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These seven statements, while simple, represent the complex notion of what it means to advance students’ understanding of the world around them, as is the purpose of educators.
Welcome back for another exciting season of Public Forum debate! The first two months of the year, Public Forum debaters will be discussing the United States and its refusal to accede to the United Nation’s Law of the Sea. The Law of the Sea has been debated in U.S politics for over four decades at this point, and it has drawn passionate bipartisan support on both sides of the issue. This topic is exciting to me primarily because it draws debaters into a unique research topic that goes beyond the usual discussions of foreign policy. While I’m sure many of you have been preparing to discuss this topic for most of the summer, for some of you this topic may still be fresh and intimidating, but once you dive into the literature, you’ll realize that the debate is a fairly straightforward clash of basic principles and pragmatics as always.

Commonly known as UNCLOS, the United Nation’s Convention on the Law of the Sea outlines specific restrictions and clarifications regarding the usage of the sea and its resources within a certain range of a given country. In other words, UNCLOS allows certain countries the exclusive rights to resources that are within a distance of its coastline and restricts access outside of that range. Furthermore, UNCLOS requires states that harvest undersea resources to distribute those resources with landlocked countries that are party to the Law of the Sea. The treaty is somewhat complex, and my recommendation would be to read it over several times and have it printed out or downloaded for all of your debates.

At Champion Briefs, our writers are thrilled to be cutting evidence for you to read and use once again. As always, we’ve attempted to publish a wide array of arguments with multiple tiers of warranting and impacting to ensure that everybody will find something they like in our brief. As always, happy researching!

Michael Norton
Editor-in-Chief
### Pro Arguments with Con Responses

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Introduction

The September-October topic is always a deep-dive start to the debate season! After the summer, teams are prepped, rested, and eager to showcase their new skills on the national circuit. Combined with a slew of high-stakes tournaments and first dibs on bragging rights, teams usually invest a lot of time and energy into starting off strong and establishing themselves for the competitive season.

This topic is certainly on the more obscure side of Public Forum resolutions: the average American likely has no idea what the UN Convention on the Law of the Sea is, or whether or not America has ratified it. So, while arguments always interact with different partisan, class, and social identities differently, debaters face the additional hurdle of conveying their arguments which might be initially very unfamiliar to the judges. Thus, the topic forces debaters to choose between clarity and depth, as spending more time explaining opaque ideas comes at the cost of developing arguments with intricacy. Excellent teams will be able to tread the line between these two extremes and created nuanced cases that manage to cogent arguments without sacrificing brevity.
Tournament Considerations

September-October is an especially competitive topic because the tournaments are so strong. Because the topic is so long, teams should consider which tournaments to go to strategically, with an eye in mind for gathering information towards the beginning of the topic and the goal of winning as much as possible towards the end.

September-October begins with the University of Kentucky season opener. This is one of the most important tournaments to keep track of, even if you are not in attendance. This is when teams fresh from summer practice from all around the country will showcase their strategies. The arguments displayed at UK are usually solid representations of the contentions which will be fielded later on in the topic. Listening to them, writing responses, and learning about the strategies involved in their execution is an invaluable part of preparing for future tournament. The UK season opener is also an important barometer for the receptiveness of judges towards different arguments and jargon. Debaters should pay close attention to what judges seem to like or dislike, and what terms or phrases they understand. For instance, many debaters refer to the UN Convention on the Law of the Sea by pronouncing its acronym UNCLOS, “Un-close”. This is standard fare between students who have been studying the intricacies of the topic for months, but much less so for adults who have never heard of the Law of the Sea before judging their first debate round. Picking up on what judges are receptive to and what they are not is crucial for adapting and making your arguments palatable.
Strategy Considerations

This topic is frustrating because it discusses interesting international relations topic areas, but at the same time is difficult for debaters to engage in serious marginal analysis of the topic. In other words, there are a lot of interesting impacts, but it is tough to see how much they will change based on affirming or negating.

Understanding this nuance is one of the key elements to preforming well at large tournaments. Marginal analysis is “The process of identifying the benefits and costs of different alternatives by examining the incremental effects... caused by a very small change in the output or input of each alternative.” (Business Dictionary) The ideas is essentially that we need to isolate for the incremental change that affirming implies for any impact. This might sound intuitive, but it is rarely done in debate. For instance, teams often read a series of links that end in something like this: “X impact harms US-China relations”, “US-China relations are important for solving climate change”. Marginal analysis demands a step further, asking “exactly how much will US-China relations be effected, and how much less climate change does that mean”. Marginal analysis is an important way to look at policy topics, because reality rarely lies in absolutes. Few policies will singlehandedly will destroy the US-China relationship, so knowing the scale of the change is a pretty essential part of gauging the size of the impact. A tiny marginal change in the likelihood of nuclear war is probably a smaller impact than a large marginal change in unemployment.
Why does this matter for the topic? Because ratifying the UNCLOS has tons of interesting impacts, but the margins of those changes are unclear. Arctic drilling is important, but exactly how much will it change? These questions are crucial because they determine the real world implication of ratification. Teams that are able to make their margins seem large, while casting doubt on their opponents will be in a substantially better place.

There are a few easy ways to engage in marginal analysis in round. The first is the simplest: Ask your opponents “how much?” in crossfire. Their first contention discusses the increased risk of conflict? Ok, but how much? The vast majority of teams are ill prepared to engage in this level of specificity, but the implications are immense. Judges will instinctively distrust and be skeptical of claims made by teams that have giant impacts but cannot explain how much those impacts will change by. This is a strong way to win credibility from the judge, putting your opponent on the defensive for the rest of the round.

Another way to do marginal analysis is to use past examples. It may be hard to predict with certainty the exact changes that come with affirming, but history provides a template. How has UNCLOSE impacted other states, or has the US done anything similar in the past? These examples serve to couch your arguments in familiar, understandable terms for the judge. This makes the impacts you draw seem credible and reasonable, while your opponents’ arguments are nebulous and theoretical.

The last way to do marginal analysis, and the most difficult, is to find incredibly specific pieces of evidence which specify exactly how much UNCLOS would change things. Having highly
specified link level evidence is incredibly persuasive to most judges, especially when talking about big impacts. A team can persuasively say that the only ‘real’ impacts, that the judge knows will happen ‘for sure’ are theirs, because their evidence specifies the degree of change that affirming will cause.

This topic is especially hard for marginal analysis, because the US has never adopted something similar to UNCLOS. Teams should expect that their opponents will have vague, general impacts without grounding their cases in specificities. Take advantage of this and prepare. Be ready to exploit their lack of specificity, and point out their dearth of marginal analysis to the judge.

**Affirmative Argumentation**

The affirmative should think about high impact arguments where the marginal change from affirming is high. This would allow pro teams to collapse onto strong, intuitive arguments which judges will find persuasive. To do this, teams must first figure out what impacts are most significant.

One area of key importance for the future of the United States is rare earth metals. Rare earth metals are used in a variety of important technologies, from cell phones to microchips. The control of rare earth metals is an integral part in the ability to produce cheap technology reliably. The price of technology is also a crucial factor in innovation: if semiconductors are cheaper, more firms can experiment and launch semiconductor research, and the startup cost for new technology firms decreases.
The continued domination of cutting edge technology is one of the most important public policy goals for the United States. In order to fully understand the current situation, we must consider why technology has historically been so important for US strategy. During the cold war, American dominance over cutting-edge science bolstered our deterrence against the USSR, provided the economic growth needed to make our allies feel secure, and exposed the flaws of central planning. Since the mid-20th century, the technology-first approach to American grand-strategy has been supported by established doctrine. In 1983, the Defense Intelligence Agency published a report under the program ‘Project Socrates,’ in an attempt to understand how to ensure the endurance of American power. They wrote: “The exploitation of the technology is the most effective foundation for decision making for the complete set of functions within the private and public sectors that determine U.S. competitiveness.”

The United States is not the world’s most populous nation, nor the richest in every natural resource—the fundamental source of strength of American economic strength is our qualitative edge in research. With the erosion of our productivity by technologically superior rival powers, America cannot realistically maintain its global influence and leadership.

UNCLOS is vitally important for securing rare earth metals. In the future, human being may deplete existing land-based stockpiles of metals, and need to dig for them in the sea. Some scholars believe that without the international legal protections of UNCLOS, the United States will not be able to effectively exploit offshore rare earth metal deposits.

“Seabed mining, in the Arctic and elsewhere, is also becoming an important strategic interest for the United States. U.S. companies increasingly seek to engage in seabed
mining for minerals such as rare earth elements and cobalt that are critical to the broad
U.S. economy and used in producing defense assets. However, as long as the United
States remains outside the international legal protections afforded by UNCLOS, the
private sector remains hesitant to invest in seabed mining – investments that would
reduce U.S. vulnerabilities to external pressure and supply disruption. Indeed, since few
suppliers provide such minerals and they are prone to intentional or unintentional
disruptions and price spikes, increasing U.S. production will help prevent suppliers from
exerting political and economic leverage over the United States and its allies.”

This is a strong argument for two reasons. First, because the impact itself is large. The
ability to continue to lead the world in technology, innovate new solutions, and maintain the
production of cutting-edge developments is one of the most important aspects of American
public policy. Second, the margins are good. The evidence suggests that without UNCLOS,
American companies may be denied the opportunity to engage in the rare earth metal mining
of the future, effectively cutting America out of the picture.

Negative Argumentation

Much like the affirmative, the negative should pick impacts based on their magnitude as
well as their margin. What are the theoretical harms of UNCLOS, and how much does

---

ratification ‘push the needle’. Being able to ground your impacts in generalities, as opposed to a nebulous fraction of a larger idea makes them much more persuasive.

One idea which has a tangible and well-measured impact is the UNCLOS effect on piracy. The theoretical impact of piracy is huge: billions of dollars, and fueling corruptions in war torn areas such as Somalia. Winning a significant chunk of these impacts would be round winning, because they might perpetuate civil war and instability in the horn of Africa.

The marginal effect of UNCLOS on piracy would be substantial. The provisions in UNCLOS which enshrine sovereignty would complicate antipiracy operations and hurt merchant efforts to defend themselves:

Several factors make naval patrols the only true legal and practical option. Only warships can seize pirates under UNCLOS, and the IMO strongly cautions against arming merchant ship crews or carrying private security forces on-board because of the possibility for escalation of violence during pirate attacks. Moreover, Somalia lacks the power to control its own maritime territory, and so international antipiracy efforts necessarily do the job for it. The UNCLOS provisions that protect coastal states’ sovereignty would hamper antipiracy efforts. Since UNCLOS permits the establishment of a state’s territorial sea at the waters within twelve nautical miles from the coastal low-water line, and Somalia is a signatory of the treaty, pirates operating in a vast area around Somalia’s long coastline could theoretically harass and hijack ships with a manner of double impunity. States have thus gone to great lengths to address that
obstacle. Yet safeguarding their ability to exercise jurisdiction in foreign territorial waters for enforcement purposes did not provide the broad and flexible adjudicative jurisdiction states today require.²

This is significant because it allows the negative to win the “strength of link” debate. Explaining marginal analysis to a judge is simple, just frame it in terms of comparison. “Our opponent’s impact is nebulous. They assert that ratifying UNCLOS will lead to some degree of change in X, which will have some degree of impact. But they never tell you HOW MUCH. On the other hand, if you vote Neg, you know FOR SURE that you save X amount of lives from piracy.” The ability to make a judge doubt the credibility of your opponent’s link-story is incredibly valuable. No matter how solid their impact of how dominant their strategy, if your opponents are unable to convince the judge that their impacts will materialize in the real world, they might as well not make the argument at all.

These arguments are just the beginning of what promises to be a very interesting topic. My advice is not to run these particular points, but to use them to think about other arguments. Specifically, always remember the value of being able to answer the question “how much?” The team that is able to clearly articulate the extent to which Affirming or Negating will affect their impact will almost always win the round, especially on a topic like this one where those distinctions are so unclear.

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² Kelley, Ryan P. "UNCLOS, but No Cigar: Overcoming Obstacles to the Prosecution of Maritime Piracy." Minnesota Law Review. Vol. 95, No. 6 (June 1, 2011): 2285-2317.
Good luck everyone!

About Jakob Urda

Jakob grew up in Brooklyn, New York. He attends the University of Chicago where he hopes to receive a BA in Political Science in 2019, and is interested in security studies and political economy. Jakob debate for Stuyvesant High School where he won Blake, GMU, Ridge, Scarsdale, Columbia, the NCFL national championship, and amassed 11 bids. He coached the winners of the NCFL national tournament, Harvard, and Blake.

Introduction

The September/October Public Forum resolution is an anomaly in that thousands of students around the country have attended summer institutes in preparation for the topic, and thousands more are beneficiaries of the investments of their teammates and peers. As such, September debates tend to be more prep-intensive than those in the remainder of the season.

By nature of the subject, this year’s September/October resolution is further complicated by the substantial sum of potential arguments. Conversely, it is simplified by a near-universal general knowledge of the premises for most of the arguments commonly discussed. The best teams will integrate evidence with analytics and will not be overwhelmed by significant amounts of prep, both in terms of resisting the temptation to card dump and with respect to the gamut of arguments and responses that will be run against them in round.

The resolution, which concerns the Law of the Sea Treaty (LOST), is also significant in that it will serve as a vehicle through which teams will begin to recruit and instruct novice debaters at the outset of the academic year. The interesting interactions between affirmative and negative positions on this topic, with numerous advocacies on a given side delineating the same exact link chains or impacts as those of the opposing side, establishes a unique educational opportunity for students new to the realm of Public Forum to expand their comprehension of the activity on a structural level. Simultaneously, it provides a chance for
more experienced debaters to improve round vision, break from the inclination to debate each argument statically, and develop a working understanding of how arguments on different parts of the flow relate to one another. In the back half of the round, for the frequent debates in which both teams run the same impacts, such as the disruption of trade in the South China Sea, climate change, or conflict between the United States and another great power, link weighing is paramount. When teams provide the same link story, for instance, through legal certainty, debaters must learn how to veer away from attacking warrants in favor of focused, well-weighed responses on the impact level.

**Strategic Considerations**

Though on face, the topic seems limited, upon exploration, a wealth of literature exists in support of a vast array of arguments to be developed on both sides. Teams with strengths in specific issue areas will not find it difficult to capitalize upon a particular aspect of LOST, whether it be the economic, geo-political, ethical, or environmental ramifications of ratification.

The extensive spectrum of argumentation lends itself well to the stylistic differential between major tournaments. Though new, the UK Season Opener, an octofinals bid, drew highly competitive teams and a technical slate of judges in its first year. In previous seasons, Grapevine’s pool has been a mixed bag, with policy-esque coaches, notable PF alumni, and local parents; the judging reflects its entries, which the Texas circuit mostly comprises, along with a handful of out-of-state teams. While Yale attracts some of the country’s most experienced teams and judges, the sheer size of the pool saturates both the competition and the judging with a variety of styles and levels of experience. Debaters should expect numerous judges with
a background in parliamentary debate from Yale’s own team and former national-circuit PFers, but also various parents from around the country; in this regard, teams that do well at Yale effectively adapt to the diverse pool. Bronx ranks among the most technical tournaments of the year; there is a good chance that the average competitor at Bronx will be paired with an experienced flow judge, six out of seven preliminary rounds.

In terms of casing and in-round strategy, competitors ought to consider these factors when tailoring their approach to the topic. Formation of an intuitively true, organized narrative constitutes the best chance of appealing to a range of judges and is the most decisive component of debate in front of lay and flay judges. Even in more technical settings, a cohesive thesis is often what beats a disjointed slate of independent pieces of offense.

The most successful debaters will ask themselves a litany of questions regarding the underlying principles guiding arguments on the topic, based on which several strategic decisions must be made. Whether or not it is the case that ratifying LOST will expand America’s sphere of influence and military capabilities, is U.S. hegemony positive, on balance, and how does it affect real people around the world? Regardless of whether arctic drilling occurs, should environmental considerations be prioritized over a healthy economic outlook? Before running a contention centered around the legitimization of UNCLOS, ask yourself whether international institutions are inherently good for the world. Assuming any given answer to those questions and others, champions on the September/ October resolution will have definitive justifications for whichever interpretation they decide to advocate for.

Although most Public Forum teams and judges default to utilitarianism, a philosophy which maintains that approaches stimulating the greatest good for the greatest amount of
people ought to be prioritized, there is also room for powerful deontological arguments, which examine the disproportionate impacts of ratifying UNCLOS on specific marginalized groups. Framing for such arguments should begin in the first half of the round and must entail defensible justifications for why impacts to a small group, for example, an indigenous community in the Arctic, ought to be weighed more heavily than impacts to the majority. Moreover, deontological framing can also be utilized to challenge widely accepted but possibly problematic assumptions, such as those underpinning anthropocentrism or the fairness of environmental degradation in the pursuit of human material gain.

At the crux of the resolution is a juxtaposition of time-sensitivity and stagnation; the latest rendition of the treaty negotiated several decades ago; some aspects of the topic will remain consistent for the duration of the fall and perhaps for years to come. However, the geopolitical context of the resolution is in constant motion, demonstrated by recent decisions such as that of the Trump administration to pull out of the Iran nuclear deal while saber-rattling among Southeast Asian governments continues to proliferate; as such, it is crucial for debaters to continue to research, follow the news, and keep their eyes on hotspots such as the South China Sea and the Strait of Hormuz, as escalatory rhetoric and military exercises are heightening pre-existing tensions, engendering volatility which could easily boil into conflict. Parallel, the Trump administration’s agenda of environmental deregulation, in conjunction with the objectives of the current Republican House and Senate, compounded with new technological advancements and the discoveries of vast resource deposits around the world is drastically altering the legality, viability, and profitability of extraction efforts. For instance, Congressional approval of leasing recently opened the Arctic National Wildlife Refuge for oil
and gas drilling\(^3\), just as the International Seabed Authority (ISA) met to draft protocols concerning deep-sea mining to protect marine ecosystems\(^4\). Such actions affect the applicability of a litany of arguments and considerably change the argumentative landscape.

**Topicality**

The resolution itself is straightforward, with only the phrase “without reservations” truly leaving room for interpretation. When a state makes a reservation to a multilateral treaty, it takes exception to one or more provisions. A valid reservation adjusts the state's rights and obligations under the treaty with respect to the objectionable portion\(^5\).

In the past several decades, prominent multinational conventions have prohibited most if not all reservations. Given that these conventions are legislative in character, uniform application of their rules among the states parties to them is vital, even if the prohibition on reservations dissuades some states from becoming parties to the conventions. Moreover, complex multilateral treaties often embody a "package deal" involving compromises made among diverse interests; any reservation could unravel the package. UNCLOS is one such example\(^6\). The uneven application of regulations and responsibilities threatens the legitimacy of international institutions, which rely upon cooperative, multiparty implementation to succeed.

Because the United Nations Convention on the Law of the Sea prohibits reservations, the affirmative team must prove that the United States should accede to the treaty in its entirety, the alternative to which is not being party to the treaty; in other words, there is no room for a negative counterplan that advocates for ratification with reservations.
Some teams will attempt to argue that “reservations” is a term of art, implying that the United States, in an affirmative world, would formally accede to UNCLOS without any legal stipulations, but would have *de facto* reservations. The U.S. would not attempt to renegotiate its obligations under the treaty, but would not comply with specific objectionable provisions, given the current political climate, among other factors.

One problem with this interpretation of the resolution is that it renders nearly every argument on the topic non-unique and leaves both sides with minimal ground. In practice, the United States already complies with the majority of UNCLOS provisions\(^7\), though much of this compliance is not legally mandated or enforceable and may change. In this respect, the provisions that the United States would be unlikely to comply with in the real world, it already does not abide by; the provisions that are likely to be followed or are already followed. If the U.S. could selectively ignore parts of the treaty considering current popular or political opposition, there would be no difference between the affirmative world and the status quo, besides the consequences on in international clout and its ability to effect internal change within UNCLOS.

**Affirmative Arguments**

There are two overarching themes for the common arguments on the topic; resources, multilateralism, and hegemony, with the latter having implications for the American role in UNCLOS as an institution and in the global commons in direct interactions with other states.

The former theme is reliant upon a series of internal links concerning legal certainty. Popular literature on the topic postulates that American companies are interested in exploring
the vast and highly profitable reserves of resources found in the Arctic and the deep sea but lack the international legal certainty necessary to make an investment with such high upfront costs, especially outside of the Exclusive Economic Zone (EEZ), where American claims could be challenged by other countries. Ratification of UNCLOS would provide a clear, legally defensible framework within which companies could make investments and minimize risk.

The legal certainty link story opens several avenues for argumentation, the first of which concerns drilling. The Arctic, which contains extensive untapped oil and natural gas reserves, is a hotly contested region, with a plethora of global powers laying overlapping claims to it. Big Oil has expressed a reluctance to enter the Arctic to drill in the absence of ratification. If Arctic drilling happens in the affirmative world, it would grant the United States access to a significant cut of global reserves, increasing energy security by decreasing volatility, ensuring energy independence, and decreasing the scarcity of oil which, in turn, would drive down prices. Decreasing oil prices is key to reducing fuel poverty, as the poor spend a larger share of their incomes on fuel, and energy-intensive industries like agriculture pass down costs to the consumer; as a result, declining oil prices would also drive down the costs of food and consumer goods. Furthermore, even conservative estimates note that Arctic drilling would generate thousands of jobs and millions if not billions in revenue.

Russia is increasingly projecting hard power in the Arctic. A legitimate U.S. presence could also deter it from further militarizing, serving as an important counterweight to Russian aggression, as the region continues to garner international attention and accrue geopolitical significance as an emergent strategic frontier.
Resource extraction enabled by the legal certainty afforded by UNCLOS could also open the door to deep seabed mining for Rare Earth Metals (REMs), which are critical components of green technology, including electric car batteries, solar panels, and wind turbines. Additionally, REMs are necessary to produce an array of American military technologies.

Article 82 of LOST obligates coastal states to make royalty payments on resource extraction beyond the EEZ, to begin at the rate of 1 per cent in the sixth year of production, increasing by 1 per cent per year to a maximum of 7 per cent in the twelfth year. Royalties are to be paid to the ISA to parties identified by the Authority. Article 82 could mandate the United States to indirectly provide humanitarian assistance to developing, landlocked states throughout the process of REM and oil drilling.

As a leader in the international community, the United States spearheads several initiatives that maintain peace and stability. One such project is the Proliferation Security Initiative (PSI), in which member states, led by the U.S., collect information and conduct interdictions to keep weapons of mass destruction out of the hands of rogue states and terrorist organizations. As conflicting interpretations of UNCLOS lend themselves to criticism of the PSI, which is said to violate the right to innocent passage enshrined in the treaty, American involvement can shape the standing interpretation, resolve dissonance surrounding the PSI, and increase participation. Similarly, the United States, once party to UNCLOS, could more effectively mobilize a multilateral response to international issues such as piracy, pollution, and Chinese aggression in the South China Sea.

In addition to arguments about resources, the United States also has much to gain from ratification. Controlling the direction of discussions, enforcing tribunal rulings, providing moral
backing for current and potential allies party to the convention, and thwarting the passage of
amendments harmful to American interests are just a few roles the United States could play if it
accedes to UNCLOS, especially as China and Russia move to contravene them.

**Negative Arguments**

The extraction of resources has serious ramifications for the environment. Oil spills
would be an inevitable consequence of drilling, decimating Arctic ecosystems and the
communities that rely on them. As the Trump administration deregulates drilling, the
probability that spills occur more frequently and severely rises. Worse yet, factors such as
remoteness and extreme temperatures complicate cleanup efforts. In many areas of the Arctic,
using current technology, oil removal after a spill is an impossibility.9

In addition to the potential for spills, lowering oil prices will also increase demand for
oil, which is detrimental given that fossil fuel consumption drives global greenhouse gas
emissions, contributing to anthropogenic climate change. Carbon dioxide, black carbon, and
methane trap heat, expediting and exacerbating the catastrophic climate change impacts that
will shake hundreds of millions if not billions of people in the coming decades,
disproportionately affecting the world’s poorest in low-lying coastal states. The process of
extracting Arctic resources is also inherently problematic, as icebreaking to reach oil and gas
reserves will expedite the melting of polar ice caps, which serve as carbon sinks and stem
warming through the albedo effect.

Relatively, REM mining has notable environmental harms. Laced with radioactive
materials, separating the wheat from the chaff requires huge amounts of carcinogenic toxins,
and processing one ton of REMs produces a subsequent 2,000 tons of toxic waste. Near mines and refineries in China, neighboring towns suffer from extensive water pollution, health problems, and cattle mutations\textsuperscript{10}.

While royalties could go to countries in the developing world, countries afflicted with terrorism or government corruption could see humanitarian aid stolen or otherwise appropriated by terrorist organizations, or inadvertently strengthening exploitative regimes. In this case, not only would aid fail to reach the people who need it, payments could further deteriorate the already dire humanitarian state in some developing countries, empowering oppressive forces and making governments generally less responsive and accountable to their people.

With accession to UNCLOS, though the United States will have the opportunity to shape interpretations of existing law and the establishment of new provisions, it also becomes subject to that law. If the American interpretation does not prevail, the U.S. will be forced to defer to the dominant interpretation without reservations, even if this contravenes American interests; this could lead to the discontinuation of American participation in the PSI, which could collapse the initiative, as the United States conducts most interdictions.

American accession to UNCLOS and the subsequent guarantee of freedom of navigation threatens to upset the precarious balance of global affairs. An American-led coalition of Southeast Asian states would surely upset China, which may further aggress in the South China Sea or pursue military confrontation instead of coming to the negotiating table in the face of mounting pressure, especially as it perceives the South China Sea to be an immutable fixture of
its nation. An expansion of the U.S. sphere of influence may not de-escalate the situation, but instead aggravate China and increase the probability of trade wars and conventional conflict.

About Eden Medina

Eden Medina debated for four years in Public Forum for Charles W. Flanagan High School in Pembroke Pines, Florida. She accrued ten career bids to the Tournament of Champions, qualifying to the TOC and NSDA Nationals three years in a row. As a junior, she placed in the top 16 at the TOC and 11th at NSDAs, earning her auto-quals to both tournaments. Eden championed both the Tradition Round Robin and the Crestian tournament proper two years in a row (2016, 2017), as well as Nova Titan (2016), the Sunvitational (2018), and the California Round Robin. She is the FFL Varsity State champion (2018) and most recently placed second at NDSA Nationals. Eden and her partner also championed the Ivy Street Round Robin (2018) and Barkley Forum for High Schools (2018), where she won the first and second place speaker awards, respectively. She reached semi-finals at Bronx (2017) and Harvard (2018), along with other deep elimination rounds at bid tournaments across the country. Eden won speaker awards at tournaments ranging from Berkeley (2017) to the Harvard Round Robin (2018) and received the 4th place speaker award at the 2018 TOC, where she reached octofinals for the second year in a row.

Works Cited


Introduction

As with any topic, one might want to start by asking why the NSDA has chosen this area of discussion for September and October. This may give insight into what a lot of judges may think are the most important ideas on the topic and thus the most important things that debaters should be touching upon to win ballots. In light of the other choice offered about arms sales to Taiwan, these two topics seem to be timely given the recent discussion about the rise of China and what geopolitical implications this might have for the United States and for the world at large.

Additionally, this topic is timely because it relates to President Trump’s unwillingness to participate in international agreements and his distrust generally of the current world order. Steps he has taken in this direction include being cautious of NATO, backing out of many potential free trade agreements, as well as many specific actions within the United Nations. This means that if the United States chose to accede to UNCLOS at this time, it would represent a marked shift from the United States’ current foreign policy trajectory.
All of this is a long way of saying, it might be time to get your IR hats on and think about how nations function as actors on the world scene, what kinds of incentives govern their decisions, and what sorts of power do international institutions really have.

Tournament Considerations

September and October and known for having two of the most important tournaments of the year (Yale and Bronx), as well as many smaller tournaments throughout the months. For the smaller tournaments like Wake Forest, Georgetown, Manchester, etc. it is best to just keep debating as you know works in these more localized competitions. The judging can vary from place to place depending on regional preferences, so it is hard to give specific recommendations that apply to all. However, there are a few important things to note about Yale and Bronx.

Yale is the first tournament of the year for most people, which means a few things. For one, most people will be fresh out of camp with the same strategies and case ideas you heard there. This means that if you went to camp, you should spend time trying to revise your strategy to remedy whatever was not working there, but also you can rely on the fact that many teams will be running the same ideas, so it should be easier to preempt them and be prepared to deal with them effectively. If you did not go to camp, you can find out what people were running by asking a friend or watching rounds online that were recorded at camps. Yale being the first tournament for many also means that many people will likely be rusty from the
summer. This means practicing a lot beforehand to get yourself in the mode of debate can really give you an edge over the rest of the competition.

Bronx is perhaps the more competitive of the two big tournaments in September and October. This is because Bronx usually has a greater variety of teams from across the country, which means the best of the best will be there, both in terms of opponents and in terms of judging. Bronx is known for having some of the most tech judging of the year, so speed and complexity are welcome, but it is always best to remain capable of adapting to more traditional or parent judges just in case. Additionally, Bronx is where teams tend to throw out their camp cases in favor of a revised strategy, so be sure to stay on your toes!

**Strategy and Weighing**

In this section of my topic analysis, I will start by looking at strategy considerations on the link level and then considerations on the impact level because there is room to develop a round winning strategy based on either one. However, the best teams will be able to master both and thus force their opponents to overcome good arguments on two different levels of argumentation.

On the link level, the first thing to consider is whether the US will even follow international law. This is probably the most obvious issue with the resolution—given that Donald Trump has a history of reneging on agreements and has shown an unwillingness to follow them, why would UNCLOS be any different? While this is a worthy concern, it might not matter in the context of this topic because both sides depend on the US following UNCLOS for
impacts. The pro will be arguing that following UNCLOS is a good thing and the con will be arguing that it is bad. This means it is unlikely anyone will really bring this up in round because anyone who does so would be shooting themselves in the foot. Additionally, even if someone does read this kind of response it is not hard to respond to. First, any analysis that pertains to Trump is purely short term because once he leaves office, we should be back to business as usual. But, second, even if your opponent offers alternative reasons for why the US would not listen to international agreements, they certainly can’t prove the US will not follow international law in any instance. This means that if you can win that following UNCLOS even in a small number of cases, you should be able to win, if you can outweigh on the impact level.

The second important thing to note about link level argumentation on this topic is that because most teams are going to be making arguments about the US following UNCLOS, the initial links into arguments will be largely the same. For example, many arguments will likely focus around the US being sued by other countries for not following international law or the US paying royalties to landlocked nations on mining that they may do in the sea. Both links could provide either the con or the pro with good arguments, which is good because it limits the scope of a very broad debate about international law, but it can be challenging because it means that to win, teams are forced to go much deeper in their analysis. I will get more into the nuances of the most likely links in the sections of my topic analysis that deal with each side individually.
On an impact level, as with any topic, there are arguments that can impact out to lives and there are arguments that impact out to quality of life. Though on many topics, saying you “outweigh on lives” is seen as a trump card, on this topic the debate is more evenly matched.

Arguments that pertain to life on this topic include those about carbon emissions and marine biodiversity (which impacts to human and animal lives—each one worthy of weighing). Arguments that pertain to quality of life include royalty arguments about poverty and civil conflict and arguments about lawsuits in the United States that impact out to rising energy prices and subsequent hardships on poor families. The scope is large enough on these quality of life arguments that it would not be unreasonable to say that they matter a lot more than the arguments that impact out to lives directly. Furthermore, many of these issues do eventually impact back to the loss of life, even if it is not immediately obvious. For example, if energy prices rise in the United States, this means that poorer families will have less money to spend on food and medical care, reducing the quality of each, certainly creating the possibility of premature death. There are many statistics that exist about how much more likely a poor person is to die prematurely than a wealthy person.

**Affirmative Argumentation**

There are two main types of good arguments for each side on this topic, so in this section I am going to talk about how you can construct arguments in either category to your advantage.
The first category to consider is lawsuits. The link story is something like this: once the United States becomes a member of UNCLOS it will be subject to prosecution on the special tribunal for the law of the sea. This means that violations of all sorts of laws can be brought to court against the United States to make sure that the United States follow them.

This means that many small island nations may sue the United States for its lack of regulation on the emission of greenhouse gases because their emission has led to rising sea levels which harm the economic potential for many of these nations. Being one of the largest polluters of the air in the world, the US is likely to lose these suits because they are very clearly in violation of the law. And, if the US were to follow through with enforcing these laws, it could mean that coal plants in the US will be forced to significantly scale back their emissions if not shut down altogether.

This is obviously good because it means that the US will no longer be contributing to global warming as much, thus mitigating the rising sea level and unfavorable weather conditions that lead to insecure farming and loss of life from natural disasters. Many teams will respond to this impact by stating that we have passed the point of no return with climate change, so it is pointless to argue about future carbon emissions. However, it is easy to respond to this by saying that the ultimate effect may be the same regardless of these emissions, but we can at least slow the process and prolong human life a little longer, which is certainly a worthy impact.
The more nuanced impact could be proving that fewer people will die in the United States due to air pollution. At least hundreds of thousands of Americans die every year due to air pollution, unrelated to the effects of climate change. At least saving those people should be worthy of a ballot. This makes for very clean and succinct weighing that is hard to disagree with. Even if the shift away from fossil fuels is inevitable, as many teams will argue, at least this speeds up the process, which will save lives in the interim that otherwise would have been lost.

The second category of arguments are those that have to do with royalties paid to landlocked nations. Part of the most recent provisions to UNCLOS stipulate that nations mining for natural resources in their surrounding waters must pay a certain percentage of their revenue to landlocked nations so that they may spread the wealth of the sea. This makes sense given that it is arbitrary and random which countries are given access to water, and thus some countries should not be punished because they were unlucky.

Many con teams will be arguing that giving large amounts of unconditional aid to these governments is bad because it will increase corruption since the rulers will only use it to prop up their government instead of helping the people. This means that to win this point on the pro, teams will need to sufficiently warrant why governments have an incentive to help their people.

There are many reasons why this might be the case. Some governments are altruistic and thus they may help their people simply because that is their job. However, even governments officials who want to secure their own position in power will likely try to help
their people to make sure that they don’t revolt against the government. Furthermore, there are international incentives as well. Governments would like to look good in the eyes of the international community because it means they can keep receiving this steam of aid money, but it also means that they can get help and cooperate with other countries on future issues to come. All of these are good reasons why the governments of land locked nations may use this money for good. Then the question becomes: how will they use the money for good? This is critical to answer because this is where teams can decide what specific impacts to run. Governments could potentially spend money on social programs to help the poor, infrastructure, direct stimulus to the economy, or any number of helpful programs.

**Negative Argumentation**

As with the pro, there are two main categories of arguments worth running on this side. The first are those pertaining to lawsuits and the second are those pertaining to royalty payments.

For lawsuits, the link story remains the same: small nations most affected by global warming will sue the United States, causing the US to curtail its greenhouse gas emissions. However, the story after this is far different than how it is told by the pro. Instead of saying that reduced emissions will save lives, the con will be arguing forcing a swift shift to renewable energy before the market is ready will cause drastic price spikes in energy costs, which will force many Americans into poverty.
Indeed, there are many statistics that quantify and delineate the harms to hundreds of thousands of individuals for just a modest rise in prices. This can outweigh pro arguments on lawsuits because you can argue that the benefits are non-unique since there will be a shift toward green technology in the long run anyway as the prices become comparable. The only difference is whether people are forced into poverty now by the drastic shift in availability on the market.

The second category of arguments are, again, those about royalties that countries must pay to land locked nations under UNCLOS for drilling in their coastal waters. The pro team will be arguing that unconditional transfers of money are good because it means that the government will have the capacity to do good for its people that otherwise would go undone. However, it is easy to argue that structural problems in many landlocked nations mean that a steady flow of cash will not help their impoverished situation, and if anything, make it much worse.

Because landlocked nations are much poorer than their coastal counterparts due to the lack of access to trade, it means that the governments of these nations are much more susceptible to corruption. This means that the governments of these nations are more likely to pocket the money. Even if they do not pocket all of it, pocketing some of it will cement their position in a place of authority, which will make all future democratic reforms much less likely. This will increase inequality by ensuring that few government programs will ever be used to help the poor since legislators will look out for their own monied interests.
Another reason giving unconditional money to landlocked nations may be counterproductive is that many of these nations are in civil wars, which means that more money only acts as fuel to the fire giving the governments of these nations more money to spend on fighting and more capacity to kill people – most tragically innocent civilians.

Additionally, for nations not in civil wars, more money will mean that the governments of authoritarian regimes will be able to oppress their people even more by conducting more raids and cracking down on the rights and liberties of their people. These impacts are easy to weigh against pro impacts on the same arguments because many of these harms are structural – meaning that they are more baked into the system and will last longer into the future. Even if some of the money is spent on good things for the people, as the money supply dwindles, we are left with incompetent governments that have only cemented their position of power and are thus harder to depose.

About Zachary Ginsberg

Zachary Ginsberg is the Debate Coach for Trinity High School in New York City. Throughout his high school debate career, Zach amassed a total of 15 bids to the Tournament of Champions and was awarded a top 5 speaker award at Bronx, Harvard, and Columbia. He has reached semifinals or further of Blake, GMU, Ridge, Bronx, the Glenbrooks, and Scarsdale. In his senior year, Zach championed the Columbia Invitational and finished in the top ten at the TOC, NCFL Nationals, and NSDA Nationals. Now, Zach is a sophomore at Columbia University, looking to major in Visual Arts and Philosophy.

Foreword: We, at Champion Briefs, feel that having deep knowledge about a topic is just as valuable as formulating the right arguments. Having general background knowledge about the topic area helps debaters form more coherent arguments from their breadth of knowledge. As such, we have compiled general information on the key concepts and general areas that we feel will best suit you for in- and out-of-round use. Any strong strategy or argument must be built from a strong foundation of information; we hope that you will utilize this section to help build that foundation.

With a headquarter in Montego Bay, Jamaica, the United Nations Convention on the Law of the Sea, also known as UNCLOS or the Law of the Sea Treaty, establishes the rights and responsibility for the nations of the world relating to oceans. “The 1982 United Nations Convention on the Law of the Sea (UNCLOS) established three institutions: the International Tribunal for the Law of the Sea (ITLOS), the International Seabed Authority (ISA) and the Commission on the Limits of the Continental Shelf (CLCS). Although structure, composition and area of competence of these institutions are quite different, they are nevertheless to be considered complementary as their task is to serve the States parties to UNCLOS in ensuring its coherent and efficient implementation, thus also securing the peaceful uses of the seas and the undisputed exploitation of maritime resources as a matter of common interest.”

Members of the Law of the Sea (Blue)
In the image above, states shaded blue represent those who have signed and ratified the Law of the Sea treaty. Including the United States, there are 15 countries who have signed the convention or agreement, but have not ratified it. In addition, there are 15 United Nations member states who have neither signed nor acceded to the Law of the Sea treaty.

**What UNCLOS Covers**

“Some of the key features of the Convention are the following:

* Coastal States exercise sovereignty over their territorial sea which they have the right to establish its breadth up to a limit not to exceed 12 nautical miles; foreign vessels are allowed "innocent passage" through those waters;
* Ships and aircraft of all countries are allowed "transit passage" through straits used for international navigation; States bordering the straits can regulate navigational and other aspects of passage;
* Archipelagic States, made up of a group or groups of closely related islands and interconnecting waters, have sovereignty over a sea area enclosed by straight lines drawn between the outermost points of the islands; the waters between the islands are declared archipelagic waters where States may establish sea lanes and air routes in which all other States enjoy the right of archipelagic passage through such designated sea lanes;
* Coastal States have sovereign rights in a 200-nautical mile exclusive economic zone (EEZ) with respect to natural resources and certain economic activities, and exercise jurisdiction over marine science research and environmental protection;
* All other States have freedom of navigation and overflight in the EEZ, as well as freedom to lay submarine cables and pipelines;
* Land-locked and geographically disadvantaged States have the right to participate on an equitable basis in exploitation of an appropriate part of the surplus of the living resources of the EEZ’s of coastal States of the same region or sub-region; highly migratory species of fish and marine mammals are accorded special protection;
* Coastal States have sovereign rights over the continental shelf (the national area of the seabed) for exploring and exploiting it; the shelf can extend at least 200 nautical miles from the shore, and more under specified circumstances;
* Coastal States share with the international community part of the revenue derived from exploiting resources from any part of their shelf beyond 200 miles;
* The Commission on the Limits of the Continental Shelf shall make recommendations to States on the shelf’s outer boundaries when it extends beyond 200 miles;
* All States enjoy the traditional freedoms of navigation, overflight, scientific research and fishing on the high seas; they are obliged to adopt, or cooperate with other States in adopting, measures to manage and conserve living resources;
* The limits of the territorial sea, the exclusive economic zone and continental shelf of islands are determined in accordance with rules applicable to land territory, but rocks which could not sustain human habitation or economic life of their own would have no economic zone or continental shelf;
* States bordering enclosed or semi-enclosed seas are expected to cooperate in managing living resources, environmental and research policies and activities;
* Land-locked States have the right of access to and from the sea and enjoy freedom of transit through the territory of transit States;
* States are bound to prevent and control marine pollution and are liable for damage caused by violation of their international obligations to combat such pollution;
* All marine scientific research in the EEZ and on the continental shelf is subject to the consent of the coastal State, but in most cases they are obliged to grant consent to other States when the research is to be conducted for peaceful purposes and fulfils specified criteria;
* States are bound to promote the development and transfer of marine technology "on fair and reasonable terms and conditions", with proper regard for all legitimate interests;
* States Parties are obliged to settle by peaceful means their disputes concerning the interpretation or application of the Convention;
* Disputes can be submitted to the International Tribunal for the Law of the Sea established under the Convention, to the International Court of Justice, or to arbitration. Conciliation is
also available and, in certain circumstances, submission to it would be compulsory. The Tribunal has exclusive jurisdiction over deep seabed mining disputes.”

The purpose of the International Tribunal for the Law of the Sea (ITLOS) is to settle disputes between nations. Today, The Tribunal has jurisdiction over any dispute concerning the interpretation or application of the Convention, and over all matters specifically provided for in any other agreement which confers jurisdiction on the Tribunal (Statute, article 21). Despite being part of the 1982 UNCLOS, ITLOS did not become fully operational until 1996. Furthermore, the tribunal was seldom used up until recently. “Although ITLOS had decided a number of cases dealing with provisional release of vessels, and had handled requests for provisional measures in cases where the merits had been submitted to an arbitral tribunal, ITLOS had only decided one case on the merits before 2010.” In the following 18 months, ITLOS had four more cases, including a dispute between Grenada and Spain over a detained vessel. These cases were significant, because now, “rather than going to an arbitral tribunal with compulsory jurisdiction over the dispute, the parties have instead agreed to go to ITLOS.”
The International Seabed Authority (ISA)

The International Seabed Authority, or ISA, is the international organization that was formed in part of the 1994 UNCLOS. Its purpose is to regulate mining and other resource extraction (drilling etc.) activities on the seabed outside a state’s national jurisdiction, an area that essentially covers most of the world’s oceans.

The ISA is run by its assembly, which is comprised of 36 UN member states. The council approves all deep sea mining operations, enforces seabed provisions set out by UNCLOS, and sets budgets to fund programs having to do with the seabed. “The Authority has developed regulations, including provisions relating to environmental protection, to govern exploration. It has so far approved 28 exploration contracts in the Pacific, Indian and Atlantic Oceans, covering more than 1.3 million square kilometres of ocean floor. In January 2017, Poland applied for the twenty-ninth exploration contract. Such contracts are held by States parties to UNCLOS and by companies sponsored by those parties. National Government participants include those from China, France, Germany, India, Japan, the Republic of Korea, the Russian Federation and the Interoceanmetal Joint Organization (a consortium of Bulgaria, Cuba, the Czech Republic, Poland, the Russian Federation and Slovakia). Contracts have also been granted to an increasing cohort of private entities sponsored by both developed and developing States parties, including small island developing States such as the Cook Islands, Kiribati, Nauru, Singapore and Tonga.”

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Commission on the Limits of the Continental Shelf (CLCS)

MEMBERS OF THE COMMISSION ON THE LIMITS OF THE CONTINENTAL SHELF

2017-2022

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“The purpose of the Commission on the Limits of the Continental Shelf (the Commission or CLCS) is to facilitate the implementation of the United Nations Convention on the Law of the Sea (the Convention) in respect of the establishment of the outer limits of the continental shelf beyond 200 nautical miles (M) from the baselines from which the breadth of the territorial sea is measured.” vi

What this means is the CLCS is tasked with processing and evaluating claims a country makes outside of its EEZ, or Exclusive Economic Zone. Furthermore, the CLCS can also make recommendations to states before they submit their claims. However, The Council is probably the most inefficient of the three branches under UNCLOS. As of 2010, out of the 51 submissions made to CLCS since its establishment in 1997, only 9 had been fully processed, and after the summer of 2009, there was expected to be another 44 submissions.vii

**The United States and UNCLOS**

The U.S. signed the Agreement in 1994 and recognizes the Convention as general international law, but has not ratified it. Before the third UNCLOS in the 1990s, President Reagan strongly opposed signing the agreement for the reason that it would undermine the American economy and military. After pushing for changes to the treaty, the United Nations created the third version of the Law of the Sea, which is the one we still have today. In the current version, tribunals can no longer force a technology transfer in a dispute that would affect a nation’s national security interests. The United States, if it were to join, would also be granted a spot on the ISA Council, and the agreement that the biggest donor (who would probably be the United States) would be automatic members of the finance committee.

So why hasn’t the United States officially ratified the treaty despite following most aspects of it? Politics. In 2007, President Bush pushed to ratify the treaty, and the bill was pushed to the senate floor. In 2012, Secretary of State Clinton testified in front of the U.S. committee on foreign relations to argue for the ratification of UNCLOS. Unfortunately for her and President Bush, 34 Republican senators wrote a letter to U.S. Senate Foreign Relations Committee Chairman John Kerry saying they would not vote for UNCLOS, killing
the chance of the 2/3 majority needed to ratify any treaty. Shortly after the treaty was pulled, Republican Senator Lisa Murkowski said that if a Republican won the 2012 election, she believed that Congress would pass UNCLOS.

Works Cited


Champion Briefs
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Public Forum Brief
Pro Arguments with Con Responses
PRO - Joining UNCLOS Increases US Energy Independence

**Argument:** By expanding our access to available energy resources, acceding to UNCLOS allows the United States to ween ourselves off foreign energy sources.

**Warrant:** One of the biggest obstacles to US exploration of burgeoning Arctic energy resources is lack of accession to UNCLOS.


“Climate change is having a sweeping effect around the world, but nowhere are these changes more economically significant than in the Arctic. The Arctic is the smallest and most shallow ocean, roughly one-sixth the size of the Indian Ocean,1 with an average depth of 987 m due to one-third of the ocean being “underlain by continental shelf.” The receding polar ice cap (figure 1) is exposing vast resource wealth in these shallow waters. According to the U.S. Geological Survey’s 2008 Circum-Arctic 2 Resource Appraisal (CARA), 90 billion barrels of oil, 1669 trillion cubic feet of natural gas, and 44 billion barrels of natural gas liquids are potentially available for energy exploration. The preponderance of these natural resources are located offshore with multiple competing claims on who has sovereign rights for exploration. Control of unexplored energy reserves will be increasingly valuable as global energy demands continue to rise, and it is in U.S. interests to secure a piece of these resources quickly and peacefully. The most prominent obstacles to realizing these resources is the U.S. lack of conformance to UNCLOS and an assertive Russia pursuing parallel interests.”

**Warrant:** Joining UNCLOS would give the United States certainty in maritime judicial disputes, which is critical as the Arctic contains 22% of the world’s undiscovered oil and gas resources.

“Climate change is heating up the race for the Arctic as receding sea ice gives way to increasing human activity. In addition to advancing new sea lanes, nations bordering the Arctic Ocean are seeking to develop offshore resources, particularly in the energy sector. UNCLOS (Part VI) gives the coastal state 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. Accordingly, the five Arctic coastal states – the United States, Canada, Russia, Norway, and Denmark (via its Greenland territory) – have made or are in the process of preparing submissions to the commission. Given that the United States has not ratified UNCLOS, U.S. nationals may not serve as members of the Commission on the Limits of the Continental Shelf. It is not clear whether the United States, as a non-state party, can even make a legally recognized submission to the commission to assert its claim and fully protect its proprietary rights and energy interests. In contrast, Russia, which may be entitled to almost half of the Arctic region’s area and coastline, has already made its submission for vastly extending its continental margin, including a claim to the Lomonosov Ridge, an undersea feature spanning the Arctic from Russia to Canada. Russia and Canada are the two countries with which the United States has potentially overlapping extended continental shelf claims. This maritime boundary dispute is no small matter. The U.S. Geological Survey estimates that the Arctic holds 22 percent of the world’s undiscovered oil and gas, amounting to more than 412 billion barrels of oil equivalent. Legal certainty in maritime delimitation is critically important for Arctic states and their respective energy companies.”
Warrant: Developing our arctic energy resources is necessary for maintaining US energy independence.


“The report comes at a time when the U.S. has cut imports, drastically transforming our nation into the biggest producer of oil and natural gas by tapping huge reserves in shale rock formations across the country. As such, America is more energy self-sufficient than it has ever been. Even so, as evidenced by strong public support for Arctic offshore development in states ranging from Alaska to Iowa, South Carolina and New Hampshire, the American people recognize that we cannot rely solely on shale oil and gas to meet our energy needs. To that point, as the NPC noted, if we fail to develop the enormous trove of reserves in Arctic waters off Alaska, the U.S. risks a renewed reliance on overseas energy in the future and will have missed a prime opportunity to keep domestic production high and imports and consumer costs low. As President Obama rightly stated shortly after the Chukchi drilling plan was conditionally approved in May, “When it can be done safely and appropriately, U.S. production of oil and natural gas is important. I would rather us—with all the safeguards and standards that we have—be producing our oil and gas, rather than importing it, which is bad for our people, but is also potentially purchased from places that have much lower environmental standards than we do. Indeed, given the long lead time necessary to develop resources in this region, the NPC study stressed that it is vital for the U.S. to take actions now that allow exploration in Alaskan Arctic waters to commence. In that regard, the recent approval for Arctic offshore drilling to occur this summer was a win for both Alaska, which is dependent on the petroleum industry to fund approximately 90 percent of its coffers, and
the country at large, which leans on Alaskan energy to meet our daily needs, especially on the West Coast."

**Impact:** Energy independence allows us to reduce our trade deficit, our dependence on foreign actors, and our susceptibility to the decisions of potentially nefarious actors.

https://www.markey.senate.gov/GlobalWarming/issues/energyindependence_id=0002.html

“The U.S. holds less than 2 percent of the world’s proven oil reserves. In order to meet its needs, the United States now imports 60 percent of its oil from foreign sources. A Matter of National Security This situation leads to a heavy national security risk. Oil money is increasingly being used to fund governments and projects that run opposed to U.S. interests. These profits often accumulate in the hands of totalitarian foreign governments that not only repress their own people, but in many cases also fund terrorist cells and training camps that amplify anti-American sentiment. The strategic importance of oil gives these producing nations great power in world affairs; history has shown that consuming countries will go through great pains to provide protection and forgive transgressions of oil producers as long as petroleum supplies continue to flow. In addition, as many developing nations increase their oil consumption to satisfy the needs of their growing economies, competition for limited oil resources will intensify. This competition has the possibility of leading to international conflict and war. Oil Imports Oil imports accounted for a third of America’s record trade deficit in 2006 and are responsible for half of the increasing imbalance since 2002. A trade balance so heavily tilted towards imports has the effect of weakening the U.S. dollar in the global economy. This consequently drives up the cost of imported goods, costs passed along to American families. Additionally, as former CIA director James Woolsey told us in a Select Committee
the United States finances its liberal oil spending by borrowing billions of dollars from creditors like Saudi Arabia and China. This dependence makes the United States more dependent on, and vulnerable to, the decisions of other governments.”

**Analysis:** This argument is valuable because it allows teams to frame the round in a variety of different ways. Energy security is vital to virtually all US economic interests, so teams that are able to successfully win the link into energy independence can use that basic impact to link into a number of negative arguments.
A/2 – Joining UNCLOS Increases US Energy Independence

**Answer:** Choosing not to accede to UNCLOS doesn’t limit the United States’ ability to explore energy resources in the arctic.

**Warrant:** Due to the isolated nature of the Arctic, it is unlikely that multiple countries will have competing claims to territory in the Arctic.


“The Arctic will remain inhospitable, hard to exploit, and far removed from the world’s great hubs of economic activity – which are increasingly shifting to Asia, where the South China Sea happens to be. What conflicts arise up north can probably be settled by peaceful means, because the poles are literally the only places on Earth with no history of warfare over territorial claims. In fact, while the Russians and Chinese are increasingly asserting themselves, so far they’ve been strikingly well-behaved. “**Today, there are some competing claims, but...it’s an orderly process and no one is building islands, drilling in someone else’s potential EEZ (Exclusive Economic Zone), or harassing each other’s vessels,”** said Bryan Clark, a retired Navy strategist now with the Center for Strategic & Budgetary Assessments. “**Unlike the South China Sea, the Arctic will not be a transit area for 30-40 percent of world trade; will not be adjacent to the homes of more than one billion people; and not subject to multiple overlapping and unresolvable claims.”**

**Warrant:** There isn’t a territorial conflict between the US and Russia (or any other country) regarding Arctic land.
“But the United States has not and will not “forfeit” a drop of Arctic oil to Russia or any other nation. For one thing, Russia’s claimed ECS area does not overlap any part of the U.S. Arctic ECS. To the contrary, Russia’s claim respects a boundary that the United States and the USSR negotiated in 1990—the “Baker–Shevardnadze line.”[36] The Russian claim extends the Baker–Shevardnadze line from the Bering Strait all the way to the North Pole, likely resulting in an excessive ECS claim in the central Arctic. However, Russia’s potentially excessive claim is located to the north of the limits of the U.S. ECS area. While the Russian claim may overlap with Canada’s ECS claim, it does not overlap any U.S. ECS area.[37] In short, there is no conflict between the United States and Russia regarding the division of Arctic resources, including hydrocarbons. Even if there were a conflict, Russia’s claim cannot be approved by the CLCS and would not be recognized by the United States (or Canada). Both UNCLOS and the CLCS’s procedural rules prevent the commission from considering any ECS area where there are overlapping claims: “In cases where a land or maritime dispute exists, the Commission shall not consider and qualify a submission made by any of the States concerned in the dispute.”[38] The United States may object to excessive ECS claims made by any member of UNCLOS even though the U.S. is not a party to the convention. Indeed, after Russia made its 2001 claim, the United States, Canada, Denmark, Japan, and Norway each filed objections with the CLCS. In June 2002, as a result of the objections, the CLCS recommended to Russia that it provide a “revised submission” on its Arctic ECS claim.[39] Russia reportedly will make an amended submission to the CLCS at some point in the future.”
Impact: Joining UNCLOS would be expensive and undermine other resource exploration efforts, hurting our economy.


“More seriously, the Treaty is responsible for a significant misallocation of resources when it comes to the Authority’s powers. Indeed, almost all deep sea mining performed under its jurisdiction by companies from industrialized states will happen at a loss. Industrialized state governments are required to levy fees and royalties to subsidize both the Enterprise and the activities of developing states. Setting fees relies on two provisions, outlined in Annex 8 to the Agreement, that amends to the Treaty. The provisions are vague, which creates significant cost and uncertainty: “(a) The system of payments to the Authority shall be fair both to the contractor and to the Authority and shall provide adequate means of determining compliance by the contractor with such system; (b) The rates of payments under the system shall be within the range of those prevailing in respect of land-based mining of the same or similar minerals in order to avoid giving deep seabed miners an artificial competitive advantage or imposing on them a competitive disadvantage;” These provisions essentially force a contracting company to pay more than it would otherwise in order to be fair to the Authority.

Because seabed mining is more expensive than land-based mining, paying for the privilege at the same rates as land-based mining adds a second layer of competitive disadvantage, despite what the Annex text purports. In all probability, these extra fees mean that any mining activities will take place at a loss, arguably the reason why progress in subsea mining has not met expectations when the Treaty was drafted. Because the Treaty misallocates resources, seabed mining has been deferred, resulting in more mining on land. Land-based mining operations are very happy with this arrangement, and are even represented in their own chamber of the Council. 24 The net
result: an institutionalized subsidy to land-based mining operations from the very existence of the Treaty, because the Treaty deters effective seabed competition.”

**Analysis:** Use these pieces of evidence to demonstrate the insufficiency of the UNCLOS framework along with its practical irrelevance. Then, demonstrate the practical costs of joining NATO in terms of royalties and taxes to answer the affirmative’s economic arguments.
PRO - Joining UNCLOS Increases Multilateralism

**Argument:** Joining UNCLOS demonstrates the US’s commitment to multilateralism and ultimately increases our soft power.

**Warrant:** By joining UNCLOS, the US signals that it is more committed to international than it is to advancing its own interests.


“The decision is a hugely important moment for the Asia-Pacific order. Yet Beijing has rejected this opportunity to play a more constructive role in the region, repeatedly stating that it will not abide by the ruling. If Beijing won’t be helpful, what can the United States do to strengthen global institutions in the region? Join the United Nations Convention on the Law of the Sea (UNCLOS), the international institution through which the ITLOS arbitration was conducted. Such an action would communicate that for the United States, resolution of maritime disputes in the South China Sea is not a question of being for or against any particular country or its claims, but rather for being on the side of international law, institutions and norms. The United States played an instrumental role in forming UNCLOS in the 1970s, and in subsequent negotiations worked to modify the treaty language to assure that U.S. national interests were safeguarded. Yet although both Democrat and Republican presidents have advocated its passing, the Senate has yet to ratify it. This is regrettable.”

**Warrant:** American global leadership is declining steadily in the status quo. Joining UNCLOS can help reverse this trend.
“One year into Donald Trump's presidency, the image of U.S. leadership is weaker worldwide than it was under his two predecessors. Median approval of U.S. leadership across 134 countries and areas stands at a new low of 30%, according to a new Gallup report. The most recent approval rating, based on Gallup World Poll surveys conducted between March and November last year, is down 18 percentage points from the 48% approval rating in the last year of President Barack Obama's administration, and is four points lower than the previous low of 34% in the last year of President George W. Bush's administration. Trend: Global Approval of U.S. Leadership The recent drop in approval ratings is unrelated to the world's being less familiar with the new U.S. administration. The global median who do not have an opinion about U.S. leadership in 2017 (23%) is similar to the 25% in the last year of the Obama presidency. Instead, disapproval of U.S. leadership increased almost as much as approval declined. The 43% median disapproval, up 15 points from the previous year, set a new record as well, not only for the U.S. but for any other major global power that Gallup has asked about in the past decade.”

Warrant: Acceding to UNCLOS reaffirms the American commitment to international law rather than self-serving interests.

https://www.hsdl.org/?view&did=706124

“Unilateral action is always the last resort, and ratification of UNCLOS helps dramatically increase the legitimacy of U.S. FON assertions when viewed from a multinational vantage
Pro Arguments with Con Responses

Rhetoric marching lock step with action will decrease PACOM difficulties convincing SCS nations that U.S. interests are not just self-serving. Although self interest plays a part, the externalities of the U.S. FON program help all coastal and maritime nations, especially those like the Philippines who do not have a strong blue water navy able to conduct these assertions on their own. Restated, ratification of the convention shows our allies and partners that we are committed to international law and a global “partnership of maritime nations sharing common goals and values.”

Impact: Multilateral action is key to achieving our goals and strategic policy considerations abroad.


“Although the U.S. is too powerful to be challenged by others militarily, it is not powerful enough to achieve its goals by going it alone. One can look at the difficulties the U.S. is facing in Iraq today as an example or look at what is necessary to enforce trade sanctions or a boycott. If one nation refuses to participate, this can undermine the boycott. One needs only to look at the cases of Iran and Cuba to understand this. In the case of Iran, neither economic bans nor political attacks have achieved U.S. aims. In fact, economic embargoes and political criticism have helped Iran become more self-reliant. Iran is actually doing better than many countries that have depended on U.S. assistance. The country has upheld the oil production quota set by the Organization of Petroleum Exporting Countries (OPEC); it remains financially sound; and it continues to maintain trade and investment with the rest of the world. In fact, Iran's economy is healthier than it was in the early1990s, with high surpluses, record high currency reserves, and making foreign debt payments on time. By binding itself to the outside world through multilateral treaties and agreements, Nye points out, the United States may lose some freedom of action. Nevertheless, the U.S. gains far more by securing other countries as
predictable and cooperative partners. These states are more likely to accept rather than to balance against American power when that power is exercised within a framework of multilateral rules, however loose that framework might be.”

**Analysis:** This argument can work in tandem with virtually every other affirmative argument. On top of other perceived benefits of the stability associated with joining UNCLOS, this argument allows affirmative teams to focus on impacts that aren’t directly related to maritime law. Instead, teams can speak more generally about the benefits of multilateralism and cooperation in the modern world.
A/2 – Joining UNCLOS Increases Multilateralism

**Answer:** Although multilateralism is generally desirable, the UNCLOS version of multilateralism would be harmful to the US’ interests.

**Warrant:** Acceding to UNCLOS would signal approval of erratic behavior on the part of China. The US shouldn’t unintentionally ally with nefarious actors.


“For example, China says that foreign warships must obtain its approval before they can do anything but pass through its exclusive economic zone. A Chinese Defense Ministry spokesman, Senior Col. Geng Yansheng, stated in 2010: “We will, in accordance with the demands of international law, respect the freedom of passage of ships or aircraft from relevant countries which are in compliance with international law” (emphasis added). Chinese officials are trying to limit U.S. naval activity in China’s EEZ’s to “passage” from one destination to another. **This means that the Chinese are claiming that heretofore lawful activities (task-force maneuvering, flight operations, military exercises, weapons testing and firing, surveillance and reconnaissance operations and other intelligence-gathering activities, and military marine data collection or military surveys) conducted in EEZs should now be treated as prejudicial to Chinese rights, including China’s duty to protect the marine environment. If these interpretations gain currency, UNCLOS will prove prejudicial to the rights of maritime nations such as the United States. Law should provide clarity, but UNCLOS is unclear as to what military activities are allowed in a country’s EEZ. China is cynically exploiting the law’s vagaries to further its political goals and its desire to project power. **Herein lies a major danger in U.S. ratification of UNCLOS. In adopting, promoting, and acting on new interpretations of international law, China is attempting to upset the status quo and establish new
norms of maritime behavior. By signing up to UNCLOS, the United States might unintentionally signal approval of these errant interpretations.”

**Warrant:** Acceding to UNCLOS would diminish the US’s ability to exercise naval power in the South China Sea.


“However, this is not the first time that the US has shown its interest in the maritime affairs in the Asia-Pacific region, especially in South China Sea. The 2009 Impeccable incident is reflective of the US intentions to maintain its hegemony through power projections, even by circumventing the marine scientific research (MSR) provisions of the 1982 LOS Convention. In the light of these observations, the US accession to the LOS Convention will have significant implications for the US interest in the South China Sea. Most notably, the LOS Convention would be applicable to the US completely as it does not allow making reservations at the time of accession. In addition, the US would be obliged to refrain from any acts that would defeat the object and purpose of the convention. Thus, by becoming a party to the Convention, the US would be constrained in the freedom to take inapt actions in the South China Sea without giving due considerations to its possible legal consequences. This may diminish the unchallenged naval power of the US in the Asia-Pacific.”

**Impact:** UNCLOS takes away the national sovereignty of acceding states, because it is meant to be authoritative rather than cooperative.

“Proponents of the Convention acknowledge the far-reaching political and legal ramifications of U.S. adherence to the treaty. University of Virginia School of Law Professor John Norton Moore, a supporter of the Convention who testified before the Senate Foreign Relations Committee on October 14, 2003, stated that he sees it as a means for fostering the rule of law in international affairs. In fact, he states that adherence to the Convention is “one of the most important law-defining international conventions of the Twentieth Century.” This is quite an assertion. In fact, it is the most troubling aspect of the Convention because the conduct of international relations for centuries has been a more a political than a legal process. Unacknowledged in the language about fostering the rule of law in international relations is the reality that in this particular case it entails subordinating the powers of the participating states to the dictates of an international authority. When it comes to the essential powers for the conduct of international relations, the use of force, and the exercise of diplomacy, they are not readily divisible but they are readily transferable. The Convention is a vehicle for transferring these essential powers from the participating states to the international authority established by the treaty itself. It represents the establishment of the rule of law over sovereign states more than it is establishing a rule of law made by them.”

Analysis: These responses amply demonstrate that multilateralism, at least in the form it takes in UNCLOS, are counterproductive to US national security interests. The responses can be used to demonstrate that the prohibitive restrictions placed on the US by UNCLOS are too extreme given the benefits to multilateralism.
PRO - Joining UNCLOS Increases US Soft Power

**Argument:** Joining UNCLOS increases the US’s ability to get favorable conditions in international situations without the use of hard power.

**Warrant:** Joining UNCLOS demonstrates a renewed interest in cordial relationships with other countries and a commitment to negotiation.


“Additionally, ratification of the Convention will soften the United States’ image and signal much needed goodwill to the international community.”

It has been noted that “[a]nti-Americanism has increased in recent years, and the U.S.’ soft power—its ability to attract others by the legitimacy of U.S. policies and the values that underlie them—is in decline as a result.” Commitment to the Convention, which engages much of the international community, would be emphasized by U.S. ratification. It also allows other states to place their trust in the U.S. and thus its actions on the seas. This is essential for the United States to maintain its legitimacy and ultimate leverage in the international arena.”

**Warrant:** US soft power is currently declining to a number of decisions to leave various different multinational agreements.

“China is stepping into a soft power vacuum created by the US’s new administration. Since Donald Trump was elected president, the US has eschewed soft power. It’s withdrawn from a global climate change agreement; renegotiating a number of bilateral treaties and taken an openly “America first”, and somewhat isolationist stance. Its cordial relations with many traditional allies have become strained. China has spotted the gap and is attempting to woo many countries whose US relations are wavering. One of China’s key weapons is the “One Belt, One Road” programme, a USD$900 billion initiative that aims to strengthen land and sea transportation links through major investments in transport infrastructure in Asia, Europe and Africa.”

**Impact:** Ratifying the convention and increasing our soft power allows us to steer the rise of developing countries and maintain our global national security interests.


“China’s rise adds to a growing list of reasons to ratify the U.N. Convention on the Law of the Sea. Senate ratification of the treaty, which sets out a legal framework for conduct in the world’s oceans, will put the United States in an even stronger position to preserve our freedom of navigation in the South and East China Seas against any potential Chinese attempts to restrict our access, now and in the future. It will also allow us to be an even more forceful advocate for a rules-based process when it comes to territorial disputes in those waters and will lend Washington more credibility as it pushes China to follow international laws and norms. Let’s start with that final reason. Ratification puts the United States in a stronger position as it works to integrate China into the international system. If the United States ratifies the Law of the Sea
Convention, we will have more credibility when we argue that China needs to become a “responsible stakeholder”—in the words of former President George W. Bush’s Deputy Secretary of State Robert Zoellick—in the international system. America has been pressing Beijing to join international frameworks of rules and norms to create a level, predictable playing field for all; to bring China into the work of tackling shared threats across the world; and to ensure that China’s rise supports rather than disrupts the global system that America and our allies created after World War II. These rules and norms support international trade and economic integration across the world and helped enable China’s astronomical economic growth in recent decades.”

**Impact:** Despite our powerful military, the United States is reliant on our allies to accomplish geopolitical goals.


“The European Union (including its candidate members) currently contributes ten times more peacekeeping troops worldwide than the US, and in Kosovo, Bosnia, Albania, Sierra Leone, and elsewhere the Europeans have taken more military casualties than the US. Fifty-five percent of the world’s development aid and two thirds of all grants-in-aid to the poor and vulnerable nations of the globe come from the European Union. As a share of GNP, US foreign aid is barely one third the European average. If you combine European spending on defense, foreign aid, intelligence gathering, and policing—all of them vital to any sustained war against international crime—it easily matches the current American defense budget. **Notwithstanding the macho preening that sometimes passes for foreign policy analysis in contemporary Washington, the United States is utterly dependent on friends and allies in order to achieve its goals. If America is to get and keep foreign support, it is going to have to learn to wield what Nye calls “soft power.”**

Grand talk of a new American Empire is illusory, Nye believes: another misleading
historical allusion to put with “Vietnam” and “Munich” in the catalog of abused analogies. In Washington today one hears loud boasts of unipolarity and hegemony, but the fact, Nye writes, is that”

Analysis: This is a flexible argument that can be adapted into the narrative of almost any affirmative team. The key element to this argument is to demonstrate that joining UNCLOS will increase our international reputation, and teams can thereafter choose to impact through a number of different avenues.
Pro Arguments with Con Responses

A/2 – Joining UNCLOS Increases US Soft Power

**Answer:** In this case, maintaining our hard power and naval flexibility is more relevant than increasing our strategic soft power.

**Warrant:** The United States’ unique position as the lone military superpower means that we should be held to a different standard regarding binding treaties.


“Finally, opponents of the Law of the Sea Treaty contend that Article 88 of the treaty, which stipulates that "the high seas shall be reserved for peaceful purposes" together with Article 301's requirement to refrain from "any threat or use of force against the territorial integrity or political independence of any state" have the potential of unduly constraining U.S. defense operations on the high seas.22 Proponents counter that warships of all major powers freely travel through the high seas even though the treaty is already in force for nations that have ratified it,23 which, as of this writing, stood at 149 nations.24 But the U.S.'s circumstances are very different than those of the 149 parties to the treaty. As the world's only remaining superpower, the U.S. is the only nation capable of extended, extensive long-range maritime operations.25 What's more, the U.S. has military obligations that other nations simply do not. Many of the parties to the treaty26 don't have organized navies. Others don't have significant ones.27 Consequently, most parties to the treaty have less interest in the military implications of Article 88 than does the United States. The ratification of the treaty by these nations therefore should not be the yardstick by which the risks to U.S. military interests are measured.”
**Warrant:** UNCLOS would diminish the US’s ability to exercise naval power due to restrictions placed by the convention.


“However, this is not the first time that the US has shown its interest in the maritime affairs in the Asia-pacific region, especially in South China Sea. The 2009 Impeccable incident is reflective of the US intentions to maintain its hegemony through power projections, even by circumventing the marine scientific research (MSR) provisions of the 1982 LOS Convention. In the light of these observations, the US accession to the LOS Convention will have significant implications for the US interest in the South China Sea. Most notably, the LOS Convention would be applicable to the US completely as it does not allow making reservations at the time of accession. In addition, the US would be obliged to refrain from any acts that would defeat the object and purpose of the convention. Thus, by becoming a party to the Convention, the US would be constrained in the freedom to take inapt actions in the South China Sea without giving due considerations to its possible legal consequences. This may diminish the unchallenged naval power of the US in the Asia-Pacific.”

**Impact:** UNCLOS would give other states the capability to interfere with US military operations through legal actions.

“On the other hand, the risks to national security posed by the Convention are often understated. For example, Deputy Assistant Secretary of Defense for Negotiations Policy Mark T. Esper, who testified in favor of the Convention, told the Senate Foreign Relations Committee in an October 21, 2003, hearing that the mandatory dispute resolution mechanism could be used by states unsympathetic to the U.S. to curtail its military operations even though such operations are supposed to be exempt from the mechanism. This is because it is unclear by the terms of the treaty what activities will be defined as military. While the Bush Administration believes that it will be up to each State Party to determine for itself what activities are military, it is uncertain enough about the issue that it is recommending the U.S. submit a declaration reserving its right to determine which activities are military. Unfortunately, it is not at all certain that a declaration will suffice to protect vital U.S. national security interests. Other states may choose to accept or ignore the declaration, or a future administration may accept the jurisdiction of a tribunal and be surprised if precedent-setting decisions go against U.S. interests. While in the future the Navy may recommend that the U.S. reject a claim of jurisdiction for a tribunal, civilian authorities both inside and outside the Department of Defense may overrule the Navy. Amending the text of the treaty may be the only certain way to protect U.S. interests against overreaching by other states regarding the mandatory dispute resolution mechanism. This is my view, in part, because I am not aware of a precedent for such a mandatory dispute settlement mechanism that could extend to such sensitive areas.”

Analysis: These responses amply demonstrate that the binding elements of UNCLOS are sufficient to limit US strategic and military flexibility. Although soft power may increase in some ways, other states are also given more leverage over the United States, counteracting that effect.
PRO - Joining UNCLOS Secures Freedom of Navigation

**Argument:** Joining UNCLOS increases the US’s ability to get favorable conditions in international situations without the use of hard power.

**Warrant:** Joining UNCLOS allows the US to actively negotiate and protect its vested interests in freedom of navigation.


“Another very important step for the U.S. Government, to better ensure the freedom of navigation rights it now exercises, is to formally ratify the UNCLOS treaty. This step is not just to return to equal footing with other members on moral, diplomatic, and legal grounds in order to better support the rules-based order that the United States government espouses, but also to be able to directly guide and protect U.S. interests in international fora and on the seas.437 The United States signed UNCLOS in 1994 after successfully negotiating an amendment to the document to correct earlier concerns by the industrialized states, but has not formally ratified it through the Senate. The most important UNCLOS provisions, like maritime jurisdictions and right-of-passage, are in accord with U.S. policy so that U.S. domestic law generally adheres to UNCLOS statutes, as it also does with customary international law.438 The Department of State and DoD both support ratification to give the United States “greater credibility in invoking the convention’s rules and a greater ability to enforce them.”439 This treaty has come before the Senate several times, as recently as 2012, only to be tabled despite bipartisan support, mainly due to economic concerns with Part XI stipulations that cover the deep seabed.440 A direct American voice in the Law of the Sea Treaty debates could advocate for freedom of navigation and other U.S. interests as international law inevitably evolves, in order to counter the historic trend to circumscribe rights on the high seas by reducing its openness.
and limiting areas of operations. Foreign military navigation rights through an EEZ are a prime example of such restrictions with 26 countries supporting China’s and Vietnam’s restrictive positions, including major maritime states like India and Brazil.441 The Senate needs to ratify this treaty to allow the United States to defend actively its existing maritime legal interests and rights.”

Warrant: Not joining UNCLOS puts the preservation of our freedom of navigation at risk by allowing other states to amend maritime law and accelerating the devolution of the convention.


“First, there is a risk that important provisions could be weakened by amendment, beginning in November 2004, when the treaty is open for amendment for the first time. Currently, for example, the Convention prohibits coastal states from denying transit rights to a vessel based upon its means of propulsion. Some states, however, may propose to amend this provision to allow exclusion of nuclear-powered vessels. Under the Convention, no amendment may be adopted unless the parties agree by consensus (or, if every effort to reach consensus failed, more than two-thirds of the parties present agree both on certain procedural matters and on the proposed amendment). As a party, the United States would have a much greater ability to defeat amendments that are not in the U.S. interest, by blocking consensus or voting against such amendments. Second, by staying outside the Convention, the United States increases the risk of backsliding by nations that have put aside excessive maritime claims from years past. Pressures from coastal states to expand their maritime jurisdiction will not disappear in the years ahead—indeed such pressures will
likely grow. Incremental unraveling of many gains under the Convention is more likely if the world’s leading maritime power remains a non-party.”

**Impact:** Freedom of navigation is essential for US economic trading and our relationships with other countries, along with our strategic military goals.


“The real question is: What are the additional rights and opportunities that we would enjoy as a party to the Convention? In this connection, we might ask ourselves: What is it that we want other countries to do and not do? The answer has long been quite simple. **We want maximum freedom to navigate and operate off foreign coasts without interference.** We want that freedom for security purposes. If we mean to deter and confront threats to our security in the far corners of the globe, then we need to be able to get there and to operate there. The precise nature of the threats may change. But so long as our interests demand that we operate far from our shores, we want to minimize the cost and uncertainty of getting there and operating there. We also want that freedom for economic purposes. Our economy is dependent on international trade. Much of that trade moves by sea. **Our trading partners may change, but so long as our interests demand that we move raw materials and products to and from the far corners of the globe, we want to minimize the cost and uncertainty of the trip for any ship that carries our trade.** We want security of supply and the lowest possible cost for delivering both our imports and our exports. And many sectors of our economy are increasingly dependent on the use of undersea telecommunications cables and accordingly on the freedom to lay and maintain them throughout the world.”
Analysis: By joining UNCLOS, the US is able to prevent any risk that other countries abuse UNCLOS to limit American freedom of navigation. Doing so allows us to make sure our interests are aligned with other states, but it’s also a precaution that prevents other countries from interfering with our trade or military interests.
A/2 – Joining UNCLOS Secures Freedom of Navigation

**Answer:** Joining UNCLOS is entirely unnecessary to preserve freedom of navigation, which is a global interest regardless of the convention.

**Warrant:** The United States’ unique position as the lone military superpower means that we should be held to a different standard regarding binding treaties.


“Convention advocates further contend that even if the LOST is flawed, only participation in the treaty regime can prevent future damaging interpretations, amendments, and tribunal decisions. Bernard Oxman, a University of Miami Law School professor who also serves as a judge ad hoc on the International Tribunal for the Law of the Sea, contends that “what we gain by becoming party is increased influence over” the interpretation of the convention’s rules.63 Senator Lugar worries that failing to ratify the treaty means the United States could “forfeit our seat at the table of institutions that will make decisions about the use of the oceans.”64 David Sandalow of the Brookings Institution warns that if the United States stays out of the LOST, it risks losing some of its existing navigation freedoms through “backsliding by nations that have put aside excessive maritime claims from years past.”65 However, America’s friends and allies, in both Asia and Europe, have an incentive, with or without the LOST, to protect navigational freedom. So long as Washington maintains good relations with them—admittedly a more difficult undertaking because of strains of the war in Iraq—it should be able to defend U.S. interests indirectly through surrogates. If the nations that benefit from navigational freedom are unwilling to aid the United States while Washington is outside the LOST, they are unlikely to prove any more steadfast with Washington inside it. Assistant Secretary Turner admitted as much when he told
the Senate Foreign Relations Committee in October 2003 that the United States had “had considerable success” in asserting “its oceans interests as a non-party to the Convention.”66”

Warrant: UNCLOS is basically irrelevant as a binding convention because the rules regarding freedom of movement are enjoyed and observed by countries regardless.


“With regard to freedom of movement: President Reagan’s 1983 Ocean Policy Statement stated that UNCLOS “contains provisions with respect to traditional uses of the oceans which generally confirm existing maritime law and practice . . ..”16 The International Court of Justice reached a similar conclusion in the 1984 Gulf of Maine case, albeit in the context of the continental shelf and EEZ articles, indicating that the Convention’s provisions were reflective of customary international law.17 In short, today, all of the important provisions of UNCLOS dealing with freedom of movement, such as the rights of innocent passage, transit passage, archipelagic sea lanes passage, and high seas freedoms seaward of the territorial sea, are considered by virtually all nations as a reflection of customary international law that is binding on all nations. Both our commercial shipping and military forces have exercised and enjoyed these rights for the past 25 years, during which time the United States has not been a party to UNCLOS. Clearly, the United States does not have to become a party to the Convention to exercise its navigational rights and freedoms worldwide. Iran is the only country that continues to maintain that the right of transit passage through the Strait of Hormuz applies only to State Parties to the Convention. What we need more than membership in another treaty is a coherent national policy that supports freedom of
navigation and a strong Navy that can challenge excessive coastal state claims that purport to curtail our freedom of movement and restrict our access to the world’s oceans.”

**Impact:** UNCLOS would actually limit our naval flexibility due to the restrictions it places on some military activities.


“However, this is not the first time that the US has shown its interest in the maritime affairs in the Asia-pacific region, especially in South China Sea. The 2009 Impeccable incident is reflective of the US intensions to maintain its hegemony through power projections, even by circumventing the marine scientific research (MSR) provisions of the 1982 LOS Convention. In the light of these observations, the US accession to the LOS Convention will have significant implications for the US interest in the South China Sea. Most notably, the LOS Convention would be applicable to the US completely as it does not allow making reservations at the time of accession. In addition, the US would be obliged to refrain from any acts that would defeat the object and purpose of the convention. Thus, by becoming a party to the Convention, the US would be constrained in the freedom to take inapt actions in the South China Sea without giving due considerations to its possible legal consequences. This may diminish the unchallenged naval power of the US in the Asia-Pacific.”

**Analysis:** Negative teams should force affirmative teams to demonstrate that our non-membership of UNCLOS in the status quo is not limiting our freedom of movement, whereas we
would almost certainly face more restrictions on our freedom were we to join UNCLOS due to its bureaucratic rules and structure. Even if we have a seat at the negotiating table, we give other countries more ability to control our movement by joining UNCLOS.
PRO - Joining UNCLOS Necessary to Develop Seabed Mining

**Argument:** Acceding to UNCLOS is necessary for the development of the nascent seabed mining industry and its positive economic consequences.

**Warrant:** Our non-membership of UNCLOS jeopardizes the legal status of our seabed mining operations.


“The taxation objection made by opponents is often coupled with an argument that US companies that had invested millions of dollars in exploration costs would lose their existing claims under US law. This argument ignores the fact that the 1994 Agreement grandfathers these holders into the treaty regime based on arrangements no less favorable than those granted to holders of claims already registered with the Authority upon certification by the US government and the payment of a $250,000 application fee (a fee that is half of the fee established in the 1982 Convention). As Ambassador Colson pointed out in the 1994 hearings, *"If the U.S. does not become Party to the Convention, international recognition of the rights of the U.S. licensed consortia could be jeopardized.""*

**Warrant:** Businesses and industries are dissuaded from pursuing seabed mining due to legal uncertainty.

“Moreover, mining companies much prefer the known difficulties of operating on land to those of operating on the seabed. The risks of working in a place where volcanic activity seems to have stopped but may suddenly resume are uncertain. So indeed are the possible obligations to repair the underwater environment: no legal codes are yet in place for deep-sea mining. That helps to explain why the only places in which companies have dipped more than a toe in the water are in exclusive economic zones, which are not just shallower than many parts of the distant ocean but also within the legal ambit of a national authority. Seafloor mining beyond countries' territorial waters is regulated by the International Seabed Authority, set up under the United Nations Convention on the Law of the Sea. So far it has issued only eight licences, all for exploration, not production, all for nodules, not massive-sulphide deposits, and all to governmental or quasi-governmental agencies (of China, France, Germany, India, Japan, Russia, South Korea and an east European consortium). No wonder. Commercial miners want both a clear title to their holding and exclusive rights to exploit it. They also have to answer to shareholders.”

**Warrant: Seabed mining is already technologically possible.**


“One reason massive-sulphide formations beguile miners is that the metals they contain—notably copper, gold, zinc and silver—are highly concentrated. Another is that they are often big, 200 metres wide and long, tens of metres thick, and may contain several million tonnes of ore. All lie on the surface of the seabed, and many are only 1-2km below water level. At that depth technology developed for the offshore oil industry can nowadays be employed for mining. In particular, the deep-water pumps and suction pipes developed to bring subsea oil up to the surface can be used in the riser pipes
needed to bring minerals (mixed with water) up from a massive-sulphide mine. The oil industry has also developed remotely-operated vehicles to make trenches for seabed pipelines, which can be adapted for cutting ore, even though it may lie much deeper, at, say, 1.5km down. In general the technology in the machines needed to carry out deep-water mining is no longer exotic. Woods Hole Oceanographic Institution has a vehicle that can reach depths of 11km.”

Impact: Seabed mining has potentially huge economic benefits.


“The diamond conglomerate De Beers has been mining diamonds from shallow waters off southwest Africa since the 1960s, so harvesting diamonds from deeper water is a possibility. Precious metals such as gold, silver, and copper are also attractive targets. So are useful metals like zinc and manganese, as well as rare earth materials such as cobalt, which are used in high-tech devices from cell phones to computers. As more of the world adopts advancing technology, these materials are likely to see rising demand, and supply on land is relatively limited (hence the name "rare earth"). The valuable materials are likely to occur in higher concentrations on the seafloor than in many land-based mines, experts predict. They appear in nodules that litter the seafloor and in crusts of manganese or sulfide deposits, especially near hydrothermal vents. These minerals can be found between a few hundred feet and about 20,000 feet (6,100 meters) down. How Much Is Down There? There is enough gold on the seafloor to give every person alive nine pounds, scientists estimate. That would be worth about $150 trillion, or $21,000 a person. In the 1960s, the book Mineral Resources of the Sea predicted nearly limitless amounts of rare earth elements, forecasting a mining boom
that would enrich nations and lead to rapid advancements in technology. But that doesn't mean it's easy to access.”

Analysis: Joining UNCLOS would clear up the legal uncertainty and ambiguity related to US deep seabed mining currently, thereby encouraging American businesses to invest more heavily in seabed mining. Doing so opens the door for economic and technological advancements.
A/2 – Joining UNCLOS Necessary to Develop Seabed Mining

**Answer:** Joining UNCLOS would make seabed mining less profitable and less competitive for US companies.

**Warrant:** UNCLOS mandates that member states transfer technology to other states, which would in turn make US companies less competitive.


"The United States is the nation with the most to lose – from an economic and national security point of view – from the sort of obligatory technology transfer provisions contained in the Law of the Sea Treaty, including those that would be binding even if the 1994 Agreement has effect. America has long imposed unilateral export control restrictions precisely for the purpose of preventing transfers that will result in harm to this country. U.S. accession to LOST would require a substantial liberalization, if not wholesale scrapping, of such important self-defense measures. Actual or potential competitors/adversaries like China, Russia, state-sponsors of terror and even European “allies” understand full well what a technology windfall U.S. adherence to LOST could represent. It would be irresponsible, not to say foolish in the extreme, to believe that none of these parties will take advantage of the opportunity to reap that windfall, to our very considerable detriment."

**Warrant:** Due to the requirement that member states pay royalties to the convention, almost all mining under UNCLOS is unprofitable.
“More seriously, the Treaty is responsible for a significant misallocation of resources when it comes to the Authority’s powers. Indeed, almost all deep sea mining performed under its jurisdiction by companies from industrialized states will happen at a loss. Industrialized state governments are required to levy fees and royalties to subsidize both the Enterprise and the activities of developing states. Setting fees relies on two provisions, outlined in Annex 8 to the Agreement, that amends to the Treaty. The provisions are vague, which creates significant cost and uncertainty: "(a) The system of payments to the Authority shall be fair both to the contractor and to the Authority and shall provide adequate means of determining compliance by the contractor with such system; (b) The rates of payments under the system shall be within the range of those prevailing in respect of land-based mining of the same or similar minerals in order to avoid giving deep seabed miners an artificial competitive advantage or imposing on them a competitive disadvantage;” These provisions essentially force a contracting company to pay more than it would otherwise in order to be fair to the Authority. Because seabed mining is more expensive than land-based mining, paying for the privilege at the same rates as land-based mining adds a second layer of competitive disadvantage, despite what the Annex text purports. In all probability, these extra fees mean that any mining activities will take place at a loss, arguably the reason why progress in subsea mining has not met expectations when the Treaty was drafted. Because the Treaty misallocates resources, seabed mining has been deferred, resulting in more mining on land. Land-based mining operations are very happy with this arrangement, and are even represented in their own chamber of the Council. 24 The net result: an institutionalized subsidy to land-based mining operations from the very existence of the Treaty, because the Treaty deters effective seabed competition.”
**Warrant:** UNCLOS, by its structure, is economically non-competitive and unable to foster the development of the seabed mining industry.


“The LOST’s fundamental premise is that all unowned resources on the ocean’s floor belong to the “people of the world”—effectively the UN. But an international regulatory system would likely inhibit development, depress productivity, increase costs, and discourage innovation, thereby wasting much of the benefit to be gained from mining the oceans. The Byzantine regime created by the LOST was, and remains, almost unique in its perversity. In the original agreement, the UN would have asserted its control through the International Seabed Authority, ruled by an Assembly dominated by poorer nations and a council that would regulate deep seabed mining and redistribute income from the industrialized West to developing countries. The ISA would employ as its chief subsidiary to mine the seabed a body called the Enterprise, which would enjoy the coerced assistance of Western mining companies.”

**Analysis:** Negative teams can demonstrate compellingly that the economic structure of UNCLOS is not habitable for burgeoning industries. It may be trickier to prove that seabed mining will happen in the absence of UNCLOS membership, but teams can argue that the natural development of the market is more valuable than the regulated, cartel-style UNCLOS rule.
**PRO – Acceding to UNCLOS will allow the US to mine rare earth metals**

**Argument:** Once the United States is in UNCLOS, companies will invest in seabed mining which challenges China’s monopoly on rare earth metals.

**Warrant:** The US has large rare earth deposits


It has long been known that the ocean might provide a wealth of rare earths. Sea-floor hydrothermal vents pump out rare-earth elements dissolved in their hot fluids. And these elements and others accumulate in potato-sized lumps, called manganese nodules, on the sea floor. The elements also build up in sea-floor mud; but only a few spot measures of this source of rare-earth elements have previously been made. Kato and his colleagues set out to perform a widespread assessment of this possible resource. They looked at 2,000 samples of sediments taken from 78 sites around the Pacific, and found rare-earth concentrations as high as 0.2% of the mud in the eastern South Pacific, and 0.1% near Hawaii. That might not sound like much, but those concentrations are as high as or higher than those at one clay mine currently in operation in China, they point out. And the deposits are particularly rich in heavy rare-earth elements — the rarer and more expensive metals. Some of the deposits are more than 70 metres thick. The authors estimate that an area of 1 square kilometre around a hotspot near Hawaii could hold 25,000 tonnes of rare earths. Overall, they say, the ocean floor might hold more than the 110 million tonnes of rare earths estimated to be buried on land.
Warrant: The Trump Administration supports rare earth mining


President Trump signed an executive order Wednesday instructing his deputies to devise “a strategy to reduce the Nation’s reliance on critical minerals” that are largely imported and used to produce everything from smartphones to weaponry. The directive comes a day after the U.S. Geological Survey published its first assessment of the country’s critical minerals resources since 1973, an analysis the agency began in 2013. The report concludes that 20 out of the 23 critical minerals the nation relies on are sourced from China. “The United States must not remain reliant on foreign competitors like Russia and China for the critical minerals needed to keep our economy strong and our country safe,” Trump said in a statement. Interior Secretary Ryan Zinke, who has backed expanded mining production on federal land, has lobbied the White House to make the issue of critical minerals a top policy priority. He briefed reporters on the new USGS report Tuesday, saying “we are vulnerable as a nation” because we rely so heavily on imports from China. While the United States has significant deposits of most of the critical minerals it currently buys from overseas, market considerations largely drive mining. The United States was ranked as the world’s largest producer of such minerals until 1995, but since then, China has led the globe. “It is time for the U.S. to take a leading position,” Zinke said. “And it’s not that we don’t have the minerals in the U.S. It’s likely we do.” The executive order says that the federal government will be “identifying new sources of critical minerals” and “increasing activity at all levels of
the supply chain, including exploration, mining, concentration, separation, alloying, recycling and reprocessing critical minerals.”

Warrant: Companies don’t want to mine without acceding to UNCLOS


The second economic benefit I would like to highlight relates to mining in the deep seabed areas beyond any country’s jurisdiction. Only as a Party to the Convention could the United States sponsor U.S. companies like Lockheed Martin to mine the deep seabed for valuable metals and rare earth elements. These rare earth elements – essential for cell phones, flat-screen televisions, electric car batteries, and other high-tech products – are currently in tight supply and produced almost exclusively by China. While we challenge China’s export restrictions, we must also make it possible for U.S. companies to develop other sources of these critical materials. They can only do this if they can obtain secure rights to deep seabed mine sites and indisputable title to minerals recovered. While we sit on the sidelines, companies in China, India, Russia, and elsewhere are securing their rights, moving ahead with deep seabed resource exploration, and taking the lead in this emerging market.

Impact: The United States relies on China for rare earths, mining reduces their leverage in trade conflicts

They also include rare earths. A trade war risks putting those minerals in the middle of the conflict, potentially giving China a way to get back at the United States by cutting off supplies to American companies. Already rare earths have become embroiled in the conflict — they were among the long list released on Tuesday of Chinese-made goods that the Trump administration wants to tax. China has used its control of rare earths to try to get its way before. In 2010, it stopped exports to Japan for two months over a territorial dispute. Speculators hoarded rare earth minerals, sending prices soaring.

“There is a hole in the western supply chain,” said Ryan Castilloux, the founder of Adamas Intelligence, a research firm. It is hard to go a day without using rare earths. They are found in personal electronics like smartphones, televisions and hair dryers, and electric and hybrid cars.

**Analysis:** This argument is particularly strategic in rounds surrounding US hegemony in the South China sea. The link story is simple, but the impact can be especially beneficial when against more vague international impacts your opponents may make.
A/2 - Acceding to UNCLOS will allow the US to mine rare earth metals

Response: The US could access rare earth metals without acceding

Warrant: Other treaties give the US access to rare earth metals


The United States can mine the deep seabed without acceding to the United Nations Convention on the Law of the Sea (UNCLOS). For more than 30 years, through domestic law and bilateral agreements, the U.S. has established a legal framework for deep seabed mining. In fact, U.S. accession would penalize U.S. companies by subjecting them to the whims of an unelected and unaccountable international bureaucracy. U.S. companies would be forced to pay excessive fees, costs, and royalties to the International Seabed Authority for redistribution to developing countries. U.S. interests are better served by not acceding to UNCLOS. Proponents of U.S. accession to the United Nations Convention on the Law of the Sea (UNCLOS) maintain that the United States may not engage in deep seabed mining unless and until it joins the convention. That is not the case. **The United States has a sovereign and inherent right to mine the deep seabed and has successfully secured that right in the past through bilateral and multilateral agreements with other nations that also engaged in seabed exploration.**

Warrant: US ally Japan has large deposits of rare earths, it’s not necessary that we drill ourselves

Deep sea mud off the coast of Japan contains enough rare earth metals to supply the world for centuries to come, a new study reveals. The study published this week in Scientific Reports says the deposit, which lies within the Japanese exclusive economic zone, contains 16 million tons of rare-earth oxides, enough to meet the demand for yttrium for 780 years, europium for 620 years, terbium for 420 years and dysprosium for 730 years. The deposit “has the potential to supply these metals on a semi-infinite basis to the world,” the study said. Rare earth elements are used extensively in technology such as smart phones, electric and hybrid cars, rechargeable batteries and screen display panels. The find could be a game changer for major electronics manufacturer Japan which has been at the mercy of the world’s largest supplier China.

Analysis: This is a good response because even the US does not accede to UNCLOS they would have access to rare earth metals from sources other than China. This allows you to concede the argument that reliance on Chinese rare earths is bad, but still win the ballot because the lack of accession is not the problem.

Response: US companies won’t mine rare earths if we accede because it isn’t profitable

Warrant: Mining regulations make the industry unprofitable

America’s problem has never been a lack of rare earth deposits — it has plenty. The problem has been maintaining a domestic industry to mine the minerals and transform them into final components. For a while, Colorado-based Molycorp made a go of mining rare earths at Mountain Pass. But it struggled to turn a profit, and eventually went bankrupt. In the middle of last year, a bankruptcy proceeding sold the mine to another China-involved consortium. The Chinese partner in the consortium, Shenghe, will have exclusive sales rights to the mined product for a period of time, according to sales documents. That brings us up to date, and on to the final question: How do we fix things? Free market types like to focus on environmental regulations. Mining rare earth metals is a nasty business, with a lot of chemical and radioactive byproducts. Properly disposing of that detritus is extremely costly, which makes mining rare earth metals for profit hard. In fact, regulators closed the Mountain Pass mine and fined it at one point for skirting the rules.

Warrant: China’s monopoly makes it easy for them to bankrupt other producers


Unfortunately, America’s critical minerals problem has gone from bad to worse. The nation’s only domestic rare earth producer was forced into bankruptcy in 2015 after China suddenly restricted exports and subsequently flooded the market with rare earth elements. Adding insult to injury, the mine was then sold last summer for $20.5 million to MP Mine Operations LLC, a Chinese-backed consortium that includes Shenghe Resources Holding Co. Now, according to MINE Magazine, this same mine is exporting critical minerals to a processing plant in China—because the United States cannot process or refine these materials at commercial scale. Without a dramatic change in
minerals policies, the United States will not be able to minimize the economic damage that will come when China decides to leverage its minerals monopolies against us.

**Analysis:** This is a good response because even when conceding the affirmative’s link that acceding will give the US access to new mineral deposits, it’s not profitable for companies to mine them. Thus, there’s no benefit to acceding as China will still have a monopoly over the rare earth market.
PRO – Acceding to UNCLOS will allow the US to drill in the Arctic

**Argument:** Once the United States is in UNCLOS, companies will invest in offshore drilling in the Arctic which will benefit the US economy

**Warrant:** The Arctic holds large oil and natural gas deposits


The US is literally on the outside looking in as nations divide valuable resources it could be legally claiming. The **US continental shelf is estimated to extend at least 600 miles into the Arctic Sea** off the coast of Alaska. This region, called the **Arctic Alaska Province**, is an incredibly recourse richest area, estimated by the USGS to hold **29.96 billion barrels of oil and 72 billion barrels of natural gas** (about 33% of technically recoverable oil and 18% of technically recoverable gas in the Arctic). Supporters of the treaty assert that **through acquiring resource rights, the US could substantially increase its domestic oil and natural gas production in the long term.** Such production would lead to greater US energy security and greater investment and employment in the energy sector.

**Warrant:** The convention allows the United States to make internationally recognized claims to undersea resources

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, University of Dayton School of
The Convention also gives the United States an opportunity to expand its sovereignty rights over resources on and under the ocean floor beyond 200 nautical miles to the end of its continental shelf, up to 350 nautical miles. This mechanism is especially valuable to the United States as it would maximize legal certainty regarding the United States’ rights to energy resources in large offshore areas, including the areas of the Arctic Ocean. **However, the United States must ratify the Convention for its claims to be internationally recognized.** Not surprisingly, the American oil companies favor ratification, as it will allow them to explore oceans beyond 200 miles off the coast, where evolving technologies now make oil and natural gas recoverable. If the United States ratifies the Convention it could expand its areas for mineral exploration and production by more than 291,383 square miles. The United States’ claim under article 76 would add an area in the Arctic (Chukchi Cap) roughly equal to the area of West Virginia. With a successful claim the United States would have the sole right to the exploitation of all the resources on and under the Arctic Ocean bottom. These potential energy resources could make significant contributions to United States energy independence. Because the Convention is the only means of assuring access to the mineral resources beneath the Arctic Ocean, American companies “wishing to engage in deep seabed mining operations will have no choice but to proceed under the flag of a country that has adhered to the treaty.”

**Warrant:** Arctic oil is key to reducing oil dependence in the future

To that point, as the NPC noted, if we fail to develop the enormous trove of reserves in Arctic waters off Alaska, the U.S. risks a renewed reliance on overseas energy in the future and will have missed a prime opportunity to keep domestic production high and imports and consumer costs low. As President Obama rightly stated shortly after the Chukchi drilling plan was conditionally approved in May, “When it can be done safely and appropriately, U.S. production of oil and natural gas is important. I would rather us—with all the safeguards and standards that we have—be producing our oil and gas, rather than importing it, which is bad for our people, but is also potentially purchased from places that have much lower environmental standards than we do.

Impact: Arctic oil drilling would benefit the US economy


But beyond that time frame — if the executive order would pass legal muster — it would add certainty, giving developers the incentive to make ancillary investments in new technologies and specifically ones that could withstand the harsh conditions of the Arctic Ocean. In fact, an analysis by Alliance for Innovation and Infrastructure published in February says that offshore drilling off the coast of Alaska would spur $6.3 billion in infrastructure development. “Arctic offshore oil and gas activity – if allowed – would bring sufficient physical and financial resources to the region to support these major infrastructure investments, plus an estimated $19 billion in state and local revenues,” the group’s report said. The Obama administration banned exploration in the Arctic's Beaufort and Chukchi seas. Canada, meanwhile, announced a similar ban in the Canadian Arctic, although it will revisit the issue every five years. The U.S.-controlled
portion of the Arctic is believed to hold 27 billion barrels of oil and 132 trillion cubic feet of natural gas.

Analysis: This argument is helpful because the link story is simple and the impacts are quantified. This strategy will be helpful in prelims of tournaments with more lay judges as well as in later rounds against more vague or intangible impacts.
**A/2 - Acceding to UNCLOS will allow the US to drill in the Arctic**

**Argument:** Companies won’t drill in the Arctic if we accede because it is not profitable

**Warrant:** Drilling technology is expensive and complex


Petroleum exploration in the Artic is costly and technically complex, making it largely unviable for oil companies despite the region containing an estimated 13 percent of the world’s untapped resources. Included in this could be as much as 90 billion barrels of oil, according to United States Geographical Survey estimates. This is good news for policymakers and environmental activists who have been attempting to regulate drilling to manage potential oil spills and the displacement of indigenous communities.

**Warrant:** Shell tried to drill and left because it wasn’t successful


**AMID SLUMPING OIL prices** and months of protests, including kayaktivists who paddled in front of an icebreaker to block its path, Shell announced Monday that it has ended its exploratory oil drilling in the Arctic for the “foreseeable” future. Shell, one of the world’s largest oil companies, cited “disappointing” results from the well it drilled off
the coast of Alaska as well as the high costs of such exploration and the challenges of seeking future U.S. permits. “We had hoped for more,” Shell spokesman Curtis Smith said Monday in an interview, referring to the limited potential for oil and gas deposits in the basin it explored 150 miles from Barrow, Alaska. “They were not commercial.” As global oil prices have fallen more than 50 percent to below $50 a barrel since last summer, Shell has felt industry-wide economic pressures. In July, after reporting that its profit fell sharply in the second quarter, Hague-based Shell said it would cut its capital investment and eliminate 6,500 jobs.

Analysis: This is a good response because even if the US accesses new oil fields by acceding companies won’t want to drill in the Arctic and even if they did it would be short-lived. Thus, this de-links your opponents impacts.

Response: The US doesn’t need access to new oil fields for the foreseeable future

Warrant: The US already holds the largest oil reserves


The United States has surpassed Saudi Arabia and Russia as the global leader in oil reserves, according to a report by a Norwegian consultancy firm. “We have done this benchmarking every year, and this is the first year we’ve seen that the US is above Saudi Arabia and Russia,” Per Magnus Nysveen, head of analysis at Rystad Energy, said. He credited the rise to a sharp increase in the number of discoveries in the Permian basin in Texas over the past two years. The report found that many, especially members of the Organization of Petroleum Exporting Countries, exaggerated the size of their
reserves in self-reported surveys. Rystad Energy came to the conclusion by only recording each country’s economically viable reserves.

**Analysis:** This is a good response because it mitigates your opponents impacts to growing oil reserves. Additionally, you could use this response to argue that impacts related to increased oil drilling are non-unique as the Arctic is not the sole location where the US could acquire more oil.
PRO – Acceding to UNCLOS will curtail Russian power in the Arctic

**Argument:** Once the United States is in UNCLOS, they will be able to challenge Russian land claims in the Arctic.

**Warrant:** Russia has more land claims than the United States


Given that the United States has not ratified UNCLOS, U.S. nationals may not serve as members of the Commission on the Limits of the Continental Shelf. It is not clear whether the United States, as a non-state party, can even make a legally recognized submission to the commission to assert its claim and fully protect its proprietary rights and energy interests. In contrast, Russia, which may be entitled to almost half of the Arctic region’s area and coastline, has already made its submission for vastly extending its continental margin, including a claim to the Lomonosov Ridge, an undersea feature spanning the Arctic from Russia to Canada. Russia and Canada are the two countries with which the United States has potentially overlapping extended continental shelf claims.

**Warrant:** Russia is militarizing the Arctic

Russia’s militarisation of the Arctic has accelerated dramatically since 2014, according to a new study. The country has established a permanent military district, increased training of troops and creating new brigades in the region and is continuing to exploit its natural resources, says the report from conservative UK think tank, The Henry Jackson Society. It adds that Moscow has commissioned a new icebreaker fleet, reopened old Soviet-era military bases and deployed a missile early-warning radar system in the Arctic.

Warrant: Acceding with allow the US to better respond to Russian expansion efforts


UNCLOS provides a legal framework for governing navigation on the sea and use of ocean resources. With the largest Exclusive Economic Zone (EEZ) in the world that contains 3.4 million square nautical miles of ocean, the United States can reap advantages by becoming a signatory. Joining the Convention would enable the U.S. to safeguard its claim to an extended continental shelf (ECS) of over one million square kilometers—an area approximately twice the size of California. International recognition of both its EEZ and ECS would secure U.S. sovereign rights to fishing, mineral, and hydrocarbon resources in those waters. It would also provide legal protection to American companies that seek to invest in deep seabed mining, telecommunications operations, and commercial shipping lanes in the Arctic. By joining the Convention, the U.S. will be better positioned to respond to Russian efforts to exert influence over the new passage that is opening in the Arctic as the ice melts, which will provide a maritime trade route that shortens transit to Asia by over 30
days. Assuming a seat at the UNCLOS table will allow the U.S. to have a voice in establishing ground rules for how the Arctic Ocean will be governed.

Impact: Without accession, tensions could rise to pre Cold War levels


In Washington, DC, military, diplomatic, and national security planners recognize this fact and are already formulating new strategies and policies to prepare for this challenge. The United States Congress should also do its part. With all Arctic countries bound by UNCLOS, nations can enter into this new geopolitical scenario with established and tested rules. Not having “rules” by which to operate has the potential to elevate tensions between the United States and Russia to levels not seen since the Cold War. Regardless of how our politicians feel about UNCLOS, the United States will be faced with an ice-free Arctic ocean by 2050. The United States will also be force to engage with Russia – and other Arctic countries – in new ways. If U.S. lawmakers want to maintain the American advantage, they must do what the Pentagon, the State Department and the National Security Council are already doing: understand future challenges facing this country and ensure America is adequately prepared to confront them.

Analysis: This argument is effective as it has a broad-sweeping impact. This would weigh nicely against negative arguments about the environmental affects of drilling as you could argue that drilling is nonunique because of Russian expansion in the arctic. Additionally, you could argue that Russia is a larger threat when weighing against south china sea impacts.
Pro Arguments with Con Responses  

Sept/Oct 2018

A/2 - Acceding to UNCLOS will curtail Russian power in the Arctic

Response: The US won’t be able to stop Russian expansion

Warrant: The US doesn’t have reliable icebreakers


In truth, though, it is the commercial potential in the Arctic – and the diplomatic campaigns behind it – that may be even more significant. And it’s an area in which America looks even more likely to be left behind. Russia is the only country with enough icebreakers to reliably escort other shipping through still periodically frozen waters, and that gives it massive influence over regional shipping patterns.

Warrant: Arctic oil is too important to Russia, US efforts to curtail expansion will likely be futile


But the notion that such a race exists could benefit Putin. Arctic oil extraction is important to Russia’s economy and its self-image. So sanctions or not, Russia will continue to aggressively pursue it: The country announced on Monday that it will begin active offshore drilling in the Arctic next year. “State media can now showcase how strong Russia is in the face of the Untied States,” Herrmann said. “Despite the
sanctions, despite Exxon pulling out, Russian oil hasn’t stopped. It’s hit a speed bump, but they’re still opening up new fields.”

**Analysis:** This response is helpful because it de-links the Russian militarization impact. Even if the United States were to be able to challenge Russian land claims, Russia’s economy being so tied to the region means they’re unlikely to back down. Additionally, the US has no means to counter militarize the arctic without icebreakers.

**Response:** Arctic conflict is unlikely

**Warrant:** Arctic nations have cooperated peacefully for the last fifty years


There is no reason to believe that the Arctic region will be characterized by military conflict between and among Arctic and non-Arctic nations. The U.S. Department of Defense maintains that there is a “relatively low level of threat” in the Arctic region because it is “bounded by nation states that have not only publicly committed to working within a common framework of international law and diplomatic engagement, but also demonstrated ability and commitment to doing so over the last fifty years.”[9]

**Analysis:** This is a good response because it mitigates the pro’s impacts. When using this response it would be helpful to ask your opponents to establish a bright line for when conflict with Russia would happen and why, because militarization on either end does not necessitate conflict.
PRO – Acceding to UNCLOS will allow the US to slow Chinese expansion

**Argument:** Once the United States is in UNCLOS, the US has an international body with which to challenge Chinese expansion

**Warrant:** China is expanding more and more into the south china sea


China plans to build 20 floating nuclear reactors in the South China Sea, likely to strengthen its claim to the valuable and disputed region, according to announcements by state media. China has claimed more than 80 percent of the South China Sea, sparking conflict with other countries in the region and with the U.S. The potential militarization of the islands worries America and its regional allies, as it could hinder the $5 trillion of maritime trade that passes through the region each year. The sections of the sea that are claimed by China are also claimed by Vietnam, the Philippines, Indonesia, Brunei and Taiwan.

**Warrant:** The United States doesn’t have a position with which to challenge Chinese expansions without acceding

China has a different—and hard to justify—interpretation of the convention. It asserts that it has jurisdiction over all foreign military activity in its exclusive economic zone. Unfortunately, in debates with China and others, the United States is forced to advance our arguments about these issues from a position of weakness. Our encounters with the Chinese on this subject go something like this: Chinese official: Your Navy ships have no right to be in our exclusive economic zone without our permission. American official: Yes they do. The U.N. Law of the Sea Convention, which reflects customary international law, provides that other states have freedom of navigation in exclusive economic zones. Chinese official: You are not a party to the convention, so it doesn’t matter what it says—you have no standing to make that argument. As you can see, our discussions get sidetracked from the real issues into our inexplicable nonparty status. If America ratified the convention, we’d be in a much stronger position to assert our rights and contest China’s anomalous position—that America needs China’s permission for our military assets to travel in, above, and below China’s (substantial) exclusive economic zone, up to 200 miles from its shores.

**Warrant:** If the US accedes, China’s economic power will not be enough to force other Asian countries to allow it’s expansion


Territorial disputes will continue to arise with Vietnam, Taiwan, Brunei, and Malaysia also claiming property in the Sea. As China has been slowing expanding its territorial claims through boundary lines that are conveniently vague and widely unaccepted, it relies on its economic muscle to prevent other South China Sea nations from
collectively bringing claims under the Treaty, and instead takes on each claimant member nation individually. If the United States ratifies UNCLOS, we could use our legal standing under the Treaty and our own economic muscle to prevent China from pushing its neighbors around. Since the rise of China as a player in the global market, the United States has struggled to keep the economic powerhouse from manipulating everything from currency to intellectual property rights to international laws. Ratifying UNCLOS would be a means to hold China accountable while the United States begins its strategic pivot towards Asia and looks to build its economy at home.

**Impact:** If the United States does not accede it could lose its position as a hegemon


But all is not well in the area. **Six governments—in Brunei, China, Malaysia, the Philippines, Taiwan, and Vietnam—have overlapping claims to hundreds of rocks and reefs that scatter the sea. Sovereignty over these territories not only serves as a source of national pride; it also confers hugely valuable rights to drill for oil, catch fish, and sail warships in the surrounding waters.** For decades, therefore, these countries have contested one another’s claims, occasionally even resorting to violence. No single government has managed to dominate the area, and the United States has opted to remain neutral on the sovereignty disputes. In recent years, however, China has begun to assert its claims more vigorously [4] and is now poised to seize control of the sea. Should it succeed, it would deal a devastating blow to the United States’ influence in the region, tilting the balance of power across Asia in China’s favor. Time is running out to stop China’s advance. With current U.S. policy faltering, the Trump administration needs to take a firmer line. It should supplement diplomacy with deterrence by warning China that if the aggression continues, the United States will abandon its neutrality and help countries in the region defend their claims. Washington
should make clear that it can live with an uneasy stalemate in Asia—but not with Chinese hegemony.

**Impact:** If the US cannot peacefully resolve territorial disputes in the region it could spark conflict.


However, being the regional superpower it is, the Chinese government makes a historical claim over 90% of the region, which it has defined with a “Nine Dash Line.” **These overlapping claims of sovereignty have led to a long list of incidents in which the countries involved each try to assert their control over parts of the region they view as their own, creating a highly tense situation that could easily boil over to armed confrontation.**

**Analysis:** This argument weighs nicely in rounds as it impacts the United State’s geopolitical future as well as the future of the south china sea.
A/2 - Acceding to UNCLOS will allow the US to slow Chinese expansion

Response: Accession wouldn't stop Chinese expansion

Warrant: Challenges would anger Chinese hardliners


If anything, the presence of an American on the panel would have played to the suspicions of hardliners in China who view international legal regimes as a vehicle for advancing U.S. interests. If this sounds farfetched, consider that the Chinese ambassador to ASEAN recently accused Washington of “staying behind the arbitration case as the manipulator, and doing whatever it can to ensure that the Philippines wins the case.”

Warrant: The US has not legal claim to any territory in the South China Sea


First, while the United States has a strong interest in peaceful resolution of competing territorial claims in the South China Sea, it is not itself a claimant, and thus UNCLOS would provide no additional tools for the United States to use in addressing disputes
in the South China Sea. While U.S. ratification of UNCLOS would allow U.S. nationals to serve on arbitration panels, such representatives are expected to exercise independent reasoning and do not take instructions from member governments.

**Analysis:** This is a good response because it de-links the pro’s argument. The US has no place making contesting claims in the south china sea as it does not share its continental shelf. Additionally, even if it did, American representatives do not take instructions from their governments and act independently.

**Response:** Because China has alternate interpretations of UNCLOS law, acceding would just make things worse

**Warrant:** Acceding would legitimize the Chinese position


The question is, how does the United States succeed? Proponents of UNCLOS ratification claim that the United States can’t counter China’s claims without ratifying UNCLOS itself. Yet the United States already acts in accordance with international law and custom, whereas China, which has ratified UNCLOS, uses UNCLOS to flaunt the law. By twisting the UNCLOS into pretzels, China is changing the rules of the game. The liberal order made rules to accommodate the rights and interests of those who decided to participate in it. It turns out China doesn’t much like those rules and is attempting to overturn them – especially those rules that protect freedom of navigation and those that make it difficult for China to pursue its territorial ambitions in Asia. Ratifying UNCLOS isn’t an effective way to combat that effort. **These disputes are about power politics and neither China nor the United States will allow them to be settled in court – UNCLOS approved or otherwise.** Rather, the United States must continue doing what
it has always done. It should continue to operate naval vessels in international waters – including in other countries’ EEZs – where and when it wants to do so. Operations should run the gamut of peaceful activities – surveillance activities, exercises, and so on. And Washington must clearly state its intention to continue abiding by centuries-old customary international law pertaining to freedom of the seas including provisions of UNCLOS that are consistent with those practices. In interactions with Chinese counterparts, American diplomats should repeatedly and consistently restate the American position – there should be no question as to where the United States stands. As it does so, the U.S. should engage China in diplomacy, pointing out – among other matters – that China itself conducts military activity in other countries’ EEZs. We need rules of the road with China to manage competition, not wishful thinking about what U.N. bodies can resolve. It has always been practice that has determined international law of the oceans. China understands this, and is working to shift law and custom through its own practices. Only by continuing to act on the high seas as it always has can the United States hope to maintain a system of international rules that serves its own interests. Ratifying UNCLOS could very well have the opposite effect.

Analysis: This is a good response because it turns the aff’s argument. By acceding, especially without reservations, the US would legitimize Chinese interpretations of the treaty that may be contrary to US interests. Because the US already follows the treaty for the most part, the status quo is a better way to counter Chinese aggression.
PRO – Acceding to UNCLOS will prevent overfishing

**Argument:** UNCLOS will subject the United States to more laws that prevent overfishing by the US and the US will be able to take measures that reduce overfishing by other nations as well.

**Warrant:** UNCLOS has laws that prevent overfishing


Another sovereignty-related issue that the Convention addresses is conservation and pollution on the seas, a pressing concern given the widespread exploitation of the sea and its resources. **Part XII of the Convention, entitled Protection and Preservation of the Marine Environment, imposes upon states the “obligation to protect and preserve the marine environment.”** The Convention also includes detailed provisions that explicitly require state parties to take measures to prevent, reduce and control pollution. States are required to cooperate with global and regional efforts in combating pollution by setting standards, rules, and recommended practices, many of these through appropriate international organizations. Furthermore, the Convention requires states to take the affirmative step of implementing systems for monitoring and reporting the risks and effects of pollution to their marine environments. **Conservation and pollution provisions are included in the 1966 Convention on Fishing and Conservation of the Living Resources of the High Seas, to which the United States is also a party.** As mentioned previously, this convention permits high seas fishing while also requiring states take steps to conserve the seas’ living resources.

**Warrant:** Joining UNCLOS would allow the US to control overfishing

The Convention also maximizes legal certainty for United States sovereign rights over ocean resources in the largest EEZ in the world, as well as energy and mineral and other resources on our extended continental shelf. The Convention provides the mechanism to assure international recognition of additional United States sovereign rights on an extended continental shelf. Moreover, due to overfished and depleted fish populations, effective management of migratory fish stocks and fisheries will continue to be a contentious issue for the foreseeable future. The Convention is widely accepted as the legal framework under which all international fisheries are regulated and enforced. The Convention imposes responsibilities on the coastal states to manage their fishery resources responsibly and provides a process for resolving conflicts between competing users. The Coast Guard defends United States sovereign rights by protecting our precious ocean resources from poaching, unlawful incursion, and illegal exploitation. Joining the Convention places these sovereign rights on a firmer legal foundation, bolstering the Coast Guard’s continued ability to ensure our Nation’s sovereign rights are respected. In particular, becoming a party to the Convention will give the Coast Guard greater leverage in our efforts to eliminate illegal, unreported, and unregulated fishing.

Warrant: Acceding to UNCLOS would make it easier to resolve overfishing disputes

As national governments debate the merits of joining UNCLOS III, international conflicts over fishing rights continue to develop throughout the world. Of particular note are: 1) disputes in the Spratly Islands of southeast Asia; 2) negotiations between Japan and South Korea over the Islets of Takeshima; 3) negotiations between China and South Korea involving shared waters; and 4) conflicts over conservation practices between Canada, Spain, and the United States. These disputes illustrate some of the issues that need to be settled to solve the overfishing problem. In each instance, agreements are being worked out in accordance with UNCLOS III. Unfortunately, although UNCLOS III provides the framework to begin resolving these disputes, a great deal of uncertainty surrounding international fishing regulation continues. In many instances who has the power to dictate fishing rights and territory remains unclear. In some cases, fishing practices that lead to unhealthy depletion of fish stocks continue unchecked. In other instances, temporary solutions are implemented, but the future still is unknown. Widespread acceptance of UNCLOS III would provide the necessary structure to resolve these tenuous situations.

Impact: Overfishing harms economic growth and denies people of food


Despite having one of the most regulated fisheries in the world, Canada has not been immune to the effects of overfishing. The collapse of the Atlantic Canadian cod fishery in the 1990s is one of the most commonly cited examples in the world of overfishing and its economic, social and cultural implications. Since the collapse of the cod, and resulting cod fishing moratorium, which has been in place since 1992, other fisheries,
such as lobster and shrimp, have provided alternatives for some fish harvesters, however, many harvesters were forced to give up fishing—and a way of life passed down from generation to generation—altogether. Thousands of individuals have left the fishery for work in other trades or professions, and in many cases, other parts of the country. Today, overfishing remains a threat to the social and economic welfare of many countries, but none more so than in developing island states. Fishing is not only an important facet of these economies, in many cases it is a central element in the traditional diet of its citizens. In many African and South Asian coastal nations, fish may account for as much as 50 per cent of protein in a typical diet. The decline of fish stocks in coastal waters as the result of overfishing and illegal fishing activities is making this important resource much less accessible for some of the world’s poorest citizens. There is also growing evidence that the increased volume of fishing activity worldwide is having a very serious effect on the health of the oceans as a whole. When commercially valuable species are overexploited, other species and habitat that share the same ecosystem are affected.

Analysis: This is a good argument because it can easily outweigh on magnitude, scope, and timeframe. Lacking access to food can force people into starvation and possibly lead to death, many of the poorest people in the world rely on fish for a healthy diet, and once the fisheries are depleted it is unlikely they can be revived, making the impact almost irreversible.
A/2 - Acceding to UNCLOS will prevent overfishing

Response: Countries will not listen to UNCLOS

Warrant: China overfishes illegally already


But in order to sate its population’s rising desire for nice pieces of fish—and to continue exporting seafood abroad to trading nations—the Middle Kingdom’s fishing vessels have resorted to catch throughout the high seas (i.e., international waters) and, possibly through illegal practices, in other countries’ coastal domains. In 2016, a number of Chinese fishing vessels were shot at for fishing in other nations’ exclusive economic zones, areas of water off countries’ coastlines where those countries have sole rights to pursue economic activity. In March 2016, Argentinian patrol units sank the Chinese fishing boat Lu Yan Yuan Yu 010 as it attempted to flee into international waters after allegedly trawling illegally off the coast of the Argentinian city Puerto Madryn. Recently, in light of illegal Chinese vessels draining the supply of fish, Somali fishermen have turned to piracy. And in November 2016, members of the South Korean coast guard opened fire on two Chinese fishing vessels that had threatened to ram patrol boats in the Yellow Sea near Incheon—not a month after Chinese fishermen rammed and sank a South Korean speedboat in the same area.

Warrant: Illegal fishing is the main problem

With its influence in the market place the US can lead the global IUU fishing challenge by requiring the entire supply chain is fully traceable to legal sources. This will improve practices around the globe by those who hope to access the US market. Oceans support the livelihoods of an estimated 520 million people who rely on fishing and fishing related activities, and 2.6 billion people who depend on fish as an important part of their diet. But illegal fishing is threatening the food supply of coastal communities as fish populations decline due to overfishing in areas fishers are not permitted to access. Addressing illegal fishing will positively contribute to the equitable growth and empowerment of the people who rely on oceans for food and income.

Analysis: This is a good response because if the problem is already that countries are fishing illegally, then there is no reason that the US would be able to stop them. They are already overfishing in ways that violate UNCLOS, so they clearly do not care about violating the law.

Response: UNCLOS overfishing laws are too lax to accomplish much

Warrant: Current regulations do not protect fish


In many cases, fisheries rules, regulations and enforcement measures are not efficient; fishing capacity and efforts are not sufficiently limited or controlled. Another important issue is that today’s fishing activities often occur far from the eye of regulators and consumers. In many fisheries, current rules and regulations are not strong enough to limit fishing capacity to a sustainable level. This is particularly the case for the high
seas, where there are few international fishing regulations. Lack of implementation/enforcement: Even when fisheries regulations exist, they are not always implemented or enforced. For example, many countries have still not ratified, implemented, or enforced international regulations such as the UN Convention on the Law of the Sea and the UN Fish Stocks Agreement. Lack of political will is also responsible for failures to adopt bycatch reduction devices, for example.

Warrant: UNCLOS regulations are voluntarily enforced


UNCLOS depends on 166 countries to ensure their own citizens and vessels comply with the treaty in areas beyond national jurisdiction — two-thirds of ocean waters. Countries tend to sign on to intergovernmental agreements — called "sectoral" agreements because they govern different business sectors — that reflect their national interests. These sectoral agreements create authoritative bodies to ensure the equitable use and exploitation of marine resources among nations. Although the sectoral bodies represent the interests of the fishing, mining, shipping, and other industries they govern, they can pass conservation measures if they want to. And some have: One sectoral body, the International Whaling Commission, for example, introduced a moratorium on whaling in the 1980s under pressure from non-whaling member countries. In contrast, the RFMOs, sectoral bodies that mostly include only fishing nations as parties to the agreements, have generally resisted conservation measures.

Analysis: This is a good response because even if the US takes measures to enforce the laws of UNCLOS, it doesn’t matter if the laws themselves are too lenient to accomplish much. This
means that countries can easily get out of taking adequate measures without being in the wrong.
PRO – Acceding to UNCLOS will give aid to developing countries

**Argument:** Joining UNCLOS would increase the amount of aid the US pays to developing countries because UNCLOS requires nations to pay royalties on their sea mining to developing and land locked nations.

**Warrant:** UNCLOS requires royalties payments to developing countries


**Article 82 of the United Nations Convention on the Law of the Sea (UNCLOS) obligates coastal states to make payments to the international community in respect of the exploitation of non-living resources of the extended continental shelf beyond 200 nautical miles. Payments are to begin at the rate of 1 per cent in the sixth year of production, increasing by 1 per cent per year to a maximum of 7 per cent in the twelfth year. The payments are to be made through the International Seabed Authority to parties identified by the Authority “on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and land-locked among them.”** To date, Article 82 has not been triggered. Recent petroleum discoveries beyond 200 nautical miles off Canada's east coast, however, have the potential for commercial development and may well be the first in the world to trigger Article 82. If so, Canada's approach to the implementation of Article 82 could be precedent-setting, with significant implications for the international offshore industry and for potential recipients of required payments.

**Warrant:** The US would have to pay royalties
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Membership in the United Nations Convention on the Law of the Sea (UNCLOS) would alter U.S. law and current practice for the worse. If the United States joined the convention, it would be required to transfer a portion of the royalty revenue generated on the U.S. extended continental shelf (the shelf beyond 200 nautical miles from shore) to the International Seabed Authority in Kingston, Jamaica. The Authority is empowered to distribute those funds—considered “international royalties”—to developing and landlocked nations, including some that are corrupt, undemocratic, or even state sponsors of terrorism. Given the potentially massive mineral wealth on the U.S. extended continental shelf, U.S. accession to UNCLOS would likely have significant financial implications.

Warrant: Joining UNCLOS will allow the US to have control over where royalties are paid


The treaty creates U.S. property rights for vast mineral and oil wealth. The ISA simply grants permits to countries to mine and drill for resources thereby giving companies and countries title – something vital to the very foundation of property rights. One cannot hold a property right if one does not first have title. Once title is granted and resource development takes place, certain Reagan amendments go into effect. Ronald Reagan fought for certain mineral rights for the U.S. and he got them in the 1994 amendments
Pro Arguments with Con Responses

to the treaty. That’s why Reagan’s former Chief of Staff, James Baker, supports ratifying the LOTS. Just as with any other resource development project, there is a royalty schedule: no royalty payments of any kind for the first five years of resource development and after five years the royalties cap at 7%. Right now, Russia, China and 161 other countries are eligible to exploit global resources, enrich their nations, fill the ISA coffers with royalties, and then direct ISA expenditures around the world. Once the U.S. ratifies the treaty, we would be granted 100% veto power as to how all ISA resources from all countries are allocated. That is why Condoleezza Rice endorses the treaty – the U.S. pays up to 7% for just our country, but we get veto power over 100% of the ISA coffers for every royalty from every country. That means zero global mineral and oil wealth payments from anywhere in the world going to rogue states. The only way the U.S. can accomplish this is by ratifying the Law of the Sea Treaty and taking our seat at the ISA.

**Impact:** Aid helps developing countries reduce poverty


In 1985, the OECD reviewed 25 years of ODA. It found that despite setbacks in Sub-Saharan Africa and some countries of Latin America, many developing countries had achieved remarkable economic and social growth over the past quartercentury. It also found that aid, accompanied by growing exports to OECD countries, had significantly contributed to these gains. The OECD identified that ODA is directed to countries coping with the most difficult and intractable development problems, including emergency situations arising from natural disasters, conflict and refugee influxes, and not countries with the highest potential investment returns. Therefore, many receivers of development assistance are not fast-growing countries. Since the MDGs were
launched in 2002, significant achievements have been made against all the eight goals. Millennium Development Goal 1 specifically aimed to halve the number of people who live on less than one dollar per day and halve the number of people who live in hunger by the end of 2015. **By 2014, 74 countries have halved their poverty rates, making this target the most met of all the MDGs**

**Analysis:** This is a good impact because the magnitude and time frame are both enormous. The benefit of reducing poverty is the difference between a life worth living and a life of despair for millions of people. It outweighs other arguments on time frame too because the benefits of alleviating poverty compound over time as people get more time to find better jobs and can afford to send their kids to school.
A/2 - Acceding to UNCLOS will give aid to developing countries

Response: This sets a bad precedent for the UN

Warrant: This allows the UN to collect taxes


A step in the direction of international taxing authority. The Convention contains an ill-advised revenue-sharing provision that is applied to income derived from oil and gas production outside the EEZ. The general bias in the Convention, as I indicated earlier, is in favor of the redistribution of seabed resources. This bias is codified in the area of oil and gas revenues. The U.S. will be forced to pay a contribution to the International Sea-Bed Authority created by the treaty based on a percentage of its production in the applicable area beyond the 200-mile limit. While he asserted the argument against this revenue-sharing provision was unconvincing, State Department Legal Advisor William H. Taft IV acknowledged it was an argument that could be made in the course of October 21, 2003 testimony before the Senate Foreign Relations Committee. Mr. Taft understates the problem. By any reasonable definition, this provision would for the first time allow a U.N.-affiliated international authority to impose a tax directly on the U.S. for economic activity. At least, I am unaware of any precedent for this kind of international taxing authority.

Warrant: This will make it harder to draft future legislation


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Secretary General Boutros-Boutros Ghali recently proposed to establish a "world tax" on airline tickets and currency exchanges as an independent means of financing the UN. "Faced with $2.3 billion in arrears from member nations that failed to pay their assessments -- including $1.2 billion owed by the United States -- UN officials and others have long sought an independent means to raise money for the organization's annual budget of roughly $3 billion" (Barber 1996). Disclosure of this plan provoked an immediate negative response in the U.S. Senate when majority leader Bob Dole stated that, "the United Nations continues its out-of-control pursuit of power" and along with colleagues called for an immediate investigation (Barber 1996). Unfortunately, the Law of the Sea Treaty goes far beyond the Ghali plan and may indeed be viewed as a harbinger of future UN efforts to spin-off or reformulate its activities in such a way as to insulate itself from, and possibly become ascendant to, the sovereign character of nation-states. Unless the United States is willing to insist on further renegotiation of the treaty to protect these and other vital interests, the Senate will have little alternative other than rejection and refusal to ratify. Rejection by the Senate appears to be the only action capable of serving as the catalyst to bring all parties back to the table.

Analysis: This is a good response because even if this particular program is good for helping the poor, it probably is not as good for the poor as the collective amount of future legislation that will be stopped because of this harmful precedent.

Response: Foreign aid is harmful

Warrant: Foreign aid increases corruption

But the summit largely ignored how corruption is fueled by Western governments, the World Bank and the International Monetary Fund. **Foreign aid has long been notorious for breeding kleptocracies — governments of thieves.** Economic studies have revealed that corrupt governments receive more foreign aid. Fourteen years ago, President George W. Bush promised to reform foreign aid: “We won’t be putting money into a society which is not transparent and corrupt.” (He probably meant “corruption-free.”) But US aid programs — which cost taxpayers more than $40 billion a year — continue to bankroll many of the world’s most crooked regimes (according to ratings by Transparency International) — including Uzbekistan, Haiti and Kenya.

**Warrant:** Foreign aid increases conflict


We offer a concept, funding concentration, that is similar enough to the capital-local categorizations to build on existing literature, while different enough to sidestep contradictions between previous theories. **We argue that, in already contested areas, concentrated aid funding is more likely to motivate conventional contests over territorial control, whereas diffused aid funding should promote low-intensity irregular operations.** We expect that the first situation, where the warring parties fight more decisive battles, should result in more short-term military fatalities than the latter. In this paper, we introduce a new dataset that combines geocoded aid...
commitments (Author 2011) with data on territorial control (Author 2012) and military fatalities (Sundberg & Melander, 2013). Using propensity-score matching to better isolate the causal effect of our key variable, our results show that greater funding concentration increased military fatalities by 40%, on average, as compared to if there were low or no funding concentration. In addition to a theoretical contribution, we offer new data and tools to examine subnational aid and conflict. This paper begins with an examination of the literature, after which we formulate our theoretical intuitions and specify a hypothesis. Following this discussion, we outline the research design, display the results, and consider some limitations and conclusions.

Analysis: This is a good response because the problems created by aid are structural, whereas the benefits are short term. Emboldening a bad government and increasing corruption can hamper growth for decades after aid is received, while the benefits only help the current generation.
**PRO – Acceding to UNCLOS helps the IWC**

**Argument:** UNCLOS will allow the United States to be able to pursue lawsuits against countries that hurt whale populations, thus enabling phytoplankton to remove carbon from the atmosphere and improve global warming.

**Warrant:** UNCLOS protects whales through the International Whaling Commission


_In order to lay out the foundation of the IWC's new strength, first the meaning of “appropriate international organizations” must be determined._ While the term "international organizations” does indicate that the drafters of UNCLOS imagined the possibility of having more than one organization overseeing whale conservation, the IWC is currently the only whaling regime exercising any type of management authority over global whale stocks. During the drafting of UNCLOS it was generally assumed that Article 65 would consolidate the role of the IWC. In addition, after the drafting of UNCLOS was completed, it was argued that Article 65 "deferred" to the IWC in all matters related to the management of whales as the IWC was the only international organization under the regime established in the article.

**Warrant:** The IWC cannot enforce its laws without a lawsuit

As a result of the IWC findings that the Icelandic and South Korean scientific permits were not truly for scientific purposes, neither country could rely on article VIII to exempt their whaling operations from the moratorium. However, despite the Commission finding Iceland and South Korea in violation of the Convention, it lacked the authority to punish the countries and/or to end their illegal "research" practices. The single greatest weakness of the IWC is the Commission's lack of enforcement power. Due to the United States insistence a provision for enforcement was removed from the Convention's final draft resulting in the article IX seen today. Under such scheme, the Commission can only rely on the individual member states to prosecute infractions of the convention committed by its nationals and vessels in its jurisdiction.

**Warrant:** US accession to UNCLOS would help the US enforce laws in the IWC


Still, another declaration asserts that Article 65, the UNCLOS provision pertaining to conservation and management of marine mammals, lends direct support to the present moratorium on commercial whaling and the establishment of sanctuaries and other conservation measures. The same declaration also asserts that states must cooperate with respect to all cetaceans not just large ones. This declaration is a clear reference to the work of the International Whaling Commission (IWC) although it does not identify the IWC by name. To understand the context of this declaration, the moratorium on commercial whaling, which has been in effect since the mid-1980s, has come under assault in recent years by pro-whaling states that find no basis in law for the continuation of the moratorium. Furthermore, the reference to "all cetaceans" not just large whales speaks to an ongoing debate in the IWC: that is, whether or not the
IWC is competent to regulate small cetaceans (i.e., dolphins and porpoises) as well as the great whales. **The effect of this declaration will likely be to lend greater U.S. support to the efforts of the IWC which today has a solidly conservationist agenda.**

**Impact:** Protecting whales stops global warming


Members of the scientific community are also worried, albeit for a different reason: **Whales are crucial to ocean carbon absorption. As whale numbers dwindle, it could lead to increased greenhouse gases in the atmosphere, scientists say.** But if conservation efforts pay off, whales could play a role in helping the islands meet the reductions to their nationally determined contributions (NDCs) of greenhouse gases framed in the Paris Agreement. “The main takeaway here is that whales eat carbon, not fish,” said Angela Martin, project lead with Blue Climate Solutions and co-author of a recent report produced for the secretariat of the Pacific Regional Environment Programme that looked into the species’ role in carbon absorption. **“The deep ocean stores a lot of carbon, so it’s worth looking at the contribution of animals and help in conservation efforts,”** she added. Whales facilitate carbon absorption in two ways. On the one hand, their movements — especially when diving — tend to push nutrients from the bottom of the ocean to the surface, where they feed the phytoplankton and other marine flora that suck in carbon, as well as fish and other smaller animals. The other, explained Natalie Barefoot, executive director of Cet Law and co-author of the report, is by producing fecal plumes.

**Analysis:** This is a good argument because the impact of global warming is enormous and likely to win any round because it cuts people off of food supplies and produces deadly natural
disasters. However, this is also a good argument because it preempt the response that we are beyond the point of no return because whales enable carbon to be removed from the atmosphere.
A/2 - Acceding to UNCLOS helps the IWC

Response: Trump will make it difficult to file lawsuits

Warrant: Trump has a history of not upholding US agreements


And, after Trump’s rejection of the Iran deal, the world again, as after Versailles, has cause to wonder whether the United States will adhere to other security agreements (including NATO) that it has designed and promoted. Another world war is unlikely in the near future, but we should expect more conflict, more violence, and more defeats for an isolated United States. A chaotic world will increase the United States’ insecurity and will leave it with fewer sources of leverage over peer competitors, such as China, and revisionist threats, such as Russia. Breaking multilateral agreements diminishes U.S. influence in established institutions, it alienates those who might help Americans, and it emboldens those who wish to hurt them. It turns the United States into the enemy of international order; that is not only irresponsible, but it is also self-defeating.

Warrant: Trump has lost American credibility


America is the most powerful nation on earth. It possesses the strongest military, largest economy, and dominant culture. Nevertheless, such factors do not necessarily
translate into either international respect or popularity. Indeed, the willingness of other nations to trust the U.S. with its extraordinary power is on the wane. That, in turn undermines American influence. The better this nation's image, the more foreign governments are likely to cooperate with Washington in advancing shared goals. Could this have been due to anything other than the Trump presidency? A Pew Research Center study from last June found the answer to be no. The researchers explained: "Although he has only been in office a few months, Donald Trump's presidency has had a major impact on how the world sees the United States. Trump and many of his key policies are broadly unpopular around the globe, and ratings for the U.S. have declined steeply in many nations."

**Analysis:** This is a good response because it shows that Trump is unlikely to sue other countries in the IWC due to his history of backing out of international deals, but even if he does sue other countries, it is unlikely that he will be taken seriously.

**Response:** Anti-whaling regulation rarely works

**Warrant:** The IWC is polarized and cannot get decisions or regulations passed


The International Whaling Commission (IWC) is the international organization responsible for regulating whale hunting. Created after World War II, it now comprises both the main whaling nations and the main anti-whaling nations, and the split between the two is so stark that for years the organization has been barely functioning. Its opposing blocs of anti- and pro-whaling states have mutually exclusive
understandings of what the regime permits and evenly divided power. Their mutual vetoes ensure that the dysfunctional status quo prevails, and the idea of “success” is coming to look increasingly unclear. **The rules that the commission designed decades ago remain in place today, but the members cannot agree either to enforce them or to change them.** Chief among these rules is the ban on commercial whaling, which has existed since the mid-1980s. Despite this ban, several members continue to openly hunt whales, arguing with technical legal reasoning why the ban does not in fact apply to their behavior. The 2010 annual meeting of the IWC presented what may have been the last chance to confront these differences directly, but it ended in a spectacular diplomatic failure, as I shall describe below

**Warrant:** The IWC has been unable to do much in the past


**For the first 15 years of its existence the IWC acted as a “whalers club” and imposed hardly any effective restrictions on whaling.** Catch limits were set far too high and, since the IWC lacks a compliance and enforcement programme, were often exceeded. These management shortfalls resulted in the continued depletion of species after species. In particular, huge declines occurred in the Antarctic, where in the 1961/62 season, the peak was reached with over 66,000 whales killed. By then however it was becoming increasingly hard for the whalers to find enough whales to kill. From a pre-whaling population of about 250,000 blue whales in the Southern Hemisphere, there are now estimated to around 2,300 remaining.
**Analysis:** This is a good response because even if the United States is willing and is able to enforce the laws of the IWC, that still won’t do much good because the laws themselves are lax and rarely modified to be more strict.
Pro Arguments with Con Responses

PRO – Acceding to UNCLOS will protect ocean biodiversity

**Argument:** Once the United States is in UNCLOS, they will be unable to mine in the deep sea due to excessive regulations. This is really good because deep sea mining is horrible for the biodiversity of the ocean.

**Warrant:** The US plans to mine in the deep sea


In 1974, an enormous ship sailed into the waters northeast of Hawaii. The vessel, built by billionaire Howard Hughes, was set to begin mining mineral deposits in the deep sea — or so the world believed. The deep-sea mining venture was actually a cover story for a clandestine CIA mission to salvage a sunken Soviet nuclear submarine. Now, more than 40 years later, we’re ready to start deep-sea mining for real. We’re depleting many of our land-based stores of minerals, and remote though it is, the bottom of the ocean is a likelier source of precious minerals than asteroids. It is strewn with deposits rich in gold, copper, manganese, cobalt, and other resources that supply our electronics, green technology, and other vital tools like medical imaging machines.

**Warrant:** UNCLOS will prevent deep sea mining

By acceding to UNCLOS, the United States would place itself and its seabed mining companies under the regulatory power and control of the International Seabed Authority, an international organization created by the convention. U.S. companies would be forced to pay excessive fees, costs, and an as yet undetermined percentage of royalties to the Authority to fund its operations and to be redistributed to developing countries. In short, U.S. accession would represent a radical sea change because it would create an unprecedented layer of international bureaucratic authority, oversight, and regulatory burden on American companies. However, the United States may advance its national interests without acceding to the archaic and needlessly complex regime established by UNCLOS. Mining the deep seabed is and always has been a high seas freedom that every nation may exercise regardless of membership in any treaty.

**Warrant:** Deep sea mining is bad for biodiversity


Given our poor understanding of deep sea ecosystems, growing industrial interest, rudimentary management, and insufficient protected areas, the risk of irreversible environmental damage here is real. Environmental risks and impacts of deep sea mining would be enormous and unavoidable, including seabed habitat degradation over vast ocean areas, species extinctions, reduced habitat complexity, slow and uncertain recovery, suspended sediment plumes, toxic plumes from surface ore dewatering, pelagic ecosystem impacts, undersea noise, ore and oil spills in transport,
and more. Due to the global rarity of deep sea hydrothermal vent ecosystems, the impact of vent mining would be disproportionately high relative to terrestrial mining. Full-scale nodule mining on the abyssal plain would affect thousands of square miles of ocean floor, kill attached invertebrate communities, and create huge subsea sediment plumes that would flow and settle over thousands of square miles of seafloor. Such sedimentation would smother seabed habitat, reduce habitat complexity and biodiversity over vast areas, and post-mining recovery would be extremely slow. Mining of cobalt crusts on seamounts would cause enormous, possibly irreversible impacts to unique, productive seamount ecosystems.

Impact: Biodiversity helps the environment remain resilient to change


One of the single most important aspects of biodiversity is that it provides insurance. According to the insurance hypothesis: "Biodiversity insures ecosystems against declines in their functioning because many species provide greater guarantees that some will maintain functioning even if others fail. When an ecosystem has lots of different species, they can fill an array of different ecological niches, while in a monoculture they’re all competing for the same niche. Biodiversity tends to increase overall rates of photosynthesis, and it also buffers the community against illness. Plant viruses often specialize in a certain species, genus or family of plants, so one viral strain can obliterate all members of a monoculture. In a diverse ecosystem, on the other hand, all the eggs are not in a single basket. "Biodiversity allows for ecosystems to adjust to disturbances like extreme fires and floods," the NWF adds. "If a reptile species goes extinct, a forest with 20 other reptiles is likely to adapt better than another forest with only one reptile."
Analysis: This is a good argument because it allows you to mitigate any possible global warming impact the con could be going for. Even if global warming gets slightly worse, acceding to UNCLOS will protect marine biodiversity which can prevent the most harmful effects of it from manifesting by increasing resistance to change.
A/2 - Acceding to UNCLOS will protect ocean biodiversity

Response: These regulations will not be followed

Warrant: These regulations are voluntarily enforced


One of the biggest problems for ocean conservation, many scientists say, is that the sectoral agreements rely on binding measures for compliance, while conservation pacts, such as the Convention on the Conservation of Migratory Species of Wild Animals and the Convention on Biological Diversity, depend almost exclusively on voluntary measures. There’s no overarching or even regional conservation agreement that can protect the high seas, says Jeff Ardron, adviser on marine governance at the Commonwealth Secretariat, an international public policy coalition in London. So scientists have to go through sectoral bodies one by one to protect a vulnerable ecosystem with mixed results. "It’s inefficient and frustrating and slow," he says, "but they’re all we have right now."

Warrant: Trump has followed no environmental treaties

Dickie, Gloria. “The US is the only country that hasn’t signed on to a key international agreement to save the planet.” Quartz.org. 2016. https://qz.com/872036/the-us-is-the-only-country-that-hasnt-signed-on-to-a-key-international-agreement-to-save-the-planet/
Snape believes the Convention wouldn’t impact conservation in the US one way or the other—that will be determined by standing national laws, and the usual efforts of citizens, activists, and lawyers. But a Trump administration is worrying. “The idea that [under Trump] we’re no longer going to follow the rule of law, or be flippant with the rule of law, is highly disturbing,” says Snape. Further, Trump can do serious damage in the developing world. Already, he has promised to withdraw all funding from the UNFCCC, and redirect money from climate programming to infrastructure projects. Those promises have not gone unnoticed by the Global Environment Facility (GEF).

**Analysis:** This is a good response because even if UNCLOS is good for protecting the deep seas, it doesn't matter if the US never follows the law. This allows you to concede to all of the pro’s argument but still win the round.

**Response:** UNCLOS allows deep sea mining

**Warrant:** UNCLOS has granted permission


Despite all the arguments against this unnecessary pillaging of our planet’s seabed, so far the ISA has approved 28 exploration contracts in the Pacific, Indian, and Atlantic oceans—covering more than 1.4 million square kilometers (approximately 540,000 square miles), roughly four times the size of Germany—to companies like Lockheed Martin. And in the meantime, the first commercial test case for the deep seabed mining industry is already planned to take place in the waters of Papua New Guinea. Canadian company Nautilus Minerals plans to extract mineral-rich sulfides, containing copper, zinc and gold, at depths between 1,500 and 2,000m. The mining operation, known as the
Solwara project, is scheduled to begin early in 2019. A strong alliance of NGOs made of more than 20 communities in the Bismarck and Solomon Seas is fighting to stop the project. Arguing a lack of consultation, and drawing attention to the grave impacts that could be derived from the project, the local opposition is growing stronger while the company is facing potential financial troubles.

**Analysis:** This is a good response because it proves that the US would only be able to mine in the deep sea if they join UNCLOS. At best for your opponents, this is a non unique response, but at worst it functions as a turn because you can say that you see an increase in deep sea mining with the US acceding to UNCLOS.
PRO – Acceding to UNCLOS will let countries sue the US

Argument: Once the United States is in UNCLOS, this means that they will be able to be prosecuted in the UNCLOS tribunal. This will allow other nations to bring lawsuits against the United States for air pollution, which will save lives.

Warrant: Acceding to UNCLOS will subject the US to lawsuits


Acceding to UNCLOS would expose the U.S. to lawsuits on virtually any maritime activity, such as alleged pollution of the marine environment from a land-based source or through the atmosphere. Regardless of the merits, the U.S. would be forced to defend itself against every such lawsuit at great expense to U.S. taxpayers. Any judgment rendered by an UNCLOS tribunal would be final, could not be appealed, and would be enforceable in U.S. territory. Unlike a resolution passed by the U.N. General Assembly or a recommendation made by a human rights treaty committee, judgments issued by UNCLOS tribunals are legally enforceable upon members of the convention. Article 296 of the convention, titled “Finality and binding force of decisions,” states, “Any decision rendered by a court or tribunal having jurisdiction under this section shall be final and shall be complied with by all the parties to the dispute.” Judgments made by UNCLOS tribunals are enforceable in the same manner that a judgment from a U.S. domestic court would be. For example, Article 39 of Annex VI states that “The decisions of the [Seabed Disputes] Chamber shall be enforceable in the territories of the States Parties in the same manner as judgments or orders of the highest court of the State Party in whose territory the enforcement is sought.”
Warrant: The US loses most lawsuits brought against it


“When the United States has been a complainant (as it has in 114 of 522 WTO disputes over 22 years — more than any other WTO member) it has prevailed on 91 percent of adjudicated issues,” he wrote. **“When the United States is a respondent (as it has been in 129 cases — more than any other WTO member), it has lost on 89 percent of adjudicated issues.”** That’s in line with the won-lost percentage for other countries as well, experts said. We asked Stuart Malawer, a professor of law and international trade at George Mason University, about Trump’s comment. “It’s hard to know where to start,” Malawer told us. “President Trump is absolutely wrong. Period. Not only does the U.S. not lose almost all of its lawsuits, it in fact wins most of them as a complaining state.”

Warrant: International lawsuits make the US shut down coal plants


Trump ordered Energy Secretary Rick Perry on June 1 to take immediate action to stem further coal and nuclear plant closures in the name of national security. The Trump administration argues that the loss of coal and nuclear plants is harming the dependability of the U.S. power grid and its ability to recover from storms or cyber attacks. **But utilities are reluctant to reverse course on plans put in motion years ago**
or to backtrack on pledges to embrace renewable energy. Plant closures that have been worked out under consent decrees to settle environmental lawsuits or in deals with state regulators also can’t be easily reversed. “Once utilities have gone public and announced what they are going to do they may be at the point of no return unless something extraordinary comes up,” said James Lucier, managing director of research firm Capital Alpha Partners LLC.

Impact: Coal contributes to global warming


However, the head of the EPA under President Trump—Scott Pruitt—built his career suing the EPA to withdraw pollution protections. Actions he has taken since his tenure began, including regulatory rollbacks and delays, and cuts to the EPA’s staffing and budget, put many protective standards in jeopardy. Of coal’s many environmental impacts, none are as harmful, long term, and irreversible as global warming. Global warming is driven by emissions of heat-trapping gases, primarily from human activities, that rise into the atmosphere and act like a blanket, warming the earth’s surface. Consequences include rising temperatures and accelerating sea level rise as well as growing risks of drought, heat waves, heavy rainfall intensified storms, and species loss. Left unchecked climate change could lead to profound human and ecological disruption.

Analysis: This is a good argument because the impact of global warming is likely to outweigh any possible argument the con could bring up. Global warming threatens food supplies and the livelihoods of destitute individuals living in geographically vulnerable areas. This is especially true because the US is one of the largest emitters of greenhouse gases in the world, making the impact even larger.
A/2 - Acceding to UNCLOS will let countries sue the US

**Response:** US action will not change

**Warrant:** The US has a history of not following international agreements


Well, the US is an unreliable international partner—and it has long been one, even before the current administration pulled out from the Trans-Pacific Partnership (TPP) and the Paris agreement on climate change, and threatened to end NAFTA. History is dotted with treaties that the US has signed but not ratified, signed and then unsigned, and even refused to sign after pushing everyone else to sign. Capriciousness about international treaties is an old US tradition. It starts with the country’s very creation: hundreds of treaties signed with Native American tribes that were either broken, or not ratified. **Today, the US is one of the countries to have ratified the fewest number of international human rights treaties**—of the 18 agreements passed by the UN, America has only ratified five. According to the US national archives, 374 treaties (pdf, p.4) signed between the US and Native American Tribes from 1772 to 1867 were ratified. Of these, many were not respected: Only one article of the Pickering Treaty, or Treaty of Canandaigua of 1794, for instance, has been observed. Many others (18 in California alone, signed during the Gold Rush) were not even ratified. These include Treaty K, or the California Treaty, which promised reservations to American Indians within the state.

**Warrant:** Trump will not follow international agreements

In late January, The Washington Post released a draft Trump administration executive order (EO) that places a “moratorium” on U.S. commitments to multilateral treaties. The EO proposes a process to review — and potentially rescind — U.S. commitments to international agreements “that purport to regulate activities that are domestic in nature.” Our research suggests that the EO would signal that the Trump administration is hostile to international law — especially human rights law. The EO proposes adding an extra step to the treaty ratification process. A new executive committee would review treaties before they come to the president’s desk for signature. The president would then proceed as usual — and make international treaties “with the advice and consent” of the U.S. Senate, as specified in the Constitution. Next, the Senate would need to approve the treaty with a two-thirds majority vote.

**Analysis:** This is a good response because it allows you to concede the whole argument to your opponents but still win the round. Even if it is true that the United States will be subject to lawsuits under UNCLOS, that does not mean the US will ever listen to the law.

**Response:** Stopping emissions will not solve climate change

**Warrant:** We are past the point of no return
“This is a real shock to the atmosphere,” Peter Tans, lead scientist of NOAA’s Global Greenhouse Gas Reference Network, said in a statement. “The rate of CO2 growth over the last decade is 100 to 200 times faster than what the Earth experienced during the transition from the last Ice Age.” The 400 ppm level, known as the “carbon threshold,” was long used by scientists as a warning that once we passed this mark, the climate cycle would be thrown into turmoil. From 10,000 years ago to the beginning of the Industrial Revolution in 1760, CO2 levels averaged around 280 ppm. And we’ll probably never see levels drop below 400 ppm in our lifetime, according to Tans. If the world stopped burning fossil fuels right this second, the carbon dioxide would still be trapped in the atmosphere for the next few decades.

**Warrant:** Stopping all emissions would not help


Even if carbon dioxide emissions came to a sudden halt, the carbon dioxide already in Earth’s atmosphere could continue to warm our planet for hundreds of years, according to Princeton University-led research published in the journal Nature Climate Change. The study suggests that it might take a lot less carbon than previously thought to reach the global temperature scientists deem unsafe. The researchers simulated an Earth on which, after 1,800 billion tons of carbon entered the atmosphere, all carbon dioxide emissions suddenly stopped. Scientists commonly use the scenario of
emissions screeching to a stop to gauge the heat-trapping staying power of carbon dioxide. Within a millennium of this simulated shutoff, the carbon itself faded steadily with 40 percent absorbed by Earth’s oceans and landmasses within 20 years and 80 percent soaked up at the end of the 1,000 years.

**Analysis:** This is a good response because it provides yet another layer of terminal defense the pro must beat to access an impact. Even if the lawsuits do work out and the pro is able to prove the US will follow UNCLOS laws, it does not mean global warming will be stopped.
**PRO - Acceding to UNCLOS allows for faster naval response**

**Argument:** Acceding to the Law of the Sea would allow for faster and easier naval movement, which would improve the U.S. navy’s response time.

**Warrant:** Acceding to UNCLOS would preserve the Navy’s ability to move wherever and whenever.


The United Nations Convention on the Law of the Sea (UNCLOS) supports implementation of the National Security Strategy, provides legal certainty in the world’s largest maneuver space, and preserves essential navigation and overflight rights. Over one hundred and sixty nations and the European Union are Party to the Convention – but not the United States, the world’s leading maritime nation.

Becoming a Party to the Law of the Sea Convention would help to preserve the Navy’s ability to move forces on, over, and under the world’s oceans, whenever and wherever needed, and is an important asset in the modern maritime environment.

The Convention is in the national interest of the United States because it establishes stable maritime zones, including a maximum outer limit for territorial seas; codifies innocent passage, transit passage, and archipelagic sea lanes passage rights; works against "jurisdictional creep" by preventing coastal nations from expanding their own maritime zones; and reaffirms sovereign immunity of warships, auxiliaries and government aircraft.

**Warrant:** Allies may not assist the U.S. Navy if we do not accede to UNCLOS
One year later, many of those same foreign CNO’s were asked to respond to Admiral Mullen’s plan for a new U.S. Maritime Strategy. Once again, international law figured prominently in several of the responses. The Commandant of the Brazilian Navy urged that the new strategy “be guided by principles sanctioned by international law,” a view shared by the Secretary General of the Peruvian Navy and the Portuguese Navy Chief of Staff. Their counterpart in Colombia emphasized the need for an “international legal mechanism of cooperation.” Uruguay’s reply was also directly on point: “Multilateral cooperation among navies is legitimate activity when it is based on the law.” The Commander of the Lebanese Navy cited the Law of the Sea Convention and cautioned against the United States acting alone, while the new Chief of Staff for the Spanish Navy highlighted the need for the U.S. Navy “to operate alongside its allies in accordance with international law.” The Australian Maritime Doctrine elegantly and forcefully captures the central importance of law and legitimacy for one of America’s most respected partners:

... Australia’s use of armed force must be subject to the test of legitimacy, in that the Government must have the capacity to demonstrate to the Parliament and the electorate that there is adequate moral and legal justification for its actions. [T]his adherence to legitimacy and the democratic nature of the Australian nation state is a particular strength. It is a historical fact that liberal democracies have been more successful in the development and operation of maritime forces than other forms of government, principally because the intensity and complexity of the sustained effort required for these capabilities places heavy demands upon a nation’s systems of state credit, its technological and industrial infrastructure, and its educated population.
Sophisticated combat forces, in other words, depend directly upon the support of the people for their continued existence.

**Warrant:** Acceding now and securing partnerships is smarter in peacetime before a crisis.


As has been suggested, even though military activities in the EEZ present a potentially highly charged issue without a concomitant means of arbitrating or litigating disputes, inevitable confrontation and conflict can be mitigated. In our view, the issues surrounding military activities in this zone must be vetted in the international community before such activities are conducted and allowed to result in confrontation and conflict. In Working with Other Nations, a U.S. Navy strategy white-paper, Navy strategists suggest that multi-lateral, combined naval operations with friendly nations is the preferable way to further political, economic, and security objectives in an economically and politically interdependent world.26 United States national security continues to require forward naval presence to ensure that information, capital, raw material, and manufactured goods flow freely across borders and oceans.262 One way to secure forward naval presence in foreign EEZs without contention and confrontation is by "establishing relations with security partners in peacetime before the onset of a crisis."263 A useful legal tool in support of this strategy is to create consensus on the law through multi-lateral cooperation and agreement

**Analysis:** Navies cannot succeed without the assistance of allies and the freedom to move freely throughout the oceans. Unfortunately for the United States, failing to accede to UNCLOS frustrates critical allies, and concerns our own naval officers. The best way forward is to accede during peacetime, rather than waiting for a potential crisis.
A/2 - Acceding to UNCLOS allows for faster naval response

**Answer:** UNCLOS will not play a significant role in U.S naval response, and if anything risks slowing down U.S ships.

**Warrant:** UNCLOS is basically irrelevant as a binding convention because the rules regarding freedom of movement are enjoyed and observed by countries regardless.


“With regard to freedom of movement: President Reagan’s 1983 Ocean Policy Statement stated that UNCLOS “contains provisions with respect to traditional uses of the oceans which generally confirm existing maritime law and practice . . .”16 The International Court of Justice reached a similar conclusion in the 1984 Gulf of Maine case, albeit in the context of the continental shelf and EEZ articles, indicating that the Convention’s provisions were reflective of customary international law.17 In short, today, all of the important provisions of UNCLOS dealing with freedom of movement, such as the rights of innocent passage, transit passage, archipelagic sea lanes passage, and high seas freedoms seaward of the territorial sea, are considered by virtually all nations as a reflection of customary international law that is binding on all nations. Both our commercial shipping and military forces have exercised and enjoyed these rights for the past 25 years, during which time the United States has not been a party to UNCLOS. Clearly, the United States does not have to become a party to the Convention to exercise its navigational rights and freedoms worldwide. Iran is the only country that continues to maintain that the right of transit passage through the Strait of Hormuz applies only to State Parties to the Convention. What we need more than
membership in another treaty is a coherent national policy that supports freedom of navigation and a strong Navy that can challenge excessive coastal state claims that purport to curtail our freedom of movement and restrict our access to the world’s oceans.”

**Impact:** UNCLOS would actually limit our naval flexibility due to the restrictions it places on some military activities.


“However, this is not the first time that the US has shown its interest in the maritime affairs in the Asia-Pacific region, especially in South China Sea. The 2009 Impeccable incident is reflective of the US intentions to maintain its hegemony through power projections, even by circumventing the marine scientific research (MSR) provisions of the 1982 LOS Convention. In the light of these observations, the US accession to the LOS Convention will have significant implications for the US interest in the South China Sea. Most notably, the LOS Convention would be applicable to the US completely as it does not allow making reservations at the time of accession. In addition, the US would be obliged to refrain from any acts that would defeat the object and purpose of the convention. Thus, by becoming a party to the Convention, the US would be constrained in the freedom to take inapt actions in the South China Sea without giving due considerations to its possible legal consequences. This may diminish the unchallenged naval power of the US in the Asia-Pacific.”
Analysis: The U.S navy is already able to traverse the waters easily without being party to UNCLOS. Joining may grant a small benefit, but it is at best marginal, and the benefit is outweighed by the potential losses we may incur by signing away some naval freedoms.
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Con Arguments with Pro Responses
CON – Hindering Submarine Intelligence

**Argument:** Stringent Naval regulations harms US submarines intelligence gathering methods

**Warrant:** UNCLOS article 19.2 would hinder intelligence gathering activities by United States


“Since the end of World War II, surveillance and reconnaissance operations in international airspace have become a matter of routine. Many nations, including the PRC, engage in such activities on a routine basis. Moreover, as previously discussed, **UNCLOS article 19.2(c) prohibits intelligence-gathering activities by ships engaged in innocent passage through the territorial sea**—as noted above, no similar prohibition is contained in part V of UNCLOS, and therefore, surveillance and reconnaissance activities are permitted in the EEZ. The PRC has an obligation under UNCLOS article 56 to exercise its limited resource-related rights in the EEZ with due regard for the rights of other states to engage in lawful military activities, including surveillance and reconnaissance operations, in the zone.”

**Warrant:** Submarine Intelligence gathering is key for US national security


“**Submarines provide the nation a crucial intelligence-gathering capability that cannot be replicated by other means. Operated with care and cunning and deploying multiple sensors, submarines can monitor happenings in the air, surface, or subsurface littoral**
battlespace, providing a complete picture of events across all intelligence disciplines. They are also an intelligence "force-multiplier," providing tip-offs of high interest events to other collection assets. Submarines are able to monitor underwater incidents and phenomena not detectable by any other sensor. Since they are able to conduct extended operations in areas inaccessible to other platforms or systems, submarines can intercept signals of critical importance for monitoring international developments. The unique look-angle provided by a submarine operating in the littoral region enables it to intercept high interest signal formats that are invisible to reconnaissance satellites or other collection platforms. Furthermore, the ability to dwell covertly for extended periods defeats efforts to evade or deceive collection by satellites and other sensors. The intelligence gleaned from submarine operations ranges from highly technical details of military platforms, command and control infrastructure, weapons systems and sensors to unique intelligence on potential adversaries' strategic and operational intentions. Our submarines can provide real time alertment to National Command Authorities on indications of imminent hostilities. And unlike other intelligence collection systems such as satellites or reconnaissance aircraft, submarines are full-fledged warfighting platforms carrying significant offensive firepower.”

**Warrant:** Article 20 dictates that in territorial seas, submarines must navigate on the surface, thus destroying any secrecy


Http://Www.jus.uio.no/Sisu (This Copy), 10 Dec. 1982,

<www.jus.uio.no/english/services/library/treaties/08/8-01/unclos.xml>

“Article 20: Submarines and other underwater vehicles- In the territorial sea, submarines and other underwater vehicles are required to navigate on the surface
and to show their flag. Article 21- Laws and regulations of the coastal State relating to innocent passage. The coastal State may adopt laws and regulations, in conformity with the provisions of this Convention and other rules of international law, relating to innocent passage through the territorial sea, in respect of all or any of the following: the safety of navigation and the regulation of maritime traffic; the protection of navigational aids and facilities and other facilities or installations; the protection of cables and pipelines; the conservation of the living resources of the sea; the prevention of infringement of the fisheries laws and regulations of the coastal State”

**Analysis:** Hindering US intelligence gathering capabilities obviously has implications for national security as well as global stability. However, UNCLOS explicitly forces submarines to relinquish their secrecy when operating in territorial waters, such as those surrounding the Chinese region. This poses grave security implications which could be thoroughly weighed throughout the round.
A/2 - Hindering Submarine Intelligence

**Answer:** UNCLOS will not impact submarine operations

**Warrant:** UNCLOS guarantees the right to conduct transits through international straits in "normal modes"


"Submarine forces are a key tool in waging the Global War on Terrorism and their unimpeded use is of crucial significance. The use of submarine forces provides a unique tactical advantage because of a submarine's ability to monitor a potential enemy undetected for a long duration. The ability to transit the ocean beneath the surface is therefore critical to a submarine's ability to maintain the advantage of covertness.

The impact of UNCLOS on submarine operations hinges on interpretation of Article 20 of the treaty. Gordon England, former Secretary of the Navy, has stated that UNCLOS does not restrict or prohibit submarine activities. UNCLOS specifically guarantees the right to conduct transits through international straits in "normal modes", which may include submerged transit in the case of submarines. Nevertheless, the Convention mandates that ships refrain from acts that are "prejudicial," including submerged transit in territorial waters; failure to meet this obligation results in a vessel's loss of innocent passage status. But, UNCLOS does not explicitly prohibit submerged transit in territorial seas altogether, especially in international straits. This notion is echoed by Deputy Secretary of Defense, John Negroponte, who has stated that UNCLOS "does not prohibit or impair [. . .] submarine activities in anyway."
Analysis: This is directly responsive to the crux of the argument that UNCLOS hinders US submarine intelligence gathering capabilities and should be read as a primary response at the top of the argument. The only thing it does is force submarines to operate in normal modes; force your opponents to show you how this changes anything related to intelligence gathering.

Answer: The 1958 Convention already laid out certain guidelines which the US already follows, nothing new would be added.

Warrant: UN Special Convention outlined that countries have the ability to combat piracy under any conditions


“The specific argument that the Convention would prevent the United States from using its submarines to collect intelligence is fallacious. Several sources, including the Minority Views in the Senate Committee on Foreign Relations, note that Article 20 of the Convention requires submarines and other underwater vehicles to navigate on the surface and show their flag when engaged in innocent passage. This is correct, so far as it goes. But the minority report then concludes that this would "fail to protect the significant role submarines have played, especially during the Cold War, in gathering intelligence very close to foreign shorelines. What the minority report fails to mention is that the 1958 Convention on the Territorial Sea and the Contiguous Zone, to which the United States has long been party, contains exactly the same restriction.39 Moreover, the collection of intelligence in any guise within the territorial sea is not "innocent passage."40 Such operations are called espionage, not innocent passage. The United States would never accept foreign submarines or foreign warships engaging in
intelligence-gathering operations in the territorial sea off of San Diego or Norfolk. Indeed, when President Reagan signed a proclamation extending the U.S. territorial sea to twelve nm on December 27, 1988, consistent with the Convention, one of the first things that the Coast Guard did was to advise a Soviet military vessel gathering intelligence just a few miles off of Pearl Harbor to leave the area immediately.42 The U.S. military and intelligence communities are well aware that the Convention would have a positive impact on our national security. Moreover, as Senator Richard Lugar, ranking minority member of the Foreign Relations Committee, has argued, it would be unprecedented for the Senate to deny to our nation's military and national security leadership a tool that they have unanimously claimed that they need, especially during a time of war.”

Analysis: This response essentially non-unique’s the argument at its core. If no new restrictions are being added, then there is no unique offense coming off of the aff.

Answer: Intelligence gathering risks interception and therefore increasing tensions

Warrant: US intelligence gathering on China risks increasing tensions


“Beijing has demanded an end to US surveillance near China after two of its fighter jets carried out what the Pentagon said was an "unsafe" intercept of a US military reconnaissance aircraft over the South China Sea. The incident, likely to increase tension in and around the contested waterway, took place in international airspace on Tuesday as the plane carried out "a routine US patrol," a Pentagon statement said. A US
Defence official said two Chinese J-11 fighter jets flew within 50 feet (15 metres) of the US EP-3 aircraft. The official said the incident took place east of Hainan island. "Initial reports characterised the incident as unsafe," the Pentagon statement said. "It must be pointed out that US military planes frequently carry out reconnaissance in Chinese coastal waters, seriously endangering Chinese maritime security," China's Foreign Ministry spokesman Hong Lei Hong told reporters.

**Analysis:** While this response isn’t specific to submarines, it is specific to US intelligence gathering operations, more specifically on our largest adversary and the target of most of our surveillance. If the US ends up spurring tensions in the process of carrying out intelligence gathering operations, it would just push us further back from our main goals of quelling threats and eliminating the risk of conflict.
CON – Acceding to UNCLOS Harms our Ability to Fight Piracy

**Argument:** Loss of our interdiction capabilities and new limitation on surveillance methods threatens the US’s ability to combat piracy.

**Warrant:** UNCLOS imposes burdensome regulations on naval operations

Hodges, David G. “High Seas and High Risks: Proliferation in a Post-9/11 World.”

*University of Maine School of Law Digital Commons*, 2014, August 18 2018

<digitalcommons.mainelaw.maine.edu/oclj/vol19/iss2/2>

“Although strong membership is beneficial in theory, especially considering that it constitutes over sixty percent of global, commercial shipping tonnage, the problem remains that non-signatory states are the ones most likely engaged in proliferation.93 Additionally, without violating one of UNCLOS’s four exceptions under Article 110, a rogue state can still proliferate to another with impunity.94 In this way, a state can transport dual-use materials intended for WMD construction, even though it is technically not breaking the law.95 In essence, UNCLOS’s interdiction power is significantly limited; states do not have the legal authority to board a vessel suspected of proliferation unless: (1) the vessel’s flag state gives permission to board, or (2) the vessel is reasonably suspected of violating Article 110.96 Moreover, the flag states that are likely to proliferate are also unlikely to permit other states to search their vessels, let alone to grant the power to seize their cargo.97 Further, although UNCLOS already has the force of customary international law, none of the four instances in which a state may breach another state’s sovereignty is closely related to the interdictions envisioned by the PSI.98 Instead, these exceptions reflect the widely”

**Warrant:** China is building up its military, the US needs to invest in order to compete and maintain stability

“Several factors make naval patrols the only true legal and practical option. Only warships can seize pirates under UNCLOS, and the IMO strongly cautions against arming merchant ship crews or carrying private security forces on-board because of the possibility for escalation of violence during pirate attacks. Moreover, Somalia lacks the power to control its own maritime territory, and so international anti-piracy efforts necessarily do the job for it. The UNCLOS provisions that protect coastal states’ sovereignty would hamper anti-piracy efforts. Since UNCLOS permits the establishment of a state’s territorial sea at the waters within twelve nautical miles from the coastal low-water line, and Somalia is a signatory of the treaty, pirates operating in a vast area around Somalia’s long coastline could theoretically harass and hijack ships with a manner of double impunity. States have thus gone to great lengths to address that obstacle. Yet safeguarding their ability to exercise jurisdiction in foreign territorial waters for enforcement purposes did not provide the broad and flexible adjudicative jurisdiction states today require”

**Analysis:** This argument essentially serves as a spinoff of the more common PSI argument. Often times, teams will read the same link into PSI and then a unique warrant about hampering anti-piracy operations, with an impact specific to areas around the horn of Africa. This
argument has a lot of real world implications with a relatively rapid time frame which could be really useful when extending and weighing impacts later in the debate.

A/2 - Acceding to UNCLOS Harms our Ability to Fight Piracy

**Answer:** Acceding to UNCLOS would bolster counter-piracy efforts

**Warrant:** UNCLOS provides two key ways to combat piracy


“The convention is now open for amendment and could be changed by countries hostile to U.S. interests if the United States does not participate in the process. The terms of the convention require accepting the treaty in toto, and joining now would allow the United States to lock in an agreement most favorable to its interests—and also gain the ability to apply maximum leverage against other states on strategic oceans issues. The longer it remains a nonparty, the more the United States cedes its negotiating strength.

– The convention provides two essential and immediate components for responding to piracy off the coast of Somalia. First, the convention permits any state to arrest pirates, seize pirate vessels, and prosecute pirates in the courts of the interdicting naval authority. Second, and equally important, the convention protects the sovereign rights of ocean-going states that participate in anti-piracy naval operations in the territorial seas of failed states such as Somalia. This is critical for building international naval flotillas for combating the growing pirate problem in the Indian Ocean.”
Analysis: This turns the argument on face as it explicitly outlines two key ways in which acceding to UNCLOS will actually bolster our maritime anti-piracy efforts. On probability, these are more likely to happen.

Answer: The UN has given countries the authority to combat Somali piracy under any conditions.

Warrant: UN Special Convention outlined that countries have the ability to combat piracy under any conditions.


“Not only does the Convention provide a clear definition of piracy and basis for capture and prosecution of pirates, it also imposes an affirmative obligation upon parties to make efforts to curtail piracy. Critics of the Convention argue that it actually impedes the United States’ ability to chase and capture pirates because a ship must cease pursuit if the ship it is chasing enters its own or a third state’s territorial waters. They assert that this provision provides pirates with a safe haven to retreat to undeterred, and that the Convention prevents non-territorial state ships from pursuing the pirates. This is troubling largely because of the strong presence of Somali pirates. For example, under this provision, Somali pirates can attack ships and if they risk getting captured, rush back into their own state’s territorial waters where they would be safe. Somalia, a nation plagued by its own problems of lawlessness and poverty, is in no position to apprehend these criminals. In such a circumstance, however, the United States can assert that Article 100 of Part VII of the Convention, which imposes upon member parties the duty to cooperate in the
repression of piracy, gives it the authority to continue pursuit. Somalia is a party to the Convention and where it cannot assist in apprehending and trying pirates, it must cooperate with others who can. This includes permitting states that are working to repress piracy by pursuing pirates to do so within Somalia’s territorial waters. Furthermore, a December 2008 United Nations Security Council resolution called upon states to actively assist in combating piracy off of the coast of Somalia and gives them the authority to “undertake all necessary measures ‘appropriate in Somalia’ ” in furtherance of this end for a period of one year. In April of 2010, the United Nations Security Council adopted a resolution that calls upon states to criminalize piracy under their domestic law and consider prosecution of and imprisonment of apprehended Somali pirates. This resolution also seeks a report from the Secretary General of the United Nations to present options for purposes of “prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia.” Given this explicit guidance to counter piracy coupled with the Convention’s anti-piracy provisions, criticism that the Convention would preclude apprehending pirates does not hold up.”

**Analysis:** Often times, UN Security Council Resolutions supercede certain clauses of international agreements when it comes to maintaining national/regional stability and security. Regardless of whether you affirm or negate, other countries will still have the ability to take action against piracy.

**Answer:** Current anti-piracy efforts are not working

**Warrant:** Current anti-piracy efforts in Somalia have hit a brick wall

“There is broad agreement among piracy experts that complacency has contributed to the current surge. But adhering to BMP4 alone is unlikely to resolve the issue long term. Farrell points to a lack of coordination between naval fleets and security forces such as EU NAVFOR, which have a range of remits and priorities including prevention of drug smuggling and people trafficking. He adds that pirates often receive light sentences for their crimes, which have little deterrence value. Dr. Afyare Elmi, a political scientist at Qatar University who has published several papers on piracy, believes that conditions on land must be addressed. "We have been relying on offshore containment, but the best way to combat piracy is through onshore solutions," he says. "The best way is to invest in the national government, to build capacity at national level.” A strong Somali government would be able to maintain effective policing and coast guard services, he argues, and implement new counter piracy legislation. Such a government could also be a valuable partner for international bodies, which have limited co-ordination with the current regime that is seen as weak and ineffective. Beyond this, Elmi would like to see causes of piracy addressed such as poverty -- the country is wracked by famine - and illegal fishing. He hopes for international assistance to prevent the plundering of Somali fish stocks, which is often cited as a grievance by pirates. Such longstanding, deep-rooted issues will not be easily resolved. But if the current wave of piracy continues, it could focus minds on Somalia's plight.”

Analysis: Our current anti-piracy efforts are failing as they don’t address the root of the problem in Somalia, which is poor governance. Right now, US efforts are attempting to contain the problem offshore, when the root of the problem is taking place on shore within the countries’ borders.
CON – Royalties go to corrupt governments

**Argument:** The royalties generated by mining and drilling in the arctic could end up in the hands of corrupt governments.

**Warrant:** Right now, companies want to drill in the Arctic but won’t because of the lack of legal security


“Without being party to the treaty, the US cannot make claims to Arctic seabed beyond 200 miles off its coast, as designated by the treaty. The US is literally on the outside looking in as nations divide valuable resources it could be legally claiming. The US continental shelf is estimated to extend at least 600 miles into the Arctic Sea off the coast of Alaska. This region, called the Arctic Alaska Province, is an incredibly recourse richest area, estimated by the USGS to hold 29.96 billion barrels of oil and 72 billion barrels of natural gas (about 33% of technically recoverable oil and 18% of technically recoverable gas in the Arctic). Supporters of the treaty assert that through acquiring resource rights, the US could substantially increase its domestic oil and natural gas production in the long term. Such production would lead to greater US energy security and greater investment and employment in the energy sector. With the US now having so much to lose and a great deal to gain, supporters of the treaty have been pushing congress to ratify UNCLOS. The treaty has been overwhelming backed by US industries, military officials, previous presidential administrations and the Obama administration as a way to confirm US sovereignty in Arctic. Yet, a small opposition to the treaty remains. The opposition asserts that US should be advancing its resource claims without ratifying what they believe to be a constraining international agreement. Opposition leaders
claim that US territorial disputes over the Arctic (with Canada) should be settled through bilateral treaties, not UNCLOS. Secretary of State Clinton attempted to debunk this argument in a recent Senate Foreign Relations Committee hearing. Clinton asserted that companies have expressed their need for “the maximum level of international legal certainty before they will or could make the substantial investments” in expensive and risky Arctic exploration. In addition [Secretary of State] Clinton stated “our ability to challenge other countries’ behavior should stand on the firmest and most persuasive legal footing available.” Supporting Clinton, the chairman of Lockheed Martin (along with other business leaders) has written to the senate supporting the treaty, saying investment in the region “is only going to be secured for rights clearly recognized and protected within the established treaty-based framework.” In sum, companies won’t drill in the Arctic until they are backed by the legal framework of UNCLOS. UNCLOS provides the legal certainty companies need”¹ If U.S. companies do have legal guarantee they will drill in the Arctic because Gardner continues, “The US continental shelf is estimated to extend at least 600 miles into the Arctic Sea off the coast of Alaska. This region, called the Arctic Alaska Province, is an incredibly recourse richest area, estimated by the USGS to hold 29.96 billion barrels of oil and 72 billion barrels of natural gas”’

Warrant: UNCLOS requires royalties payments to developing countries


Article 82 of the United Nations Convention on the Law of the Sea (UNCLOS) obligates coastal states to make payments to the international community in respect of the exploitation of non-living resources of the extended continental shelf beyond 200 nautical miles. Payments are to begin at the rate of 1 per cent in the sixth year of
production, increasing by 1 per cent per year to a maximum of 7 per cent in the twelfth year. The payments are to be made through the International Seabed Authority to parties identified by the Authority “on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and land-locked among them.” To date, Article 82 has not been triggered. Recent petroleum discoveries beyond 200 nautical miles off Canada’s east coast, however, have the potential for commercial development and may well be the first in the world to trigger Article 82. If so, Canada's approach to the implementation of Article 82 could be precedent-setting, with significant implications for the international offshore industry and for potential recipients of required payments.

Warrant: The US would have to pay royalties


Membership in the United Nations Convention on the Law of the Sea (UNCLOS) would alter U.S. law and current practice for the worse. If the United States joined the convention, it would be required to transfer a portion of the royalty revenue generated on the U.S. extended continental shelf (the shelf beyond 200 nautical miles from shore) to the International Seabed Authority in Kingston, Jamaica. The Authority is empowered to distribute those funds—considered “international royalties”—to developing and landlocked nations, including some that are corrupt, undemocratic, or even state sponsors of terrorism. Given the potentially massive mineral wealth on the U.S. extended continental shelf, U.S. accession to UNCLOS would likely have significant financial implications.
Analysis: The idea that money generated from royalties would flow into the hands of the corrupt elite in developing countries essentially serves as an overarching impact turn to the common royalties argument being run on the aff. If money isn’t being distributed or even set aside for development in these landlocked, less developed countries, then the aff impacts fall because there is no benefit coming off of the royalties, rather they just embolden the corrupt, undemocratic governments.
A/2 – Royalties go to corrupt governments

**Answer:** There is little to no enforcement on collecting royalties

**Warrant:** Other countries have been mining under UNCLOS guidelines and have avoided paying royalties.


“**Article 82 of the** United Nations Convention on the Law of the Sea (UNCLOS) **obligates coastal states to make payments to the international community in respect of the exploitation of non-living resources of the extended continental shelf beyond 200 nautical miles.** Payments are to begin at the rate of 1 per cent in the sixth year of production, increasing by 1 per cent per year to a maximum of 7 per cent in the twelfth year. The payments are to be made through the International Seabed Authority to parties identified by the Authority “on the basis of equitable sharing criteria, taking into account the interests and needs of developing States, particularly the least developed and land-locked among them.” **To date, Article 82 has not been triggered.** Recent petroleum discoveries beyond 200 nautical miles off Canada’s east coast, however, have the potential for commercial development and may well be the first in the world to trigger Article 82. If so, Canada’s approach to the implementation of Article 82 could be precedent-setting, with significant implications for the international offshore industry and for potential recipients of required payments. **The implementation of Article 82 presents many issues. The most significant is:** Who will bear the cost of satisfying the coastal state’s obligation: the coastal state or industry? Several other issues with practical implications for industry arise from specific elements of Article 82.
The goal of this article is to identify and generate discussion of the issues within industry, with a view to contributing to their resolution by government.”

**Analysis:** If countries like Canada, who have been mining in the region for so long have yet to pay royalties, then this response forces your opponents to prove a unique probability that Article 82 will take effect and their link will even happen.

**Answer:** US has veto Power

**Warrant:** The US has a permanent seat on the ISA and a a veto when it comes to the distribution of funds


“**Convention Article 161, paragraph 8(d) requires consensus of the ISA council to distribute economic benefits,** pursuant to Article 162. Section 3, paragraph 15(a) of the annex to the **1999 agreement provides the United States a permanent seat on the council by virtue of being the largest economy on the date of entry into force of the convention. Together these sections effectively give[s] the United States a “permanent veto” over distribution of economic benefits, hence preventing funds from being channeled to potential terrorist groups or other organizations likely to act counter to U.S. national security interests. Notably, the United States is the only nation with access to such a “permanent veto,” which is only available upon joining the convention. Accordingly, President Reagan’s concern regarding potential distribution of funds contrary to national security interests remains valid until the United States joins the convention.”
**Analysis:** If the US maintains a seat on the International Seabed Authority, and has the ability to exercise its veto, there is very little probability that they would ever voluntarily give money to a government rooted with corruption. I believe the best way to respond to this argument holistically is with a probability analysis, as there is a lot up in the air on the link level.

**Answer:** The United States has the ability to block funds to Sudan (commonly cited example)

**Warrant:** The US has a permanent seat on the ISA


> “The payments for these rights would not go the U.N., but into a fund for distribution to other countries that are signatories to the Convention. Because the U.S. would have a permanent seat on the Convention’s International Seabed Council, the U.S. could use its veto power to block funds potentially designated for countries that sponsor terrorism. So although Sudan is a signatory to the Convention, as Former Secretary of Defense Rumsfeld recently pointed out in his testimony before the FRC, the U.S. could veto any funding potentially designated for Sudan.”

**Analysis:** This response can be used as an example to show how the United States is able to use the power afforded to it as a tool to block the transfer of funds to one of the world’s most corrupt nations. Sudan is often cited in rounds as a common recipient of US foreign aid.
CON – US Unilateralism

Argument: The United States is better off it it works as a single actor and avoids joining a multilateral organization.

Warrant: Unilateralism gives a global hegemon like the US freedom of action


“The United States, with its overwhelming aggregation of national power, can be a decisive player anywhere in the world on virtually any issue it desires. It is hard for the world to ignore or work around the United States regardless of the issue—trade, finance, security, proliferation, or the environment. The United States should not squander its position and capabilities by compromising and diluting its objectives in order to attract allies and partners. If the cause is right and just, the United States should pursue it without compromise. Others states can either accept America’s arguments and follow her lead or be left behind as the United States does what it should and must to advance its interests and values. One of the main advantages of unilateral approaches to problems is that they provide maximum freedom of action. While allies and partners can bring extra capabilities to the table, they often bring constraints on how their tools can be used. Those who contribute to an enterprise normally expect to have a say in how it will operate. A common problem in UN military operations in the 1990s was the iphone home syndrome, under which commanders of forces assigned to UN operations had to seek approval from authorities in their home capital before accepting orders from the coalition commander. Unilateralists also point to the limitations that the NATO allies placed on air operations during the Kosovo campaign as an example of how multilateral approaches can be inefficient and reduce the effectiveness of American capabilities by restricting how they will be used.
Because foreign militaries cannot approximate American capabilities, their military contributions are seldom worth the inevitable constraints they add.

**Warrant:** US allies are unreliable and often are unable to act


“But there’s sometimes a downside as well. Multilateral forces can, in strict military terms, be more trouble than they’re worth. Thus some of our NATO allies in Afghanistan have such strict rules of engagement that they are hardly capable of self-defense. The problem comes when an American president takes the bias against unilateralism too far. More important, there is a cost to giving a veto to other countries. Critics of George W. Bush’s decision to take military action in Iraq never really explained why it was so important that we get the permission of France and Germany. Nor is it clear what moral force would have been added to the cause by the approval of Russia and China. And of course our action in Iraq was not in any literal sense unilateral, as so many critics said then and as journalists today casually assume. **More than 30 countries participated in the invasion and occupation of Iraq. Thirty is not one. The usual response to that inconvenient fact is that the other countries don’t really count, because the United States took the initiative and provided the majority of military assets.**”

**Impact:** If the US cannot peacefully resolve territorial disputes in the region it could spark conflict.

However, being the regional superpower it is, the Chinese government makes a historical claim over 90% of the region, which it has defined with a “Nine Dash Line.” These overlapping claims of sovereignty have led to a long list of incidents in which the countries involved each try to assert their control over parts of the region they view as their own, creating a highly tense situation that could easily boil over to armed confrontation.

**Analysis:** This argument is really unique in that it essentially builds a narrative for the round. The aff is always going to defend a multilateral approach in that they will always argue for accession, while the neg disagrees with the fundamental principle of acting and collaborating with other nations. Therefore, reading this argument sets up the debate to be about Unilateralism vs multilateralism.
A/2 - US Unilateralism

**Answer:** China requires a multilateral response

**Warrant:** China uses US absence from the treaty as an excuse to avoid working with the US


“Washington’s outsider position undercuts its message as it urges China to respect global maritime norms. After all, China ratified UNCLOS in 1996, even if Beijing now says it rejects any judgment by the Permanent Court of Arbitration. In a speech in Washington earlier this month, retired Chinese top diplomat Dai Bingguo accused the U.S. of “heavy-handed intervention” in the South China Sea. “Accidents could happen,” said the still influential Chinese Communist Party official, “and the South China Sea might sink into chaos and so might the entirety of Asia.” Still, even as Beijing has launched a public-relations blitz ahead of the July 12 ruling, Chinese state media and diplomatic statements have not highlighted America’s AWOL status in UNCLOS. Perhaps critiquing the U.S. absence is harder when China itself is distancing itself from one of the treaty’s utilized tribunals.”

**Analysis:** By not signing onto UNCLOS and refusing to abide by international law delegitimizes US attempts at curbing Chinese aggression. Therefore, given that China serves to be America’s biggest opposition in today’s modern world, using a unilateral approach serves only to weaken their efforts and push them further and further away from their goals.

**Answer:** Multilateralism solves back for China

**Warrant:** A multilateral approach is key for dealing with China
“Ratifying UNCLOS will afford the United States a stronger position when critical maritime decisions are being debated and negotiated – such as the various territorial disputes between China and its neighbors. To quote my fellow Armed Services member Rep. Joe Courtney, who said at the same HASC hearing on the Pacific Theater: “…we’re allowing litigation to proceed where the consequences in terms of military strategy and resources of this country in the Asia Pacific could hinge on the outcome of that claim and we’re completely shut out... We’ve done this to ourselves.” My colleague is exactly right. We have shut ourselves out of an international rule of law based process that the U.S. military upholds around the world – a process that reinforces diplomacy and ensures the freedom of navigation we so passionately defend across the globe. The fact that substantial amendments were made to the treaty in 1994 – at the behest of the United States and which immediately addressed American reservations – underscores how important it is for the United States to be a party to the international process of maritime dispute resolution, rather than being limited to observer status. It’s better to be a part of the conversation and at the table rather than to be sitting outside waiting in line. We have the opportunity to be involved in a critical participatory process that will serve as the foundational basis of maritime law for years to come. Ratifying UNCLOS enables the United States to nominate members to the Law of Sea Tribunal and the Continental Shelf Commission, and confirms our standing to ensure that discussions on the Freedom of Navigation are not inconsistent with American interest.”

**Analysis:** Acceding to UNCLOS and signing onto an international agreement puts the US in a much more strategic position to deal with a threat as complex and as large as China. Moreover, given that they are currently using US absence to further aggress in disputed areas, signing on gives the US a major check on the Chinese.
CON – Hard Power is Key to Preventing War With China

**Argument:** The US must have a robust military response in place, along with a military plan to take on one of America’s greatest adversaries.

**Warrant:** The US needs to quickly be able to respond to Chinese coercion in areas like the South China Sea.


“In addition, the risk of a dangerous incident involving U.S. and Chinese forces within China’s EEZ remains a concern given the possibility of military escalation. Following several dangerous near-misses—notably in December 2013 involving a Chinese amphibious dock ship and a U.S. guided-missile cruiser and in August 2014 involving a Chinese fighter aircraft and a U.S. surveillance plane—the U.S. and Chinese militaries struck a groundbreaking deal on rules of behavior for safe military encounters between surface naval ships at sea. Such confidence-building measures may help reduce the potential for accidents in the future. However, individual commanders may still display aggressive behavior that could have dire consequences. than $5 trillion in trade that passes through those the South China Sea annually. U.S. interests in the South China Sea include freedom of navigation, unimpeded passage for commercial shipping, and peaceful resolution of territorial disputes according to international law. Failure to respond to Chinese coercion or use of force could damage U.S. credibility, not only in Southeast Asia, but also in Japan, where anxiety about intensified activity by Chinese military and paramilitary forces is growing. Conflict in the South China Sea would put at risk the more than $5 trillion in trade that passes through those strategic waters annually. Also at stake is the U.S. relationship with China, including Washington’s efforts to gain greater cooperation from Beijing on global issues such as combating
terrorism, dealing with epidemics, confronting climate change, securing a deal on Iran’s nuclear program, and persuading North Korea to relinquish its nuclear weapons.”

**Warrant:** Multilateralism will fail against China, as many UNCLOS members will be working against the US


“Since the dawn of “Pax Americana” after World War II, belief in the United States as the undisputed global hegemon remained fairly stable. Until now. According to a recent Pew poll, Americans’ views of the United States as a global power have reached a 40-year low. Indeed, only 17 percent believe that America plays a “more important and powerful role than ten years ago.” Rightly or wrongly, this perception exists. Even though most people still find the United States preferable to China, regional powers can use the widespread belief that America is declining to make their cases for running the system. In fact they are already doing so to a degree. For example, China’s Global Times reports that 47 percent of people believe China has achieved “major power” status. Should both perceptions keep trending in the same direction — the United States is declining while China rises — then the feeling of an historic shift is almost inevitable.”

**Warrant:** China is building up its military, the US needs to invest in order to compete and maintain stability

That spending has been well-focused on the full range of capabilities appropriate for an “active defence” strategy aimed at “winning local wars under informationised conditions” — a strategy that has been interpreted as intended to deter or prevent the United States from effectively defending its interests and allies in the East Asian littoral,” the study argues. “China’s pursuit of military capabilities suited to countering US power projection operations has been greatly facilitated by the proliferation of many of the sorts of technologies and systems that have given US forces such dominance over those of its regional adversaries in the post-Cold War era: systems for real-time reconnaissance, data transmission and processing, precision guidance, robotics, propulsion, and even stealth technology. “As China has mastered these capabilities, it has been able to pose growing challenges to the ability of US forces to project power into its region. And this, in turn, has raised questions about the credibility of US security guarantees there. China’s modernised military poses credible challenges to US supremacy in all aspects of warfare — air, sea, land, space, and cyberspace. “Without substantial and sustained increases in investments in new equipment and operating concepts, the credibility of US security guarantees to allies and partners in East Asia will continue to erode,” the report says.”

Analysis: This argument can offer a few really cool impact scenarios. Obviously, the one which offers the greatest magnitude is that which escalates to war. However, I think the more strategic argument lies in the idea of disturbing regional stability. If China begins to modernize so rapidly, it could mean further Chinese aggression in areas like the South China Sea, which could alter the geopolitical dynamic of the region.
A/2 - Hard Power is Key to Preventing War With China

**Answer:** Hard power increases the probability of war

**Warrant:** The US has responded tit for tat to Chinese naval operations, only inflaming tensions


“SINGAPORE: The United States is considering intensified naval patrols in the South China Sea in a bid to challenge China's growing militarisation of the waterway, actions that could further raise the stakes in one of the world's most volatile areas. The Pentagon is weighing a more assertive programme of so-called freedom-of-navigation operations close to Chinese installations on disputed reefs, two U.S. officials and Western and Asian diplomats close to discussions said....“China has created a new reality down there, and it is not going to be rolled back,” Huxley told Reuters. “They are not doing this to poke America or their neighbors in the eye but they are almost certainly doing this to serve their long-term strategic objectives, whether that is projecting their military power or securing energy supplies.”

**Analysis:** This example goes to show that the America's use of hard power only further inflames the situation. China’s military is growing at an alarming rate, and the US’s continued desire to project their military might has only increased tensions with our greatest adversary. This can functionally turn the argument because one of the biggest empirics involving Chinese aggression stems from US military involvement.
**Answer:** Regardless whether or not the United States goes in on China alone, China will still act in defiance of the international community.

**Warrant:** China won’t stop acting defiantly


“First, while the United States has a strong interest in peaceful resolution of competing territorial claims in the South China Sea, it is not itself a claimant, and thus UNCLOS would provide no additional tools for the United States to use in addressing disputes in the South China Sea. While U.S. ratification of UNCLOS would allow U.S. nationals to serve on arbitration panels, such representatives are expected to exercise independent reasoning and do not take instructions from member governments. If anything, the presence of an American on the panel would have played to the suspicions of hardliners in China who view international legal regimes as a vehicle for advancing U.S. interests. If this sounds farfetched, consider that the Chinese ambassador to ASEAN recently accused Washington of “staying behind the arbitration case as the manipulator, and doing whatever it can to ensure that the Philippines wins the case.” Second, the only thing that the United States would achieve by joining UNCLOS—at least from the perspective of modifying Chinese behavior—would be to deprive Beijing of its talking point that U.S. exhortations to claimant states to comply with UNCLOS amount to “hypocrisy.” Deprived of this talking point, there’s no reason to believe that Beijing would submit to the tribunal’s authority. Although U.S. ratification of UNCLOS would be a boost to the prestige of the convention, Beijing has evidently made a calculated judgment that defending its perceived sovereignty and the strategic value of physical control of large stretches of the South China Sea...
outweighs whatever reputational damage it suffers as a result of flouting the tribunal’s decision.”

**Analysis:** This non-uniques the argument at its core. If China is going to keep abusing the agreement, then nothing the US does, whether its sign onto an international agreement or invest in its military will prevent them.

**Answer:** Trade war with China inevitable - Non-unique

**Warrant:** China and the US are inching towards a trade war


“The first and most important reason why a trade war is likely is simply that we are already in the middle of one. A trade war, for want of a better term, is a deviation from the norms of free trade in pursuit of some advantage. Most people take the view that some distortions are inevitable and that all states have a clear interest in defending some key industrial or other sector against the vicissitudes of competition. Nevertheless, there are limits to the extent of state-led trade manipulation. These limits are set out pretty clearly in trade agreements, from GATT to the WTO, to regional agreements in which states agree to let the market determine prices and investment decisions, but all states engage in some level of protectionism. The problem, therefore, is not simply that China is stretching WTO norms, but that it has simply never come into alignment with them. And having ignored them for so long, despite its own treaty commitments, has now announced a strategic aspiration that drives a coach and horses through them. China, therefore, is balking not at new conditions from the U.S.,
but at the very preconditions of its participation in the rules-based order of the WTO. Which brings the purpose of the WTO itself into question. **The second reason why a trade war is more likely than not is simply the election of Donald Trump as President of the United States.** As everyone knows by now, and whatever your chosen expletive, key to his victory was being able to win in traditionally deep blue states like Pennsylvania and Wisconsin. The key to victory in these states was remarkable changes in U.S. employment patterns, identified by economics Autor, Dorn and Hansen as consequent upon what they term the "China supply shock." **The last reason I think a trade war is more likely than not is simply that, bearing all the above in mind, China behaves like it has already won. By demanding to continue practices that they have long ago agreed by treaty to discontinue, and responding to accusations of predatory mercantilism by engaging in predatory mercantilism suggests that their view of trade has always been entirely transactional.** Indeed, while the U.S. is arguing about rules, China is arguing about behavior, without considering that its behavior has always been in breach of the rules. China seems, therefore, to believe that its sheer market size makes the rules themselves inconsequential and that the real issue is just a plain tug of war between itself and the U.S. Or borrowing from Clausewitz again, China views trade, like war, as politics by other means.”

**Analysis:** This response is another non-unique. If China and the US are escalating towards a trade war right now, then any more tensions could be as a result of the ongoing boycott the two countries have. Reading it in a round won’t completely disprove the argument itself, but it will damage the legitimacy.
**CON – Countering Aggression in the SCS Emboldens and Appeases**

**China**

**Argument:** Currently, China is misinterpreting the legal framework of UNCLOS, while at the same time using US’s non-accession the treaty as a scapegoat and cause for their own aggression. Acceding risks unintentionally signaling approval of their errant interpretations.

**Warrant:** China is blatantly misinterpreting the UNCLOS treaty as an avenue to further aggress in disputed regions.


“While China obviously has the option of rejecting any unfavorable arbitration verdict, the prospect of multiple legal suits will seriously undermine the Middle Kingdom’s claim to regional leadership and peaceful rise. Thanks to the Philippines’s lawfare, China could soon be branded as an international outlaw by a third-party arbitration body composed of one of the world’s leading legal experts. During the latest ASEAN and APEC (Asia-Pacific Economic Cooperation) summits, China was desperate to torpedo any serious discussion of maritime disputes and was clearly isolated, especially as a whole host of regional countries and external powers ramped up their criticism of Chinese reclamation activities in the South China Sea. **The core of a constraintment strategy against China, however, lies in the determination of America and its key allies to push back against growing Chinese military presence on the ground,** which threatens freedom of (especially military) navigation and overflight in the area. Taming the Juggernaut China’s assertiveness in the South China Sea—embodied by its notorious “cabbage strategy” and various forms of “salami-slicing tactics” against smaller claimant states—entered an
intensified phase throughout the early years of the Obama administration. But for long, President Barack Obama held back, relying instead on diplomacy and bilateral engagement with China. Back in 2013, he held an intimate meeting at the Sunnylands retreat center in California with his Chinese counterpart, President Xi Jinping, in order to develop an element of great-power rapport. Framing Sino-American relations as “the most important bilateral relationship in the world,” the Obama administration always emphasized engagement rather than deterrence. To be fair, Xi tried to assuage fears of impending great power conflict by claiming, “The vast Pacific Ocean has enough space for two large countries like the United States and China.” But, quite controversially, he ended up calling for a “new model of great power relations,” which many interpreted as a demand for American recognition of Chinese core interests such as the Beijing’s sovereignty claims in the South China Sea. The Obama administration tried to double down on the engagement track when the two leaders met in the White House earlier this year, paving the way for the expansion of much-needed confidence-building measures between the two powers’ armed forces, especially in light of growing incidents of Chinese harassment against American aircrafts and vessels roaming the Western Pacific. Almost half a decade into the “Pivot to Asia,” the Obama administration has gradually—but with delays and seeming reluctance—stepped up its efforts to directly challenge Chinese expansionism in East Asia. After much hesitation, the United States finally cleared the deployment of destroyers well into the twelve-nautical-mile radius of Chinese-claimed features in the Spratly chain of islands. Whether intended or not, however, the Obama administration ended up mismanaging the PR campaign around its more robust Freedom of Navigation (FON) operations against China. By invoking the right for “innocent passage” as a legal justification for its FON operations, the Obama administration inadvertently lent credence to China’s (implicit) sovereignty claims over LTEs like Subi Reef, which have been artificially augmented in contravention of UNCLOS (see Article 60). A more accurate understanding of UNCLOS would suggest that the principle of innocent passage presupposes the existence of a territorial sea, which could not be the case when one talks about land features that are,
in their natural state, invisible during high tide. Even if the United States chose to suspend the offensive military capabilities of the USS Lassen, for instance, shutting down its fire control radar and not flying any helicopters in the area, the right for innocent passage precludes activities (see Art. 18, Sec. 3, Part II of UNCLOS), which are “prejudicial to the peace, good order or security of the coastal State,” including “collecting information to the prejudice of the defense or security of the coastal State.”

Warrant: Right now, China is ramping up their aggression in the South China Sea and the Arctic.


“Beijing's claims to the territory have however become increasingly aggressive under President Xi Jinping's leadership, beginning a program of construction of artificial islands to strengthen the country's sovereignty claims. China's posturing in the South China Sea has, at times, given rise to tensions with the other Southeast Asian nations as well as countries such as the U.S. and the U.K., who exert freedom of navigation rights in what they consider international waters.

In a more recent spat, the Pentagon uninvited China from taking part in a pan-Pacific naval exercise known as Rim of the Pacific (RIMPAC) because of Beijing's "continued militarization" of the disputed waters. Beijing has repeatedly claimed its actions in the South China Sea are motivated by self-defense. The defense ministry on Thursday called the Pentagon's remarks "irresponsible" in a statement quoted in Reuters.

Warrant: UNCLOS normalizes Chinese behavior and can be viewed as a concession
“This means that the Chinese are claiming that heretofore lawful activities (task-force maneuvering, flight operations, military exercises, weapons testing and firing, surveillance and reconnaissance operations and other intelligence-gathering activities, and military marine data collection or military surveys) conducted in EEZs should now be treated as prejudicial to Chinese rights, including China’s duty to protect the marine environment. If these interpretations gain currency, UNCLOS will prove prejudicial to the rights of maritime nations such as the United States. Law should provide clarity, but UNCLOS is unclear as to what military activities are allowed in a country’s EEZ. China is cynically exploiting the law’s vagaries to further its political goals and its desire to project power.

Herein lies a major danger in U.S. ratification of UNCLOS. In adopting, promoting, and acting on new interpretations of international law, China is attempting to upset the status quo and establish new norms of maritime behavior. By signing up to UNCLOS, the United States might unintentionally signal approval of these errant interpretations. In 2009, China asserted “indisputable sovereignty over the islands of the South China Sea and the adjacent waters” and claimed to “enjoy sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof.” In support of these claims, Beijing submitted to the U.N. Commission on the Law of the Sea a map featuring the now-famous U-shaped line, which encompasses almost the entirety of the South China Sea and skirts the coasts of the Philippines, Malaysia, Brunei, and Vietnam.”

Warrant: Reaggravating tensions could push us past the brink of war
“This transition will not occur automatically if China’s GNP one day exceeds that of the United States. Rather, the threat of supersession will be more gradual as continuing Chinese economic growth—at levels superior to the expansion occurring in the United States—steadily enables Beijing to acquire all the other accoutrements that make for comprehensive national power. On current trends, China will consistently accumulate these capabilities over the next two decades. It certainly aims to do so, at the latest, by 2049, the 100th anniversary of the founding of the People’s Republic of China and the date by which Chinese President Xi Jinping has declared China’s intention to become a fully developed nation. Acquiring the appropriate foundations of power will position China to achieve, first, strategic equivalence with the United States, thus transforming the international system into a meaningfully bipolar order. Then, depending on Beijing’s own fortunes, China may possibly surpass Washington as the center of gravity in international politics. Irrespective of which outcome occurs—or when—either eventuality would by definition signal the demise of the primacy that the United States has enjoyed since the end of the Second World War. Even if during this process a power transition in the strict vocabulary of realist international relations theory is avoided—a possibility because China’s per capita income will lag behind that of the United States for a long time even if it acquires the world’s largest GNP—Beijing’s capacity to challenge Washington’s interests in multiple arenas, ranging from geopolitics to trade and from advancing human rights to protecting the commons, will only increase as its power expands. In other words, China will demonstrate how a rival can, as Thomas J. Christensen phrased it, “[pose] problems without catching up.”8
islands in the East and South China Seas. That these disputes, which a former U.S. official described as involving “uninhabited and uninhabitable rocks,” do not appear prima facie to implicate a systemic crisis should not be reassuring to the United States because every serious contestation that occurs in future Sino-American relations will materialize against the backdrop of a possible power transition so long as China’s growth rates—even when diminishing—continue to exceed those of the United States. This dynamic, as William R. Thompson has pointed out, can produce extended “crisis slides” in which even “relatively trivial incidents or a string of seemingly minor crises” may suffice to escalate what was up to that point a precarious structural transformation into full-fledged geopolitical polarization and major war.”

**Analysis:** This argument can create a pretty cool narrative in round, especially when interacting with some of the more common Pro arguments about countering Chinese aggression in the South China Sea. Essentially, the argument functions as an overarching turn on the Aff argument and can have serious long term implications. Especially when it comes to collapsing and weighing later in the round, while both teams may impact to the same war scenario, the neg controls the stronger link into the argument.
A/2 - Countering Aggression in the SCS Emboldens and Appeases

China

**Answer:** American Containment efforts embolden China

**Warrant:** Beijing believes Washington is making efforts to contain China through increasing its freedom of navigation.


“Not surprisingly, the Chinese, from the other side of the looking glass, see the growing tension over the South China Sea quite differently – it is the US that is playing up the fortification of those islands as a prelude to Chinese intimidation of its neighbours, just so it can maintain or even increase its armed presence in waters not far from China’s 14,500km coastline. Beijing is convinced that Washington is trying all ways to contain China’s emergence as an equal – increasing freedom of navigation patrols to challenge any Chinese move to deny the US Seventh Fleet area access, fostering closer defence cooperation through the Quadrilateral Security Dialogue (Quad) with Japan, Australia and India and, in the latest turn of the screw, calling for an alternative to Beijing’s Belt and Road Initiative for massive infrastructure projects linking Europe and Asia. Challenge the international rules-based order? Beijing is unlikely ever to let slip any hint of wanting to do that even if it is so minded. At the same time, however, it does not see the need to apologise for the prevailing view in China that its sovereignty should not be compromised by rules written by Western powers at a time when China and
many other countries, for that matter, were too weak to stand up for their interests and rights. The 1951 Treaty of San Francisco, which left open the ownership of Xisha (Paracel), and Nansha (Spratly) islands in the South China Sea, is one prime example. China, which has long claimed sovereignty over these islands, was not even invited to the deliberations led by the US and Britain under the auspices of the United Nations to formalise the return of what Japan plundered from the countries they conquered during the Pacific War. The answer is that China does not want to feel vulnerable ever again. It believes in the adage that those who failed to learn the lessons of history are doomed to relive them. And among the bitter lessons for China is this – sovereignty must be underpinned by strength.”

**Analysis:** This functionally turns the argument because it means that affirming and acceding to UNCLOS would mean a loss of US sovereignty. However, this is a good thing because Beijing is emboldened when it perceives the US as increasing or overstepping its sovereignty. Taking a step backwards in regards to sovereignty could mean a step backwards from war.

**Answer:** Acceding to UNCLOS gives the US the backing of the international community which would help encourage dialogue with China

**Warrant:** Escalating current tensions is not in China’s interest.


“Finally, legitimacy is the key to future dialog with China over freedom of navigation in the SCS. UNCLOS already provides the framework for communication and resolution of varying interpretations of convention provisions. With an economy increasingly dependent on
maritime freedom in the global commons, China may be receptive to multilateral
dialog and change internal laws to better conform to the UNCLOS.68 This would be a
win-win for PACOM as it would significantly decrease the requirement for, and
probability of miscalculation during, FON assertions. Moreover, dialog could lead to
multilateral security cooperation activities with the PRC Navy, such as the Proliferation
Security Initiative.69 Proliferation Security Initiative (PSI)
Launched in 2003, “the Proliferation Security Initiative (PSI) is a global effort that aims to
stop trafficking of weapons of mass destruction (WMD).”70 The PSI is not a treaty, but
instead relies on pre-existing international legal frameworks – including the Law of the
Sea Convention – and voluntary commitment to a “Statement of Interdiction Principles”
to guide cooperation and prevent proliferation.71,72 Despite the endorsement of
ninety-eight nations, major players have proved wary to join the United States in this
partnership.”

Analysis: UNCLOS allows for open dialogue and discussion on the subject of maritime security
and the economic benefits of multilateral maritime cooperation. By affirming and becoming a
signatory to the agreement, the US can use its influence, along with the backing of the
international community, to sway China to the negotiation table.

Answer: China will never let tensions spillover into war

Warrant: Escalating current tensions is not in China’s interest.

China Morning Post, South China Morning Post, 20 July 2018,
<www.scmp.com/comment/insight-opinion/united-states/article/2156046/escalating-us-trade-war-not-chinas-interest.>
“China’s successful development is a result of continuous reform and opening up, hard work and patience, not confrontation or expediency. Even if the US tariffs stick, China’s economy can easily absorb them. The trade dispute between China and the US is threatening to get out of control. It could lead to a collapse in confidence that could trigger a global financial crisis. The Trump administration is unlikely to change its behaviour because it subscribes to the madman theory in foreign relations and is not sophisticated enough to understand the chain reaction from a confidence crisis. Only China’s restraint could calm the markets and avoid a crisis. The Trump administration started the fight with a 25 per cent tariff on US$34 billion of Chinese imports, and China retaliated in a tit-for-tat fashion. Since then, the US has proposed a 10 per cent tariff on a further US$200 billion of Chinese imports to be implemented at the end of August. China has promised to respond. So, if China simply didn’t respond to US tariffs, the economic damage would be quite limited. Picking a fight, on the other hand, would affect confidence at home and around the world, which could do a lot of damage to China’s economy.”

Analysis: For the last few decades, China has been slowly and steadily building up its economy. A war with another superpower like the US poses a massive threat to all the economic progress China has made over the last few years. China would never escalate to a full-scale conflict if it meant jeopardizing the recent strides its made.
CON – Hurting US Intelligence and Interdiction Operations

Argument: UNCLOS imposes burdensome regulations on naval operations, and outlines the illegality to stop and search foreign ships sailing in international waters

Warrant: Acceding to UNCLOS would destroy America’s capacity to limit conflict using its navy, specifically by placing it under the control of foreign judges


“The Bush administration is urging the Senate to consent this summer to the Convention on the Law of the Sea, the complex and sprawling treaty that governs shipping, navigation, mining, fishing and other ocean activities. This is a major departure from the administration's usual stance toward international organizations that have the capacity to restrain U.S. sovereignty. And it comes in a surprising context, since the convention has disturbing implications for our fight against terrorists. Deputy Secretary of State John D. Negroponte and Deputy Defense Secretary Gordon England maintain that the convention will enhance U.S. security. They argued in the Washington Times last month that to meet the "complex array of global and transnational security challenges," the United States must have "unimpeded maritime mobility -- the ability of our forces to respond any time, anywhere, if so required." This is true, but ratifying the convention won't bring this benefit. Instead it would put America's naval counterterrorism efforts under the control of foreign judges. Suppose the United States seizes a vessel it suspects of shipping dual-use items that might be utilized to build weapons of mass destruction or other tools of terrorism. It's not a wild supposition. Under the Proliferation Security Initiative, the United States has since 2003...
secured proliferation-related high-seas interdiction agreements with countries such as Belize and Panama, which provide registration for much international shipping. If the United States ratifies the Convention on the Law of the Sea, the legality of such seizures will, depending on the circumstances, be left to the decision of one of two international tribunals.

The first is the International Tribunal for the Law of the Sea, based in Hamburg. Some members of the Hamburg tribunal come from countries naturally suspicious of American power, such as China and Russia. Others are not allied with the United States. Even judges from Europe and South America do not always see things the way U.S. military authorities do. The second institution is a five-person international arbitration panel. The United States and the flag state of the seized ship would have input into the selection of some of these arbitrators. But the U.N. secretary general or the president of the Hamburg tribunal would select the crucial fifth arbitrator when, as would typically be the case, the state parties cannot agree. They must choose from a list of "experts" to which every state party to the convention -- not just China and Russia but other unfriendly nations such as Cuba and Burma -- can contribute. At minimum, these tribunals would pose awkward questions to the United States about the evidence behind a seizure, how we gathered it and who vouches for the information. At worst they would follow the recent example of the International Court of Justice and use a legal dispute to score points against American "unilateralism" and "arrogance" for a global audience keen to humble the United States. In every case, a majority of non-American judges would decide whether the U.S. Navy can seize a ship that it believes is carrying terrorist operatives or supplies for terrorists.”

Warrant: UNCLOS imposes burdensome regulations on naval operations

Hodges, David G. “High Seas and High Risks: Proliferation in a Post-9/11 World.”

*University of Maine School of Law Digital Commons, 2014, August 18 2018*

<digitalcommons.mainelaw.maine.edu/oclj/vol19/iss2/2>
“Although strong membership is beneficial in theory, especially considering that it constitutes over sixty percent of global, commercial shipping tonnage, the problem remains that non-signatory states are the ones most likely engaged in proliferation.93 Additionally, without violating one of UNCLOS’s four exceptions under Article 110, a rogue state can still proliferate to another with impunity.94 In this way, a state can transport dual-use materials intended for WMD construction, even though it is technically not breaking the law.95 In essence, UNCLOS’s interdiction power is significantly limited; states do not have the legal authority to board a vessel suspected of proliferation unless: (1) the vessel’s flag state gives permission to board, or (2) the vessel is reasonably suspected of violating Article 110.96 Moreover, the flag states that are likely to proliferate are also unlikely to permit other states to search their vessels, let alone to grant the power to seize their cargo.97 Further, although UNCLOS already has the force of customary international law, none of the four instances in which a state may breach another state’s sovereignty is closely related to the interdictions envisioned by the PSI.98 Instead, these exceptions reflect the widely”

**Warrant:** US naval interdictions have been successful


<www.armscontrol.org/factsheets/PSI.>

“PSI is an informal arrangement among countries. To date, there is no list of criteria by which interdictions are to be made (except that the cargo is destined for a recipient that might use it to harm the United States or other countries). There is also no secretariat or formal organization that serves as a coordinating body. Instead, participants aim to readily share information among one another as appropriate and to act when necessary to help seize or thwart dangerous trade. One forum for coordination among PSI
members is Operational Experts Group (OEG). The OEG consists of delegations from the most active PSI members, which meet periodically to plan exercises, discuss recent interdictions, and share relevant information. There are currently 21 states that participate in the OEG. PSI participants have conducted nearly 50 interdiction exercises since the initiative’s inception. The exercises, including mock ship boardings, are intended to increase the participants' capabilities to cooperate with one another. They are also intended to put a public face on the initiative and act as a deterrent to potential proliferators. **U.S. officials claim that there have been successful interdictions since the initiative's launch.** In a June 2006 speech, then-Undersecretary of State Robert Joseph claimed that between April 2005 and April 2006 the United States had cooperated with other PSI participants on “roughly two dozen” occasions to prevent transfers of concern. Ulrik Federspiel, Denmark’s ambassador to the United States, asserted at a May 2005 event that “the shipment of missiles has fallen significantly in the lifetime of PSI.” A recent example of a PSI success was the June 2011 interdiction of the *M/V Light*, a Belizean flagged freighter suspected of carrying ballistic missile technology from North Korea to Myanmar. U.S. naval forces intercepted the vessel, and forced it to return to North Korea. Although the *M/V Light* was turned back before it was inspected, the United States would have had the legal authority to do so through its ship-boarding agreement with Belize, a PSI member state.”

**Analysis:** This argument is really unique in that it helps establish a narrative of security coming out of the neg. Moreover, given that the central aff narrative hinges on the fundamental concept of multilateralism, having a neg that centers on the US’s unilateral use of their PSI operations sets up a really interesting debate. When it comes to weighing the argument later in the round, this argument could give you avenues to weigh on security, which could be strategic given that the majority of the arguments on this topic relate back to the idea of global stability and security.
A/2 - Hurting US Intelligence and Interdiction Operations

**Answer:** PSI and Interdiction are strengthened in the aff world

**Warrant:** Accession to UNCLOS increases US credibility and the chances of continuing PSI in the aff world


<https://www.tandfonline.com/doi/abs/10.1080/00908320601071421,>

“Law of the Sea (UNCLOS). It attempts to answer the questions of whether the PSI is legal or illegal under UNCLOS and whether U.S. accession to UNCLOS would enhance or create difficulties for the implementation of the PSI. The author concludes that U.S. accession to the Convention would not affect adversely the implementation and effectiveness of the PSI. On the contrary, accession to UNCLOS could help increase U.S. credibility and leadership in dealing with the threat to international peace and security posed by weapons of mass destruction proliferation. It also suggests that all the relevant information needs to be gathered and examined carefully in order to answer the question of whether a PSI interdiction action is legal under UNCLOS or not.”

**Analysis:** This functionally turns the argument because it means that affirming and acceding to UNCLOS would show the US as being a credible and willing actor, looking to strengthen maritime security in one of the most contested and heated regions of the world. If anything, the notion of a complete loss of intelligence and interdiction capabilities is rather far-fetched. Being that the US is a global superpower with one of the strongest naval forces in the world, there is no reason why other countries wouldn’t want to work with them on achieving maritime peace.
Answer: Accession would legitimize the US position in UNCLOS

Warrant: Other countries will come to the PSI table if the US joins the treaty


“Conspicuously absent from PSI are both Indonesia and Malaysia who both border the world’s busiest maritime straight. With nearly 525 million metric tons traveling this corridor annually, the failure to expand PSI to this SLOC puts international interdiction efforts at a significant disadvantage and complicates an already difficult problem in the PACOM AOR. This failure to expand PSI should come as no surprise, however. As former Vice Chief of Naval Operations Admiral Walsh testified to in 2007, many critical Pacific countries would like to support PSI, but are unable to “convince their legislatures that PSI interdiction activities will only occur in accordance with international law, including the Law of the Sea Convention, when the leading PSI nation, the United States, refuse to become a party to the Convention.” The legitimacy obtained through ratification of UNCLOS would solve this problem immediately. Recruiting countries to PSI is just the first step, however, as enhanced legitimacy has second-order effects.”

Analysis: Right now, other countries are hesitant to get on board with a policy that is led by a nation who is currently absent from the agreement. However, affirming legitimizes the US position and can be weight needed to swing other countries on board.
**Answer:** It is very hard to measure the success of PSI in the status quo

**Warrant:** PSI is already incredibly restricted in the status quo


“Because PSI interdictions are cloaked in secrecy, an assessment of the PSI must rely on an examination of publicly available information regarding specific claims for the PSI made by the U.S. government and PSI advocates. In many cases, the reality does not appear to match the Bush administration’s rhetoric. The Limits of Support The Bush administration claims that nearly 80 countries support the PSI, but it is unclear what “support” means.[7] The “concrete steps” for contribution to the PSI listed on the Department of State’s website[8] are rather vague and conditional. First and foremost, participating states are encouraged to commit formally to and endorse publicly, if possible, the PSI’s Statement of Interdiction Principles. Follow-up steps are also replete with conditional language such as “indicate willingness,” “as appropriate,” “might contribute,” and “be willing to consider.” Although the State Department has posted a list of some 81 nations that have participated in PSI meetings or exercises, it is not at all clear that “participation” equates with “support” as defined by the State Department. Indeed, apparently some participating states have not publicly (or even privately) endorsed the PSI Principles. Reasons given include not perceiving the PSI as a top security priority and wanting to avoid possible reprisals as well as domestic criticism for cooperating with the United States. This reluctance in itself indicates less than stalwart support. Further, given the flexibility of cooperation, many if not most of these 80 so-called supporters would not be obligated to interdict vessels or aircraft at the behest of the United States and might well decline doing so. Thus, in a pinch, such “support” could
easily evaporate. Weak Support in Asia Although there is indeed a growing list of nations willing to associate themselves with different aspects of the PSI on a case-by-case basis, support in Asia, a major focus of proliferation concern, is weak. Despite considerable U.S. pressure to participate fully and publicly, key countries such as China, India, Indonesia, Malaysia, Pakistan, and South Korea remain outside the “coalition of the willing.” The cooperation of others, such as Japan and Russia, is lukewarm at best. Unsupported Claims of Success There is insufficient public information and no objective measure of PSI success or failure. Thus it is unclear how the much-touted 12 or even 30 PSI interdictions in three years compares to efforts prior to the initiative or if an increase in successful interdictions is due to an increase in proliferation activity. The reported interdictions could actually be considered a rather poor result compared to the Stanford Database estimate of an average of 65.5 nuclear trafficking incidents per year. Furthermore, the much-touted October 2003 interdiction of WMD-related materials bound for Libya was most likely not due to the PSI, contrary to assertions by some U.S. officials. Rather, it was the result of an unrelated effort to get Libya to abandon its ambition to possess weapons of mass destruction.[9]"

Analysis: This response is primarily mitigatory; all it does is cast doubt over the success rate of PSI operations. I believe this response should be read in conjunction with other responses to help strengthen it, as it is not strong enough on its own. However, in a round where the efficacy of PSI is being brought into question, this response is helpful in essentially washing the argument, as there is no 100% probability of the stated success rate.
CON – Accession Opens the US to Arctic Drilling which Hurts the Environment

Argument: Acceding to UNCLOS gives the United States the ability to mine in areas extending beyond their EEZ, which has devastating environmental consequences

Warrant: Right now, companies want to drill in the Arctic but won’t because of the lack of legal security


“Without being party to the treaty, the US cannot make claims to Arctic seabed beyond 200 miles off its coast, as designated by the treaty. The US is literally on the outside looking in as nations divide valuable resources it could be legally claiming. The US continental shelf is estimated to extend at least 600 miles into the Arctic Sea off the coast of Alaska. This region, called the Arctic Alaska Province, is an incredibly recourse richest area, estimated by the USGS to hold 29.96 billion barrels of oil and 72 billion barrels of natural gas (about 33% of technically recoverable oil and 18% of technically recoverable gas in the Arctic). Supporters of the treaty assert that through acquiring resource rights, the US could substantially increase its domestic oil and natural gas production in the long term. Such production would lead to greater US energy security and greater investment and employment in the energy sector. With the US now having so much to lose and a great deal to gain, supporters of the treaty have been pushing congress to ratify UNCLOS. The treaty has been overwhelming backed by US industries, military officials, previous presidential administrations and the Obama administration as a way to confirm US sovereignty in Arctic. Yet, a small opposition to the treaty remains.
The opposition asserts that US should be advancing its resource claims without ratifying what they believe to be a constraining international agreement. Opposition leaders claim that US territorial disputes over the Arctic (with Canada) should be settled through bilateral treaties, not UNCLOS. Secretary of State Clinton attempted to debunk this argument in a recent Senate Foreign Relations Committee hearing. Clinton asserted that companies have expressed their need for “the maximum level of international legal certainty before they will or could make the substantial investments” in expensive and risky Arctic exploration. In addition [Secretary of State] Clinton stated “our ability to challenge other countries’ behavior should stand on the firmest and most persuasive legal footing available.” Supporting Clinton, the chairman of Lockheed Martin (along with other business leaders) has written to the senate supporting the treaty, saying investment in the region “is only going to be secured for rights clearly recognized and protected within the established treaty-based framework.” In sum, companies won’t drill in the Arctic until they are backed by the legal framework of UNCLOS. UNCLOS provides the legal certainty companies need”¹ If U.S. companies do have legal guarantee they will drill in the Arctic because Gardner continues, “The US continental shelf is estimated to extend at least 600 miles into the Arctic Sea off the coast of Alaska. This region, called the Arctic Alaska Province, is an incredibly recourse richest area, estimated by the USGS to hold 29.96 billion barrels of oil and 72 billion barrels of natural gas””

Impact: Arctic drilling has the potential to release pollutants like methane into the atmosphere

“There is a steep global price tag attached to physical changes in the Arctic” it “will lead to an extra $60 trillion (net present value) of mean climate-change impacts for the scenario with no mitigation, or 15% of the mean total predicted cost of climate change impacts (about $400 trillion). In the low-emissions case, the mean net present value of global climate-change impacts is $82 trillion without the methane release; with the pulse, an extra $37 trillion, or 45% is added (see Supplementary Information). These costs remain the same irrespective of whether the methane emission is delayed by up to 20 years, kicking in at 2035 rather than 2015, or stretched out over two or three decades, rather than one. A pulse of 25 Gt of methane has half the impact of a 50 Gt pulse. The economic consequences will be distributed around the globe, but the modelling shows that about 80% of them will occur in the poorer economies of Africa, Asia and South America”

Impact: Arctic drilling would exacerbate the costs of global climate impacts


They examined a scenario in which there is a release of methane over a decade as global temperatures rise at their current pace. They also looked at lower and slower releases, yet all produced “steep” economic costs stemming from physical changes to the Arctic. “The global impact of a warming Arctic is an economic time-bomb,” said Gail Whiteman, an author of the report and professor of sustainability, management and climate change at the Rotterdam School of Management, part of Erasmus University. “In the absence of climate-change mitigation measures, the model calculates that it would increase mean global climate impacts by $60 trillion,” said Chris Hope, a reader in policy modelling at the Cambridge Judge Business School, part of
the University of Cambridge. **That approaches the value of the global economy, which was around $70 trillion last year.** The costs could be even greater if other factors such as ocean acidification were included, the study said, or reduced to some $37 trillion if action is taken to lower emissions. As much as 80 percent of the costs would likely be borne by developing countries experiencing more extreme weather, flooding, droughts and poorer health as the Arctic melt affects the global climate, the paper said. 

**Analysis:** This argument can carry a lot of weight in almost any round, regardless of what the opponents’ arguments are. I believe the best way to run this argument is by weighing it on urgency throughout the round. Given that the US recently pulled out of the Paris accords and have made little strides concerning reversing climate change, ensuring that we don’t start a project which could practically double the amount of carbon in the atmosphere should be the utmost priority for the US.
A/2 - Accession Opens the US to Arctic Drilling which Hurts the Environment

**Answer:** The US would be subject to Environmental lawsuits

**Warrant:** US would face climate change lawsuits to help build awareness and increase regulations on climate change, all while disincentivizing risky environmental practices


“Another law professor maintains that the mere act of “preparing, announcing, filing, advocating and forcing a response” to a climate change lawsuit would significantly affect ongoing treaty negotiations; build awareness of climate change; develop climate science, law, and policy; strengthen international institutions; support the democratization of global environmental governance; promote the progressive development of international law; and bolster “transnational climate advocacy networks.”[130] Indeed, “the most important role of international climate change litigation” may be to influence treaty negotiations: The threat of such litigation may have an important effect on the negotiations concerning further reductions of GHG emissions. Thus, exploring the possibilities of such international climate change litigation can be seen as a useful device for furthering the international process and negotiations aiming at the reduction of GHG emissions. Moreover, if the United States fails to adhere to an adverse judgment on climate change issued by an UNCLOS tribunal, it risks political backlash both domestically and within the international community. This was starkly illustrated in both the Paramilitary Activities and Avena cases. ... Finally, unlike the situation in the Paramilitary Activities and Avena cases, it
would not be politically feasible for the United States to withdraw from UNCLOS in the wake of an adverse climate change judgment. The U.S. could not limit its withdrawal to UNCLOS’s compulsory dispute resolution provisions, but instead would be required to withdraw from the entire convention, exposing it to criticism for rejecting the convention’s environmental protection rules, deep seabed regulations, and navigational provisions.”

**Analysis:** Given the political stringency of compliance to an international agreement, especially one as large and as expansive as UNCLOS, rather than join and violate certain junctions of the agreement, the United States would be forced to comply with certain environmental regulations set forth in the framework of the agreement. This incentivizes safe drilling practices and the passing of more environment-friendly policies to regulate drilling.

**Answer:** Right now, the US uses environmentally sound drilling techniques

**Warrant:** Giving the US the ability to operate in the Arctic means expanding the use of these safe practices


“The Foreign Relations Committee heard testimony by Paul Kelly, on behalf of petroleum and other industrial associations, advocating treaty accession as a means of facilitating energy development on the continental shelf beyond 200 nautical miles. While the Convention allows for continental shelf claims to 350 miles and in some cases even beyond this, as a non–state party, the United States has no treaty-based means of making such a claim. Kelly painted a picture of an energy industry ready, willing, and able to move oil and gas extraction production into deepwater areas beyond 200
nautical miles of the United States Citing technology that now allows for oil and gas development in water depths approaching two kilometers, Kelly pointed out that “U.S. companies are interested in setting international precedents by being the first to operate in areas beyond 200 miles and to continue demonstrating environmentally sound drilling and production technologies.” While Kelly touted the ambitious and environmentally sound plans of industry, the environmental community had its own advocate citing the myriad reasons for Treaty accession.

**Analysis:** Acceding to UNCLOS forces companies to use environmentally sound drilling production technologies if they wish to comply with international law. Failure to comply could mean consequences for the US, who would rather invest in safe drilling techniques than face backlash from the international community.

**Answer:** The current shale revolution is discouraging Arctic investment in the status quo, along with the high costs of extraction.

**Warrant:** Few companies are investing in Arctic exploration right now due to high costs.


“Part of the reason is the shale revolution in the United States, which undercut frontier projects like deepwater or the Arctic. “Shale is more accessible and is going to come ahead of the Arctic,” said Bud Coote of the Atlantic Council, formerly a CIA energy analyst. When oil companies like Shell did venture to the waters off Alaska several years ago, oil went for more than $100 a barrel. That made all the extra costs involved in drilling at the edge of the earth a bit more bearable. “I think it has to be back up in that
range” for companies to head north again, he told Foreign Policy. Yet crude has hovered around $50 a barrel since late 2014. **Big oil gave up on some $2.5 billion in drilling rights in the U.S. Arctic in 2016; expensive plays as oil prices dropped just weren’t worth the cost anymore.** “High-cost frontiers,” like the Arctic “will be shunned,” energy intelligence firm Wood Mackenzie said in December last year.”

**Analysis:** This response essentially functions as a link takeout. By showing that current companies are disincentivized from drilling due to things like the shale revolution and high extraction costs, the probability that companies would want to drill in a world where they now have legal security is pretty far-fetched. Given that there would be no change in costs of drilling in such a high-risk environment, or the current shift to hydraulic fracturing, the idea that anything would change is doubtful.
CON - Arbitration courts allow for American technology to end up in the hands of China.

**Argument:** The convention’s arbitration courts allow for the United States’ adversaries to obtain sensitive military and drilling technology. This would hurt the country’s economy and national security as a result.

**Warrant:** The United States has the best drilling technology in the world.


This will have massive economic and geopolitical implications. **This technology trend means that the current oil price range may well break lower—perhaps this year, but certainly within this decade—without energy companies losing profits. Not every company will reap the rewards equally, of course; but the industry as a whole is excited. Energy exploration and production is quickly becoming a technology-driven industry with the US as world leader.** If Trump permits construction of more pipelines and natural gas export terminals, we could see North American exports rise considerably in the next few years. Obviously, over time, a falling energy price will not be good for OPEC or for Russia. Those lower prices will create geopolitical challenges as well as economic ones. I don’t know how it will all shake out. We will likely see some big, energy-driven changes in the world order in the coming decades.

**Warrant:** The United States can be sued before an arbitration tribunal for the sole reason of obtaining sensitive technology.

“‘Article 269 calls for parties to “establish programs of technical cooperation for the effective transfer of all kinds of marine technology to States which may need and request technical assistance.” (Emphasis added.) • Compulsory dispute settlement mechanisms afford further opportunities to obtain sensitive technology and information. Article 6 of Annex VII requires that parties to a dispute “facilitate the work of the arbitral tribunal and...provide it with all relevant documents, facilities and information.” It can therefore be expected that countries may bring the United States or its businesses before arbitral tribunals – without expectation of a favorable result, solely for the purpose of obtaining sensitive technology information. The object of these provisions is consistent with the socialist, redistributionist and one-world vision that animated many of LOST’s negotiators: No matter what the costs may be to U.S. security and business interests, the fruits of marine research, exploration and exploitation of “the Area” – the waters covered by the Treaty – and the associated technology must be shared with developing nations, land-locked states and “geographically challenged” countries.’”

**Warrant:** Sensitive technologies having to do with offshore mining and drilling are often also used by the military.

GAFFNEY, FRANK J. "‘RONALD REAGAN WAS RIGHT: THE LAW OF THE SEA TREATY WAS AND REMAINS UNACCEPTABLE’." BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE.
Some of the technologies in question are most sensitive. They include: underwater mapping and bathymetry systems; reflection and refraction seismology; magnetic detection technology; optical imaging; remotely operated vehicles; submersible vehicles; deep salvage technology; active and passive acoustic systems; bathymetric and geophysical data; and undersea robots and manipulators. Many of these technologies are inherently “dual-use,” having both military and civilian applications. Their military applications include: anti-submarine warfare; strategic deep-sea salvage; and deep-water bastions for sub-surface launching of ballistic missiles. The effect of mandatory sharing of such technology could directly benefit not only this country’s economic competitors. It could also help America’s military adversaries, both actual and potential. The so-called “fixes” with respect to technology transfer obligations contained in the 1994 Agreement do not alter this reality. As noted above, in the first place, the Agreement could not and did not amend the Treaty. Secondly, even if it had done so, the Agreement did not purport to modify all areas in which information and technology transfers are required. For example, all relevant information about deposits and geology must still be provided to the International Seabed Authority’s “Enterprise” in order to apply for a permit to develop seabeed resources, together with the technology necessary to exploit such resources.

Warrant: China has already tried to come after American technology in the past, and succeeded because Clinton merely signed the agreement.
“'The Authority can still direct proceeds from mining or drilling approved for the continental shelf to compensate “affected developing land-based producer States.” If the world wants to encourage mining in the deep seabed, this is no way to do it. Further, this approach carries an immediate risk to U.S. national security. Allegedly to ensure that the benefits of deep sea mining are properly shared, UNCLOS requires all states to “cooperate in promoting the transfer of technology and scientific knowledge” relevant to exploration and recovery activities in the deep seas.17 The 1994 supplementary agreement endorses these provisions, qualifying them only with vague assurances that technology transfer should be conducted on “fair and reasonable commercial terms and conditions, consistent with the effective protection of intellectual property rights.”18 It remains to be seen whether the Authority will assert claims to impose technology transfers in this field. It could do so by making such transfers a condition for approving permits for exploration or recovery by Western firms, since all such activity requires approval of the Authority.19 Yet even without direct demands from the Authority, the Chinese government, by invoking these provisions, managed to obtain microbathymetry equipment and advanced sonar technology from American companies in the late 1990s. China claimed to be interested in prospecting for minerals beneath the deep seas. Pentagon officials warned against sharing this technology with China, given its potential application to anti-submarine warfare. But other officials in the Clinton Administration insisted that the United States, having signed UNCLOS—even if not yet having ratified it—must honor UNCLOS obligations on technology sharing. Future administrations may be more vigilant, but the Authority may, in the future, be more insistent. That is the logic of a treaty that makes mining by firms in one country contingent on the approval of the governments in other countries.”"
Warrant: The United States is on the verge of having the world’s most advanced military

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“”America's technological leadership has also translated into military advantage, another aspect of national power that is still important in today's world. The United States is actively exploring how to integrate the most advanced micro-electronic and information technologies into the next generation of weapon systems and combat doctrines. In the next ten years, the United States will be able to turn its armed forces into the world's first digital military that is across-the-board much more advanced than any other country's military. American dominance in military technology is clearly recognized by Chinese observers. For example, Major General Wang Baochun of the Academy of Military Sciences comments: "The current military revolution is turning the United States into the world's top power with super capabilities” “”

Analysis: Due to the nature of the convention’s tribunals, a foreign power can obtain private or sensitive American technology, which is the most efficient in the world. This is problematic because adversaries like Russia, China, and Iran could pose a greater economic and military threat by taking the United States and its businesses to settlement courts.
A/2 - Arbitration courts allow for military technology to end up in the hands of China.

**Answer:** Ratification of the Law of the Sea Treaty would actually help the United States military.

**Warrant:** China is already developing advanced technology to challenge the United States from accessing its near seas.


""The responsibility to keep peace and find means to secure American interests for future generations must weigh heavily on each commander as he passes Nimitz’s gaze, and never more so than today. Change is afoot in the Pacific. The Chinese military is developing the capacity to challenge American freedom of action in and around the Yellow Sea, the East China Sea, and the South China Sea—China’s “near seas.” China’s naval modernization is efficiently focused on controlling access to these near seas in military crisis. For instance, China has long possessed one of the largest arsenals of naval mines in the world. Over the last three decades its navy has also developed a capable submarine fleet, to challenge the freedom of action of any naval force in the region. More recently, China has announced programs to develop antiship ballistic missiles and aircraft carriers and has demonstrated the capacity to employ antisatellite weapons and cyber-disruption. In short, China is attempting to assemble the technology to challenge the U.S. Navy’s access to the western reaches of “its” lake and thereby challenge the political access that American naval power now ensures.""
Warrant: The United States would not only have more navigational freedom, but it would also have a voice on the Law of the Sea Tribunal and Continental shelf Commission, creating means to curb Chinese aggression.


“”By joining the Convention, the U.S. will be better positioned to respond to Russian efforts to exert influence over the new passage that is opening in the Arctic as the ice melts, which will provide a maritime trade route that shortens transit to Asia by over 30 days. Assuming a seat at the UNCLOS table will allow the U.S. to have a voice in establishing ground rules for how the Arctic Ocean will be governed. Ratification benefits the United States militarily as well. The U.S. Navy has long supported and adhered to the treaty, because it preserves navigation and overflight rights and high seas freedoms for its fleet, which remains the largest in the world. UNCLOS grants the right of innocent passage for all vessels on the high seas, including within other countries’ 12nm territorial sea. The U.S. Freedom of Navigation (FON) program that asserts navigation and overflight rights and freedoms globally, including in the South China Sea, can gain further legitimacy and support if the United States is an UNCLOS signatory. Joining the treaty would enable the United States to participate in dispute resolution mechanisms, including an arbitral tribunal under UNCLOS like the one formed to rule on the Philippines’ case against China’s nine-dash line claim. The U.S. request to send a delegation to observe the hearing in that case at The Hague was denied because it is not a party to the Convention. As a party to UNCLOS, the U.S. would be able to nominate members to the Law of the Sea Tribunal and the Continental shelf Commission, both of which provide a platform to defend territorial claims and discuss freedom of navigation. The Obama administration has rightfully
emphasized the importance of establishing a rules-based international order and shaping norms for managing and resolving territorial disputes. Since treaty provisions can become customary law, the U.S. cannot watch from the sidelines while precedents are established that will affect American interests.”

**Answer:** Countries don’t have to transfer technology vital to national security.

**Warrant:** UNCLOS was updated in 1994 to protect technology that could be used for military purposes.


“Thus, the Convention supports the war on terror by providing important stability for navigational freedoms and overflight. It preserves the right of the U.S. military to use the world’s oceans to meet national security requirements. It is essential that key sea and air lanes remain open as an international legal right and not as a matter of approval from nations along the routes. A stable legal regime for the world’s oceans will support global mobility for our armed forces. Obligatory technology transfers will equip actual or potential adversaries with sensitive and militarily useful equipment and know-how (such as antisubmarine warfare technology). 17 **In fact, no technology transfers are required by the Convention. Mandatory technology transfers were eliminated by section 5 of the annex to the 1994 Agreement amending Part XI of the Convention. Further, Article 302 of the Convention explicitly provides that nothing in the Convention requires a party to release information the disclosure of which is contrary to the essential interests of its security.** As a nonparty, the United States is allowed to search any ship that enters our exclusive economic zone to determine whether it could harm the United States or pollute the marine environment. Under the Convention, the U.S. Coast Guard
or others would not be able to search any ship until the United Nations is notified and approves the right to search the ship. This also is not correct. Under applicable treaty law—the 1958 conventions on the law of the sea—as well as customary international law, no nation has the right arbitrarily to search any ship that enters its exclusive economic zone (EEZ) to determine whether it could harm that nation or pollute its marine environment. Nor would the United States want countries to have such a blanket “right,” because it would fundamentally undermine freedom of navigation, which benefits the United States more than any other nation.”

**Analysis:** The first answer explains that whether the United States accedes or not, China is catching up technologically. The second part of the answer essentially functions as a turn on your opponent’s argument because acceding to UNCLOS would give the United States more access into the waters China is guarding from us. The second answer indicates that as of 1994, a country doesn’t need to transfer technology it claims to be vital to its national security.
**CON - Accession means the US cannot stop pirate ships**

**Argument:** Accession to UNCLOS would hurt the United States’ ability to fight piracy.

**Warrant:** The United States currently patrols the world’s oceans, deterring illicit activities.


"""One might have thought that the end of the Cold War would end the American global policing project—many did think that—but the disorder of the 1990s showed otherwise. That decade saw U.S. troops being sent from Kosovo to Somalia. Since 9/11, the U.S. impetus to police the world has only been enhanced for fear that if we leave a vacuum, it will be filled by terrorists—as has indeed happened in countries from Libya to Syria. Few today imagine that we can simply abandon all or even most of our international obligations without compromising our own safety. **U.S. military forces patrol all the world's oceans, deter aggression on the part of states such as China and Russia, fight terrorists and pirates, combat nuclear proliferation and drug trafficking, and even deploy regularly to aid countries caught in natural disasters.** You might say we are the world's social worker in addition to being its policeman—and there's nothing wrong with that."""

**Warrant:** UNCLOS impedes maritime interception operations

While UNCLOS does contain provisions that encourage cooperation to combat illicit activities at sea, it could also be argued that some of the Convention’s provisions actually hinder such efforts. For instance, UNCLOS impedes maritime interception operations (MIO) in the territorial sea, where the coastal state enjoys “sovereignty” (Article 2). This raises a practical, not a hypothetical, problem for maritime security. Tens of thousands of tons of diesel fuel were smuggled out of Iraq in violation of UN Security Council Resolutions (UNSCR) 661 (1990) and 665 (1990) through the Iranian territorial sea. Coalition forces were aware that the smuggling activities were ongoing, but were unable to intervene because the UNSCRs did not authorize entry into Iran’s territorial sea to enforce the sanctions.”

Warrant: UNCLOS hampers the ability to search a pirate ship in foreign waters


"In the case of counter-piracy operations off the Horn of Africa, UNSCR 1816 (2008) authorizes coalition forces to “enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea . . . and use, within the territorial waters of Somalia . . . all necessary means to repress acts of piracy and armed robbery,” but it falls short of authorizing entry into any other nation’s territorial sea to repress piracy and armed robbery at sea. In fact, during negotiations for UNSCR 1816, Indonesia, China and other states made clear that the Resolution did not set a precedent for future counter-piracy operations in any other nation’s territorial seas. Moreover, UNCLOS Article 111 requires coalition forces to break off hot pursuit of a vessel engaged in piracy on the high seas when that vessel enters the territorial sea of its own state or of a third state. Similarly, counter-proliferation efforts at sea are hindered by UNCLOS Article 92, which provides that “ships sail under the flag of one state only and, save in
exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas.” That means that a warship must have the consent of the flag state or the master to board and search a foreign flag vessel encountered seaward of the territorial sea of another nation.”

**Warrant:** Pirate attacks are on the rise.


“Seventy-one pirate attacks were recorded in Latin America and the Caribbean in 2017 — a 163 percent increase from the year before, according to the nonprofit group Oceans Beyond Piracy, which found that 59 percent of the incidents involved robberies on yachts. “Pirate activity in 2017 clearly demonstrates that pirate groups retain their ability to organize and implement attacks against ships transiting the region,” said the report’s lead author, Maisie Pigeon. Pirates have hit waters off the coast of Suriname hard. In April, at least a dozen fishermen from Guyana went missing or were feared dead following a pirate attack in the area. Guyana President David Granger called the attack a “massacre.” And a fishing boat captain was shot dead after his ship was attacked in May. The rest of his crew survived. The buccaneers also attacked anchorages in Venezuela, Saint Vincent and the Grenadines, Colombia and St. Lucia. OBP estimated that pirates carted off nearly $1 million in stolen goods in attacks in Latin America and the Caribbean. Meanwhile, in East Africa, four vessels were hijacked in 54 total incidents in 2017, with a spike in crimes recorded around the Horn of Africa. But the cost of piracy in the region was $1.4 billion in 2017 — down from $1.7 billion in 2016 and $7 billion in 2010, during the peak of attacks by Somali gangs.”
**Analysis:** This is a strategic argument because the impact can be felt not only in the United States, but around the world as well. This gives you the opportunity to win under an international and domestic framework, should it become an issue in the round. With piracy on the rise this year, this argument could set you up for a powerful narrative, as the United States is the world’s enforcer and acceding to the convention would limit its ability to enforce.

**A/2 - Accession means the US cannot stop pirate ships**

**Answer:** The United States can still fight piracy if it accedes to UNCLOS

**Warrant:** UNCLOS has guidelines in place to combat piracy


"UNCLOS provides that all States have an obligation to cooperate to the fullest possible extent in the repression of piracy (art. 100) and have universal jurisdiction on the high seas to seize pirate ships and aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board (art. 105). Article 110, inter alia, also allows States to exercise a right of visit vis-à-vis ships suspected of being engaged in piracy. These provisions should be read together with article 58(2) of UNCLOS, which makes it clear that the above-mentioned articles and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with the provision of UNCLOS relating to the exclusive economic zone. It is also important to distinguish the crime of piracy from armed robbery against ships, which can occur within the internal waters and territorial sea of a coastal State."

**Warrant:** Countries that have ratified the agreement have access to more in-depth intelligence on piracy in order to combat it appropriately.

“...The Security Council has repeatedly reaffirmed “that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 (‘The Convention’), sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities” (Security Council resolution 1897 (2009), adopted on 30 November 2009). Article 100 of UNCLOS provides that “[a]ll States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.” The General Assembly has also repeatedly encouraged States to cooperate to address piracy and armed robbery at sea in its resolutions on oceans and the law of the sea. For example, in its resolution 64/71 of 4 December 2009, the General Assembly recognized “the crucial role of international cooperation at the global, regional, subregional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy”. The Division for Ocean Affairs and the Law of the Sea, as the secretariat of UNCLOS, has a mandate to provide information and advice on the uniform and consistent application of the provisions of UNCLOS, including those relevant to the repression of piracy. It also has a mandate to provide information on relevant developments in oceans and the law of the sea to the General Assembly, as well as to the Meeting of States Parties to UNCLOS, in the annual reports of the Secretary-General on oceans and the law of the sea. These reports provide updated information on developments in respect of piracy and other crimes at sea.”

**Answer:** The U.S. could fight piracy better after acceding

**Warrant:** The United States could impose Article 100 of Part VII, making other members join in on the fight against piracy.

Not only does the Convention provide a clear definition of piracy and basis for capture and prosecution of pirates, it also imposes an affirmative obligation upon parties to make efforts to curtail piracy. Critics of the Convention argue that it actually impedes the United States’ ability to chase and capture pirates because a ship must cease pursuit if the ship it is chasing enters its own or a third state’s territorial waters. They assert that this provision provides pirates with a safe haven to retreat to undeterred, and that the Convention prevents non-territorial state ships from pursuing the pirates. This is troubling largely because of the strong presence of Somali pirates. For example, under this provision, Somali pirates can attack ships and if they risk getting captured, rush back into their own state’s territorial waters where they would be safe. Somalia, a nation plagued by its own problems of lawlessness and poverty, is in no position to apprehend these criminals. In such a circumstance, however, the United States can assert that Article 100 of Part VII of the Convention, which imposes upon member parties the duty to cooperate in the repression of piracy, gives it the authority to continue pursuit. Somalia is a party to the Convention and where it cannot assist in apprehending and trying pirates, it must cooperate with others who can.

Analysis: This effectively responds to the argument because it proves that not only can the United States still effectively fight piracy in the world’s oceans, but it could also do it better. The
analysis that acceding to UNCLOS would benefit the fight against piracy could function as a turn to the argument, garnering more offense for you and your partner.
CON - Acceding to UNCLOS means the United States can no longer spy on China

Argument: If the U.S. were to accede to the treaty its intelligence gathering efforts against China will be severely undermined. Not only would the US be prohibited from gathering intelligence in China’s territorial zone, China argues that US military activities including surveillance in its EZE is also in violation of the treaty.

Warrant: The U.S. currently has an overwhelming advantage over China in intelligence, surveillance, and reconnaissance (ISR).


“Indeed, the U.S. has a huge and bewildering array of ISR planes, surface vessels, submarines, satellites, and drones, many with specialized functions like the subhunter Impeccable. It has by far the world’s largest and most capable force of signals intelligence (SIGINT) aircraft. Moreover, most of the U.S. Navy’s top-of-the-line combatants, like the Ticonderoga-class cruisers and the Arleigh Burke-class destroyers — as well as its submarines — are equipped to carry out SIGINT missions. Further, China’s assets do not even come close to the United States’ number and array of unmanned aircraft and seacraft (drones), particularly their range and advanced weapons and sensors, coupled with the necessary satellite and telecommunications support systems. The U.S. satellite ISR capacity greatly exceeds that of China. In terms of deployment, the United States flies hundreds of manned ISR missions every year along China’s coast; there have been no public reports of any Chinese aerial ISR missions off the U.S. mainland coast.”
Warrant: U.S. ISR missions are critical for gathering information about China’s military capabilities as well as well as intercepting Chinese communication


“The exposed information contained the fact that the United States has “the ability to locate and collect transmissions to or from Chinese submarines and to correlate them to specific vessels.” The plane also carried data that clarified “how much the U.S. knew about China’s submarine-launched ballistic missiles program.” Lending credibility to previous speculation, the report revealed that the ISR missions spur targeted militaries to react, thus creating communications that can be intercepted. So it does appear that the United States has a huge advantage over China when it comes to ISR. Unlike Malaysia, Thailand, and Vietnam, China does not oppose all foreign military activities in its EEZ without its permission. However, China certainly does object by word and deed to what it perceives as U.S. abuse of the right of freedom of navigation and a threat to use force.”

Warrant: UNCLOS article 19.2 would prohibit intelligence gathering activities by United States ships engaged in innocent passage through China’s territorial sea.


“Since the end of World War II, surveillance and reconnaissance operations in international airspace have become a matter of routine. Many nations, including the PRC, engage in such activities on a routine basis. Moreover, as previously discussed, UNCLOS article 19.2(c) prohibits intelligence-gathering activities by ships engaged in
innocent passage through the territorial sea—as noted above, no similar prohibition is contained in part V of UNCLOS, and therefore, surveillance and reconnaissance activities are permitted in the EEZ. The PRC has an obligation under UNCLOS article 56 to exercise its limited resource-related rights in the EEZ with due regard for the rights of other states to engage in lawful military activities, including surveillance and reconnaissance operations, in the zone.”

**Warrant:** China believes the United States’ activities in its EEZ violates UNCLOS as it argues the US is preparing a battlefield.


“So it does appear that the United States has a huge advantage over China when it comes to ISR. Unlike Malaysia, Thailand, and Vietnam, China does not oppose all foreign military activities in its EEZ without its permission. However, China certainly does object by word and deed to what it perceives as U.S. abuse of the right of freedom of navigation and a threat to use force. In sum, China believes that these activities violate the peaceful purpose and uses provisions of the UN Convention of the Law of the Sea (UNCLOS), as well as its UNCLOS EEZ resource rights and environmental obligations. China also thinks that the United States is “preparing the battlefield” and that this constitutes a violation of the UN Charter as well as UNCLOS. In particular, China alleges that the United States is not abiding by its obligation to pay “due regard” to Chinese rights and duties as a coastal state. Such due regard in the EEZ is required by UNCLOS for both the coastal state and the user state, but the term is undefined.”

**Warrant:** China believes that the U.S. data collection in China’s EEZ are used to support military operations against China, which violates Article 301 and Article 88 of UNCLOS.

“China’s primary UNCLOS textually-based argument is that military activities in the EEZ conducted without the coastal State’s consent violate UNCLOS Article 301, which requires that states “shall refrain from any threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the principles of international law embodied in the [U.N. Charter].” Chinese commentators argue that U.S. military activities in the EEZ are facilitating the collection of data that could be used to support military operations against China in violation of Article 301, as well as Article 88, which states that ‘the high seas shall be reserved for peaceful purposes.’”

Analysis: It is clear that the U.S. currently has an advantage over China in terms of gathering intelligence. If the U.S. were to accede to UNCLOS however, the continuation of its vast surveillance efforts would be at risk, however, because China has cited several UNCLOS provisions that the U.S. is currently violating. While currently not a current member of UNCLOS and thus not being held accountable for potential violations, If the U.S. were to accede without reservations they would risk losing their unrestricted surveillance capabilities over China.
A/2 - Acceding to UNCLOS means the United States can no longer spy on China

**Answer:** China does not have an explicit legal basis under UNCLOS that would prevent U.S. surveillance in its EEZ.

**Warrant:** China’s position that intelligence surveillance in its EEZ violates UNCLOS, is not explicitly supported by the treaty or any other international agreement.


“‘As previously discussed, coastal states lack security interests in the EEZ. **Nothing in UNCLOS supports the PRC position. Similarly, the Chinese position that the freedom of overflight reflected in UNCLOS article 58 is a narrow right, including only the right to transit the airspace above the EEZ, is not supported by UNCLOS, other international agreements, or state practice.** On the contrary, the negotiating history of UNCLOS and state practice before, during, and after UNCLOS support the conclusion that freedoms of navigation and overflight in the EEZ are broad freedoms; it is coastal-state rights in the EEZ that are narrowly limited. As we have seen, UNCLOS article 58 is quite clear: all states enjoy the freedoms of navigation and overflight and other internationally lawful uses of the seas related to these freedoms, such as those associated with the operation of PEDROZO 107 ships and aircraft. ‘’

**Warrant:** The lack of a provision in part V prohibiting intelligence gathering indicates that surveillance and reconnaissance activities are permitted within China’s EEZ.

“Long-standing state practice supports the position that surveillance and reconnaissance operations conducted in international airspace beyond the twelve-nautical-mile territorial sea are lawful activities. Since the end of World War II, surveillance and reconnaissance operations in international airspace have become a matter of routine. Many nations, including the PRC, engage in such activities on a routine basis. Moreover, as previously discussed, UNCLOS article 19.2(c) prohibits intelligence-gathering activities by ships engaged in innocent passage through the territorial sea—as noted above, no similar prohibition is contained in part V of UNCLOS, and therefore, surveillance and reconnaissance activities are permitted in the EEZ. The PRC has an obligation under UNCLOS article 56 to exercise its limited resource-related rights in the EEZ with due regard for the rights of other states to engage in lawful military activities, including surveillance and reconnaissance operations, in the zone.”

Warrant: The U.S. insists on maintaining military freedom including surveillance in China’s EEZ as it is justified under UNCLOS through freedoms of navigation and overflight.


“The U.S. considers that the EEZ regime “does not permit the coastal State to limit traditional non-resources related, high seas activities in this EEZ, such as task force manoeuvring, flight operations, military exercises, telecommunications and space activities, intelligence and surveillance activities marine data collection, and weapons’ testing and firing.” The U.S. insists on the freedom of military activities in the EEZ out
of concern that their naval and air access and mobility could be severely restricted by any global trend towards “thickening jurisdiction” over the EEZ. The ability to conduct military activities in the EEZ, including military surveying and intelligence collection, is justified on the basis that they are part of the normal high seas freedoms of navigation and overflight that are available in an EEZ under UNCLOS. However, some coastal states, including Bangladesh, Malaysia, India and Pakistan, contend that other States cannot carry out military exercises or manoeuvres in or over their EEZ without their consent. The concern of these States is that uninvited military activities could threaten their national security or undermine their resource sovereignty.”

Analysis: China’s claims against the United States’ intelligence gathering activities in its EEZ are not explicitly supported by UNCLOS. This response severely limits the con’s ability to claim that the US will lose nearly all of its marine surveillance against China, since there is not a strong legal backing to support China’s argument.

Answer: U.S. Surveillance within China’s EEZ is only leading increasing tensions between the two countries and risking conflict.

Warrant: China has consistently responded aggressively by intercepting U.S. reconnaissance flights and using vessels to harass U.S. Navy surveillance ships.


“The most likely and dangerous contingency is a clash stemming from U.S. military operations within China’s EEZ that provokes an armed Chinese response. The United States holds that nothing in the United Nations Convention on the Law of the Sea (UNCLOS) or state practice negates the right of military forces of all nations to conduct
military activities in EEZs without coastal state notice or consent. China insists that reconnaissance activities undertaken without prior notification and without permission of the coastal state violate Chinese domestic law and international law. **China routinely intercepts U.S. reconnaissance flights conducted in its EEZ and periodically does so in aggressive ways that increase the risk of an accident** similar to the April 2001 collision of a U.S. EP-3 reconnaissance plane and a Chinese F-8 fighter jet near Hainan Island. A comparable maritime incident could be triggered by Chinese vessels harassing a U.S. Navy surveillance ship operating in its EEZ, such as occurred in the 2009 incidents involving the USNS Impeccable and the USNS Victorious. The large growth of Chinese submarines has also increased the danger of an incident, such as when a Chinese submarine collided with a U.S. destroyer's towed sonar array in June 2009.”

**Warrant:** In order to protect their unarmed intelligence vessels from Chinese provocations, the U.S. would have to dispatch armed escorts to the region. These deployments risk a miscalculation between the countries which could lead to a violent conflict.


“Since neither U.S. reconnaissance aircraft nor ocean surveillance vessels are armed, the United States might respond to dangerous behavior by Chinese planes or ships by dispatching armed escorts. A miscalculation or misunderstanding could then result in a deadly exchange of fire, leading to further military escalation and precipitating a major political crisis. Rising U.S.-China mistrust and intensifying bilateral strategic competition would likely make managing such a crisis more difficult.”

**Analysis:** This response serves as an impact turn. While the Con team will advocate that losing surveillance capabilities undermines the United States’ ability to combat China, surveillance
missions have actually created new conflicts between China and the United States. If the U.S. were to stop its surveillance in China’s EEZ, then the risk of miscalculation would be lower.
CON - Acceding to UNCLOS means the US loses its presence in the strait of Hormuz

Argument: The U.S. Navy currently operates freely within the strait of Hormuz. If the U.S. were to accede to UNCLOS however, the strait would be reserved for innocent passage because it falls within Iran and Oman’s territorial zones.

Warrant: The Strait of Hormuz is less than 24 nautical miles wide at its narrowest point allowing it to be easily covered by the territorial waters of its neighboring states.


“’However, shortly after World War II, many coastal states bordering on international straits (strait states) began to claim territorial seas of greater and greater breadth. By 1979, only 23 states, including the United States, still claimed a territorial sea of only 3 nm, while 76 states claimed a territorial sea of 12 nm. (The U.S. did not extend its territorial sea to 12 nm until December 1988.) These expanded claims could have “closed” several key international straits, because the high seas corridors through the centers of these straits were reclassified as territorial waters of the strait states and were therefore subject to the restrictive regime of innocent passage. For example, the Strait of Bab el-Mandeb is about 14.5 nm wide at its narrowest point between the Republic of Yemen and Djibouti. When these nations expanded their territorial seas out to 12 nm in 1967 and 1979, respectively, the entire breadth of the Bab el-Mandeb was
converted to territorial waters. Several other key straits—Gibraltar, Hormuz, and Malacca—are also less than 24 nm wide at their narrowest points and would similarly be “covered” by territorial waters if the bordering straits states claimed territorial seas of 12 nm.”"

**Warrant:** Iran and Oman have used provision in UNCLOS to expand their territorial seas to 12 nautical miles which has closed the Strait of Hormuz for anything besides innocent passage.


“”For centuries, a high seas corridor ran through the center of the Strait of Hormuz, permitting foreign warships to transit without entering either Iranian or Omani territorial waters. This changed in April 1959 when Iran attempted to alter the legal status of the strait by expanding its territorial sea to 12 nm and declaring that it would recognize only transit by innocent passage through the newly expanded area. In July 1972, Oman expanded its territorial sea to 12 nm by decree. Thus, by mid-1972, the Strait of Hormuz was completely “closed” by the combined territorial waters of Iran and Oman. During the 1970s, neither Iran or Oman attempted to impede the passage of warships through the strait, but in the 1980s, both countries asserted claims that were inconsistent with customary international law. In February 1981, Oman issued a royal decree declaring its “full sovereignty over the territorial sea of the Sultanate...in harmony with the principle of innocent passage of ships and planes of other States through international straits.””
Warrant: Iran has stated that it refuses to give unconditional free navigation in the Strait of Hormuz, and will only allow passage to vessels which it deems do not pose a threat.


“’As of 1978, Iran and Oman were maintaining unimpeded transit through the Strait by means of the Iranian-Omani Joint Patrol of the Strait of Hormuz. These countries have had disputes over islands and boundary delimitations and the area in general has been an area of international tension and conflict. No treaty governs this Strait. From the perspective of the maritime powers it is the classic international strait through which transit must be permitted without interruption. During the final negotiating session of UNCLOS in 1982, however, Iran stated that it “could not give an unconditional guarantee of freedom of navigation” and would ‘guarantee passage only to vessels that did not pose a threat to its security.’ Iran also issued a “declaration of understanding” at the end of the negotiations in 1982 that the right of transit passage through international straits was a new international norm – the “product of quid pro quo which [does] not necessarily purport to codify the existing customs or established usage (practice) regarded as having an obligatory character” and hence that “only States parties to the Law of the Sea Convention shall be entitled to benefit from the contractual rights created therein.” At the same time, Oman issued an “understanding” that the transit passage regime “does not preclude a coastal State from taking such appropriate measures as are necessary to protect its interest of peace and security.”’

Warrant: In the status quo as a non-member of UNCLOS, the United States rejects Iran and Oman’s claims and has used the Navy to enter the strait numerous times over the past few decades.

“The United States does not recognize any of the excessive claims by Oman and Iran and has contested each of them. In response to Oman’s 1981 decree, the U.S. Navy conducted regular transits through Omani territorial waters, including the Strait of Hormuz, between 1983 and 1996. The U.S. also contested Oman’s declarations submitted upon its ratification of UNCLOS, both by diplomatic protest in 1991 and by conducting operational assertions in 1991, 1992, 1995–1997, and 2005–2010. During FY 1995–FY 1997, the Navy entered Omani territorial waters without first obtaining permission. In addition, on multiple occasions during FY 2005–FY 2010, the Navy navigated through the Strait of Hormuz under the regime of transit passage in contravention of Oman’s claim that only innocent passage was permitted.”

Warrant: The United States has argued that free movement in the Strait of Hormuz is essential to its security and wants to prevent countries bordering key waterways from protecting them.


“...The United States was particularly concerned about its continuing ability to navigate its warships, including submerged submarines, through key international straits such as the Strait of Gibraltar (into the Mediterranean Sea), the Strait of Hormuz (into the Persian/Arabian Gulf), the Strait of Bab el Mandeb (into the Red Sea), the Strait of...
Malacca (connecting the Indian Ocean with the Pacific), the Dover Strait (through the English Channel), the Bering Strait (in the Arctic), and the Strait of Lombok (through the Indonesian archipelago). The United States was worried that if countries were allowed to extend their territorial seas from three to twelve nautical miles, no high seas corridors would remain in these narrow straits and control over passage might arguably fall under the control of the countries bordering on these key waterways. The United States maintained that free movement through these straits was essential to its national security and protested claims of expanding territorial seas. The U.S. position on navigational freedoms was supported during this period by the Soviet Union, which was also a major maritime power.””

**Warrant:** The U.S. currently needs military passage in the strait of Hormuz to protect American vessels from being seized or harassed by Iran.


“”Responding to Iran’s seizure at gunpoint of a cargo ship that was traversing the strait this week, the United States Navy on Thursday began deploying about a dozen warships there to protect American vessels from possible seizure or harassment. The seized vessel was owned by the Danish company Maersk and registered in the Marshall Islands. The American decision was seen as a signal to Iran, which historically has regarded the strait, an international waterway, as part of its sphere of influence. Iranian and United States forces battled in the strait 27 years ago. More recently, Iranian gunboats operated by the Revolutionary Guard have harassed foreign shipping in the strait in the name of national security. Iran’s military has also used the area as a backdrop for propaganda.””
Analysis: While the U.S. currently rejects both Iran and Oman’s claims over the Strait of Hormuz, acceding to UNCLOS without reservations would mean that the U.S. would be forced to acknowledge Iran and Oman’s territorial zones and use the strait exclusively for innocent passage. This argument will fit well with a narrative about how acceding hurts the US’ national security, allowing you to weigh national security (the government’s job) over your opponent’s arguments.

A/2 - Acceding to UNCLOS means the US loses its presence in the strait of Hormuz

Answer: Iran is extremely unlikely to ever close the strait of Hormuz

Warrant: Closing the strait of Hormuz would not be in Iran’s best interest as it would risk interfering with 80% of the nation’s income and lead to conflict with the U.S. Navy.


“Even in the unlikely possibility that Iran could seal the Straits hermetically over a long period of time, such a move is not in Iran’s own best interests, as it would interfere with the import of refined oil to Iran and Iran’s export of crude oil (representing some 80 percent of its income) and would almost certainly lead to a confrontation with the American navy. Therefore, Iran has never attempted to block the Straits, certainly not fully. Operationally, such a move would require extensive naval mining in the Straits, something Iran found difficult to accomplish clandestinely in the past and which is tantamount to an act of war. At the end of the Iran-Iraq War, Iranian
attacks on naval vessels generated an American response, whereby American navy ships escorted Kuwaiti oil tankers to and from the Gulf. In another case, after an American frigate hit an Iranian naval mine, the United States launched Operation Praying Mantis, during which the American navy sank most of Iran’s usable naval forces in the Gulf, putting them permanently out of commission.””

**Analysis:** This response serves to severely mitigate the probability of the con’s impacts ever occurring. If Iran would severely risk its own survival by closing the Strait of Hormuz, then it is safe to say that this scenario is extremely unlikely.

**Answer:** By acceding to UNCLOS the United States will be in a better position to stop Iran from denying U.S. access to the Strait of Hormuz.

**Warrant:** Ratification of UNCLOS will provide the U.S. the strongest legal footing to nullify Iran’s attempts to deny American access to the Strait of Hormuz.


“”Ratification will also help the United States deflate Iran’s recent challenges to U.S. freedom of navigation through the Strait of Hormuz. Historically, Iran has stated that the right to freedom of navigation does not extend to non-signatories of the convention and has passed domestic legislation that is inconsistent with international law, specifically by requiring warships to seek approval from Iran before exercising innocent passage through the strait. Ratifying LOSC would nullify Iran’s challenges should it ever choose to close the strait to U.S. or other flagged ships. Moreover, ratifying LOSC will provide the U.S. Navy the strongest legal footing for countering an Iranian anti-access campaign in the Persian Gulf.””
Con Arguments with Pro Responses

Warrant: U.S. accession would allow the U.S. to strengthen worldwide transit passage rights under international law and work against the Anti-American actions taken by Iran and other members


“”After a decade of war in the Middle East, the U.S. faces "a range of security challenges that are growing in complexity," Panetta said. Those include terrorism, the nuclear ambitions of Iran and North Korea, Middle East and North African instability, and China military buildup. "These real and growing challenges are beyond the ability of any single nation to resolve alone," the defense secretary said. "That is ... why the United States should be exerting a leadership role in the development and interpretation of the rules that determine legal certainty on the world's oceans." Panetta opaquely sent a message that joining the convention would allow the U.S. a new tactic in countering the anti-Washington whims and actions by Iran, China, and Russia. Approving the treaty would hinder Iran's ability to close the Strait of Hormuz, a key oil transit route, which Tehran has recently threatened to do." We are determined to preserve freedom of transit there in the face of Iranian threats to impose a blockade," Panetta said. "U.S. accession ... would help strengthen worldwide transit passage rights under international law and isolate Iran." “”

Warrant: The barring of U.S. ships from the Strait of Hormuz would only be possible if the U.S. does not accede to UNCLOS. Ratifying the treaty would aid the U.S. navy in ensuring free navigation.

""U.S. navigation on the high seas is affected by its non-ratification of UNCLOS III. For example, if a U.S. naval task force had to rush from the Persian Gulf to a crisis along the North Korean peninsula, it could be forced to detour 3,000 miles around Indonesia. Another example is the barring of U.S. tankers from the Strait of Hormuz—the strait in which most American foreign oil is shipped—by Iran. Finally, Russia could institute fishing trawlers off the coast of Alaska that would take millions of tons of salmon found in American waters. None of these things would be possible if the United States ratifies UNCLOS III. UNCLOS III may aid the United States in ensuring that the naval ships and submarines can navigate freely along the high seas, that cargo ships and tankers may navigate along the world’s sea lanes, and that the United States retains control over the resources found in the deep sea. As long as the United States remains a nonparty, it will not be able to rely on the protections provided by UNCLOS III.""

Analysis: By acceding to UNCLOS, the U.S. gains the legal backing and official platform to challenge Iran’s efforts to deny access to the strait of Hormuz. This response turns the Con’s argument by proving that the only world in which the U.S. has a legal mechanism of preventing Iran from closing off the strait.
CON – Acceding to UNCLOS will cause a carbon lock-in

Argument: Once the United States is in UNCLOS, companies will drill for more oil in the Arctic and because it is so expensive will be “locked-in” to oil resources there.

Warrant: The Arctic has large mineral deposits

Jeff Desjardins, Business Insider, "This infographic shows how gigantic the Arctic's undiscovered oil reserves might be", April 7, 2016, https://www.businessinsider.com/how-gigantic-arctics-undiscovered-oil-reserves-might-be-2016-4

In terms of oil, it's estimated that the Arctic has 90 billion barrels of oil that is yet to be discovered. That's equal to 5.9% of the world's known oil reserves - about 110% of Russia's current oil reserves, or 339% of U.S. reserves. For natural gas, the potential is even higher: the Arctic has an estimated 1,669 trillion cubic feet of gas, equal to 24.3% of the world's current known reserves. That's equal to 500% of U.S. reserves, 99% of Russia's reserves, or 2,736% of Canada's natural gas reserves. Most of these hydrocarbon resources, about 84%, are expected to lay offshore.

Warrant: Drilling organizations support accession because it gives the US a say in land claims in the arctic

Currently pending before this Commission is a submission by Russia concerning the Arctic Ocean. Based on preliminary analyses, the United States is concerned that Russia is claiming territory that fails to meet the Convention’s criteria for the continental shelf. **Unless the United States promptly ratifies the Convention, decisions concerning Russia’s submission will be made without full U.S. influence or input.** Claims are also being submitted by Australia and Brazil. **For these reasons and others, the American Petroleum Institute, the International Association of Drilling Contractors, and the National Ocean Industries Association all support U.S. ratification of the Convention.**

**Warrant:** Drilling in the Arctic would cause a carbon lock in


Drilling in these oceans would trigger “carbon lock-in” that promotes fossil fuel use far beyond what the science indicates is justifiable. Lock-in occurs when an industry has major sunk costs in an enterprise because it has strong incentives to keep operating to eke out marginal income. This investment “lock-in” effect is particularly strong for offshore oil and gas in undeveloped areas like the Arctic and Atlantic because of the huge new infrastructure required.

**Impact:** Arctic drilling would pollute the environment

Exploiting oil and gas reserves just in the U.S. Arctic Ocean has the potential to release as much as 15.8 billion tons of CO2 into the atmosphere when burned—equivalent to the emissions from all U.S. transportation modes over a 9 year time period.

**Analysis:** This argument is helpful because it has a long term impact. The concept of a “lock-in” could easily outweigh other pro arguments on reversibility.
A/2 - Acceding to UNCLOS will cause a carbon lock-in

**Response:** Companies won’t want to drill in the Arctic

**Warrant:** Companies would face backlash if they drilled


The refuge is home to some of the most abundant and diverse wildlife anywhere in the world. Birds from all 50 states and six continents migrate annually to the coastal plain because of the incredible abundance of food there during the long Arctic summers. This place is one of the last truly wild and intact ecosystems on earth. The coastal plain supports the subsistence way of life of the Gwich’in people, who depend on the porcupine caribou herd that birth their young in the coastal plain for their primary food source. Oil and gas operations there would threaten their food security and survival. It would also exacerbate climate change. If developed, fossil fuel operations in the area would create the climate emissions equivalent to 898 coal plants or 776 million cars. As the investors wrote in their letter: “Any oil company or bank that supports drilling in the Arctic National Wildlife Refuge faces enormous reputational risk and public backlash. Their brands would be associated with destroying pristine wilderness, contributing to the climate crisis, and trampling on human rights.”

**Warrant:** Arctic Drilling is not profitable

Gemma Acton, CNBC, "There’s almost zero rationale for Arctic oil exploration, says Goldman Sachs analyst", March 23,
Drilling the Arctic region for oil cannot be justified against the background of the major shift in the global oil production paradigm, Goldman Sachs' lead European commodities equity specialist said on Thursday. "Overall the idea that we have to go into the Arctic to find new resources I think has been dispelled by the enormous cheap, easier to produce and quicker time-to-market resources in the Permian onshore U.S.," Michele Della Vigna, commodity equity business unit leader in EMEA at Goldman Sachs, told CNBC's Squawk Box on Thursday. "We think there is almost no rationale for Arctic exploration," he asserted, noting that while certain areas, such as the Russian Arctic, potentially have workable elements given that the location is much closer to the coast and easier to explore, other areas, such as Alaska, can fairly be considered more in the vein of vanity projects. "Immensely complex, expensive projects like the Arctic we think can move too high on the cost curve to be economically doable," Della Vigna explained, pointing to a new "oil order" as represented by a much shorter and cheaper production cycle driven by the U.S.

**Analysis:** This is a good response because even if the US does accede to UNCLOS companies won’t want to drill in the Arctic due to expense and public backlash. Thus, the affirmative can’t access their environment impacts.

**Response:** Global warming will occur whether or not you affirm

**Warrant:** Green policies will have little effect due to past atmospheric carbon

Mark Henderson, The Times, "Global warming ‘is now inevitable’", March 18, 2005, https://www.thetimes.co.uk/article/global-warming-is-now-inevitable-3gsxb5xz5dl
GLOBAL warming is inevitable over the next century, even if all emissions of greenhouse gases ceased today, scientists have discovered. Concentrations of carbon dioxide and other gases that contribute to climate change are so high that their warming effects would persist if levels stabilised now. **Were greenhouse gases to remain at 2000 levels — an impossible scenario — temperatures would rise by 0.5C (0.9F) and sea levels by 11cm (4in) by 2100, the US National Centre for Atmospheric Research has found. Policies designed to control warming are likely to take decades to have an impact.** Even if the Kyoto Protocol and other measures to cut greenhouse gas production succeed, the world will still have to prepare for higher temperatures.

**Analysis:** This is a good response because even when conceding the affirmative’s entire argument, they still can’t access a long term or far reaching impact. Because not only is the Arctic pollution a drop in the bucket compared to global pollution, but it also cannot change the climate trend that was started decades ago.
CON – Acceding to UNCLOS will expose the US to environmental lawsuits

**Argument:** Once the United States is in UNCLOS, groups will use the treaty to sue the United States harming the economy

**Warrant:** The US has large rare earth deposits


Although LOST focuses on the high seas, it includes language covering domestic pollution. The provisions are surprisingly expansive, or “stunning in their breadth and depth,” as Steven Groves of the Heritage Foundation observed in a new study. A decade ago Ireland relied on LOST to sue Great Britain over the commissioning of a mixed oxide plant because of the latter’s alleged impact on the Irish Sea. The plant had been approved not only by Britain, but also the European Union (EU). Ireland dropped the suit, but only because the EU sued Ireland for not filing its case in the European Court of Justice. Many environmentalists believe that LOST could be used against the U.S. in the same way. A few years ago an environmental activist mistakenly sent me an email after our debate on the treaty. He acknowledged that it might be difficult to convince Americans that the treaty would not similarly bind America when the World Wildlife Federation and Citizens for Global Solutions were promoting LOST by claiming that the convention would stop Russia from polluting the Arctic. He worried that this inconsistency suggested that the treaty was in fact “some kind of green Trojan Horse.” It is. Groves noted that “*Some environmental activist groups have already demonstrated a propensity for supporting, participating in, and in some cases actually filing climate*
change lawsuits against U.S. targets, as well as taking other legal actions relating to the marine environment in U.S. courts and international forums.

**Warrant:** Law suits would be binding and extreme


Those who are concerned that the marine environment is being damaged by pollution could put their case before the Tribunal, but the obligations of Part XII would have a special effect on the United States, where citizens may sue to ensure the government follows its laws. Under the U.S. Constitution, international treaties have the force of law. Ratifying LOST would therefore enable environmental groups to sue to ensure the release of toxic substances is minimized “to the fullest possible extent” if there is a chance the material will enter the marine environment. Consider: The nation’s coal-fired power plants release mercury into the atmosphere. Some of this mercury consolidates in rivers, and eventually reaches the ocean. As a result, fish that swim in the ocean have slightly higher levels of mercury in their systems. Sharks that eat these fish have even higher mercury concentrations. The concern that pregnant mothers who eat shark meat are damaging the cognitive development of their unborn children has led environmentalists to demand that the U.S. Environmental Protection Agency issue regulations to reduce the risk to unborn children. However, consider what the Treaty text implies. There is no requirement to prove that the emissions actually cause significant harm. If the substance emitted is “harmful” to any degree, states are simply required to minimize emissions “to the fullest possible extent.” To all practical purposes, taking the Treaty at its word would require the closure of most if not all coal-fired electricity generation in the United States. This kind of activism has not taken place in any of the other signatory states, likely because they offer fewer opportunities for concerned citizens to require their governments to follow the spirit
and word of the Treaty. In the United States, however, environmental groups would probably sue the day after formal ratification, and the courts would be unlikely to throw out their challenges.

**Warrant:** Acceding to UNCLOS is uniquely harmful due to its court system


The United States has a stake in working with other nations to protect the global environment. For that purpose, it has entered into a number of conventions and agreements, such as, for example, conservation agreements to preserve fish stocks in international waters. But it is one thing to agree to a common standard and another thing to be bound by the decisions of an ongoing regulatory council in which the United States can be easily outvoted. It is one thing to agree to submit particular disputes to international arbitration, with the consent of both parties. It is entirely another thing to establish an ongoing court, with mandatory jurisdiction over important matters and an open-ended claim to “advise” on the law apart from particular disputes. It is something else again to embrace a court that, being permanent, may be prey to all the temptations of judicial activism, to extending its authority by enlarging its jurisdiction and winning popularity by playing favorites in its judgments. The United States has traditionally respected limits on what it can agree to do by treaty. In the past, it has refused to ratify treaties that delegate so much authority to international institutions. **By ratifying UNCLOS, we would not only open ourselves to immediate risks and complications regarding actions on the seas, we would also make it harder to resist more ambitious schemes of global governance in the future.** We have said in the past that we cannot submit to such impositions on our own sovereignty. President Reagan made this point in rejecting UNCLOS in 1982, pointing to the open-ended regulatory powers of the Authority. If we ratify UNCLOS, we make it much harder
to explain—to others, as to ourselves—why we cannot embrace further ventures in “global governance,” like the International Criminal Court or the Kyoto Protocol. We would feed demands for similar international control schemes for Antarctica or Outer Space.

**Impact:** Environmental lawsuits would harm the economy


If the United States received an adverse judgment in an UNCLOS climate change lawsuit, the tribunal could order remedies similar to those imposed by the Trail Smelter tribunal—a regime of regulations, compliance measures, and even reparations. In anthropogenic climate change parlance, such a regime would be akin to mitigation measures (i.e., actions to reduce the level of U.S. GHG emissions). A comprehensive GHG mitigation regime imposed on the U.S. would seriously affect the American economy because carbon emissions and other GHG are produced throughout the United States by several significant sectors of the economy, including the electricity generation, transportation, industrial, residential, and commercial sectors. Like the “cap-and-trade” regulations that have been debated in Congress, the imposition of international Trail Smelter–style regulations on every U.S. power plant, refinery, automobile, chemical plant, and landfill would harm the U.S. economy.

**Analysis:** This argument is beneficial because the loss of sovereignty associated with UNCLOS tribunal rulings could harm many Americans. Additionally, the fact that this harm is unique to the court system established by UNCLOS as opposed to other environmental regulations and treaties allows you to combat environmental benefits to acceding as those same impacts could possibly be accomplished by other organizations.
A/2 - Acceding to UNCLOS will expose the US to environmental lawsuits

Response: UNCLOS would not increase environmental lawsuits

Warrant: The court system simply isn’t designed for those sorts of claims


UNCLOS cannot be understood as creating substantive causes of action or other individual legal rights that can be invoked in US courts. Internationally, there is no remedy open to individuals or groups, only to State parties to the Convention. Furthermore, even if a State were to successfully challenge US climate policies, by alleging that such policies were resulting in the pollution of the marine environment, the UNCLOS dispute resolution mechanisms outlined in article 297 would still be unavailable. Specifically, article 297(1)(c) sets out the exclusive basis upon which a State party may bring a dispute before an international tribunal for an act of alleged pollution to the marine environment. The aggrieved State, in stating its claim, must invoke a “specified” international rule applicable to the US. Because no provision of UNCLOS applies any additional substantive rules concerning climate change, it would, therefore, not be possible for a UNCLOS State party to rely on the dispute resolution procedures of article 297 for creating an adequate forum to challenge US climate change policies.

Warrant: The convention doesn't call for the US to do anything out of the ordinary

It is true that Articles 194 and Part XV, section 5 require states to take “all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source” and “adopt laws and regulations to prevent, reduce and control pollution of the marine environment from” the land and atmosphere under their jurisdiction. Convention provisions also call for states to reduce pollution by “the best practicable means at their disposal and in accordance with their capabilities” and to “endeavor to establish global and regional rules” to prevent and control pollution. The majority opinion holds that these provisions of the convention only bind the United States to act in accordance with its own laws or appropriately ratified international agreements and cannot be used as a “back door” to compel enforcement of international agreements the Senate has not ratified.

Analysis: This is a good response because even if the US accedes and environmental groups want to sue the US it is unlikely that they’ll be able to do so. Additionally, even if they win the US would still function within its own laws and other international agreements rather than creating a new climate policy.

Response: Environmental lawsuits are good because Trump’s policies are increasing pollution

Warrant: Mining regulations make the industry unprofitable

Since taking office last year, President Trump has made eliminating federal regulations a priority. His administration, with help from Republicans in Congress, has often targeted environmental rules it sees as overly burdensome to the fossil fuel industry, including major Obama-era policies aimed at fighting climate change. To date, the Trump administration has sought to reverse more than 70 environmental rules, according to a New York Times analysis, based on research from Harvard Law School’s Environmental Regulation Rollback Tracker, Columbia Law School’s Climate Tracker and other sources.

**Warrant:** Pollution harms people around the world


In one of the most extensive reports of its kind, environmental health experts have estimated that **nine million premature deaths worldwide—16% of all deaths—were linked to pollution in 2015, with the majority of deaths coming from air pollution.**

**Analysis:** This is a good response because it turns the impact of environmental lawsuits. Also, you could easily argue that human lives are more important than any economic harm to the United States.
CON – Acceding to UNCLOS will harm indigenous populations

**Argument:** Once the United States is in UNCLOS, companies will secure land claims to drill offshore in the Arctic, harming indigenous populations

**Warrant:** Acceding to UNCLOS would allow Arctic exploration


The Convention also gives the United States an opportunity to expand its sovereignty rights over resources on and under the ocean floor beyond 200 nautical miles to the end of its continental shelf, up to 350 nautical miles. This mechanism is especially valuable to the United States as it would maximize legal certainty regarding the United States’ rights to energy resources in large offshore areas, including the areas of the Arctic Ocean. However, the United States must ratify the Convention for its claims to be internationally recognized. Not surprisingly, the American oil companies favor ratification, as it will allow them to explore oceans beyond 200 miles off the coast, where evolving technologies now make oil and natural gas recoverable. If the United States ratifies the Convention it could expand its areas for mineral exploration and production by more than 291,383 square miles. The United States’ claim under article 76 would add an area in the Arctic (Chukchi Cap) roughly equal to the area of West Virginia. With a successful claim the United States would have the sole right to the exploitation of all the resources on and under the Arctic Ocean bottom. These potential energy resources could make significant contributions to United States energy independence. Because the Convention is the only means of assuring access to the mineral resources beneath the Arctic Ocean, American companies “wishing to engage
in deep seabed mining operations will have no choice but to proceed under the flag of a country that has adhered to the treaty.”

Warrant: The wellbeing of native communities is being ignored in discussions of Arctic drilling


The notion of the Arctic being “undeveloped” or “undiscovered” probably couldn’t be more insulting to the Inupiat, Saami and other Indigenous Peoples whose cultures and subsistence ways of life evolved over centuries of living in the Arctic Circle. Few people seem to be considering that fact, or even including Arctic Peoples in any debate over whether or not drilling should be allowed to proceed.

Warrant: Oil spills would uniquely harm native communities


The oil leases, no matter where in the Arctic, will affect all people who live off the wild life from the ocean, because it will disrupt the migrations of sea mammals. Here are some points I like to make when the timing is appropriate: In the event of an oil spill, the people in coastal communities are the ones whose lives are impacted directly, yet are the ones who are least prepared for such a disaster. These are communities of people who have no means to respond to oil spills to protect their shores and their villages from the oil slick. The oil companies and the government who issues such permits will continue with business as usual and the oil companies will recover. They
have reserves to fall back on. We don’t. Once we lose our livelihood, our subsistence
way of life, it’s gone for a long, long time. The ocean will not recover as quickly as the
oil companies and neither will the coastal communities.

**Impact:** Oil drilling threatens native food supplies

Richard Harris, NPR, "Native Alaskans Divided On State's Oil Drilling Debate", March 20,
2012, [https://www.npr.org/2012/03/20/148754357/native-alaskans-divided-on-states-oil-drilling-debate](https://www.npr.org/2012/03/20/148754357/native-alaskans-divided-on-states-oil-drilling-debate)

That's how Caroline Cannon came to be at Greenpeace headquarters during a news
conference organized by the Alaska Wilderness Society. She's the former mayor of Point
Hope, Alaska, which she calls the whaling capital. "**We rely on the whale, the bowhead
whale,**" she said. "**It is our identity. It is who we are, and the thought of offshore
drilling, or an oil spill, is very terrifying.**" Cannon and her companions portrayed this
whaling activity as part of their subsistence culture. "**We need the foods from our lands
and waters to feed our families,**" said Point Hope resident Rosemary Ahtuangaruak.
"**We cannot afford to buy the foods that come up to the Arctic. The costs of
transportation increase these costs, so that it can take your whole paycheck to try to
feed your family from the store.**"

**Analysis:** This argument is particularly strategic as it allows debaters to approach the debate
from a deontological perspective. This evidence would be best coupled with a framework
establishing why the voices of native communities are most important.
A/2 - Acceding to UNCLOS will harm indigenous populations

Response: The US can drill in the Arctic without acceding to UNCLOS

Warrant: Bilateral treaties can give the US access to offshore oil reserves


Despite the claims of UNCLOS proponents, the United States can successfully pursue its national interests regarding its ECS—particularly oil and gas exploitation—with- out first gaining universal interna- tional recognition of its outer limits. While such recognition may be a worthy achievement, it is of no consequence to U.S. national interests whether the 195 nations of the world affirmatively recognize America’s jurisdiction over its ECS in the Gulf of Mexico, the Arctic Ocean, and elsewhere. While achieving unanimous international recognition for the borders of the U.S. ECS is unnecessary, it is important for the U.S. to negotiate on a bilateral basis with nations with which it shares maritime borders to delimit and mutually recognize each other’s maritime and ECS boundaries. This process is already underway in regions where the United States has presumptive areas of ECS, including resource-rich areas in the Gulf of Mexico and the Arctic Ocean.

Warrant: A 1990 treaty solves for any resource conflicts between the US and Russia

What of the Arctic? A 2011 Bloomberg BusinessWeek editorial argued: “The U.S. continental shelf off Alaska extends more than 600 miles into the Arctic Ocean. American companies have been reluctant to invest in exploiting this underwater terrain, which contains vast untapped reserves of oil and natural gas. That’s because the U.S., as a nonparticipant in the sea convention, has no standing to defend its ownership of any treasures that are found there.” ^32 Yet this is exactly the same case as in the Gulf of Mexico. Only three nations contest the ownership of resources in the extended North American continental shelf in the Arctic: the United States, Canada and Russia. American relations with Canada are friendly; therefore, a United States-Mexico-style treaty with Canada demarcating appropriate lines north of Alaska should be relatively easy to achieve. Russia might be perceived as a more intractable problem; but a 1990 treaty between the United States and the Soviet Union defines the maritime boundary between the two powers. ^33 Under the Treaty, Russia has claimed vast areas beneath the Arctic Ocean, but these claims in no way infringe upon the 1990 Treaty. Actually, they are a challenge to Canada rather than the United States. South of the Arctic Ocean, the treaty line protects U.S. claims to large areas of extended continental shelf in the Bering Sea and in the Pacific Ocean southwest of the Alaskan Aleutian Islands. Accordingly, there is no barrier (barring the low one of a necessity to negotiate a treaty with Canada) to the United States developing the extended continental shelf in the Arctic and its environs in the same way it has in the Western Gap.

**Analysis:** This is a good response because the US can drill offshore without acceding to the treaty. However, you want to be careful in making this response so it doesn’t come off as you making the argument that the exploitation of native populations doesn’t matter- but rather that acceding to the treaty is not the link to said exploitation.

**Response:** Native communities support Arctic drilling

**Warrant:** Native-run corporations are pushing for Arctic drilling
ASRC is one of 12 regional corporations that Congress created in 1971 to resolve conflicting land claims between the state of Alaska and its indigenous residents. In passing the Alaska Native Claims Settlement Act, lawmakers granted ASRC nearly 5 million acres of land that covers a broad region stretching from the Chukchi Sea to the Canadian border. The Native corporation's territory engulfs most of the Arctic refuge, including the much-disputed coastal plain. ASRC is a private, for-profit regional corporation that represents the business interests of its 13,000 Iñupiat shareholders and eight northern Alaska Native villages. Last year, the corporation earned $2.4 billion through six lines of business, including a variety of petroleum services. In the hours before the Senate voted to allow leasing in part of the Arctic refuge, ASRC Executive Vice President Richard Glenn explained that oil development on the Alaska coastal plain is essential to maintaining the quality of life for the North Slope villages. "The only way to create huge quality-of-life improvements is by the presence of the oil and gas industry in our region," Glenn said. "The industry provides a tax base. The tax base provides opportunities for community development. I'm talking about schools and fire engines and snow removal and water, sewer and reliable power."

**Warrant:** Alaska’s Inupiat tribe supports Arctic drilling for financial reasons


Many Inupiat leaders now support the drilling, citing financial reasons. Prudhoe Bay, the nation's largest oil field, drives their economy, and taxes on the industry account for
nearly all government revenue. But the future looks bleak because the oil pumping through the Trans-Alaska Pipeline has dropped 75 percent since 1988 and is falling 5 percent a year. As a result, native corporations representing residents of six of the eight communities at the top of Alaska have signed an agreement allowing them to acquire interest in Shell's offshore Chukchi Sea leases. The mayor of America's northernmost municipal government—the North Slope Borough—is now an outspoken backer of ocean drilling. The Village of Point Hope, the lead plaintiff in a lawsuit seeking to overturn federal approval of Shell’s leases, dropped its legal challenge in March and openly embraces Shell's efforts.

Analysis: This is a good response because it shows the wide variety of perspectives from native populations on Arctic drilling. This response weighs well additionally because it shows that not only have native institutions supported drilling in the past, but also rely on it currently to support their families and communities.