String of Pearls and China’s Emerging Strategic Culture.” *Strategic Studies*, Islamabad: Vol. 37, Issue 4 (Winter 2017). Pages 180-181 in particular. <https://search-proquest-com.ezproxy.library.tufts.edu/docview/2083862979/abstract/D6D10A163CBA4B58PQ/1?accountid=14434>

²⁵³ Ben Blanchard and Robin Emmott. “China struggles to ease concerns over Silk Road project as summit looms.” *Reuters*, April 4, 2019. Accessed on August 7, 2019. <https://www.reuters.com/article/us-china-silkroad/china-struggles-to-ease-concerns-over-silk-road-project-as-summit-looms-idUSKCN1RG0TB>

²⁵⁴ *Ibid.*

²⁵⁵ *Ibid.*

²⁵⁶ Jonathan E. Hillman and Maesea McCalpin. “Will China’s ‘16+1’ Forum Divide Europe?” *CSIS*, April 11, 2019. Accessed on August 11, 2019. <https://www.csis.org/analysis/will-chinas-161-format-divide-europe>

²⁵⁷ Robert D. Kaplan. “The Quite Rivalry between China and Russia.” *New York Times*, November 3, 2017. Accessed on August 7, 2019. <https://www.nytimes.com/2017/11/03/opinion/china-russia-rivalry.html>

²⁵⁸ Jonathan E. Hillman and Maesea McCalpin. “Will China’s ‘16+1’ Forum Divide Europe?” *CSIS*, April 11, 2019. Accessed on August 11, 2019. <https://www.csis.org/analysis/will-chinas-161-format-divide-europe>

power at greater distances from China.”²⁵⁹ Owing to this, it can be argued that the BRI is designed with the goal of developing China into a regional superpower, at the very least, and does not preclude the goal of becoming a global hegemon, at the most. The current U.S. Indo-Pacific Commander has indicated that the BRI is not a little geopolitical game, but a big one. He has said pointedly that China “is using [the] BRI as a mechanism to coerce states into greater access and influence for China...manipulating economic deals into future security arrangements” by swapping “debt for equity.” He has also said that this access “to foreign air and maritime port facilities” allows “China’s military to expand its global reach,” “extend its striking and surveillance operations” over large areas, and creates opportunities where Beijing could “pressure nations to deny U.S. forces basing, transit, or operational and logistical support” while challenging U.S. abilities “to preserve international orders and norms.”²⁶⁰

1.3 Environmental Impacts and China’s Little Blue Men

In addition to increasing security concerns from other countries over the BRI, Beijing is also facing pressure on the negative ecological and socioeconomic impacts of the BRI.²⁶¹ While China has been making progress domestically on reducing its emissions and reaching sustainability goals, critics have accused the BRI of “exporting pollution.”²⁶² Although President Xi of China has recently emphasized a new commitment to environmental sustainability for the BRI, experts have criticized China’s lack of “concrete steps” for environmental reform, in addition to a lack of funding transparency and accountability.²⁶³

According to some reports, China has committed over 20 billion USD in foreign coal projects, provoking concerns that this will negatively affect UN Sustainable Development Goals and accelerate climate change.²⁶⁴ BRI foreign development projects have damaged or are at high risk of inflicting significant damage on various local environments, ecosystems, and coral reefs. In addition, populations’ shifting access (and rights) to areas with resources negatively impacts local economies and, more widely, food security.²⁶⁵ Some experts report that coral reefs – upon which fish are dependent – “have

²⁵⁹ U.S. Congressional testimony of Admiral Philip Davidson, USN Expected Nominee for Commander, U.S. Pacific Command. April 17, 2018. Unclassified. Page 19 in particular. https://www.armed-services.senate.gov/imo/media/doc/Davidson_APQs_04-17-18.pdf

²⁶⁰ Ibid. Pages 8 and 19 in particular.

²⁶¹ CSIS Staff. “Illuminating the South China Sea’s Dark Fisheries.” *CSIS: Asia Maritime Transparency Initiative*. January 10, 2019. Accessed on August 7, 2019. <https://amti.csis.org/illuminating-south-china-seas-dark-fishing-fleets/>

²⁶² Dana Ullman. “When Coal Comes to Paradise.” *Foreign Policy*, June 9, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/06/09/when-coal-came-to-paradise-china-coal-kenya-lamu-pollution-africa-chinese-industry-bri/>

²⁶³ Jane Nakano. “Greening or Greenwashing the Belt and Road Initiative?” *CSIS*, May 1, 2019. Accessed on August 7, 2019. <https://www.csis.org/analysis/greening-or-greenwashing-belt-and-road-initiative>

²⁶⁴ Jonathan Watts. “Belt and Road summit puts spotlight on Chinese coal funding.” *The Guardian*, April 25, 2019. Accessed on August 7, 2019. <https://www.theguardian.com/world/2019/apr/25/belt-and-road-summit-puts-spotlight-on-chinese-coal-funding>

²⁶⁵ Dana Ullman. “When coal comes to Paradise.” *Foreign Policy*, June 9, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/06/09/when-coal-came-to-paradise-china-coal-kenya-lamu-pollution-africa-chinese-industry-bri/>

been declining by 16 percent per decade.” This rate has been accelerated in recent years, with some 40,000 acres of coral reefs having been severely damaged or destroyed.²⁶⁶

The U.S. Center for Strategic and International Studies (CSIS) points out that this is especially relevant with regard to global fisheries, with some experts warning that fisheries in the South China Sea are now veering on “the brink of collapse.”²⁶⁷ According to CSIS, total fish stocks have been depleted by 70 to 95 percent in the past 70 years, while catch rates have declined by 66 to 75 percent in the last 20 years. Further, much of China’s “civilian” fishing fleets are actually part of Beijing’s People Liberation Army (PLA), and are therefore paramilitary in nature. Some experts have dubbed Beijing’s maritime militia as “China’s little blue men.” Documented incidents of overt and covert harassment by Chinese vessels of other non-Chinese vessels in the South China Sea and other areas around the world have increased in recent years. In addition to reconnaissance activities and power projection by vessels serving in an official capacity, such as China’s Coast Guard, the maritime militia engages in surveillance, intelligence-gathering, and their own power projection activities in civilian form.²⁶⁸ In this way, these vessels have been dubbed China’s “little blue men.” The U.S. Office of Naval Intelligence has estimated that the PLA navy will possess between 313 and 342 warships by 2020,” outnumbering the United States. However, new estimates suggest that, combined with China’s coast guard and maritime militia, China will actually have as many as 650 warships.²⁶⁹

China has vastly expanded its paramilitary maritime presence in recent years, with some experts calling “the scale and expense” of China’s maritime militia “stunning.” Recent research suggests that China’s maritime militia is “much larger and much more persistent than is generally understood.”²⁷⁰ The Pentagon has described these tactics as “low-intensity coercion” that allows China to “advance its claims in the East and South China Sea.”²⁷¹ In recent years, China’s maritime militia has been using a “swarm” strategy in contested waters by appearing in numbers that overwhelm other countries’ local patrols, thereby achieving dominance in the area while simultaneously testing the other country’s resolve.²⁷² Sometimes these fishing vessels obstruct other vessels by using aggressive maneuvers, like “bumping and ramming their boats.” In addition, China’s

²⁶⁶ Gregory B. Poling. “Illuminating the South China Sea’s Dark Fishing Fleets.” *CSIS*, January 9, 2019. Accessed on August 7, 2019. <https://ocean.csis.org/spotlights/illuminating-the-south-china-seas-dark-fishing-fleets/>

²⁶⁷ CSIS Staff. “Illuminating the South China Sea’s Dark Fisheries.” *CSIS: Asia Maritime Transparency Initiative*. January 10, 2019. Accessed on August 7, 2019. <https://amti.csis.org/illuminating-south-china-seas-dark-fishing-fleets/>

²⁶⁸ U.S. Department of Defense. (2019). “China Military Power Report: Annual Report to Congress.” May 2, 2019. Washington: D.C. Accessed on August 7, 2019. https://media.defense.gov/2019/May/02/2002127082/-1/-1/1/2019_CHINA_MILITARY_POWER_REPORT.pdf. Pages 53-4 in particular.

²⁶⁹ David Axe. “U.S. Navy nightmare: the Chinese fleet doesn’t have 300 ships, it has 650.” *NThe National Interest*, January 30, 2019. Accessed on August 7, 2019. <https://nationalinterest.org/blog/buzz/us-navy-nightmare-chinese-fleet-doesnt-have-300-ships-it-has-650-42822>

²⁷⁰ Gregory B. Poling. “Illuminating the South China Sea’s Dark Fishing Fleets.” *CSIS*, January 9, 2019. Accessed on August 7, 2019. <https://ocean.csis.org/spotlights/illuminating-the-south-china-seas-dark-fishing-fleets/> “<https://ocean.csis.org/spotlights/illuminating-the-south-china-seas-dark-fishing-fleets/>

²⁷¹ Andrew S. Erickson. “Exposed: Pentagon Report Spotlights China’s Maritime Militia.” August 20, 2018. Accessed on August 7, 2019. <https://nationalinterest.org/feature/exposed-pentagon-report-spotlights-china%E2%80%99s-maritime-militia-29282>

²⁷² Jesse Johnson. “Chinese Senkaku swarm tactic spells trouble for Japan.” *The Japan Times*, August 7, 2016. Accessed on August 7, 2019. <https://www.japantimes.co.jp/news/2016/08/07/national/politics-diplomacy/senkaku-swarm-tactic-spells-trouble-tokyo/#.XU7-MOhKg2w>

actual coast guard often accompanies these “little blue men” at a distance in order “to project strength, following a pattern of layered deployment” or “cabbage strategy.”²⁷³ This “cabbage strategy” is complemented by China’s larger and established “salami-slicing” strategy in maritime regions. Experts say that the “salami-slicing” strategy “employs the slow accumulation of small actions, none of which is a casus belli, but which add up over time to a major strategic shift.”²⁷⁴ Experts such as retired U.S. Marine Col. Grant Newsham highlight China’s patience and its focus on larger, long-term strategic goals by “applying pressure and seeing what it can get away with.” Newsham argues that China is employing “psychological warfare” through coercive tactics and wearing down the resolve of other countries in contested waters. Complementing China’s “land reclamation” tactics via the construction of artificial islands, Beijing’s longer-term goal is to establish its presence in geostrategic regions in such a way that its presence becomes a norm, rather than a deviation, while increasing its historical claims in the (very) long run. Retired U.S. Navy Admiral James Stavridis has called this an “ink blot” strategy: China seeks to connect its artificial islands, or “inkblots” with its other territory, until these blots eventually bleed together over time, covering large swathes of geostrategic marine areas.²⁷⁵

The “rising demand for fish and increased competition over dwindling stocks” in China has led Beijing to vastly expand its use of these fishing “militias,” often illegally. For example, Indonesia describes China’s activities as “illegal, unregulated, and unreported.” Jakarta’s ministry for fisheries has bluntly declared that these activities by China are “not fishing. They are transnational organized crime.”²⁷⁶ Experts point out that if fish stocks do indeed collapse in 2050, countries including China will “feel intense pressure to ensure a regular food supply for their populations,” leading to a situation where “more powerful countries try and grab the resources of smaller or vulnerable neighbors.”²⁷⁷ China appears to be demonstrating this behavior already in the South China Sea and other areas.²⁷⁸

CSIS estimates that “fifty percent of the fishing vessels in the world are estimated to operate in the South China Sea,” making it a high traffic area in a region that is already especially vulnerable to conflict due to the multiple ongoing and overlapping territorial disputes.²⁷⁹ ²⁸⁰ The situation in the South China Sea appears to demonstrate the classic

²⁷³ Niharika Mandhana. “China’s fishing militia swarms Philippine island, seeking edge in Sea dispute.” *Wall Street Journal*, April 4, 2019. Accessed on August 7, 2019. <https://www.wsj.com/articles/chinas-fishing-militia-swarms-philippine-island-seeking-edge-in-sea-dispute-11554391301>

²⁷⁴ Jesse Johnson. “Chinese Senkaku swarm tactic spells trouble for Japan.” *The Japan Times*, August 7, 2016. Accessed on August 7, 2019. <https://www.japantimes.co.jp/news/2016/08/07/national/politics-diplomacy/senkaku-swarm-tactic-spells-trouble-tokyo/#.XU7-MOOhKg2w>

²⁷⁵ James Stavridis. “Collision course in the South China Sea.” *Nikkei Asian Review*, May 22, 2019. Accessed on August 7, 2019. <https://asia.nikkei.com/Opinion/Collision-course-in-the-South-China-Sea>

²⁷⁶ Christopher Woody. “The US military is warning that China’s fishing boats are bullies and could start a war on the high seas.” *Business Insider*, January 4, 2019. Accessed on August 7, 2019. <https://www.businessinsider.com/us-warns-chinas-aggressive-fishing-boats-could-start-a-war-2019-1>

²⁷⁷ Kate Higgins-Bloom. “Food Fight.” *Foreign Policy*, September 12, 2018. Accessed on August 7, 2019. <https://foreignpolicy.com/2018/09/12/food-fight-illegal-fishing-conflict/>

²⁷⁸ <https://www.japantimes.co.jp/opinion/2016/07/20/commentary/world-commentary/china-takes-lesson-u-s/#.XU9mBOhKg2w>

²⁷⁹ Gregory B. Poling. “Illuminating the South China Sea’s Dark Fishing Fleets.” *CSIS*, January 9, 2019. Accessed on August 7, 2019. <https://ocean.csis.org/spotlights/illuminating-the-south-china-seas-dark-fishing-fleets/>

security dilemma: paradoxically, increased militarization increases the potential for military-to-military conflict, therefore ultimately diminishing security in the area at issue. As such, it can be argued that increased military presence in geostrategic regions is not a sustainable solution to the problems at hand.^{281 282}

Part IV: The Polar Vortex

1. U.S. Interests versus U.S. Exceptionalism in the Arctic

1.1 The Polar Silk Road

The environmental impact of the BRI is especially relevant to another geostrategic region where Beijing is attempting to establish a foothold: the Arctic. In January 2018, China both officially launched its “Polar Silk Road” and released its first “Arctic Policy” white paper.

In March of the same year, the Chinese government underwent massive restructuring; this had significant impacts on Beijing’s ongoing institutionalization of its Polar Silk Road initiative, in addition to a growing number of other Arctic based projects and activities.²⁸³ By legal definition, however, China is not an Arctic state: it only has observer status in the Arctic Council, which will be discussed in more detail in the following sections. Beijing’s actions indicate China’s strategic objective of becoming a major Arctic stakeholder, despite Beijing’s official status as an observer state without legitimate territorial claims.²⁸⁴

1.2 China and the Arctic Council

China’s emergent attitude of exceptionalism toward international treaties is also evident in its Arctic strategy, a region where in spite of obvious topographical limitations China has unilaterally declared itself to be a “near Arctic state” in the Arctic Council.²⁸⁵ The eight member states of the Arctic Council are Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States. The Council was founded in 1996, and is defined as a “forum” whose mandate “excludes military security.” Decisions by the member states are made by consensus, and with consultation of observers and participants.²⁸⁶ Moreover, Canada, Denmark, Norway, Russia, and the United States

²⁸⁰ Christopher Woody. “The US military is warning that China’s fishing boats are bullies and could start a war on the high seas.” *Business Insider*, January 4, 2019. Accessed on August 7, 2019. <https://www.businessinsider.com/us-warns-chinas-aggressive-fishing-boats-could-start-a-war-2019-1>

²⁸¹ Zack Cooper and Gregory Poling. “America’s Freedom of Navigations Operations are lost at sea.” *Foreign Policy*, January 8, 2019. Accessed on August 7, 2019. <https://foreignpolicy.com/2019/01/08/americas-freedom-of-navigation-operations-are-lost-at-sea/>; Srinivas Mazumdar. *Deutsche Welle*, August 11, 2016. Accessed on August 7, 2019. <https://www.dw.com/en/tensions-grow-with-increasing-militarization-in-south-china-sea/a-19468602>

²⁸² Jason J. Blazevec. “Navigating the Security Dilemma: China, Vietnam, and the South China Sea.” *Journal of Current Southeast Asian Affairs* 31, no. 4 (2012): 79-108.

²⁸³ Trym Aleksander Eiterjord. “The growing institutionalization of China’s Polar Silk Road.” *The Diplomat*, October 7, 2018. Accessed on August 7, 2019. <https://thediplomat.com/2018/10/the-growing-institutionalization-of-chinas-polar-silk-road/>

²⁸⁴ Adam Minter. “China’s ‘Polar Silk Road’ is raising eyebrows.” *Gulf News*, February 6, 2018. Accessed on August 7, 2019. <https://gulfnews.com/opinion/thinkers/china-s-polar-silk-road-is-raising-eyebrows-1.2169446>

²⁸⁵ Grant Newsham. “China as a ‘near Arctic state’ –chutzpah overcoming geography.” *Asia Times*, January 30, 2018. <http://www.atimes.com/china-near-arctic-state-chutzpah-overcoming-geography> Accessed on May 8, 2018.

²⁸⁶ U.S. Congressional Research Service. “Changes in the Arctic: Background and Issues for Congress.” Washington, D.C.: U.S. government. Updated August 7, 2019. Accessed on August 7, 2019. Pages 14-17; U.S. Department of

are coastal Arctic states, with additional rights and territorial claims.²⁸⁷ It should be noted that four of the five coastal Arctic states are NATO allies, with Russia as the exception.

China has aggressively lobbied for observer status in the Council for years while investing heavily in Arctic research, building Chinese ice-breakers, and actively pursuing closer ties with polar countries and permanent members of the Council.²⁸⁸ In 2013, Beijing was granted permanent observer status; twelve other non-Arctic countries are also permanent observers.²⁸⁹ Notably, the EU has applied for official observer status but has not yet received it. Further, NATO is not an observer, although other intergovernmental bodies have acquired this status.²⁹⁰

By self-identifying as a “near Arctic state,” China is seeking to “inject itself into the semantic of Arctic conversation” in order to achieve its regional and global geostrategic ambitions. The Polar Silk Road is a critical part of China’s comprehensive, multi-dimensional Belt and Road Initiative; out of China’s lengthening string of pearls, the Polar aspect helps to illuminate the comprehensiveness of its strategic designs, and Washington must adjust its own strategic vision accordingly.

1.3 The Arctic

Due to climate change, the Arctic region is rapidly emerging as a rising geostrategic location.²⁹¹ After years of decreasing levels of sea ice in the region, scientists have accelerated their predictions for when the Arctic will become completely ice-free on an annual basis for several months each year.²⁹² For the Arctic, an “ice-free” state is defined as being less than 1 million square kilometers of ice.²⁹³ The Arctic region is now experiencing unprecedented temperatures and rates of sea ice loss. For example, after a historic heat wave in August 2019, some areas of the U.S. state of Alaska were observed to be “completely ice free” for the first time in recorded history. Alaska has been described by some experts as “the ground zero” for climate change.²⁹⁴

Meanwhile, Greenland has lost a record 250 billion tons of ice thus far

State. “Office of Ocean and Polar Affairs: Arctic Region.” 2019. Accessed on August 7, 2019.

<https://www.state.gov/key-topics-office-of-ocean-and-polar-affairs/arctic/>

²⁸⁷ The Fletcher School of Tufts University. (2017). “Chapter 8: The Arctic and the LOSC” in “Law of the Sea: A Policy Primer.” Digitally accessed on August 7, 2019. <https://sites.tufts.edu/lawofthesea/chapter-eight/>

²⁸⁸ Linda Jakobson and Jingchao Peng. “China’s Arctic Aspirations,” Policy Paper no. 34., 2012. Stockholm Peace Research Institute, November 2012. Page 19 in particular. <http://www.arctisearch.com/China%E2%80%99s+Arctic+Aspirations>

²⁸⁹ U.S. Department of State. “Report on Arctic Policy.” International Security Advisory Board, United States Department of State. September 21, 2016.

²⁹⁰ The Arctic Council. “Observers.” May 7, 2015. Last updated on July 31, 2019. Accessed on August 7, 2019. <https://arctic-council.org/index.php/en/about-us/arctic-council/observers>

²⁹¹ U.S. Congressional Research Service. “Changes in the Arctic: Background and Issues for Congress.” Washington, D.C.: U.S. government. Updated August 7, 2019. Accessed on August 7, 2019.

²⁹² Doyle Rice. “Could the Arctic have ice-free summers in our lifetime?” *USA Today*, April 2, 2018. <https://www.usatoday.com/story/news/2018/04/02/could-arctic-have-ice-free-summer-our-lifetime/479324002/>. Accessed on May 2, 2018.

²⁹³ Staff. “Study predicts an ice-free Arctic by the 2050s.” *Phys.org*, <https://phys.org/news/2013-08-ice-free-arctic-2050s.html>. Accessed on May 1, 2018.

²⁹⁴ Madeline Fitzgerald. “Parts of Alaska have no sea ice for the first time as temperatures in the region hit record highs.” *Time*, August 7, 2019. Accessed on August 7, 2019. <https://time.com/5646168/alaska-sea-ice-melted/>

in 2019, at a rate that is exponentially higher than it was 40 years ago.²⁹⁵ Simulations released in 2018 predict that a three-month, ice-free period will occur in the Arctic at some point between the years of 2054 and 2058. If these simulations are accurate, the length of ice-free periods of time in the Arctic will increase to five months or more towards the end of the 21st century, or sooner.²⁹⁶ Many scientists now predict that sea levels will rise sooner than previously anticipated: if these events come to pass, some 200 million people may be displaced by the end of the year 2100, while major metropolitan areas, such as New York and Shanghai, may be permanently flooded.²⁹⁷

These major environmental changes are already impacting maritime activities in the Arctic region. As the both the levels and the duration of sea-ice diminish, the navigability of the Arctic Ocean is improving, leading to an increase in commercial, economic, and even military use of the Arctic by different actors.²⁹⁸ Emergent marine transit routes include the Northeast Passage, the Northwest Passage, the Bering Strait, and the Transpolar Route. The improving navigability of these waterways for different kinds of vessels (including ice-breakers and eventually less specialized vessels) will have increasing importance for the commercial, economic, and military interests of the United States and other Arctic stakeholders.²⁹⁹ The Arctic is also considered to be rich in largely undiscovered (and as yet unexploited) natural resources and potential energy sources. It is estimated that the Arctic contains some 90 billion barrels of undiscovered oil deposits; between a quarter and a third of undiscovered natural gas; and large quantities of valuable minerals.³⁰⁰ However, stakeholders face significant challenges with regard to navigation; resource exploration and extraction, including the need for large financial investments; high operational costs; and technological and logistical issues.³⁰¹

Any increase in activity in the region poses risks to the environment, however, as increases in marine traffic will also increase the risk of pollution, shipping accidents, oil spills, and potentially military conflict. The Arctic's extreme climate makes it a "cold, remote, dark, dangerous, and

²⁹⁵ Andrew Freedman. "Greenland is on track to lose most ice on record this year and has already shed 250 billion tons." *Washington Post*, August 8, 2019. Accessed on August 9, 2019. <https://www.washingtonpost.com/weather/2019/08/08/greenland-is-track-record-melt-year-having-already-lost-billion-tons-ice/?noredirect=on>

²⁹⁶ Doyle Rice. "Could the Arctic have ice-free summers in our lifetime?" *USA Today*, April 2, 2018. <https://www.usatoday.com/story/news/2018/04/02/could-arctic-have-ice-free-summer-our-lifetime/47932400/>. Accessed on May 2, 2018.

²⁹⁷ Jaclyn Jeffrey-Wilensky and David Freeman. "Rising sea levels could swamp major cities and displace almost 200 million people, scientists say," *NBC News*, May 22, 2019. Accessed on August 19, 2019. <https://www.nbcnews.com/mach/science/rising-sea-levels-could-swamp-major-cities-displace-almost-200-ncna1008846>

²⁹⁸ *Reducing spread in climate model projections of a September ice-free Arctic*. Jiping Liu, Mirong Song, Radley M. Horton and Yongyun Hu. PNAS 2013; published ahead of print July 15, 2013, <https://doi.org/10.1073/pnas.1219716110>. Accessed on May 5, 2018.

²⁹⁹ Jugal K. Patel and Henry Fountain. "As Arctic Ice Vanishes, New Shipping Routes Open," *New York Times*, May 3, 2017. <https://www.nytimes.com/interactive/2017/05/03/science/earth/arctic-shipping.html>. Accessed on May 1, 2018.

³⁰⁰ Jeff Desjardins. "After the Ice: Mineral Riches of the Arctic," *Visual Capitalist*, April 6, 2016. <http://www.visualcapitalist.com/energy-and-mineral-riches-of-the-arctic/>. Accessed on May 1, 2018.

³⁰¹ Harvard Bergo. "Arctic extraction sees huge potential, high risks." *Global Risk Insights*, March 6, 2014. Accessed on August 7, 2019. <https://globalriskinsights.com/2014/03/arctic-extraction-presents-huge-potential-but-high-risks/>

expensive place” for any operations, including exploring, extracting, and transporting resources.³⁰² The Arctic’s climate makes any emergency response – including search and rescue operations as well as responses to environmental disasters – especially difficult. One report sums up the challenges as follows: “The key challenges for Arctic search and rescue...include long distance, severe weather, ice and cold conditions, a poor communications network, lack of infrastructure and lack of resource presence in region.”³⁰³ An event such as an oil spill in the Arctic would be especially catastrophic due to these challenges in addition to the fact that the Arctic’s environment is still poorly understood: this includes the behavior of oil spills in arctic climates, and the toxicological effects of an oil spill in the Arctic are not yet understood.³⁰⁴ According to one report by the U.S. Bureau of Ocean Energy Management (BOEM), there is “a 75 percent chance of one or more large spills” occurring in the next 77 years.³⁰⁵ Environmental groups, indigenous representatives, and scientific experts have all voiced concerns for the Arctic’s fragile ecosystem, with special concern toward drilling and marine traffic.³⁰⁶

1.4 UNCLOS and the United States in the Arctic: Shooting Itself in the Other

Foot

The United States is both the only member of the Arctic Council and the only coastal Arctic state that has not ratified the United Nations Convention on the Law of the Sea. UNCLOS provides coastal states with sovereign rights over the resources of its continental shelf. The Convention also permits a coastal state with a broad continental margin to establish a shelf limit beyond 200 nautical miles, subject to the review and recommendations of the Commission on the Limits of the Continental Shelf.³⁰⁷ Further, the Convention “protects the right of all countries to exercise high seas freedoms to transit on, over and under coastal states’ exclusive economic zones.”³⁰⁸ Unsurprisingly, each of the five Arctic coastal states – Canada, Denmark, Norway, Russia, and the United States – have made overlapping claims to the continental shelf and to territorial waters in the region.³⁰⁹ However, the United States faces critical limitations due its status as a non-party to the Convention.

Owing to this, U.S. nationals are not allowed to serve as members of the Commission on the Limits of the Continental Shelf, thereby greatly hindering U.S. influence. Moreover, it is unclear whether the United States, as a non-party to the Convention, “can even make a legally recognized submission to the commission to assert its claim and fully

³⁰² Hobart M. King, Ph.D. “Oil and Natural Gas Resources of the Arctic.” *Geology.com*, 2019. Accessed on August 7, 2019. <https://geology.com/articles/arctic-oil-and-gas/>

³⁰³ U.S. Congressional Research Service. “Changes in the Arctic: Background and Issues for Congress.” Washington, D.C.: U.S. government. Updated August 7, 2019. Accessed on August 7, 2019. Page 53.

³⁰⁴ *Ibid.* Pages 39, 41, and 93 in particular.

³⁰⁵ Liz Ruskin. “BOEM Explains 75% chance of Arctic oil spill.” *Alaska Public Media*, April 27, 2015. Accessed on August 7, 2019. Article in reference to a 2015 U.S. Bureau of Ocean Energy Management report.

³⁰⁶ Paul Arthur Berkman and Alexander N. Vylegzhanin, ed.s. 2010. *Environmental Security in the Arctic Ocean*. Springer: The Netherlands.

³⁰⁷ Roncevert Ganan Almond. “U.S. Ratification of the Law of the Sea Convention.” *The Diplomat*, May 24, 2017. <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Accessed on May 6, 2018.

³⁰⁸ James Kraska, U.S. Commander. “Missing the Boat,” *Armed Forces Journal*, April 1, 2009. <http://armedforcesjournal.com/missing-the-boat/> (accessed on May 7, 2018).

³⁰⁹ The Soufan Group. “TSL: IntelBrief: Geostrategic Competition in the Arctic: Routes and Resources,” *The Soufan Group*, March 6, 2014. <http://www.soufangroup.com/tsg-intelbrief-geostrategic-competition-in-the-arctic-routes-and-resources/>

protect its proprietary rights and energy interests” in the Arctic as well as in other maritime regions. Former U.S. Secretary of State Rex Tillerson advocated for the approval of UNCLOS in 2012 as a private citizen and CEO of ExxonMobil. He stressed that, without ratification of the Convention, “the United States suffer[s] from the dual disadvantage of having both a cloud over the international status of U.S. claims and a weakened ability to challenge other states’ conflicting claims.”³¹⁰ In the same year, a total of five former U.S. republican Secretaries of State co-wrote that the delay in acceding to UNCLOS actually compromises U.S. sovereignty and U.S. security interests, and reduces the United States to a self-limiting leadership role in “international ocean policy.”³¹¹ Still, a vocal minority in Congress have argued that ratifying UNCLOS “would constrain U.S. sovereignty.”³¹²

Top U.S. military leaders have voiced concerns over lack of accession, and maintain that UNCLOS is “the nation’s most effective means for resisting efforts...to diminish freedom of the seas” and that the treaty “best protects and promotes” U.S. military security and U.S. economic interests.³¹³ Military leaders have also stressed that ratification of UNCLOS would provide a much needed framework for U.S. Arctic policy and strategy. Ratification of UNCLOS is openly supported and advocated for by the Pentagon, the U.S. military, the U.S. Coast Guard, and by the U.S. Department of State.³¹⁴

Current commander of U.S. Indo-Pacific Command Admiral Davidson has said in congressional testimony that “relying solely on customary international law does not guarantee that the benefits we currently enjoy will be secure over the long term.” He has said that U.S. accession to UNCLOS would secure customary rights and freedoms in the Convention; would “support the free and open international order;” and would give the United States “greater credibility when calling on other states to adhere to the same rules” without imposing any additional constraints on U.S. military capabilities.³¹⁵ In 2016, former U.S. Commander of the Pacific, Harry Harris, also commented on the harm that the United States faces to its “moral standing” and international credibility by remaining a non-party to UNCLOS.³¹⁶

The United States has played a large part in setting a precedent for China. Academic Graham Allison underscores that “no permanent member of the United Nations Security Council has ever complied with a ruling by the Permanent Court of Arbitration (PCA) on an issue involving the Law of the Sea,” and have ignored rulings “when (in their view) it infringed on their sovereignty or

³¹⁰ Roncevert Ganon Almond. “U.S. Ratification of the Law of the Sea Convention.” *The Diplomat*, May 24, 2017. <https://thediplomat.com/2017/05/u-s-ratification-of-the-law-of-the-sea-convention/>. Accessed on May 4, 2018.

³¹¹ Quoted in an article Ali Wyne. “U.S. hypocrisy in the South China Sea.” *Foreign Affairs*, July 14, 2016. Online access on August 7, 2019. <https://www.foreignaffairs.com/articles/china/2016-07-14/us-hypocrisy-south-china-sea>

³¹² Ali Wyne. “U.S. hypocrisy in the South China Sea.” *Foreign Affairs*, July 14, 2016. Online access on August 7, 2019. <https://www.foreignaffairs.com/articles/china/2016-07-14/us-hypocrisy-south-china-sea>

³¹³ James Kraska, U.S. Commander. “Missing the Boat,” *Armed Forces Journal*, April 1, 2009. <http://armedforcesjournal.com/missing-the-boat/> (accessed on May 7, 2018).

³¹⁴ Douglas L. Peters. “UNCLOS: How We’re Missing Out on Arctic Opportunity.” *Truman National Security Project*, 2018. <http://trumanproject.org/home/doctrine-blog/unclos-how-were-missing-out-on-arctic-opportunity/> Accessed on May 9 2018.

³¹⁵ U.S. Congressional testimony of Admiral Philip Davidson, USN Expected Nominee for Commander, U.S. Pacific Command. April 17, 2018. Unclassified. Pages 42-43 in particular. https://www.armed-services.senate.gov/imo/media/doc/Davidson_APQs_04-17-18.pdf

³¹⁶ Hank Johnson. “Why the US needs to ratify UNCLOS.” *The Diplomat*, April 18, 2016. <https://thediplomat.com/2016/04/why-the-us-needs-to-ratify-unclos/> Accessed on August 7, 2019.

national security interests.³¹⁷ It should be noted, however, that while the PCA is an intergovernmental organization, it not a UN Organization, and is not related to the UN's International Court of Justice (ICJ).³¹⁸ As Beijing seeks to establish a presence in the Arctic, there is reason to believe that Beijing may seek to replicate its activities in areas like the South China Sea in other areas—such as the Arctic. Former Commander of the U.S. Coastguard, Admiral Paul Zukunft, has also pushed for UNCLOS ratification and has expressed concern that China's activities in the Arctic are part of the strategy it has demonstrated in other regions. Zukunft has expressed concern that non-Arctic states, including China, as well as Arctic states, like Russia, may disregard international law with respect to expansive territorial claims, such as with claims on the extended continental shelf.³¹⁹

The United States' failure to ratify the United Nations Convention on the Law of the Sea exemplifies the perils of American exceptionalism and demonstrates the inconsistent and at times irrational pattern of U.S. behavior toward international treaties and international law. The failure of the United States to ratify the Law of the Sea Treaty on the basis of American exceptionalism is “a self-imposed strategic vulnerability” that undercuts significant U.S. national, economic, and security interests; encourages, if not provokes, other great powers, such as China, to adopt mimetic behavior toward international treaty regimes and international institutions that threatens U.S. interests and influence in the world order; and undermines the international legal order as a whole.³²⁰ If the United States continues to abdicate its leadership role in the Convention, other countries – such as China – will “shape it to their own liking and to the United States' disadvantage” to greater effect.³²¹

2. “Foot-Shooting” 2.0: Patterns in the Polar Pivot

1.1 *The U.S. Polar Pivot*

In spite of these projections and the strategic positioning of competing actors in the region over the past decades, the United States has categorically failed to make the Arctic region a geostrategic priority. In comparison to other Arctic states, the U.S. pivot toward the Arctic has been glacial. For example, in the United States' 2017 National Security document, the word “Arctic” is mentioned only once.³²² Up until 2019, the United States has had only two functioning ice breakers, and only one operational heavy icebreaker, in comparison to

³¹⁷ Graham Allison. “Of course China, like all great powers, will ignore an international legal verdict.” *The Diplomat*, July 11, 2016. Accessed on August 7, 2019. <https://thediplomat.com/2016/07/of-course-china-like-all-great-powers-will-ignore-an-international-legal-verdict/>

³¹⁸ “South China Sea dispute: 8 things to know about the PCA, the world's oldest tribunal.” *Straits Times*, July 13, 2016. Accessed on August 7, 2019. <https://www.straitstimes.com/world/europe/south-china-sea-dispute-8-things-to-know-about-the-pca-the-worlds-oldest-tribunal>

³¹⁹ Caroline Houck. “The Arctic could be the next South China Sea, says Coast Guard Commandant.” *Defense One*, August 1, 2017. Accessed on August 7, 2019. <https://www.defenseone.com/threats/2017/08/arctic-could-be-next-south-china-sea-top-coast-guard-admiral/139917/>

³²⁰ U.S. Department of State. “Report on Arctic Policy.” International Security Advisory Board, United States Department of State. September 21, 2016.

³²¹ Thomas Wright. “Outlaw of the Sea: The Senate Republicans' UNCLOS Blunder.” *Brookings*, August 7, 2012. <https://www.brookings.edu/articles/outlaw-of-the-sea-the-senate-republicans-unclos-blunder/>. Accessed on May 7, 2018.

³²² United States. *The National Security Strategy of the United States of America*. The White House and President Donald J. Trump. December 2017. Page 40 in particular.

the forty-something fleet of Russia. The U.S. coastguard has asked for more ice breakers, but has been underfunded for years, facing “severe budgetary constraints.”³²³ Many have criticized Washington’s documented “imbalance of attention” over the years, effectively “shutting itself out” of an important international treaty regime, and with no one but itself to blame.³²⁴ Andrew Holland argues that Washington has done “little more than pay lip-service to their status as an Arctic power” while “Russia and non-Arctic powers, especially China, have actively sought to find new geopolitical advantages in the melting ice.”³²⁵

All of this changed in 2019, when Washington suddenly (and drastically) upgraded its policies in the Arctic region.³²⁶ After two decades, some \$655 million was finally appropriated to the U.S. coast guard for additional ice breakers in a February budgetary deal.³²⁷ Then in May 2019, U.S. Secretary of State Mike Pompeo gave what appeared to be a game-changing speech in Finland during a meeting of the Arctic Council.

Pompeo claimed that the “the magnetic pull towards the Arctic” had led to the region “becoming an arena for great power competition.” He highlighted recent Sino-Russian cooperation on the Polar Silk Road, and called out Beijing’s attempts “to establish a permanent Chinese security presence.” He claimed that China was demonstrating “a pattern of aggressive behavior” that should inform the United States and other countries “how it might treat the Arctic,” noting China’s familiar use of its “civilian research presence” in the Arctic “to strengthen its military presence” and alluded to fishery exploitation. Pompeo then pointedly questioned whether the Council wanted “the Arctic Ocean to transform into a new South China Sea, fraught with militarization and competing territorial claims? Do we want the fragile Arctic environment exposed to the same ecological devastation caused by China’s fishing fleets...and unregulated industrial activity...?” He inferred that Arctic countries and indigenous communities were vulnerable to going the way of “Sri Lanka or Malaysia, ensnared by debt and corruption.” He also sharply criticized Russia, and accused Moscow of “derogating” its responsibilities and of demonstrating a “pattern of aggressive Russian behavior” in the Arctic, leaving “snow prints in the form of army boots.” While Pompeo conceded that Russia “has significant interests” in the Arctic, and that other countries such as Canada were also “making illegitimate claims,” he cited Russia as “unique” and deserving of special attention, while simultaneously underscoring Washington’s “long-contested feud with Canada over sovereign claims through the Northwest Passage.” He then

³²³“Coast guard secures \$655 million for polar security cutters in new budget deal.” *USNI news*, February 15, 2019. Accessed on August 7, 2019. https://news.usni.org/2019/02/15/polar_security_cutter_coast_guard; Franz-Stefan Gady. “Russia and China in the Arctic? Is the US facing an icebreaker gap?” *the Diplomat*, September 7, 2015. Accessed on August 7, 2019. <https://thediplomat.com/2015/09/russia-and-china-in-the-arctic-is-the-us-facing-an-icebreaker-gap/>

³²⁴ Hank Johnson. “Why the US needs to ratify UNCLOS.” *The Diplomat*, April 18, 2016. <https://thediplomat.com/2016/04/why-the-us-needs-to-ratify-unclos/> Accessed on August 7, 2019.

³²⁴ Charlie Gao. “The ‘icebreaker gap’: how Russia is planning to build more icebreakers to project power in the Arctic.” *The National Interest*, August 19, 2018. Accessed on August 7, 2019. <https://nationalinterest.org/blog/buzz/icebreaker-gap-how-russia-planning-build-more-icebreakers-project-power-arctic-29102>

³²⁵ Andrew Holland. “National Security in a Rapidly Changing Arctic: How a Lack of Attention to the Arctic is Harming America’s Interests.” *Georgetown Journal of International Affairs*, Vol. 15, No. 1 (Winter/Spring 2014), pp. 79-88.

³²⁶ Rebecca Pincus. “Trump’s new arctic policy has a familiar ring.” *Defense One*, June 11, 2019. Accessed on August 7, 2019. <https://www.defenseone.com/ideas/2019/06/trumps-new-arctic-policy-has-familiar-ring/157622/>

³²⁷ “Coast guard secures \$655 million for polar security cutters in new budget deal.” *USNI news*, February 15, 2019. Accessed on August 7, 2019. https://news.usni.org/2019/02/15/polar_security_cutter_coast_guard

reminded the Council of Moscow's "violent" territorial ambition and its "ongoing aggressive action in Ukraine" via its annexation of Crimea.

Pompeo then made claims that "American leadership stands in stark contrast with the Chinese and Russian models," while announcing that Washington would be "fortifying America's security and diplomatic presence in the area," in large part by "hosting military exercises, strengthening our force presence, rebuilding our icebreaker fleet, expanding Coast Guard funding, and creating a new senior military post for Arctic Affairs inside our own military." He inferred that NATO would be further utilized in the Arctic, insisting that "on the diplomatic side too, we're fully engaged" with "each of our Arctic partners." He claimed that the administration is "committed to leverage resources...in environmentally sustainable ways," then bizarrely highlighted that Washington "has also freed up energy exploration in the Arctic National Wildlife Refuge." While arguing that America was "the world's leader in caring for the environment," he prided Washington in achieving emissions reductions "the American way," without "burdensome regulations that only create more risk to the environment" in reference to the Paris accord that the United States unilaterally withdrew from in 2016. Pompeo then ended his address by saying that "we must hold each other accountable" and that "courage and partnership" would be needed on the Arctic.³²⁸ The United States then promptly sunk "an agreement on climate changes in the Arctic due to discrepancies over climate change" at the meeting; evidently, the United States "disagreed with wording that climate change was a serious threat to the Arctic," unilaterally cancelling a declaration for the first time since 1996.^{329 330}

Following these events, the U.S. Department of Defense released its public Arctic Strategy in June 2019.³³¹ The document states that the U.S. Joint Force's "competitive edge against China and Russia is eroding." It asserts that the Department's "desired end-state for the Arctic is a secure and stable region where U.S. interests are safeguarded, the U.S. homeland is defended, and nations work cooperatively to address shared challenges."³³² The document criticizes Russian military activities and Chinese research activities, and rejects China's claims of being a near-Arctic state. However, it asserts that the United States' "cooperation with Arctic allies and partners strengthens our shared approach to regional security and helps deter strategic competitors from seeking to unilaterally change the existing rules-based order." There is little mention of the environment, no mention of climate change, and no mention of UNCLOS or the need (or lack of a need) for UNCLOS ratification in the document.³³³ Further, the U.S. Navy shuttered its ten-year old climate change task force in August 2019. Retired military officials have commented on the lack of attention to climate change at large in the Department of Defense.³³⁴

³²⁸ Remarks by Michael R. Pompeo. "Looking North: Sharpening America's Arctic Footprint." Rovaniemi, Finland. May 6, 2019. U.S. Department of State. Accessed on August 9, 2019. <https://www.state.gov/looking-north-sharpening-americas-arctic-focus/>

³²⁹ Simon Johnson. "U.S. sinks Arctic accord due to climate change differences: diplomats." *Reuters*, May 7, 2019. Accessed on August 11, 2019. <https://www.reuters.com/article/us-finland-arctic-council/us-sinks-arctic-accord-due-to-climate-change-differences-idUSKCN1SD143>

³³⁰ See also: Marc Lanteigne. "The changing shape of Arctic security." *NATO Review*, June 28, 2019. Accessed on August 11, 2019. <https://www.nato.int/docu/review/2019/Also-in-2019/the-changing-shape-of-arctic-security/EN/index.htm>

³³¹ Rebecca Pincus. "Trumps' New Arctic Policy has a familiar ring." *Defense One*, June 11, 2019. <https://www.defenseone.com/ideas/2019/06/trumps-new-arctic-policy-has-familiar-ring/157622/>

³³² DOD Arctic strategy page 3.

³³³ Malte Humpert, High North News. "A new U.S. defense department Arctic Strategy sees growing uncertainty and tension in the region." *Arctic Today*, June 7, 2019. Accessed on August 10, 2019.

The United States' current approach to the Arctic, however, may be most summarily illustrated by the events of August 2019. On 18 August 2019, President Trump confirmed to the press that he had discussed the idea of purchasing Greenland with his administration. Greenland has emergent economic and security advantages: although some eighty percent of Greenland is currently covered in ice, the island is thought to be rich in natural resources and is strategically located with regard to the Arctic and North Atlantic maritime regions. Prior to Washington's overtures, China had also expressed strong interest in Greenland, to the point where Denmark has "publically expressed concern" that Beijing's development proposals could strengthen "Chinese military presence in the Arctic Ocean, which could include deploying submarines to the region as a deterrent against nuclear attacks."³³⁵ Trump compared the idea of buying the autonomous territory of the Kingdom of Denmark to "a large real estate deal."³³⁶ Denmark's Prime Minister, Mette Frederiksen, publically stated that Greenland was "not for sale," and said that any discussion of buying it was "absurd." President Trump then suggested that Greenland was a financial burden to Denmark and criticized Denmark's financial contributions to NATO on the social media platform, Twitter.³³⁷ He also posted an image of a coastal village in Greenland with a golden Trump Tower superimposed in the background, with the caption, "I promise not to do this to Greenland!" on Twitter. His comments to the press and on social media were met with widespread criticism and ridicule, especially from politicians and residents in Denmark and Greenland, respectively.³³⁸ On August 21, Trump announced via Twitter that he was cancelling an upcoming state visit to Denmark because the Danish Prime Minister had no interest in "discussing the purchase of Greenland," much to the surprise and embarrassment of Danish and U.S. officials. In comments to the press, Trump expressed that he felt insulted by the Danish Prime Minister's use of the word "absurd" in her commentary, stating that it was "nasty," "sarcastic," and "inappropriate," but that he would visit another time in the future.³³⁹ In a press conference, Danish Prime Minister Frederiksen declined "to

<https://www.arctictoday.com/a-new-u-s-defense-department-arctic-strategy-sees-growing-uncertainty-and-tension-in-the-region/>; Hal Brands. "America is losing the battle of the Arctic." *Bloomberg*, July 30, 2019. Accessed on August 9, 2019. <https://www.bloomberg.com/opinion/articles/2019-07-30/russia-china-are-crushing-the-u-s-in-the-battle-for-the-arctic>

³³⁴ Philip Athey. "Navy quietly shuts down climate change task force." *E&E News*, August 7, 2019. Accessed on August 10, 2019. <https://www.eenews.net/stories/1060877355>

³³⁵ Article makes reference to: U.S. Department of Defense. (2019). "China Military Power Report: Annual Report to Congress." May 2, 2019. Washington: D.C. Accessed on August 7, 2019.

https://media.defense.gov/2019/May/02/2002127082/-1/-1/1/2019_CHINA_MILITARY_POWER_REPORT.pdf;

Jordan McDonald. "Heare's why Trump wants to buy Greenland." *CNBC*, August 21, 2019. Accessed on August 21, 2019. <https://www.cnbc.com/2019/08/21/heres-why-trump-wants-to-buy-greenland.html>

³³⁶ AP Staff. "Trump likens buying Greenland to a 'large real estate deal,'" *Associated Press*, August 18, 2019. Accessed on August 20, 2019. <https://www.apnews.com/939c0199b5f647afb3b579e72ac20e6d>

³³⁷ Martin Selsoe Sorensen. "In Denmark, bewilderment and anger over Trump's canceled visit." *New York Times*, August 21, 2019. Accessed on August 21, 2019. <https://www.nytimes.com/2019/08/21/world/europe/greenland-denmark-trump.html>

³³⁸ Lauren Gambino. "Trump tweets image of enormous Trump Tower on Greenland." *The Guardian*, August 19, 2019. Accessed on August 21, 2019. <https://www.theguardian.com/world/2019/aug/19/trump-greenland-tower>; Nikolaj Skydsgaard. "Shock in Denmark after Trump, spurned over Greenland, cancels visit." *Reuters*, August 21, 2019. Accessed on August 21, 2019. <https://www.reuters.com/article/us-usa-trump-greenland/shock-in-denmark-after-trump-spurned-over-greenland-cancels-visit-idUSKCN1VB0TC?feedType=RSS&feedName=topNews>

³³⁹ Quint Forgy. "Trump swats at Danish prime minister for 'nasty' statement on Greenland." *Politico*, August 21, 2019. Accessed on August 21, 2019. <https://www.politico.com/story/2019/08/21/trump-danish-prime-minister-1470778>

enter a war of words” with the U.S. President, and said that the United States remains as one of Denmark’s closest allies.³⁴⁰

Similar to the ongoing Gulf crisis, President Trump has criticized a long-time U.S. ally and damaged a strategic relationship, while encouraging Denmark to deepen its regional cooperation with Europe and distance itself from closer bilateral cooperation with the United States. Trump’s approach to foreign policy in this case comes off not only as aggressive, but also as imperialist and anachronistic in nature. While U.S. President Truman did indeed attempt to purchase the predominantly Inuit-populated Island in 1946, territorial purchases were already outdated by the mid-19th century. In its place came nationalism, and with it, national “identity, interests, and the indivisibility of territory.”³⁴¹ Academics such as Stacie E. Goddard argue that the current 21st century approach to U.S. foreign policy and territorial conflict is as dangerous as it is antiquated.³⁴² While the United States may indeed be correct in its assessment of Greenland’s emergent strategic value, the present approach is incorrect and profoundly dismissive of Denmark and Greenland’s national sovereignty. It is also dismissive of U.S.-Denmark relations: during World War II, the Danish ambassador allowed Washington to occupy and fortify Greenland so as to “prevent Germany from using it as a base against the United States and Canada.” The United States maintained military installations in Greenland throughout the Cold War, and to this day has an active military base on the northwestern coast in Thule, which hosts the Pentagon’s “northernmost deep-water seaport and airfield.”³⁴³

U.S. Secretary Pompeo is correct that “courage and partners” can and should come from “unlikely places,” especially in the coming years; but they should also continue to come from likely places, such as Denmark and Canada. Pompeo is also correct in that Arctic strategy will need “courage and partnership” going forward more than ever. But Pompeo’s speech and U.S. Arctic policy are problematic at large, as the United States appears to have effectively precluded China – and more importantly, Russia – from opportunities for enhanced cooperation in the Arctic. Washington also appears to preclude itself from the “accountability” that it brazenly calls for more of. These are both problems with significant and long-term policy and security implications. Scholar Rebecca Pincus of the U.S. Naval War College characterizes the administration’s approach to the Arctic as “maximalist,” with the United States “applying pressure to both rivals and allies, while refusing to compromise.”

She argues that this approach has already “driven a wedge between the United States and Canada, its most important partner.” The result of this political environment has been “bizarre optics,” in that China and Russia are now “leading on environmental protection and international cooperation” while the United States and Canada are feuding. Pincus says that there are natural areas for U.S. leadership in the Arctic region and that Washington can best compete by “playing to its strengths: allies and partners” rather than by threats and

³⁴⁰ Martin Selsoe Sorensen. “In Denmark, bewilderment and anger over Trump’s canceled visit.” *New York Times*, August 21, 2019. Accessed on August 21, 2019. <https://www.nytimes.com/2019/08/21/world/europe/greenland-denmark-trump.html>

³⁴¹ In reference to: Monica Duffy Toft. 2003. *The Geography of Ethnic Violence: Identity, Interests, and the Indivisibility of Territory*. Princeton, NJ: Princeton University Press. <https://press.princeton.edu/titles/7650.html>

³⁴² Stacie E. Goddard. “Trump just said buying Greenland would be a ‘large real estate deal.’ He’s making a dangerous mistake.” *Washington Post*, August 17, 2019. Accessed on August 21, 2019. <https://beta.washingtonpost.com/politics/2019/08/17/why-denmark-wont-sell-off-greenland/?noredirect=on>

³⁴³ Aaron Mehta and Valerie Insinna. “Greenland’s not for sale, but it is strategically important.” *Defense News*, August 16, 2019. Accessed on August 21, 2019. <https://www.defensenews.com/global/europe/2019/08/16/greenlands-not-for-sale-but-it-is-strategically-important/>

alienation. She says, however, that successful U.S. leadership in the Arctic “can’t happen without a basic acknowledgement of climate change.”³⁴⁴

Further, the narrative of a militant and resurgent Russia is clearly evident in U.S. officials’ rhetoric and in current public strategy documents released by the U.S. Defense Department and State Department. For years, the Arctic has been a region referred to as “high north, low tension,” due to multiple levels of peaceful multilateral cooperation.³⁴⁵ In recent years, however, public figures, mainstream news, and media applications have also largely embraced a narrative of “a budding military alliance”³⁴⁶ between Moscow and Beijing. In the wake of U.S. Secretary Pompeo’s remarks in May of 2019, headlines and editorial content regularly reference Russia’s aggressive behavior in the Arctic.³⁴⁷ At present, headlines claiming an imminent Sino-Russian alliance are not uncommon in U.S., often with sensationalist language.³⁴⁸

1.2 A Sino-Russian Alliance?

A formal, more permanent alliance between Russia and China would indeed “completely upend the world system and American influence in it,”³⁴⁹ but a number of experts argue that the chances of this actually happening are low. What appears to some as a burgeoning alliance is actually a growing dependence by Moscow on Beijing.³⁵⁰ Upon closer analysis, China and Russia are in a relationship of convenience, with each party utilizing the relationship as much as possible in order to gain and maintain leverage at home and abroad. Further, there is reason to believe that a formal alliance is neither in Xi or Putin’s interests, especially in the long-term.³⁵¹ Russia’s economy has suffered significantly from self-inflicted economics sanctions – stemming from Moscow’s annexation of Crimea in 2014 and ongoing military aggression in Ukraine – and its economic power is dwarfed by China’s, which is six times larger and growing.³⁵² Beijing is Moscow’s second largest export market, just behind the European Union. Russia depends on Chinese markets for its oil, while the state-run Rosneft is dependent on Chinese financing. For China, Beijing’s investment in Russia is relatively limited, with Russia ranking tenth in Beijing’s export markets. In other words,

³⁴⁴ Rebecca Pincus. “Trumps’ New Arctic Policy has a familiar ring.” *Defense One*, June 11, 2019.

<https://www.defenseone.com/ideas/2019/06/trumps-new-arctic-policy-has-familiar-ring/157622/>

³⁴⁵ Thomas Nilsen. “High North, low tension,” *Barents Observer*, February 10, 2012. Accessed on August 7, 2019.

<https://barentsobserver.com/en/topics/high-north-low-tension>

³⁴⁶ Nathan Hodge. “Putin and Xi test a budding military alliance in the Pacific—and step up confrontation.” *CNN*,

³⁴⁷ Editorial board. “What’s America’s winning hand if Russia plays the China card?” *The New York Times*, July 21,

2019. Accessed on August 8, 2019. <https://www.nytimes.com/2019/07/21/opinion/russia-china-trump.html>

³⁴⁸ For example, see: Nathan Hodge. “Putin and Xi test a budding military alliance inn the pacific—and step up confrontation.” *CNN*, July 23, 2019. Accessed on August 12, 2019. <https://www.cnn.com/2019/07/23/asia/putin-xi-military-flyover-japan-korea-hodge-intl/index.html>

³⁴⁹ Ibid.

³⁵⁰ *The Economist* Staff. “How Vladimir Putin’s embrace of China weakens Russia.” *The Economist*, July 15, 2019.

Online access on August 10, 2019. <https://www.economist.com/briefing/2019/07/25/how-vladimir-putins-embrace-of-china-weakens-russia>; see also: J. Berkshire Miller. “Large war games distract from the complexity of China-Russian ties.” September 16, 2018. Accessed on August 10, 2019.

<https://www.aljazeera.com/indepth/opinion/large-war-games-distract-complexity-china-russia-ties-180914184222402.html>

³⁵¹ Staff editorial. “Partnership is much better for Russia than it is for China.” *The Economist*, July 27, 2019. Online access on August 7, 2019.

³⁵² Staff editorial. “Partnership is much better for Russia than it is for China.” *The Economist*, July 27, 2019. Online access on August 7, 2019.

although Putin is playing a weak hand very well, Xi holds most of the cards. Meanwhile, domestic support of closer Sino-Russian relations in Russia is mixed, while Chinese investors are cautious and at times reticent with their investments in Moscow.³⁵³

Some experts argue that increasing Sino-Russian cooperation is making Russia overly dependent on Beijing, warning that deeper economic ties are a trap in the long-run that could eventually make Moscow “a Chinese tributary.”³⁵⁴ There are also significant undercurrents of tension between China and Russia over China’s growing economic and political influence in Central Asia, a region that is critical to Russia’s security and economic interests – and one where China is actively seeking to gain a foothold. Much to Moscow’s chagrin, some countries in Central Asia have welcomed the economic investment – as well as Chinese political influence against Moscow – that has been brought by the BRI. Some experts say that China’s construction of new pipelines in Central Asia has “broken Russia’s monopoly on energy pipelines in Central Asia, “while “China is rewiring the whole region.”³⁵⁵ China has also been making important headways in energy infrastructure in Europe, where Russia is the main player. Russia has also sought to increase its political influence on the African continent by way of economic and military aid. While much attention has been focused on Russia’s activities as being a counterweight to U.S. interests and hegemony, they also serve as an important counterweight to the growing Chinese influence in the region – rather than as a complement.³⁵⁶

Finally, Russia’s Far-East is another source of veiled Sino-Russian tensions, a “vastly underpopulated region. . . rich in the natural gas, oil timber, diamonds, and gold” resources.³⁵⁷ Some experts speculate that the area could potentially harbor emergent resentments in the local Russian population in coming years, as well as insecurities by Moscow that its sparsely populated backdoor could be vulnerable to military and political infiltration by Beijing.³⁵⁸

China and Russia share a 2,600 mile long border of land, which was the site of some tensions in 1969. As in other areas, Russia has been upgrading the militarization of its borders, and this border is no exception: Moscow has increased its placement of short-range ballistic missiles there in recent years. These Iksander-M missiles have nuclear capabilities, and are known for their “relatively high degree of accuracy.” Likewise, China has also been reinforcing its own precision-strike capabilities.³⁵⁹ Thus, both Russia and China are still heavily invested in the nuclear deterrence and containment of each other – a trend which heavily discourages notions of the fomentation of a concrete security alliance. Thus, while China and Russia may have much to gain in the short-term, a security alliance appears to be

³⁵³ *The Economist* Staff. “How Vladimir Putin’s embrace of China weakens Russia.” *The Economist*, July 15, 2019. Online access on August 10, 2019. <https://www.economist.com/briefing/2019/07/25/how-vladimir-putins-embrace-of-china-weakens-russia>

³⁵⁴ Staff editorial. “Partnership is much better for Russia than it is for China.” *The Economist*, July 27, 2019. Online access on August 7, 2019.

³⁵⁵ *The Economist* Staff. “How Vladimir Putin’s embrace of China weakens Russia.” *The Economist*, July 15, 2019. Online access on August 10, 2019. <https://www.economist.com/briefing/2019/07/25/how-vladimir-putins-embrace-of-china-weakens-russia>

³⁵⁶ János Besenyő. “Russia in Africa: can it offer an alternative to the US and China?” *The Conversation*, June 2, 2019. Accessed on August 21, 2019. See also:

<https://www.tandfonline.com/doi/abs/10.1080/09546553.2018.1555976?journalCode=ftpv20>

³⁵⁷ Robert D. Kaplan. “The quiet rivalry between China and Russia.” *The New York Times*, November 3, 2017. Accessed on August 7, 2019. <https://www.nytimes.com/2017/11/03/opinion/china-russia-rivalry.html>

³⁵⁸ Guy Plopsky. “Why is Russia aiming missiles at China?” *The Diplomat*, July 12, 2017. Accessed on August 8, 2019. <https://www.nytimes.com/2017/11/03/opinion/china-russia-rivalry.html>

³⁵⁹ *Ibid.*

incompatible with their respective national interests in the mid and long-term.³⁶⁰ In the words of Dmitri Trenin, the current arrangement “provides each party with a combination of reassurance and flexibility,” while allowing them to maintain their sovereignty.³⁶¹ Thus, while Xi and Putin may publically call each other “best friends,” it is largely what is unsaid that is most important: Russia’s quiet backing of Vietnam in the South China sea demonstrates that Russia’s actions do not necessarily match its rhetoric, and likewise with China.³⁶² It also suggests that Russia’s stance on China’s activities in the South China Sea is much more nuanced than it is often given credit for.

1.3 An Arms Race in the Arctic? Russian Security Posture

A number of experts argue that the narrative of “an alarming return to Soviet-era Arctic militarization” by Moscow is misguided, at best, and dangerous, at worst. Moscow’s “large-scale military exercises” in the Arctic and other regions – although to be taken seriously – are consistently and predictable,” although “short snap exercises do typically occur in the days leading up to the main event.”³⁶³ Much attention was paid to the incident on 23 July 2019, when South Korea fired warning shots at a Russian plane that reportedly violated disputed airspace in a disputed maritime area between Seoul and Tokyo. The Russian plane was performing a joint patrol with Chinese aircraft. As the first known “long-range joint air patrol in the Asia Pacific region,” the incident was significant.³⁶⁴ Although predicting that these patrols could become more frequent,³⁶⁵ Dmitri Trenin, Director of the Carnegie Moscow Center, has said that this growing bilateral cooperation is still limited. In his view, Beijing and Moscow “have learned lessons from history” in that, as great powers, they seek to maintain a kind of “equilibrium” with each other. He summarizes “the essence of the Sino-Russian relationship” is that “Russia and China will never be against each other, but they will not necessarily always be with each other.” Trenin has also argued that the U.S. “obsession” with a containment strategy is driving Russia and China closer and closer together,³⁶⁶ pointing out that while “Washington’s current pressure on both Beijing and Moscow “may not be the prime cause of the growing rapprochement between Russia and China, it has certainly contributed to both its speed and depth.”³⁶⁷ Regarding emergent U.S. Arctic Strategy, Washington would be wise to accept this notion going forward. Instead, U.S. policy appears to be going directly against the advice of U.S. legal experts, such as

³⁶⁰ Robert D. Kaplan. “The quiet rivalry between China and Russia.” *The New York Times*, November 3, 2017. Accessed on August 7, 2019. <https://www.nytimes.com/2017/11/03/opinion/china-russia-rivalry.html>

³⁶¹ Dmitri Trenin. “Russia, China are key allies and close partners.” *Carnegie Moscow Center*, June 5, 2019. Accessed on August 9, 2019. <https://carnegie.ru/2019/06/05/russia-china-are-key-and-close-partners-pub-79262>

³⁶² Bennett Murray. “Vietnam’s Strange Ally in its Fight with China.” *Foreign Policy*, August 1, 2019. Accessed on August 11, 2019.

³⁶³ Elizabeth Buchanan and Matheiu Boulegue. “Russia’s military exercises have more bark than bite.” *Foreign Policy*, May 20, 2019. Accessed on August 9, 2019. <https://foreignpolicy.com/2019/05/20/russias-military-exercises-in-the-arctic-have-more-bark-than-bite/>

³⁶⁴ “Andrew Osborn and Joyce Lee. “First Russian-Chinese air patrol in Asia-Pacific draws shots from South Korea.” *Reuters*, July 22, 2019. Accessed on August 9 2019. <https://www.reuters.com/article/us-southkorea-russia-aircraft/first-russian-chinese-air-patrol-in-asia-pacific-draws-shots-from-south-korea-idUSKCN1UI072>

³⁶⁵ “Andrew Osborn and Joyce Lee. “First Russian-Chinese air patrol in Asia-Pacific draws shots from South Korea.” *Reuters*, July 22, 2019. Accessed on August 9 2019. <https://www.reuters.com/article/us-southkorea-russia-aircraft/first-russian-chinese-air-patrol-in-asia-pacific-draws-shots-from-south-korea-idUSKCN1UI072>

³⁶⁶ Dmitri Trenin. “Russia, China are key allies and close partners.” *Carnegie Moscow Center*, June 5, 2019. Accessed on August 9, 2019. <https://carnegie.ru/2019/06/05/russia-china-are-key-and-close-partners-pub-79262>

³⁶⁷ Dmitri Trenin. “Russia, China are Key and Close Partners.” *Carnegie Moscow Center*, June 5, 2019. Accessed on August 9, 2019. <https://carnegie.ru/2019/06/05/russia-china-are-key-and-close-partners-pub-79262>

Lincoln E. Flake. As illustrated by the recent series of events in 2019 and by the U.S. Secretary of State's rhetoric,³⁶⁸ the United States appears to be taking an approach to the Arctic by "amalgamating the Arctic region as a single geo-political problem that needs solving;" undermining trust by criticizing both allies and potential polar partners instead of suggesting "hard security cooperation and confidence-building measures"; coordinating and promoting military exercises under the NATO umbrella in the Arctic; over-reacting to Russian activities by responding with "a large military exercise or provocative act of showmanship"; and has directly associated the Arctic with its "overall" bilateral relations with Russia, which are presently poor.^{369 370}

While there has been much attention on Russia's recent military activities in the Arctic, Russia has largely demonstrated consistency in this region. Legal expert James Kraska argues that NATO-Russian cooperation in the Bering Strait has been "one of the best bilateral security relationships in the Arctic," with close bilateral coordination owing to a 1995 agreement signed between the U.S. Guard and the Russian Federal Border Service. Mainland Russia and mainland Alaska are approximately 55 miles apart;³⁷¹ however, by way of the Diomedes Islands in the Bering Strait, Russia and the United States are only about 2.5 miles apart.³⁷² Moreover, legal experts, such as Flake, argue that "Russian wariness" of China's Arctic ambitions and of Beijing's grander security objectives "will preclude military cooperation in the region or the Arctic from ever being a central component" in Sino-Russian strategic cooperation.³⁷³

Consistency does not always mean legitimacy, however.³⁷⁴ For example, throughout history, Russia has demonstrated the criticality of warm-water port access to its security strategy and its willingness to defend its security interests – whether defensively, offensively, or preemptively – if it determines that those interests are threatened.³⁷⁵

Russia's long-established desire for strategic access to warm-water ports also explains its increasing activity in the far north: Moscow has awaited this opportunity for decades. Historically, Russia, like China, has been contained by its geographical disadvantages, to the point where it has been more or less landlocked. While Russia has access to the Pacific

³⁶⁸ Marc Lanteigne. "The changing shape of Arctic security," *NATO Review*, June 28, 2019. Accessed on August 11, 2019. <https://www.nato.int/docu/blueview/2019/Also-in-2019/the-changing-shape-of-arctic-security/EN/index.htm>

³⁶⁹ Lincoln E. Flake. "Contextualizing and Dismantling Russia's Arctic Security Posture." *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Pages 26 and 27 in particular.

³⁷⁰ U.S. Department of Defense. 2019. "Report to Congress: Department of Defense Arctic Strategy." June 2019. Washington, D.C: U.S. Government.

³⁷¹ James Kraska, "From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean," *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Pags 532-533 in particular.

³⁷² "Big Diomedes" island is owned by Russia; "Little Diomedes" island is owned by the United States. U.S. Department of the Interior. "How close is Alaska to Russia?" Alaska Public Land Information Centers.2019. Accessed on August 19, 2019. <https://www.alaskacenters.gov/faqs-people-often-ask/how-close-alaska-russia>

³⁷³ Lincoln E. Flake. "Russia and China in the Arctic: A Team of Rivals." *Strategic Analysis* 37, no. 6 (2013): 681-87. Page 686 in particular.

³⁷⁴ Lincoln E. Flake. "Forecasting Conflict in the Arctic: The Historical Context of Russia's Security Intentions." *The Journal of Slavic Military Studies* 28.1 (2015): 72-98. Web. Page 97 in particular.

³⁷⁵ In particular, standout incidents in recent history would include the Russo-Japanese War; the Georgian War; the annexation of Crimea; and warm water port access as being a factor in Moscow's alliance with Syria, and thus involvement in the ongoing Syrian War. For reference: Edward Delman. "The link between Putin's campaigns in Syria and Ukraine." *The Atlantic*, October 2, 2015. Accessed on August 10, 2019.

<https://www.theatlantic.com/international/archive/2015/10/navy-base-syria-crimea-putin/408694/> See also: "The Russian question for warm-water ports." *GlobalSecurity.org*, 2019. Accessed on August 10, 2019. <https://www.globalsecurity.org/military/world/russia/warm-water-port.htm>

Ocean by means of Vladivostok, this Far East port is Moscow's only warm water port with year-round access – and by means of icebreakers, no less. However, Russia's access is again limited by geography: like China, Russia is also limited by island countries, namely Japan, while the Korean peninsula and China further limit Russia's access to the South China Sea.³⁷⁶ Ironically, a third of Russian territory is in the Arctic region.³⁷⁷ Moreover, Russia's northern coastline covers half of the Arctic Ocean coastline, but has long been unviable in winter: its Arctic and sub-Arctic territories experience the coldest recorded temperatures outside of Antarctica.³⁷⁸ At 24,140 kilometers long, Russia also has approximately 2 million people living in the Arctic region, which is about half of the total Arctic inhabitants.³⁷⁹ ³⁸⁰ Comparatively, the United States has 1,706 kilometers of coastline by way of Alaska – which is comparatively about a fourth of the Russian coastline – and a population of approximately 739,795 people.³⁸¹ ³⁸² With great irony, it should be remembered that the United States in fact purchased Alaska from Russia in 1867.³⁸³ Thus, Russia is unlike China in that it has a sizeable emergent – and legitimate – coastline that will become more useable year-round. Legal scholar Lincoln E. Flake makes the observation that “ice-reduction trends are much more pronounced along Russia's coastline compared to the other littoral states and have compelled Moscow to accept that its previously ice-protected border will inevitably open up to greater human activity.”³⁸⁴

In short, Russia's “enhancement of border and law enforcement capabilities” appear to be natural and practical in light of its proximity to a region where there will be an imminent increase in international maritime activity.³⁸⁵ Moreover, Lincoln argues that this is demonstrated in most of Russia's militarization efforts: “the dozen or so bases being refurbished along the coastline are not full-fledged military bases but multi-purpose posts with surveillance, border, constabulary, and search and rescue functions, as well as space for temporary sub-unit-level military deployment.”³⁸⁶ He also notes that, while Russia's security infrastructure upgrades are impressive and are capable of temporarily hosting larger-scale combat forces during military exercises, Russia's bases in the Arctic region do not appear to be designed for the purpose of housing large-scale military forces. Instead, these bases “appear intended to monitor movement in

³⁷⁶ For general reference, please see: “The Russian question for warm-water ports.” *GlobalSecurity.org*, 2019. Accessed on August 10, 2019. <https://www.globalsecurity.org/military/world/russia/warm-water-port.htm>

³⁷⁷ James Kraska, “From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean,” *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Page 522 in particular.

³⁷⁸ Research staff. “Russia.” *The Arctic Institute*, 2019. Accessed on August 9, 2019.

<https://www.thearcticinstitute.org/countries/russia/?cn-reloaded=1>

³⁷⁹ Ibid.

³⁸⁰ Andrey Zagorski. “Russia and the US in the Arctic: Working Paper 30.” October 11, 2016. Russian International Affairs Council (RIAC). Online access on August 1, 2019. P. 8.

<https://russiancouncil.ru/en/activity/workingpapers/rossiya-i-ssha-v-arktike/>

³⁸¹ Research staff. “United States.” *The Arctic Institute*, 2019. Accessed on August 9, 2019.

<https://www.thearcticinstitute.org/countries/russia/?cn-reloaded=1>

³⁸² Andrey Zagorski. “Russia and the US in the Arctic: Working Paper 30.” October 11, 2016. Russian International Affairs Council (RIAC). Online access on August 1, 2019. P. 8.

<https://russiancouncil.ru/en/activity/workingpapers/rossiya-i-ssha-v-arktike/>

³⁸³ Editors of Encyclopaedia Britannica. “United States History: Alaska Purchase.” *Encyclopaedia Britannica*, updated by Richard Pallardy. 2019. <https://www.britannica.com/place/Alaska/Economy>

³⁸⁴ Lincoln E. Flake. “Contextualizing and Disarming Russia's Arctic Security Posture.” *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Page 21 in particular.

³⁸⁵ Ibid. Page 21 in particular.

³⁸⁶ Ibid. Page 21 in particular.

the region, deter intruders, and demonstrate presence, rather than establish a vigorous offensive military capability.” Flake also argues that “the recent deployment of the S-300 anti-air system... illustrates the denial-of-access aspect of Russia’s military positioning” and thus a protective/defensive, rather than offensive, posturing by Moscow in the Arctic region.³⁸⁷ Thus, while Russia’s Arctic “preparations are ongoing and clearly have a military component,” Russia

appears more concerned with the legal ramifications of the changing Arctic environment than with grand strategic questions of nuclear deterrence and naval force parity in the region. Consequently, security measures in the Arctic will remain closely tied to supporting specific national interests as outlined in strategy documents, most notably control over surface traffic in Russia’s Arctic waters.³⁸⁸

Other experts have agreed on Flake’s point³⁸⁹ that this is demonstrated in Russia’s recent national security documents. In a 2018 NATO analysis of Russia’s security documents, expert Nazrin Mehidiyeva points out that while Russia’s Arctic strategy documents do not “exclude military confrontation,” “none of the Arctic strategic documents explicitly consider a conflict with NATO.” Mehidiyeva concludes in her analysis that while “the balance has subtly shifted towards security since 2014,” Russia’s focus “remains on defense capabilities and SAR [Search And Rescue] services along Russia’s very long northern border.” Further, “the overall tone of all [Russian] Arctic documents continues to be that of cooperation,” indicating that Russia is “still strongly interested in international cooperation,” and “will continue to adhere to UNCLOS” because Moscow recognizes that it serves its national interests.³⁹⁰ Thus, according to Flake, while “Moscow’s designs are neither entirely benign nor entirely belligerent” and “moderate improvements” to Russian naval capabilities are ongoing, Russia’s military spending and Moscow’s “altering deployment characteristic of the Arctic Ocean” do not indicate that “Russia harbors malicious intent in the region.”³⁹¹ Flake rebukes the narrative of Russia’s “alarming return to a Soviet-era Arctic militarization:

The changing remit of the Northern Fleet is meant to augment efforts in other spheres, such as modernization of maritime legislations and regulations, with the ultimate goal of establishing irreversible precedent of control in anticipation of greater Arctic surface traffic. This highly nuanced security machination has been overshadowed by the more spectacular, yet less strategically significant, acts of military bluster in the Arctic since 2007.³⁹²

³⁸⁷ Ibid. Pages 21-22 in particular.

³⁸⁸ Lincoln Edison Flake. 2014. “Russia’s Security Intentions in the Melting Arctic” in *Military and Strategic Affairs*, 6 (1): 99-116. Page 112 in particular.

³⁸⁹ Lincoln E. Flake. “Contextualizing and Dismantling Russia’s Arctic Security Posture.” *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Pages 25 to 26 in particular.

³⁹⁰ Nazrin Mehidiyeva of the NATO Defense College. 2018. “Document Review: Russia’s Arctic Papers: The evolution of Strategic Thinking on the High North,” in *Russian Studies Series 4/18*. Last updated on November 19, 2018. Accessed on August 10, 2019. <http://www.ndc.nato.int/research/research.php?icode=567>

³⁹¹ Lincoln Edison Flake. 2014. “Russia’s Security Intentions in the Melting Arctic” in *Military and Strategic Affairs*, 6 (1): 99-116. Page 112 in particular. Page 113 in particular.

³⁹² Ibid. Pages 112-113 in particular.

Flake continues to support this argument in his more recent publications. In a journal article in 2017, he writes that while ongoing Russian military developments in the Arctic “have been striking and demonstrate significant political resolve, they are best viewed, at this point, as a correction rather than a wholesale militarization of the Arctic or...a restoration of Soviet-era force structure.”³⁹³ Moreover, while the knee-jerk reaction of Russia’s increasing military activities and upgrades in the far north is to equate them with Arctic ambitions, Flake cautions against this: he points out that “the Northern Fleet during the Soviet era was not primarily to achieve naval superiority in the Arctic but rather to maintain unobstructed access to the Atlantic and as a viable nuclear deterrence.”³⁹⁴ Further, James Kraska argues that “in contrast to the provocative military exercises and belligerent public diplomacy, Russia has been remarkably even-tempered about efforts to maintain peace and adhere to the rule of law in the Arctic Ocean.”³⁹⁵

1.4 Claiming or Conquering the Continental Shelf: Misperceptions and Misrepresentations

Territorial disputes regarding the continental shelf in the Arctic have been interpreted as being the motivations behind Russian Arctic militarization. Legal experts have said that this is an incorrect narrative: Flake and others argue that Russia’s approach to territorial disputes in the Arctic “are firmly grounded in international legal precedent.”³⁹⁶ In reference to an incident in 2007, where Russia planted a rust-proof titanium national flag on the Arctic seabed,³⁹⁷ James Kraska of the U.S. Naval War College argues that “despite the relentless media frenzy over a private Russian submarine planting a flag on the seabed of the North Pole, Russia is not making irresponsible claims to the seabed.” Kraska says that under UNCLOS, “coastal nations may claim sovereignty over the resources over an extended continental shelf, but not the water column above it, by submitting convincing barythmetric and geologic data to an international commission that shows the seabed is a natural extension of the geographic continental margin.”^{398 399} In this way, “a continental shelf claim does not inure additional rights of control over the fishing resources.”⁴⁰⁰ Moreover, Kraska points out that Moscow itself has publically acknowledged that “even if Russia is allowed to expand the

³⁹³ Lincoln E. Flake. “Contextualizing and Disarming Russia’s Arctic Security Posture.” *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Page 20 in particular.

³⁹⁴ Ibid. Page 21 in particular.

³⁹⁵ . James Kraska, “From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean,” *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Page 531 in particular.

³⁹⁶ Ibid. Page 18 in particular.

³⁹⁷ Guy Faulconbridge. “Russian sub plants flag under North Pole.” *Reuters*, August 2, 2007. Accessed on August 10, 2019. <https://www.reuters.com/article/idINIndia-28784420070802> and Leigh Holmwood. “Reuters gets that sinking feeling,” *the Guardian*, August 10, 2007. Accessed on August 10, 2019. <https://www.theguardian.com/media/2007/aug/10/pressandpublishing2>

³⁹⁸ James Kraska, “From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean,” *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Page 531 in particular.

³⁹⁹ Radio Canada International. “Russia scores scientific points in quest for extended Arctic continental shelf,” *The Barents Observer*, April 5, 2019. Accessed on August 10, 2019. <https://thebarentsobserver.com/en/arctic/2019/04/russia-scores-scientific-point-quest-extended-arctic-continental-shelf>

⁴⁰⁰ James Kraska, “From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean,” *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Pages 531-532 in particular.

borders of its continental shelf, it will not mean that Russia will have total sovereignty over this entire zone.”⁴⁰¹

According to analyst Morgane Fert-Malka, “a continental shelf cannot be ‘won over’ by sending armed troops to occupy the bottom of the ocean.”⁴⁰² Likewise, a country’s “asserting jurisdiction on a portion of continental shelf does not affect freedom of navigation or other laws that apply to the water column and airspace above it.” In order to establish definitive jurisdiction, states must prove delineation of the continental shelf – which requires the collection an analysis of hard scientific data; and delimitation of the continental shelf – which requires the collection and analysis of legal and diplomatic negotiations that often take years, largely owing to the fact that multiple parties can make legitimate claims to the same area. Fert-Malka argues that military confrontation is not an option with respect to territorial disputes in the Arctic, as resolution ultimately depends on “international law and the willingness of states to follow, specify, and affirm” international law,” and on “political capital” and domestic politics.⁴⁰³

Thus, Russia and other Arctic states’ submissions to the UN Commission on the Limits of the Continental Shelf (CLCS) have thus far been legitimate in nature. The majority of Moscow’s offshore anticipated hydrocarbons and mineral reserves “are located in undisputed areas” close to its coastline. Moreover, according to Fert-Malka, Russia’s submissions in 2001 and 2015 to the CLCS “attest to the fact that Russia not only scrupulously follows the provisions of international law, but also pioneers them.” She says that Russia’s swift legal actions are without any inherent advantage, and are rather “a sign of good faith” in established international institutions and “a willingness to follow international procedure.” She argues that the false narrative of a “race” in the Arctic ultimately serves to undermine the international legal system.⁴⁰⁴

Russia itself is to blame, in part, for the general confusion in the West over Russia’s intentions in the Arctic. Flake contends that Russia engages in “dual messaging” by “stressing cooperation and peaceful co-existence to the international audience,” while pushing a “nationalist messaging” of Russia as a resurgent great power to its domestic audience. Moscow employs such tactics in order to contain domestic discontent, gain domestic political leverage, and preserve Putin’s regime in Russia. Thus, to some degree this nationalist messaging to a domestic audience – largely for short to mid-term domestic political gains — is not entirely unlike rhetoric observed by political leaders in the United States. Ultimately, the use of the false narrative of a resurgent Russia is counterproductive to

both Washington and Moscow: Flake says that “a failure of Western leaders to properly discern Russia’s real objectives over nationalist noise risks distorting conflict potential when Western Arctic policies are formulated.”⁴⁰⁵ Flake appears to have been correct in this assertion: the events of 2019 demonstrate that the United States has adopted a narrative of a “resurgent Russia in the Arctic,” evidently taking the Kremlin’s nationalist

⁴⁰¹ Ibid. Kraska refers to: “Moscow asks to stop Arctic war intimidations,” *Daily News Bulletin* (Moscow), October 23, 2008.

⁴⁰² This is also supported by Lincoln E. Flake: “There is no scenario in which Russia abruptly loses out of an Arctic competitor and is forced to resort to a seabed grab.” (Page 19). Lincoln E. Flake. “Contextualizing and Disarming Russia’s Arctic Security Posture.” *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Page 19 in particular.

⁴⁰³ Morgane Fert-Malka. “The Non-Issue of Russia’s Arctic Continental Shelf.” *World Policy Journal*, September 14, 2017. Online access on August 10, 2019. *World Policy Journal*,

⁴⁰⁴ Morgane Fert-Malka. “The Non-Issue of Russia’s Arctic Continental Shelf.” *World Policy Journal*, September 14, 2017. Online access on August 10, 2019. *World Policy Journal*,

⁴⁰⁵ Lincoln E. Flake. “Contextualizing and Disarming Russia’s Arctic Security Posture.” *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Pages 22-23 in particular.

domestic rhetoric at face-value. However, at the same conference that U.S. Secretary of State Pompeo attended, Russian Foreign Minister Sergey Lavrov expressed a more measured approach. Lavrov stated that Russia sees the Arctic “region as a region of peace, stability, and productive cooperation.” His remarks gave attention to environmental concerns and research, as well as the cultural preservation and well-being of indigenous peoples in the region. He stressed that “the challenges that the Arctic is facing today require deeper state-to-state cooperation,” offering new opportunities for Russia and others that should be “used properly” to “secure a stable future for the region and well-being of its residents.”⁴⁰⁶

Likewise, the views of legal scholar Michael A. Becker complement both Kraska and Fert-Malka. He has also commented on the misguided “media frenzy” over Russia’s continental shelf claims, which have “nothing inherently illegitimate about” them.⁴⁰⁷ He criticizes the use of alarmist language used to describe the Arctic’s future, such as “‘a race for control of the Arctic’ and a ‘coming anarchy’ in which states will ‘unilaterally grab’ as much territory as possible to secure new sources of oil and natural gas.” Becker argues that

rather than a potential conflict between Russia and its fellow Arctic states, the more realistic divergence of interests in the Arctic may lie between the circumpolar states and other interested parties from beyond the region (for example, China, Japan, or European Union members).⁴⁰⁸

Becker also notes that “fishing stocks are heading north as water temperatures increase,” and that “illegal, unreported, and unregulated fishing is a worldwide problem, and the Arctic is no exception.”⁴⁰⁹ He argues that Moscow’s “conduct in the Arctic appears broadly comparable to the conduct of other states with a presence in the region,” and with particular regard to Canada.

Legal experts do acknowledge, however, that there are no guarantees that Russia will not pursue a more unilateralist legal approach in the Arctic region in the future.⁴¹⁰ Experts such as Becker argue, however, that “Russia appears to be engaged with the international community when it comes to the Arctic.” Becker also argues that “developing the ‘rule of law’ in the Arctic demands strengthening the existing legal framework, not a new ‘Arctic treaty,’” which some have called for in the wake of alarmist arguments. He emphasizes the fact that the Ilulissat Declaration “rejects the proposal for a new comprehensive regime for the Arctic,” and re-focuses “attention on the political and legal mechanisms already in place.”⁴¹¹ All five of the Arctic coastal states – Canada, Denmark, Norway, Russia, and the United States – signed this declaration in 2008.⁴¹²

⁴⁰⁶ Russian Foreign Ministry of Affairs. “Foreign Minister Sergey Lavrov’s remarks at the Arctic Council Ministerial Meeting, Rovaniemi, May 7, 2019. Accessed on August 7, 2019.

http://www.mid.ru/en_GB/press_service/minister_speeches/-/asset_publisher/7OvQR5KJWVmR/content/id/3637699

⁴⁰⁷ Michael A. Becker. “Russia and the Arctic: Opportunities for Engagement within the Existing Legal Framework. (Symposium: Russia and the Rule of Law: New Opportunities in Domestic and International Affairs).” *American University International Law Review* 25, no. 2 (2010): 225-250. Page 238 in particular.

⁴⁰⁸ Michael A. Becker. “Russia and the Arctic: Opportunities for Engagement within the Existing Legal Framework. (Symposium: Russia and the Rule of Law: New Opportunities in Domestic and International Affairs).” *American University International Law Review* 25, no. 2 (2010): 225-250. Page 248 in particular.

⁴⁰⁹ *Ibid.* page 245.

⁴¹⁰ Lincoln E. Flake. “Forecasting Conflict in the Arctic: The Historical Context of Russia’s Security Intentions.” *The Journal of Slavic Military Studies* 28.1 (2015): 72-98. Web. Page 97 in particular.

⁴¹¹ *Ibid.* In reference to others, pages 226-7.

⁴¹² *Ibid.* pages 228 to 229 in particular.

However, as a non-party to UNCLOS, Washington's "non-party status precludes the United States from submitting an application for the recognition of any extended continental shelf it may be able to claim in the Arctic." Becker, like Kraska and others, recommends that the United States accedes to the Convention.⁴¹³

Thus, this position goes back to Kraska's analysis of the "legal vortex" in the Strait of Hormuz, in that the Arctic and the Gulf are both alike and different. Problems such as illegal and unregulated fishing; increased maritime traffic; narrow waterways; overlapping territorial claims; and the presence of Non-arctic states in the region are all guaranteed to cause friction. Flake and others argue that it is "maritime jurisdiction," rather than continental shelf claims, that will be likely to be sources of conflict in the Arctic region.⁴¹⁴ For example, Russia may seek to deny access to its entire Exclusive Economic Zone on legal grounds; if it decides to pursue this interpretation, any freedom of navigations operations by the West could create the potential for conflict.⁴¹⁵ However, as Flake points out, "nearly every dispute in the Arctic has a viable path to resolution" through the UN and UNCLOS.⁴¹⁶

1.5 Choosing Cooperation, Avoiding Conflict – or Avoiding Cooperation, and Choosing Confrontation?

Legal scholar Michael Becker argues that the Arctic is in no way "a legal vacuum," as some may be inclined to think: a strong legal system is in place. Nevertheless, U.S. Secretary of State Pompeo correctly observed that the Arctic region is emerging as a kind of power vortex, in that it involves the confluence – and conflict – of several powers' largely legitimate interests in a critical – and tight – space. The Arctic also attracts the potentially illegitimate interests of other emerging actors who are inserting themselves – both with and without legitimacy, dependent upon the area and the context at issue – at a time of high political tensions and shifting power structures. In addition to the ongoing crisis in the Gulf of Oman, the present circumstances in the Arctic demonstrate that the long-term integrity of the international legal system, international legal norms, and the institutions behind them are endangered by the United States' lack of accession to UNCLOS. Further, the United States' rights and national interests in the Arctic are also jeopardized by Washington's lack of UNCLOS accession, and simultaneously invite the unilateral behavior of other actors.

Finally, this lack of accession and the imminent arrival of non-Arctic states in Arctic sea lanes – for commercial shipping or for other purposes – also increases the potential of a situation that is akin to the present Gulf crisis – and thus the potential of armed conflict – if there is a persisting "lack of agreement over the application of the international law of the sea" between the United States and other actors in the region. This is particularly relevant if those actors have also not ratified UNCLOS, which would once again create the ongoing "legal vortex" in the Strait of Hormuz.⁴¹⁷ Thus, in the wake of the ongoing crisis in the Gulf, the Arctic should provide even greater impetus for the United States to ratify the Convention on the Law of the Sea.

⁴¹³ Ibid. pages 232-233 in particular.

⁴¹⁴ Lincoln E. Flake. "Contextualizing and Dismantling Russia's Arctic Security Posture." *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Page 19 in particular.

⁴¹⁵ Ibid. Page 25 in particular.

⁴¹⁶ Ibid. Pages 19-20.

⁴¹⁷ [Kraska, James](#). "[Legal Vortex in the Strait of Hormuz](#) ." [Virginia Journal of International Law](#). Vol. 54, No. 2 (2014): 323-366

As in his analysis of the Strait of Hormuz, legal scholar James Kraska's analysis in 2010 of the Arctic region is also strikingly prescient: "The Russian Navy is not going to go away," he says, "and it is far more favorable to co-opt the force than resist it." Kraska, like other legal scholars, has argued for years that "Moscow and Washington share compelling strategic economic security considerations in the Arctic," and "as a superpower and ally or friend of the remaining Arctic states, the United States could play a more constructive role in integrating Russia into a stable new political order in the Arctic Ocean."⁴¹⁸ He argues:

If the Russian Navy can successfully be incorporated into the global security paradigm, then an entirely new and powerful capability is brought on line to contribute to maritime security constabulary operations, humanitarian assistance and disaster relief and the assertion of freedom of navigation challenges... Russia could be a great force multiplier.⁴¹⁹

Moreover, Kraska posits that closer coordination for maritime security cooperation in the Arctic "presents the navies of the United States and other countries with the opportunity to share best practices, present our perspective on how best to strengthen conflict avoidance at sea and broaden maritime regional stability."⁴²⁰ Thus, counterintuitive to present U.S. policy, closer military coordination with other Arctic countries – including Russia – could help stabilize the Arctic region, increase security, and bolster international law. However, the current belligerent posturing by Washington toward its fellow Arctic countries – and toward Russia especially – appears to preclude even the potential for that kind of cooperation, which in the long-term is a grave strategic error.

In a report in 2016, Russian scholar Andrei Zagorski concludes that the United States and Russia "have no acute or potentially significant disputes in the Arctic." In line with James Kraska and other legal experts, Zagorski acknowledges that the one important, persisting bilateral disagreement between them in the Arctic is "the legal regime of the straits" as relating to freedom of navigation.⁴²¹ Still, he argues on the whole that Washington and Moscow have "similar or compatible interests and priorities" in the Arctic region as seen in the public documents of their national strategies (as of the time in 2016). He identifies them as follows:

safeguarding national and homeland security, protecting the environment, responsibly managing Arctic resources while advancing economic and energy development, improving community resilience, supporting scientific research, and strengthening Arctic cooperation.⁴²²

Zagorski also notes that both countries also define their national security in the Arctic "in terms of protecting sovereign territory and rights, as well as natural resources, while safeguarding peace and

⁴¹⁸ James Kraska, "From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean," *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Page 522 in particular.

⁴¹⁹ James Kraska, "From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean," *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Pages 533-534 in particular. .

⁴²⁰ *Ibid.* Page 534 in particular.

⁴²¹ Andrey Zagorski. "Russia and the US in the Arctic: Working Paper 30." October 11, 2016. Russian International Affairs Council (RIAC). Online access on August 1, 2019. Page 8 in particular.

<https://russiancouncil.ru/en/activity/workingpapers/rossiya-i-ssha-v-arktike/>

⁴²² *Ibid.*, pages 6-7.

stability, rather than as “an eventual conventional warfare theater.”⁴²³ He acknowledges, however, that while the Arctic has remained shielded from weapons of mass destruction, this does not preclude the possibility of an arms race in the region “in the mid- or even short-term” if “‘gradually escalating mutual fears,’ or over-dramatization of developments in the defense area” arise. Zagorski also emphasizes that in the Arctic – as in other areas – the utilization of multilateral as opposed to bilateral frameworks may be the most viable means of cooperation for the United States and Russia.⁴²⁴

Scientific experts, including Paul Arthur Berkman, Alexander N. Vylegzhanin, and others, have also made the compelling case for science diplomacy as an under-recognized tool for improving bilateral relations. They observe that “historically, polar scientists have played important roles in building East-West cooperation as demonstrated at the height of the Cold War.” They also note that the Antarctic Treaty was largely a genus of such scientific cooperation, and that agreement later “laid the groundwork for the 1967 treaty promoting the peaceful use of outer space” – which until presently has largely been insulated from global geopolitics.⁴²⁵ In addition to bolstering ongoing scientific cooperation, it appears that the enduring “key to unlocking a genuinely constructive bilateral relationship between Washington and Moscow is to develop a closer relationship in maritime security cooperation, and the Arctic Ocean is the best theater for expanding the relationship.”⁴²⁶

This unique opportunity for a degree of cooperation with Moscow has long been overlooked, interconnected with Washington’s categorical failure to prioritize the Arctic as a geostrategic region until only very recently. Due to the void of American leadership and investment in the Arctic, it was arguably only natural for Russia and other Arctic countries to seek out other partners for economic cooperation – to the United States’ disadvantage. If the United States had made the Arctic a priority much sooner, perhaps bilateral relations between Moscow and Washington would be on a much different course than the one they are on today.

Due to Washington’s long indifference to the Arctic as a geostrategic region, U.S. strategy in the Arctic has not been proactive. As a result, the United States is currently assuming a reactive and overly aggressive posture, making up for Washington’s absence by seeking to intimidate other actors in the region. The current narrative driving U.S. foreign policy and maritime security strategy is at best, misguided, and at worst, on a dangerous and self-destructive course. The current rhetoric of U.S. political and public leaders on the Arctic largely exposes a disappointing subscription to a knee-jerk, overly simplistic⁴²⁷ and incomplete narrative that does not hold up to closer, more comprehensive analysis.

Conclusion and Recommendations:

About Face: Lenses, Mirrors

⁴²³ Ibid.

⁴²⁴ Ibid, pages 14, 11.

⁴²⁵ Paul Arthur Berkman, Lars Kullerud, Allen Pope, Alexander N. Vylegzhanin, and Oran R. Young. “The Arctic Science Agreement propels science diplomacy.” November 2017. *Science* 358 (6363), 596-598.

⁴²⁶ James Kraska, “From Pariah to Partner—Russian-American Cooperation in the Arctic Ocean,” *ILSA Journal of International and Comparative Law* 16, no. 2 (Winter 2010): 517-534. Pages 524 in particular.

⁴²⁷ Lincoln E. Flake. “Contextualizing and Disarming Russia’s Arctic Security Posture.” *The Journal of Slavic Military Studies* 30, no. 1 (2017): 17-29. Pages 17-18 in particular.

How does the United States work to transform great power pariahs, like Russia, into bona fide partners? A number of scholars point first to strengthening international institutions, in addition to values-based institutions. James Kraska argues that the “persistent promotion of the rule of law in international diplomacy can help to integrate Russia into the community of nations – and perhaps into the community of democracies.”⁴²⁸ While both China and Russia appear to be positioned as major players in the international order for some time to come, there is some cause to speculate over whether either or both could implode due to various political and socioeconomic factors.⁴²⁹ With the decline of their respective populations, both China and Russia face major demographic problems that have the potential of becoming demographic crises in the future. Such circumstances would have economic impacts and could exacerbate domestic instabilities, in addition to posing conventional military challenges.⁴³⁰ Moreover, both China (in Hong Kong) and Russia (in Moscow) have experienced significant civil unrest recently, with political protests staged against the current autocratic regimes in place due to growing public discontent.⁴³¹ For both countries – and in particular for China – the fine line between domestic political control and chaos will be increasingly difficult to discern, leaving an opening for a more democratic China and/or Russia on the horizon.

The Arctic should be – or should have been – a unique and ideal theater for increased bilateral cooperation between Washington and Moscow. It still could be, but the current political rhetoric from the United States appears to all but prematurely preclude any potential of substantive partnership with Russia in the Arctic region. This is in grave error. Both the United States and Russia have made self-defeating – if not self-destructive – political decisions and strategic miscalculations concerning bilateral relations, but the Arctic presents an exceptional opportunity for bilateral U.S.-Russian cooperation as well as larger multilateral cooperation that should be fully utilized. If used judiciously, cooperation in the Arctic has considerable potential of serving as a much-needed (and face-saving) off-ramp to deteriorating relations for both Washington and Moscow. However, in the wake of current actions, events, rhetoric, and low political will in the U.S. Congress, that exit seems quite remote. Still, joint U.S.-Russian patrols in the Arctic, in the midst of tit-for-tat “air incursions” in the region, are a positive sign.⁴³²

The Gulf crisis alone demonstrates that U.S. exceptionalism has paradoxically encouraged the emergence of a multipolar world order, rather than a unipolar or even bipolar one.⁴³³ Amidst this

⁴²⁸ Ibid. Page 522 in particular.

⁴²⁹ Peter Navarro. “China will probably implode,” *the National Interest*, May 7, 2016. Accessed on August 11, 2019. <https://nationalinterest.org/feature/china-will-probably-implode-16088>; Stephen Joske. “China’s coming financial crisis and the national security connection,” *War on the Rocks*, October 23, 2018. Accessed on August 11, 2019.

<https://warontherocks.com/2018/10/chinas-coming-financial-crisis-and-the-national-security-connection/>
⁴³⁰ Hal Brands. “America’s big advantage over China and Russia: Demographics.” *Bloomberg*, March 24, 2019. Accessed on August 20, 2019. <https://www.bloomberg.com/opinion/articles/2019-03-24/america-s-big-advantage-over-china-and-russia-demographics>

⁴³¹ Ishaan Tharoor. “The protestors of Hong Kong and Moscow aren’t backing down,” *Washington Post*, August 12, 2019. Accessed on August 13, 2019. <https://www.washingtonpost.com/world/2019/08/12/protesters-hong-kong-moscow-arent-backing-down/?noredirect=on>

⁴³² Tom O’ Connor. “U.S. and Russia train together in Arctic, where they both want to be top power.” *Newsweek*, June 11, 2019. Accessed on August 7, 2019. <https://www.newsweek.com/us-russia-train-together-arctic-1443438> ; Rachel Ellehuus and Mark Simakovsky. “Russia is harassing U.S. jets in the Arctic as part of a Putin power play.” *NBC News*, May 28, 2019. Accessed on August 7, 2019. <https://www.nbcnews.com/think/opinion/russia-harassing-u-s-jets-arctic-part-putin-power-play-ncna1010781>

⁴³³ Chris Horton. “Trump’s attacks on Iran complicate trade war with China.” *Nikkei Asian Review*, June 10, 2019. Accessed on August 7, 2019. <https://asia.nikkei.com/Politics/International-relations/Trump-s-attacks-on-Iran-complicate-trade-war-with-China>

ongoing crisis, increasing Sino-Russian cooperation, and the “race for the Arctic,” there appears to be a greater reconsideration of emergent multipolarity in the West – or, at the least, of an emergent bipolarity between the United States and China. Dmitri Trenin, like Fareed Zakaria and others, argues that the time of a unipolar order dominated by the United States and the West has ended. Replacing it is a “much more diversified environment of several independent players, both competing and collaborating.”⁴³⁴ Likewise, some experts argue that the United States should seek to “challenge and coexist” with other great powers.⁴³⁵ Michael Fuchs argues that due to the complexity of this new security environment, there is no singular theory that will successfully define the role of the United States’ role in the twenty-first century, and thus any quest for a “grand strategy” or the impetus to employ any particular strategic narrative is overblown, if not counterproductive.⁴³⁶ Others argue that U.S. strategy going forward must be guided by enduring American values, which is complementary to the view that international institutions will become increasingly relevant.⁴³⁷

Thus, in a multipolar world, multilateralism and a renewed commitment to established alliances and international institutions appears to be the best way forward for U.S. interests and international security.⁴³⁸ Retreating from international institutions “provides short-term leeway and flexibility at the cost of long-term U.S. influence,” while allowing China and others “to reshape norms and expand [their] own influence within those organizations.”⁴³⁹ Former U.S. Ambassador Chas Freeman asks if the United States is asking the wrong questions when it comes to U.S. strategy, and argues for more U.S. investment in diplomacy. According to Freeman,

to enjoy affordable security, we must rebuild and develop American diplomacy as well as war fighting. This effort must begin with efforts to restore precision to our diplomatic terminology and reasoning processes, to sharpen our analysis of international realities, and to rediscover diplomacy as strategy.⁴⁴⁰

Other experts agree that the United States should view diplomacy and alliances “as assets to be invested in rather than costs to be cut.”⁴⁴¹ In this era, problems

cannot be remedied by defense budget plus-ups, bluster and shows of force, sanctions, arms transfers, or denunciatory diplomacy. The only

⁴³⁴ Dmitri Trenin. “Russia, China are key allies and close partners.” *Carnegie Moscow Center*, June 5, 2019. Accessed on August 9, 2019. <https://carnegie.ru/2019/06/05/russia-china-are-key-and-close-partners-pub-79262>

⁴³⁵ Kurt M. Campbell and Jake Sullivan. “Competition without catastrophe.” *Foreign Affairs*, August 1, 2019. Online access on August 10, 2019.

⁴³⁶ Michael Fuchs. “America doesn’t need a grand strategy.” *Foreign Policy*, July 28, 2019. Accessed on August 11, 2019. <https://foreignpolicy.com/2019/07/28/america-doesnt-need-a-grand-strategy-big-think-trump/>

⁴³⁷ Tarun Chhabra. “The China challenge, democracy, and U.S. grand strategy.” *Brookings*, February 2019. Online access on August 13, 2019. <https://www.brookings.edu/research/the-china-challenge-democracy-and-u-s-grand-strategy/>. See also: TED Archive. “What game theory teaches us about war: Simon Sinek.” Filmed in 2015. YouTube video, 9:48. Published on November 8, 2016. Filmed in 2015.

⁴³⁸ Mark Y. Rosenberg. “Experts get multipolarity all wrong.” *Foreign Policy*, June 24, 2019. Accessed on August 11, 2019. <https://foreignpolicy.com/2019/06/24/experts-get-multipolarity-all-wrong/>

⁴³⁹ Kurt M. Campbell and Jake Sullivan. August 1, 2019.

⁴⁴⁰ Chas Freeman, Jr. “Diplomacy as Strategy: Remarks to the Watson Institute of International and Public Affairs, Brown University.” March 19, 2018.

⁴⁴¹ Kurt M. Campbell and Jake Sullivan. August 1, 2019.

effective answer is to democratic norms.⁴⁴²

strengthen civil society, buttress the rule of law, and reinforce

Accordingly, the United States must reinforce international institutions and subscribe to international law. Washington must ratify UNCLOS and should uphold the accords that it signs. Moreover, Washington must realize that in a multipolar world, increased multilateral cooperation and coordination with both allies and non-allies will be critical for U.S. global leadership going forward. Above all, this will require effective diplomacy, enhanced communication, and innovative approaches. In particular, communication – with allies and with adversaries – will be more important than ever in order to avoid this era’s rampant potential for miscalculations and their catastrophic consequences.

As with the ongoing crisis in the Gulf, U.S. policy in the Arctic reveals short-sighted goals that are ultimately counterproductive to the long-term security of the United States and the international community. The zero-sum narrative driving U.S. policy at present ultimately serves short-term domestic political goals and interests. In the long-term, aggressive diplomatic and military posturing, undue criticism of allies, and unilateralist behavior in international treaties damages U.S. credibility, weakens international law, undermines the international institutions that the United States helped create, destabilizes geostrategic regions, and places U.S. national security interests at risk in geostrategic regions in the longer-term. In order to secure these interests in the Arctic and in other areas, the United States must accede to UNCLOS.

Ultimately, this unilateralist strategy, in which there is the perpetual anticipation of adversaries but the preclusion of partnerships, may in time reveal itself as being akin to the “Maginot lines” of WWII: ineffective, unnecessary, and self-fulfilling, eventually leaving the United States on the outside of the international order that it built, looking in. In the words of scholar Stephen van Evera, the prime threat to the security of modern great powers may just be: themselves.⁴⁴³

⁴⁴² Ibid.

⁴⁴³ Stephen van Evera. "Offense, Defense, and the Causes of War." *International Security* 22, no. 4 (1998): 5-43. Page 43 in particular.