### Text

**Plan: The United States federal government should apply Article 30 of the Vienna Convention on the Law of Treaties to limit the conditions under which its Article 5 defense pact with Japan can be activated to incidents that do not conflict with Japan's law of neutrality obligations.**

### Advantage 1 – Japanese Soft Power

#### Japan is in an impossible position. Adversaries have the legally-backed expectation that neutral states will restrict US presence

Davis 20 (Jeremy K. Davis, Lieutenant Colonel, Judge Advocate General's Corps, U.S. Air Force; Military Professor, Stockton Center for International Law, U.S. Naval War College, 2020, ARTICLE: Bilateral Defense-Related Treaties and the Dilemma Posed by the Law of Neutrality, 11 Harv. Nat'l Sec. J. 455, Accessed through Gonzaga University Nexis Uni, p. 27-28) MAM

Article 30(4) is useful, by analogy, for understanding how Japan, South Korea, Latvia, and Hungary should prioritize their neutrality obligations to Iran under customary law and their obligations to the United States under their respective defense-related treaties. Article 30(4)(a) calls for application of the rule in Article 30(3) to prioritize the obligations **between these states** and the United States. Consistent with the principle that states may enter into treaties that conflict with a pre-existing rule of customary international law, the terms of the defense-related treaties with the United States prevail over these States' otherwise valid obligations under the customary law of neutrality. 187However, there is still the matter of Iran's expectations under international law. How should these states [\*490] prioritize their customary neutrality obligations to Iran as the opposing belligerent in the hypothetical?

Applying Article 30(4)(b), by analogy, these states continue to owe customary law neutrality obligations to Iran. 188Therefore, Iran has a right to expect that these states, in meeting their neutrality obligations, **will resist U.S. presence in,** and use of, their territory; 189that these states will resist U.S. efforts to move troops, munitions, or supplies across their territory and through their airspace; 190and that these states will intern U.S. personnel, vehicles, aircraft, and materiel located in their territory. 191There is, therefore, a clear legal tension present for these states. Each of them faces the same potentially difficult choice between breaching its defense-related treaty obligations to the United States and breaching its neutrality obligations to Iran under customary international law.

#### The MDT allows the US to draw Japan into conflict against its will

Sari and Nasu ’18 [Aurel and Hitoshi; January 26; Associate Professor of Public International Law at the University of Exeter, Director of the Exeter Centre for International Law, a Fellow of Supreme Headquarters Allied Powers Europe, and a Fellow of the Allied Rapid Reaction Corps; Professor of International Law at Exeter Law School; Just Security, “Collective Self-Defense and the ‘Bloody Nose Strategy’: Does it Take Two to Tango?,” <https://www.justsecurity.org/51435/collective-self-defense-bloody-nose-strategy-tango/>]

We would like to pick up one strand of this discussion, namely the question of whether Article V of the 1960 Japan-U.S. Security Treaty could serve as a possible ground for the U.S. to use force against North Korea in the exercise of the right of collective self-defense without an express request by Japan or even without Japanese consent. Article V of the Japan-U.S. Security Treaty reads as follows:

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

A major concern that has traditionally troubled policymakers in Japan is whether the U.S. would be ready to take military action to defend Japan pursuant to Article V of the 1960 Treaty should the Japanese Government want it to do so. In recent times, this concern arose primarily in connection with the defense of the Senkaku/Diaoyu Islands. Last year, Defense Secretary James Mattis helped to allay these fears when he [signaled](http://edition.cnn.com/2017/02/03/asia/us-defense-secretary-mattis-japan-visit/index.html) a clear U.S. commitment to defend the islands in the event of an invasion by China. However, in an ironic twist, Japanese officials now might be feeling uneasy at the prospect that the U.S. could rely on Article V to take military action against North Korea against Japan’s wishes.

In the [Nicaragua case](http://www.icj-cij.org/files/case-related/70/070-19860627-JUD-01-00-EN.pdf), the International Court of Justice held that the exercise of the right of collective self-defense is conditional upon two requirements that apply on top of the conditions that govern the right of individual self-defense. First, there must be a request for assistance because customary international law does not permit, according to the Court, the exercise of collective self-defense “in the absence of a request by the State which regards itself as the victim of an armed attack” (para. 199). Second, the State for whose benefit the right of collective self-defense is exercised must declare itself to be the victim of an armed attack, as “there is no rule in customary international law permitting another State to exercise the right of collective self-defense on the basis of its own assessment of the situation” (para. 195).

To what extent does Article V of the Japan-U.S. Security Treaty alter this baseline position under customary international law? The provision makes two key points. First, each party recognizes that an armed attack against either party in territories under the administration of Japan would be dangerous to its own peace and safety. Second, each party declares that it would act to meet that common danger in accordance with its constitutional provisions and requirements.

Although Article V of the Japan-U.S. Security Treaty does not stipulate that an armed attack on one party shall be considered an armed attack on the other, as does the [North Atlantic Treaty](https://www.nato.int/cps/ic/natohq/official_texts_17120.htm), the legal dynamics are similar. The second part of Article V foresees that one party, say the U.S., which has not suffered an armed attack, may take action that must be reported to the Security Council under Article 51 of the UN Charter. The only reason why such a reporting obligation would arise in these circumstances is because the U.S. uses force in the exercise of the right of collective self-defense. It is not unreasonable, therefore, to read the shared recognition that an armed attack against Japan is dangerous to the peace and safety of the U.S., and the Japanese acceptance that the U.S. would use force in such circumstances in the exercise of the right of collective self-defense, as a standing request for U.S. military assistance should Japan become the victim of an armed attack.

#### Neutrality violations warrant reparations, retributive actions, and countermeasures from adversaries

Davis 20 (Jeremy K. Davis, Lieutenant Colonel, Judge Advocate General's Corps, U.S. Air Force; Military Professor, Stockton Center for International Law, U.S. Naval War College, 2020, ARTICLE: Bilateral Defense-Related Treaties and the Dilemma Posed by the Law of Neutrality, 11 Harv. Nat'l Sec. J. 455, Accessed through Gonzaga University Nexis Uni, p. 35-38) MAM

This section will discuss the general parameters of the consequences, under the law of state responsibility, that may be visited upon a state in response to it breaching its international legal obligations. In the process, it will highlight the legal guidelines that should serve as background for the domestic policy discussions that will need to take place in the defense ministries and ministries of foreign affairs of U.S. treaty partners. These states will need to balance the relative values of their relationships with both the United States and the opposing belligerent. These states must also assess the type and severity of the pressure and discomfort they anticipate being forced to endure by choosing one bundle of obligations to honor and one bundle of obligations to breach. For purposes of further discussion, this Article will proceed as though the neutral state has chosen to honor its treaty obligations to the United States and, in the process, to breach its neutrality obligations toward the opposing belligerent.

[\*500] First, the aggrieved belligerent could begrudgingly accept the neutral state's breaches of its neutrality obligations and choose to take no action in response. 246The belligerent may choose this course of action for any number of pragmatic policy reasons, such as maintaining current or future economic or diplomatic relations with the neutral state. However, if the aggrieved belligerent's apparent acceptance of the neutral state's breaches of its obligations continues beyond the length of time in which some form of protest or adverse state response would reasonably be expected, the belligerent runs the risk of foreclosing itself from asserting a state responsibility claim. 247

A second option available to the aggrieved belligerent would be to respond merely by informally or formally protesting the neutral state's breach of its neutrality obligations, e.g., by issuing a demarche to the neutral state calling upon it to cease the offending behavior. 248This approach alerts the violating neutral state that its breaches have not gone unnoticed by the aggrieved belligerent, and it gives the belligerent the opportunity to draw the attention of the broader global community to the offending state's breaches of neutrality. Although not strictly a necessary precursor to the aggrieved belligerent's claim for reparations under Articles 34-39 of the Draft Articles on State Responsibility, 249 the plain language of Article 43 requires the state claiming injury to give notice of its claim to the alleged offending state. 250Providing notice also benefits the aggrieved belligerent's position outside the law of state responsibility, because the aggrieved belligerent is generally required to complain to the neutral state about its breaches and give the offending state the opportunity to resolve the breach, before exercising its right of self-help. 251

[\*501] As a third course of action, the aggrieved belligerent may take lawful but unfriendly actions toward the breaching neutral state, e.g., severing or diminishing diplomatic relations, imposing tariffs on goods imported from the neutral state, or suspending voluntary economic aid. 252Such acts of retorsion may be either temporary or permanent. 253They may also be **retributive in nature**, 254or, akin to countermeasures, motivated by a desire to compel the neutral state to refrain from further breaches of its obligations.

Fourth, the aggrieved belligerent may engage in countermeasures. 255Countermeasures are otherwise internationally wrongful acts undertaken by one state against another state, in response to that other state's internationally wrongful act, to induce the offending state to cease its wrongful acts and make reparations. 256Unlike acts of retorsion, countermeasures may not be undertaken to punish the [\*502] offending state. 257If possible, countermeasures must be done in such a way as not to preclude the state undertaking them from resuming its obligation to the offending state after it ceases countermeasures. 258Although states have broad discretion in choosing which international legal obligation to disregard in executing their desired countermeasure, a belligerent state threatening or using force against a neutral state breaching its obligations of impartiality, nonparticipation, prevention, or internment, violates the U.N. Charter, Article 2(4) and customary international law prohibitions on threats or uses of force. 259Therefore, a belligerent generally cannot attack a neutral state breaching its neutrality obligations and successfully assert that it is doing so as a valid countermeasure. 260

#### The scenario is A.I. –

#### An AI arms race is coming – de-escalation is impossible

Kamphuis and Leijnen 2/21 (Yori Kamphuis, AI Researcher, yorikamphuis.nl and Stefan Leijnen, Professor of AI, Utrecht University of Applied Sciences2-22-2021, Here's what you need to know about the new AI 'arms race', World Economic Forum, https://www.weforum.org/agenda/2021/02/heres-what-you-need-to-know-about-the-new-ai-arms-race/)

Utrecht: “Whoever becomes the leader in AI [or artificial intelligence] will become the ruler of the world,” Vladimir Putin once famously said. In the current geopolitical theater, a global race towards leveraging artificial intelligence (AI) should come as no surprise. The United States has made substantial investments in AI to extend its role as a global superpower, while other economies also want a shot at becoming a top contender or, failing that, not falling too far behind. China announced in 2017 that it wants to lead the world in AI by 2030, strategically allocating funds guided by a national strategy for AI. China is already closing in on scientific AI publications, and has been filing more AI patent applications than any other country since 2013. The US and China both outpace the EU, which follows at a distance in investments and output, with Israel, India, Russia and other economic regions lagging even further behind. Let’s explore this arms race analogy and ask what it means to be ahead in this race for AI dominance. In the Cold War, the race for nuclear arms could lead either to a state of stability in the face of mutually assured destruction, or mutual destruction itself. However, in this present-day technological arms race, there is no clear race track or finish line. Whether you’re ahead or behind depends on the direction you want to be heading, or the destination you have in mind. With respect to where you’re going to end up in an open-ended future, the direction you’re facing is more important than how fast you’re going. **The three kinds of AI** AI dominance can take on many forms. We tend to think of AI as a technology, but it is first and foremost an ambition to create systems that display intelligent behavior. We can roughly identify three technological manifestations of this ambition. First, programmed AI that humans design in detail with a particular function in mind, like (most) manufacturing robots, virtual travel agents and Excel sheet functions. Second, these systems statistical AI that learns to design itself given a particular predefined function or goal. Like humans, are not designed in detail and also like humans, they can make decisions but they do not necessarily have the capability to explain why they made those decisions. The third manifestation is AI-for-itself: a system that can act autonomously, responsibly, in a trustworthy style, and may very well be conscious, or not. We don’t know, because such a system does not yet exist. The past decade has seen the unfolding of a global AI arms race fueled by statistical AI. It is relevant to note here that the word statistics stems from state: the science dealing with data about the condition of a state or community. The modern rise of AI is linked to this original meaning, which helps explain why it so often raises profound ethical questions about the relation between individuals and institutions. Census data was historically used by the state to create public policies by monitoring a population that would be impossible to track on the individual level, but which can be modelled with sufficient level of detail through empirical sampling. Uncoincidentally, this approach is also followed by market-driven corporations, institutions and other organisations that use statistical AI to model and monitor individuals online and offline. This brings us back to the geopolitical stage, where China’s state-driven approach to leveraging emerging technologies is often contrasted with a market-driven approach to technology development in the United States. In this frame, the EU and other economic regions are left to decide **how to align themselves** on this state-market axis. However, this frame is misleading as it overvalues the role of economical investment policies and undervalues the critical role of data ownership for statistical AI. A more productive frame would therefore contrast the state- and market-driven approaches with a citizen-driven approach to AI, where the rights of the individual are central to how and why AI is used. The EU has shown to adopt this ideal, first with its GDPR directive and now again with preliminary steps towards directives for Trustworthy AI. In doing so, the EU creates a clear distinction between the rights of the individual and the ambitions of the organization, protecting its citizens against involuntary modelling and monitoring. Continuing on this journey, a next step for the EU should be to develop a grand narrative where ethical considerations such as privacy, transparency and accountability are foundational for sustainable, healthy and productive relationships between individuals and organizations. There are no winners in an arms race, **only those who outgrow it.** The race for AI dominance spills over into a more profound question of identity, asking in what kind of society we choose to live. The answer to this question should in itself provide the necessary justification for substantial investments in the citizen-driven approach to AI, pushing the gas pedal in the right direction. The EU can be a global leader in AI if it decides to use values as a steering wheel, not as a brake. Then it is only a matter of time before others will join the race on the right track.

#### Only Japan is able to solve disputes between the U.S. and the EU that causes arms racing dynamics with China because of perceived neutral status – any IAC would wreck that.

Carter 19 (Mr. William A. Carter - Deputy Director and Fellow, Technology Policy Program, CSIS, 6-27-2019, RESOLVED: Japan Could Lead Global Efforts on Data Governance, CSIS, https://www.csis.org/analysis/resolved-japan-could-lead-global-efforts-data-governance)

January 2019, Prime Minister Shinzo Abe of Japan called for the upcoming G20 summit in Osaka to “be the summit that [starts] world-wide data governance.” The rise of the data economy has driven unprecedented growth and innovation in recent decades but is also generating new policy challenges for global leaders. Figuring out how to govern the complex data ecosystem, both enabling its potential and managing its risks, is becoming a top priority for global policymakers. The potential of the emerging data economy lies in the ubiquitous data generated by the internet of things (IoT), smart cities, and online platforms that will drive smart applications and autonomous systems that overcome social issues, free humans from burdensome, rote tasks, and unlock new tools and capabilities. Realizing this vision requires balancing the need for data to flow freely between people and systems around the world with the need to address growing public distrust of how companies and governments use that data. Japan calls this balance “data free flow with trust” (DFFT). Around the world, the proliferation of laws restricting the flow of data, particularly across national borders, is creating significant challenges for global businesses, inhibiting trade, and limiting access to productivity-enhancing digital services. The EU’s General Data Protection Regulation (GDPR), which places strict conditions on the flow of personally identifiable information outside of the European Union, has inspired a wave of similar data protection laws from Canada to Indonesia. The United States has led efforts to push back against these restrictions, arguing that restrictions on the flow of data stifle innovation and economic growth and create unnecessary and unfair impediments to global trade. In light of these differences, Japan’s DFFT proposal is hard to argue with. In practice, however, it may be difficult to develop concrete policies and institutions that address the legitimate concerns of both sides. For the United States, “trust” has become a watchword for efforts to combat the global dominance of U.S. technology platforms and to justify policies that facilitate the theft of intellectual property and illicit technology transfer. On the other hand, “free flow of data” has become a loaded term to the European Union and many other countries tied to U.S. efforts to shore up the global dominance of U.S. technology platforms and undermine the ability of other countries to exercise their sovereignty. Japan could play a central role in bridging these divides and building trust between these competing factions. Japan brings credibility **as a neutral party** with close ties to the many different factions. It has a strong tradition of innovation, technical expertise, and support for multi-stakeholder governance but has not been implicated in the recent scandals around the collection and use of data. And Japan has an established track record of leadership in global technology governance particularly in the development of global norms around emerging technologies. In artificial intelligence (AI) governance, for example, Japan has played a central role in the establishment of global norms through its “Society 5.0” initiative. Japan also launched one of the first major efforts to develop global AI governance norms at the G7 Information and Communication Technology Ministerial Meeting in April 2016. That effort helped to drive the development of the Organization for Economic Co-operation and Development (OECD) Principles on AI Governance released in May 2019. The OECD Principles, in turn, form the basis of the AI governance principles recommended by the G20 Ministerial Meeting on Trade and Digital Economy this month. That said, Japanese leadership will require more than sloganeering and the articulation of high- level principles in groups like the G20. To effectively lead the development of global data governance, Japan should tie “Society 5.0” and DFFT to concrete policies that address the concerns of all parties. It will take years of work to integrate high-level data governance principles into international treaties, trade agreements, and international institutions and to ensure that they are enforced fairly, consistently, and firmly. To be successful, Japan should drive deep reforms to the international system that allow countries to exercise their sovereignty without placing undue and harmful restrictions on data. To make data governance principles work, Japan should also push for foundational reforms to everything from cross-border law enforcement mechanisms to e-commerce taxes and online content laws. The United States and European Union will continue to push for their competing visions of international data governance, and as countries like China develop their own alternatives that increasingly diverge from their GDPR roots, the tides of global data governance will continue to shift. Japan is not a big enough generator or consumer of global data to dominate the discussion, **but by serving as a neutral arbiter**, Japan can help bridge the trust gap between key stakeholders and establish a cohesive global approach.

#### AI collapses strategic stability between states – that incentivizes flashpoint conflicts - nuclear war.

Maas 19 (Matthijs M. - PhD Fellow in Law and Policy on Global Catastrophic and Existential Threats at the University of Copenhagen’s Centre for International Law, Conflict and Crisis, “How viable is international arms control for military artificial intelligence? Three lessons from nuclear weapons,” p. 286-287, *Contemporary Security Policy*, Volume 40, Number 3)

The strategic potential—and appeal—of AI has hardly gone unnoticed by states. In recent years, many nations have begun to emphasize the role of AI as a cornerstone in both their national strategies and military doctrine (cf. China’s State Council, 2017; Putin, 2017; Work, 2015). Moreover, while many military AI applications remain somewhat immature at present (Payne, 2018a, p. 9), a range of systems are now seeing development or deployment (Maas, Sweijs, & De Spiegeleire, 2017). Indeed, a 2017 review by the Stockholm International Peace Research Institute already identified 49 deployed weapon systems with autonomous targeting capabilities sufficient to engage targets without the involvement of a human operator (Boulanin & Verbruggen, 2017, p. 26). Moreover, further advances are continually being made, with many states showing an interest in further developing military uses of AI (Ayoub & Payne, 2016; Horowitz, 2018a). As a result, there is today a widespread perception amongst the public, policymakers, and scholars, that the global development of AI is swiftly escalating into a strategic arms race—or even a “new Cold War”—between major states such as the United States and China (cf. Allen & Kania, 2017; Auslin, 2018; Barnes & Chin, 2018; Geist, 2016; Hogarth, 2018; Lee, 2018; Thompson & Bremmer, 2018). Related to this, there is a fear that the widespread militarization of AI, and its deployment to the battlefield, is but a matter of time. Some have challenged the overall “arms race” narrative on the grounds that such framings not only misrepresent the nature of AI and its innovation (Kania, 2018), but also play into adversarial and zero-sum thinking that is counterproductive or outright dangerous (Cave & Ó hÉigeartaigh, 2018; Zwetsloot, Toner, & Ding, 2018). While these are valid and important points, it is important still to consider the strategic and governance implications of the AI arms race framing, given how prevalent it already is. Should we be at all concerned about AI arms races? Most likely, yes: In the past, international efforts to control the proliferation, production, development or deployment of certain military technologies—from chemical and biological weapons to land mines and ballistic missile-defense systems—were all, to various degrees, motivated and grounded by four distinct rationales: ethics, legality, stability, or safety. Military AI likewise has raised concerns on all four grounds. Some have objected to “killer robots” on ethical grounds (Human Rights Watch, 2012; Nehal, Beck, Geiss, Liu, & Kress, 2016; Roff, 2014), or in terms of their noncompliance with principles of international (humanitarian) law (cf. Davison, 2017). Others worry that AI capabilities may adversely affect strategic stability between states—by shifting the tactical offense-defense balance (Rickli, 2017), eroding nuclear deterrence stability (Geist & Lohn,2018; Lieber & Press, 2017); or creating mutual uncertainty over the new balance of power, which may feed destabilizing miscalculation (Kroenig & Gopalaswamy, 2018). Finally, concerns are raised over safety, reflecting fears that the pursuit of narrow military supremacy can trap states in what Danzig (2018) has called a “technology roulette.” As states race to deploy increasingly autonomous military AI systems, their intrinsic vulnerability to unexpected interactions or operational accidents (Scharre, 2016a) raises the specter of inadvertent escalation into a “flash war” between autonomous military systems, similar to the algorithmic flash crashes already observed in the financial sector (Scharre, 2016b, 2018b). In sum, because military AI again invokes these four seminal concerns, the question of appropriate regulation appears pertinent. It also appears timely, since “the idea of arms control for AI remains in its infancy” (Payne, 2018a, p. 19), and both customary and formal international law remain still very much in flux. It as such seems prudent to consider today whether or not, or how, hazardous AI militarization or arms race dynamics might be contained or channeled. How viable is international arms control for military AI?

### Advantage 2 – China

#### The stage is set for US/China conflict. Low level tactical coercion is about to boil over to nuclear war.

Reginbogin & Lottaz 20 [Herbert, Prof of IR and International Law at Catholic University, Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.173-5]

To Washington, US-Sino relations are set for an adversarial conflict, not because of the PRC’s mass internment of Uighurs in Xinjiang, or the mistreatment of millions of Chinese activists, 42 the ongoing trade war, or a few rocks and islands in the corners of the Indo-Pacific region. Above all, the central conflict to the US is about the expanding economic and tactical coercion to control the autonomy of other countries and the build-up of China’s military fleet and large air bases on those artificial islands reaching almost to the shores of Malaysia and Indonesia. 43 Both types of coercion are just under the threshold of using force to jeopardize the security, or the social and economic systems, of different countries. 44 As Admiral Philip S. Davidson, Commander, US Indo-Pacific Command, put the situation in his posture testimony before the Senate Armed Services Committee on February 12, 2019: China is leveraging military modernization, influence operations, and its economic instrument of power in ways that can undermine the autonomy of countries across the region . . . easy money in the short term, but these funds come with strings attached: unsustainable debt, decreased transparency, restrictions on market economies, and the potential loss of control of natural resources. 45 The US interprets these actions as predatory check-book diplomacy. President Xi invested one trillion US dollars in ports and overland routes in more than sixty countries from all across Asia and Europe. In order to complete the One Belt, One Road Initiative, significant investments were also needed in Latin America and for opening markets in Africa. Countries like Greece demonstrated how dependent they had become on the PRC’s direct investments in exchange for political goodwill by them limiting any criticism of its policies. Greece helped stop the European Union from issuing a consolidated statement against PRC aggression in the South China Sea, prevented the bloc from condemning its human rights record, and opposed the stricter screening of Chinese investments in Europe.46 In 2018, Bangladesh banned one of the PRC’s major state firms for attempted bribery, 47 and in the Maldives, Finance Minister Ibrahim Ameer blamed the PRC for inflating prices of infrastructure projects compared to those was previously agreed. 48 Pakistan, too, has recently started to feel the pressure of Chinese investments that it has been barely able to pay back. 49 The United States interprets the above as examples of tactical coercion just below the bar of violating international law along with economic coercion, demonstrating the PRC’s successful competitive strategy directed against the US and its partners in East Asia. However, in 2016, the PRC’s claim to sovereignty over most of the South China Sea was invalidated by the Permanent Court of Arbitration (PCA) in The Hague. 50 Beijing’s reaction was to simply not recognize the Court’s jurisdiction to resolve its dispute with the Philippines or its interpretation against the legality of the so-called “nine-dash line.” 51 The US and its allies failed to commit their support for the decision of the PCA, one of the institutions of the liberal world order, leaving the Philippines to fend for themselves to contain the PRC’s bellicose actions. The Foreign Ministry of the Philippines called on all states to abide by the 2017 ASEAN-China Declaration on the Conduct of Parties in the South China Sea to reduce tension, mistrust, and uncertainty that could threaten regional peace and stability. 52 When in 2019 the Philippines government decided to upgrade its military facilities on the island Thitu of the Spratly Islands, Beijing again used the force of tactical coercion just below the threshold of armed conflict, in what is sometimes termed the grey zone between war and peace by deploying over one hundred PRC fishing ships with coast guard vessels instead of sending the Chinese Navy to hamper construction work. This time President Duterte’s response was quick and to the point that unless the ships disappeared, he would send-in soldiers. The matter was resolved with the PRC respecting the sovereignty of the Philippines by withdrawing the vessels.53 Still, Beijing is adamant about not resolving the South China Sea disputes in international institutions. Beijing’s distrust and contempt of these mechanisms are seen in Washington as another sign of the PRC rejecting the ‘operating system’ and the rules of the existing liberal world order. In other words, there are a plethora of commercial and military areas in which the US and the PRC have fundamentally different views. Meanwhile, to East Asian countries, the PRC’s actions are aggravating, but they are also worried about the conflict potential that a US-PRC military conflict has for their region—even if they were not primarily involved. A war between these two advanced nuclear states would be disastrous for them. Thus, the question arises as to what can be done in the Asia-Pacific region to reduce the Great Power tensions?

#### Biden and Xi are amping up bellicose rhetoric – Biden’s unique tendency for surprise escalations dictates future U.S. policy

Liptak and Atwood 3/20 (Kevin Liptak - reporter covering the White House for CNN and Kylie Atwood – CNN National Security Correspondent, 3-20-2021, Biden administration off to a combative start with tough rhetoric on Russia, China, CNN, https://www.cnn.com/2021/03/20/politics/biden-russia-china-tough-rhetoric-foreign-policy/index.html)

So, too, has the Biden administration more aggressively sought to call out China for its actions in Hong Kong, Taiwan, Tibet and Xinjiang province, steps **Trump stopped short of doing publicly**. Those arguments were the crux of the disagreement at the start of Thursday's meeting in Anchorage, where Blinken and National Security Adviser Jake Sullivan raised the issues and said the US and its allies would push back against Chinese authoritarianism. "That's a subject matter they're very, very sensitive to because they think it's other countries meddling in their internal affairs and they're trying to push back and say basically: who are you, the United States, to lecture us on human rights and civil rights and so forth when you have your own problems?" said Gary Locke, a former US ambassador to China. "They're feeling their strength, they're feeling their economic rebound," Locke went on. "Their country has really come back, life is almost back to normal in china whereas here in the United States we're still struggling with the coronavirus and our economy is still in tatters, although it's also rebounding. So China's feeling a bit of strength and confidence." By the end of the first day of talks, the Chinese had accused the US delegation of being "condescending" in its tone, while a US official said the representatives from Beijing seemed "intent on grandstanding" and accused them of breaking protocol. One official suggested the Chinese were looking to embarrass the Americans on their own soil. The site in Alaska was selected in part because the US wanted to stage the first high-level meeting on their own terms; an invitation to meet in Washington was regarded as a step too far, making Anchorage a suitable alternative. After the initial sparring, both sides insisted the mood was better behind closed doors than what cameras caught transpiring. And Biden said Friday he was "proud" of Blinken. The President's endorsement sent a strong signal to the Chinese that the tone struck at Thursday's meeting -- a forceful US critique of China's behavior domestically in places like Xinjiang and overseas, as well as Blinken's pushback -- has the full backing of the administration and that US officials are speaking with one voice. With Biden, however, **surprise escalations are not out of the question.** Known for going off-script, it will be his own assessments of the global stage that dictate his administration policy going forward. For now, his primary focus appears to be making plain the differences he is offering from Trump, who strained global alliances and confounded the national security establishment, including when he met with Putin alone and demanded the notes of his interpreter. Describing his lengthy meetings with Xi when both were serving as vice president on Friday, Biden made clear that he was taking a different approach. "I met with him, I guess, they tell me, 24, 25 hours alone, just me and an interpreter, and he and an interpreter," he said. "And, by the way, I handed in all my notes."

#### Conflict in the SCS is at a boiling point. Taiwan war is inevitable – international institutions and engagement can’t solve

Reginbogin & Lottaz 20 [Herbert, Prof of IR and International Law at Catholic University, Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.168-73]

Further south, in the Taiwan Strait, more conflict is boiling. As international waters and part of the regional security interests, the US and its Allies continue to conduct freedom of navigation operations, just as they do in the South China Sea.6 Beijing criticizes such maneuvers as provocations. However, Taiwan’s contested political status and its geostrategic position have enormous implications for US-Sino relations. The “One China Principle,” which Washington has accepted as the base for Sino-American relations since Nixon’s rapprochement to Beijing in 1971, has led to a complicated situation. The principle holds that there is only one Chinese state and that the island of Taiwan is part of it. To Beijing, this is a sacrosanct principle, and it lashes out at anyone who claims otherwise or seeks independence for Taiwan.7 To assert its standpoint, the PRC has steadily increased its military spending over the past decades. The build-up of its navy will enhance the power of its land forces and enable the PRC to challenge America’s dominance along the South and the East China Seas, 8 which it perceives as a natural part for the security of its southern provinces, the most populated and developed parts of the country. It is a core national interest, and Beijing has made it clear that it wants to control this sea, and Taiwan with it. 9However, the territorial claims over an extensive range of islands and features in the South China Sea constitute the principal security concern also to Japan, South Korea, and several members of the Association of Southeast Asian Nations (ASEAN). Their region is increasingly becoming the primary node of global power politics.10 The PRC has repeatedly signaled that it will not adhere to the established rules and mechanisms of conflict settlement. For example, it refuses to accept a ruling by the Permanent Court of Arbitration (PCA) at The Hague that what it calls “historical rights” over land features in the South China Sea are void and that their occupation is illegal under international law. The PRC even refuses to acknowledge the jurisdiction of the ICA and continues to expand its large land reclamation projects on the Spratly and Paracel Islands. Subsequent militarization of these features has drawn international criticism and raised the alarm among other claimants, most prominently the Philippines. The reasons for the PRC’s assertive behavior are multifaceted and include Beijing’s perception of the historical, symbolic, and economic meaning of the South China Sea, as well as the overall national security interest and its military strategy for space and the deep sea. 12 Not all reasons can be elaborated here, but it is essential to consider that recent Chinese history includes traumatic experiences of victimization and humiliation as, for example, through the western “open-door policy” and the horrific Opium Wars of 1839–1842 and 1856–1860, which resulted in ten to twelve million Chinese addicts and devastated many of the large coastal cities. In the twentieth century, China continuously suffered from colonial enterprises, including that of Japan, who split off Manchuria from the Chinese mainland and waged a brutal war for fifteen years (1931–1945) against the National Government. That conflict included terrible war crimes such as the notorious “Rape of Nanking,” during which the capital city was destroyed, and tens of thousands of Chinese civilians were slaughtered by Japanese soldiers. 13 These experiences of suffering and victimhood cut as profoundly as the Civil War does in the US or the First and Second World Wars do in Europe. They are tragedies that shape perceptions for centuries. Proposals for security architectures in the Indo-Pacific have to deliver not only national and human security from current threats but must be commensurable with historical narratives to deliver ontological security as well. 14 Otherwise, proposals will run aground from local rejection. But first, the primary conflict dynamic between the two contesting super-powers needs to be studied. The following section explains common US perceptions of China’s role in Asian Security affairs. For over four decades, the United States assumed that “engagement” with the PRC would induce Beijing to cooperate with the West on a wide range of policy issues. The seasoned Chinese politician Deng-Xiaoping, in the 1980s, embraced the time-tested strategy; “hide your strength, bide your time, and never take the lead.” 15 In 2015, the era of relative calm ended when, under President Xi Jinping, the Ministry of Defense issued a white paper titled “Chinese Military Strategy,” which vowed to strengthen its naval power in support of Beijing’s geopolitical objectives of safeguarding the PRC’s maritime rights and interests. The document indicted the United States and other neighbors for taking “provocative actions” around the PRC’s reefs and islands. It also held that the PRC would reinforce its “military presence on China’s reefs and islands that they have illegally occupied” 16 and highlighted the importance of Taiwan’s status of “Reunification,” which it said, “is an inevitable trend in the course of national rejuvenation.” 17 Over the years, Beijing’s rhetoric has become even more blatantly bellicose, threatening the twenty-four million people of Taiwan with military intervention. “We make no promise to renounce the use of force and reserve the option of taking all necessary means,” 18 Xi said in his 2019 New Year speech, adding that the Taiwan issue was an internal matter and that China would permit “no external interference.” 19 At the same time, however, Xi also indicated that China was aiming at taking center stage in the globalized world. 20 The bellicose language on security and the reconciliatory role of leadership internationally are at odds with each other but are part of Beijing’s strategy of national development. On the one hand, the PRC lifted hundreds of millions of people out of poverty and into the middle class over the past forty years. On the other hand, this coincided with a rising number of electoral democracies (tripling from 39 in 1974 to 125 today), of which many also achieved remarkable growth rates.21 Xi wishes to reassert the PRC’s greatness as the USA retrenches globally from international treaties and organizations. The election of US President Donald Trump in 2015 created doubt whether the country would remain interested in the global leadership role it took in the Cold War and after 1989. At the same time, Xi declared the arrival of a revolutionary “new era,” underscoring his country’s authoritarian model of development. 22 His portrayal of Chinese cultural and historical heritage provides a fundamental difference in leadership style compared to that exercised by Western powers. In the Auditorium of the Great Hall of the People in Beijing, on October 2017, he said, “it means the path, the theory, the system, and the culture of socialism with Chinese characteristics have kept developing, blazing a new trail for other developing countries to achieve modernization.” 23 He continued to say, “it offers a new option for other countries and nations who want to speed up their development while preserving their independence, and it offers Chinese wisdom and a Chinese approach to solving the problems facing mankind.” 24 Thus, the PRC committed itself to respect the choices of each State, that is, it promised not to intervene in the internal affairs of other countries as an alternative to western values of humanitarian intervention. However, what does this mean for the long-term development of the region? Will States that are economically dependent on China become “vassals” in the future, tactically intimidated by China’s authoritarian model and prepared to care more for economic prosperity, stability, and security at the cost of giving up “a little liberty?” 25 In addition to the PRC, the US views Russia as the other revanchist country on the Eurasian continent. It is an essential player in the region, posing challenges comparable to those of the PRC to the liberal international order—not the least because of its portrayal of encirclement by the West. The flight by two PRC H-6 and two Russian Tu-95 long-range, nuclear-capable bombers in the skies between Japan and South Korea backed up by a Russian A-50 early warning plane and its Chinese counterpart, a KJ-2000, on July 23, 2019, were intended to send a signal to the United States and its allies that the two powers were ramping-up military cooperation. 26 Albeit no direct nuclear military cooperation is intended, but nonetheless, Beijing and Moscow’s political convergence is moving toward specific nuclear issues about America’s more assertive nuclear weapons policy and the slow unraveling of arms limitations agreements. 27 The incident not only raised tensions in South Korea and Japan but overshadowed the growing hostility surrounding Taiwan and North Korea.28 The PRC and Russia have become partners in other areas too. For example, the PRC now receives oil supplies from Russia through an overland pipeline, decreasing Beijing’s vulnerability to possible US oil sanctions. Beijing also profits from Moscow’s military technology. It purchased aircraft engines, advanced weaponry, the S-400 air-defense system, and 24 SU-35 fighter jets from it. Notably, the S-400 system of antiaircraft missiles can strike unmanned aerial vehicles as well as cruise missiles. This system can contest the airspace near Taiwan and the Paracel and Senkaku Islands. 29 However, the cooperation between America’s rivals goes beyond combined military maneuvers. As relations between them and the US have turned sour, the leaders of the PRC and the Soviet Union have declared their relationship to be at an “unprecedentedly high level.” They have signed up to a joint statement on “Strategic Interaction Entering a New Era,” and plan to undertake significant projects in the sectors of aerospace, energy, investments, and aviation. While Chinese direct investment in the US dropped by 90 percent from $46 billion in 2016 to $4.8 billion in 2018, 30 Russo-Chinese bilateral trade dramatically increased from $69.6 billion in 2016 to $107.1 billion in 2018, with Huawei, a PRC company, developing Russia’s 5G network and Russia becoming the PRC’s largest supplier of crude oil. With Russia’s economy still restrained by sanctions imposed after its annexation of Crimea, President Vladimir Putin promised to combine the Eurasian Economic Union with Xi Jinping’s Belt and Road Initiative to form a “greater Eurasian partnership.” 31 This marks a new level of cooperation and is indicative of Russia’s turn to the east.32 Although economic cooperation between the two powers is not of primary security concern to the US, the Russian armament of the PRC significantly complicates the security of America’s allies and friends in the region, for which it seeks to take countermeasures. In April 2019, for example, the US Department of State approved an export license for 66 F-16 aircraft to Taiwan, worth $8 billion. 33 While Russia is willing to divert the United States’ strategic focus from Europe toward Asia by fortifying the PRC’s military capabilities, there are still many shades of grey in this relationship. Russia remains impartial about maritime disputes in the South and East China Seas. Also, Russian and Chinese interests in the Indo-Pacific do not coincide. Beijing’s ambition is to gain primacy in the region, whereas Moscow still has strategic priorities in Europe and the Middle East, and also needs to worry about economic difficulties at home. Russia is not willing to be dependent on the PRC and does not attempt to form a united front on maritime issues because that would undermine its relations with Vietnam, which has an ongoing maritime dispute with the PRC. While it may not be in Russia’s interests to side with the regular US denunciations of PRC maritime expansionism, it is also not in the interest of the Kremlin that Beijing controls the multitrillion-dollar shipping lanes linking the Indian and Pacific oceans. Besides, Russian energy companies have a vested interest in the region. Rosneft, whose primary shareholder is the Russian government, but also Gazprom and Zarubezhneft, 34 can expect Russia to play the old-fashioned great-power politics to defend cash flows from them to the state.35 Warnings from Beijing continue that it is ready for war if there is a move toward Taiwan’s independence as revealed again through the PRC’s Defense white paper of July 24, 2019, outlining its military plans amid competing claims over the territory, including the South China Sea and Taiwan. 36 The US views these developments as unmistakable signs of the PRC’s ambitions to project power over the Pacific and Indian Oceans, comparable to what it did in the nineteenth and twentieth centuries, along the coastlines in the Caribbean Sea and the Pacific Ocean. The Monroe Doctrine essentially neutralized the United States’ backyard, assuring Washington’s primacy in its immediate neighborhood.37 At the same time, the United States used occasional neutrality as a foreign policy to remain outside the wars of Europe from which it had nothing to gain. The PRC’s assertive actions in the South and East China seas have already been identified by US commentators as its version of the Monroe Doctrine,38 while its 2019 white paper (quoted below) assures that Beijing will remain neutral in the sense of not joining military alliances. Its core interests are best served through the control over immediately adjacent waterways. Just as US control over its strategic waters allowed Washington to project power globally (even propelling its interventions into both world wars), a similar dominance of the immediate waterways and projection of power controlling the military and economic routes in the Indio-Pacific would allow Beijing to achieve a comparable primacy in Asia-Pacific. Officially, Beijing denies any such aspirations: committed to developing friendly cooperation with all countries on the basis of the Five Principles of Peaceful Coexistence. It respects the rights of all peoples to independently choose their own development path and stands for the settlement of international disputes through equal dialogue, negotiation and consultation. China is opposed to interference in the internal affairs of others, abuse of the weak by the strong, and any attempt to impose one’s will on others. China advocates partnerships rather than alliances and does not join any military bloc. It stands against aggression and expansion and opposes arbitrary use or threat of arms. The development of China’s national defense aims to meet its rightful security needs and contribute to the growth of the world’s peaceful forces. History proves and will continue to prove that China will never follow the beaten track of big powers in seeking hegemony. No matter how it might develop, China will never threaten any other country or seek any sphere of influence.39 In stark contrast to this relatively benign self-image, the Defense Minister Wei Fenghe threatened just a few weeks earlier to “fight to the end, ‘at all costs’ over trade and Taiwan.” 40 This was precipitated the day before on June 1, 2019, by the US Department of Defense, presenting an Indo-Pacific Strategy Report of an international coalition partnering against the PRC’s growing might in the Indo-Pacific. 41 There are undaunting obstacles standing in the way of a peaceful resolution of the differences between the US and the PRC that could have a dire impact on the contested waterways—worth trillions of dollars in trade and responsible for more than half the world’s oil shipping—from East Asia to the Middle East. Besides, there lie potentially large amounts of hydrocarbons under the sea beds that form part of Beijing’s territorial claims in the South China Sea. They include hundreds of rocks and reefs that are also claimed by Brunei, Malaysia, the Philippines, Taiwan, and Vietnam, which creates intense clashes of interest. The United States regularly weighs in on behalf of the South East Asian nations causing the PRC to respond with bellicose rhetoric.

#### Global institutions are inadequate, and collapse of the U.S.-Japan alliance is inevitable. Permanent neutrality is key to cooperative security architectures necessary to address China rise and climate change

Lottaz & Reginbogin 20 [Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, Herbert, Prof of IR and International Law at Catholic University, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.6]

There are signs that the ideal of “real” collective security, enforced through the United Nations, is as distant as it always was. Too many ongoing conflicts are blocking unanimous decision-making in the Security Council. There is no unanimity on Syria, no solution for Palestine, no agreement on Ukraine or Georgia, no collective action on Yemen, and no consensus on Northern Cyprus. There is not even a shared vision for the future of Taiwan or the rightful belonging of the waters of the South and East China Sea. Most strikingly, though, there is little agreement for the time that will be known as “Post-Pax-Americana.” 25 What is next? Nothing has ever lasted forever. NATO is seventy years old already, so is the US–Japan alliance and the United States’ extensive base system around the world. Everything ends sometime. If, as some argue, the “rise of China” and the “Resurgence of Russia” together with America’s slow but steady withdrawal from international security really signify a return to a multipolar world order, 26 there will be a strong need for the redefinition of many of the current security architectures in the East and the West. What this volume proposes is not to forget about the potential of permanent neutrality. It is a serious and realistic security model that harbors the potential to support a balance of power through the provision of “hard” military security corridors (buffers), on the one hand, while it can also fill the need for human-centered ontological security by providing an understanding for the Do’s and Don’ts of international behavior, on the other. After all, the challenges of the twenty-first century are not “just” reducible to military threat. If no collective effort is achievable to reverse climate change, our shared human security will be in the gravest of dangers. Cooperative security architectures are needed to achieve the unity necessary to face this universal and existential nonmilitary threat of our age. The model of neutrality is in the following pages discussed to show its potential. Through the ten chapters of this book, the editors hope to illuminate the theoretical and practical benefits that permanent neutrality as a model for peace, security, and justice has to offer.

#### Climate change causes extinction – their defense is based on inaccurate models

Specktor 19 [Brandon Specktor, Senior Writer, "Human Civilization Will Crumble by 2050 If We Don't Stop Climate Change Now, New Paper Claims," Live Science, 6-4-2019, https://www.livescience.com/65633-climate-change-dooms-humans-by-2050.html]

It seems every week there's a scary new report about how man-made climate change is going to cause the collapse of the world's ice sheets, result in the extinction of up to 1 million animal species and — if that wasn't bad enough — make our beer very, very expensive. This week, a new policy paper from an Australian think tank claims that those other reports are slightly off; the risks of climate change are actually much, much worse than anyone can imagine. According to the paper, climate change poses a "near- to mid-term existential threat to human civilization," and there's a good chance society could collapse as soon as 2050 if serious mitigation actions aren't taken in the next decade. Published by the Breakthrough National Centre for Climate Restoration in Melbourne (an independent think tank focused on climate policy) and authored by a climate researcher and a former fossil fuel executive, the paper's central thesis is that climate scientists are too restrained in their predictions of how climate change will affect the planet in the near future. [Top 9 Ways the World Could End] The current climate crisis, they say, is larger and more complex than any humans have ever dealt with before. General climate models — like the one that the United Nations' Panel on Climate Change (IPCC) used in 2018 to predict that a global temperature increase of 3.6 degrees Fahrenheit (2 degrees Celsius) could put hundreds of millions of people at risk — fail to account for the sheer complexity of Earth's many interlinked geological processes; as such, they fail to adequately predict the scale of the potential consequences. The truth, the authors wrote, is probably far worse than any models can fathom. How the world ends What might an accurate worst-case picture of the planet's climate-addled future actually look like, then? The authors provide one particularly grim scenario that begins with world governments "politely ignoring" the advice of scientists and the will of the public to decarbonize the economy (finding alternative energy sources), resulting in a global temperature increase 5.4 F (3 C) by the year 2050. At this point, the world's ice sheets vanish; brutal droughts kill many of the trees in the Amazon rainforest (removing one of the world's largest carbon offsets); and the planet plunges into a feedback loop of ever-hotter, ever-deadlier conditions. "Thirty-five percent of the global land area, and 55 percent of the global population, are subject to more than 20 days a year of lethal heat conditions, beyond the threshold of human survivability," the authors hypothesized. Meanwhile, droughts, floods and wildfires regularly ravage the land. Nearly one-third of the world's land surface turns to desert. Entire ecosystems collapse, beginning with the planet's coral reefs, the rainforest and the Arctic ice sheets. The world's tropics are hit hardest by these new climate extremes, destroying the region's agriculture and turning more than 1 billion people into refugees. This mass movement of refugees — coupled with shrinking coastlines and severe drops in food and water availability — begin to stress the fabric of the world's largest nations, including the United States. Armed conflicts over resources, perhaps culminating in nuclear war, are likely. The result, according to the new paper, is "outright chaos" and perhaps "the end of human global civilization as we know it."

#### Plan key to transition to new Asian security architecture built on a corridor of neutral countries buffering the US and China. Solves war – empirical evidence proves.

Reginbogin & Lottaz 20 [Herbert, Prof of IR and International Law at Catholic University, Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.173-9]

This passage explores how a geographical corridor of permanently neutral countries in a multipolar East Asia could become a new buffer zone, to allow the US and the PRC to transition their projection of power benignly and reduce the danger of a Sino-American war in the future. It uses precedence in the region as illustrations for existing neutralist policies that have already been serving local interests for many years. A formal “neutralization,” however, would go further. As the introduction of this book explains, the practice of neutralization refers to multilateral treaty agreements to declare and uphold the permanent neutrality of a country, a territory, or a water way. The practice lay dormant for the past decades, but it is well defined under international law. At the same time, it is intuitive and malleable enough to adapt to the needs of this century, which revolve around new issues like human security, ecological economics, and global integration of production chains. The world saw its first (and last) global, multipolar security system in the nineteenth century. The “Concert of Europe” was built around the idea that no single state should be powerful enough to exercise hegemony over Europe and that small, limited conflicts were an unavoidable means to retain the balance that would avoid a large-scale slaughter like the Napoleonic Wars that killed millions. Neutrality a fundamental premise of this arrangement because it kept the different centers of power economically prosperous and militarily secure, even when some of them were embroiled in local conflicts.54 Neutral trading partners linked, for example, colonies to their motherlands when local shipping became impossible due to blockades or sea warfare between belligerents. They also function as buffer zones like Switzerland, Belgium, and Sweden. Even the UK and the US served this purpose in one way or the other until World War I. 55 In the case of a twenty-first century East Asian Security Architecture, a chain of states, extending from North-East Asia to ASEAN, would form a defensive Neutral-Bloc. It could include Mongolia, the Korean Peninsula, (or South Korea alone), Japan, Taiwan, and many ASEAN states. However, experiences of neutrality are not new to the region. There have been several local attempts and experiences with neutralist policies in the past decades. The history of European and Japanese occupation caused not only China to be wary of the Great Powers, but also Southeast Asia to prefer keeping the region neutral and free of external interference during the Cold War. It stems from the entanglement in the political and ideological challenges associated with the global distribution of power during this era and the disastrous impact of the Vietnam War. 56 At about the same time as European Détente began, the PRC and other Southeast Asian countries initiated steps to reduce tensions between East and West. An essential but underappreciated proposal at the time was one that came in the form of a neutral region surrounding the hot conflict zones around Vietnam, Cambodia, and Laos. The five founding members of ASEAN, Indonesia, Malaysia, the Philippines, Singapore, and Thailand signed a declaration that stated their ambition to become a “Zone of Peace, Freedom, and Neutrality” (ZOPFAN).57 This caused regional Southeast Asian leaders to recognize the importance of greater self-reliance by pursuing the idea of neutrality, free of external interference by the Great Powers in Southeast Asia.58 It underscored the policy of autonomy of a bloc of nations, which, by the beginning of the millennium, had become a convening power to discuss critical regional issues, emphasizing its impartiality. Its members had grown to ten by the 1990s, limiting the influence of the Great Power rivals even further. Since the end of the Cold War had led to a power balance between a continental power (PRC) and a maritime power (the US), each with its sphere of influence, 59 the divide in South East Asia between “communist” and “capitalist” countries also gave way to a rapprochement, especially after Vietnam’s 1989 withdrawal of forces from Cambodia with the final resolution of the Cambodian Conflict in 1991. The realignment of the Cold War conflict pattern during Détente in the 1970s offers a key element in explaining the onset of the East Asian Peace and East-West European Peace initiatives. The PRC and the US formed a kind of condominium, organizing East Asia into “two distinct spheres of influence,” within which each held sway and ordered relations without the interference of the other. 60 This development brought about the expansion of ASEAN, and the notion of ASEAN neutrality evolved into a neutral form of response to conflict through impartiality. It has become an essential pillar of the security and strategic balance of the Asia-Pacific region, one of the world’s most successful initiatives in regional conflict regulation and cooperation.61 ASEAN’s success in reducing tensions between the rival powers in East Asia is attributed to its engaging all the key players in bilateral or multilateral forums and making them come to the “table” with the underlying policy of guaranteeing each other’s sovereign rights of territorial integrity, preventing efforts to exclude them, and an explicit principle of non-interference in each other’s internal affairs. This also represents a form of “ideological neutrality” for the sake of finding the least-common denominators in their approaches to regional stability. The concept of neutrality has been repeatedly mentioned together with unity and solidarity, by ASEAN and its members as an ambition and as one of the main pillars supporting ASEAN’s foreign policy over the last fifty years.62 For ASEAN, the neutral aspect of impartiality and non-interference has always played a vital role in finding resolutions to regional conflicts. Japan, too, has some experience with principles that resemble those of neutral powers. It was cast (involuntarily) into a similar role of having to refrain from the use of force internationally because of the outcome of the War in the Pacific. Together with the Allies, the United States essentially dictated that the Japanese eliminate all nondefensive armed forces through the imposition of Article 9 of the new Japanese Constitution, which General Douglas MacArthur’s headquarters wrote.63 Its two paragraphs enshrine Japan’s post-war pacifism: Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as another war potential, will never be maintained. The right of belligerency of the state will not be recognized. 64 Paragraph one frames Japan’s security unequivocally in pacifist and purely defensive terms. Total pacifism (meaning the complete absence of any armed forces) would have been the narrative and norm of Japanese foreign policy65 had it not been for the Japanese government and the judiciary which interpreted Article 9 (1) to have no restrictions imposed upon the right of self-defense, just as Article 2 (4) of the UN Charter 66 is balanced with Article 51.67 Japan, therefore, retains a national force but recognizes its pacifist meaning by naming them Air, Land, and Maritime Self-Defense Forces (SDF).68 The problem is whether and to what extent Article 9 restricts the military capability that Japan can maintain. Under today’s interpretation, Article 9 allows for overseas support of friendly nations—which raises the issue of collective self-defense and is an ongoing topic of debate. The rejection of the use of force as a means for settling international disputes remains at the heart of Japan’s military strategy. While the SDF is considered among one of the world’s most potent conventionally equipped militaries, the international perception of its capabilities has been shaped by the narrowly defined use of force. In recent years Japan’s security focus on the PRC has intensified because of Beijing’s more assertive claims over the Senkaku Islands (known as Diaoyu islands to the PRC). At the same time, Tokyo increased cooperation with its allies, the United States, the United Kingdom, India, South Korea, and Australia. The scope of its engagements has surpassed its original mandate geographically, and the SDF today engages in international peacekeeping operations. 69 When it comes to the actual use of force, three principles that govern the SDF are: 1. There is an imminent threat to Japan. 2. No other means are available to defend Japan. 3. The use of force is limited to the minimum extent necessary. 70 In 2014 Prime Minister Shinzo Abe’s Government reinterpreted Article 9 to allow for the use of force not only in case of an attack against Japan proper (or its personnel and assets) but to also include the safety of its immediate military allies as part of the allowed reasons for the use of force. Furthermore, the Abe Government passed an ambitious “peace and security legislation” that formally took effect in March 2016.71 It set out to transform Japan’s security policy and the roles and missions of its defense forces72 coming on the heels of a significant revision of the Guidelines for Japan-US Defense Cooperation in 2015. 73 The main aims of the legislation were “to bolster deterrence to avoid armed conflict, especially through strengthening the US-Japan alliance; to protect Japanese nationals, and to better contribute to international peace and stability under “proactive pacifism” (sekkyokuteki heiwashugi) 74 in the form of peacekeeping. Due to the 2014 reinterpretation of Article 9, the SDF has now enhanced both deterrence and readiness, especially regarding the US-Japan alliance. 75 Still, the restrictive and self-defensive nature of the Japan’s military role lends way to how this could complement a neutral block of countries. First, it serves as a precedent for the nonoffensive nature of Japan’s military role in North-East Asia, abnegating the sovereign right to declare war—just as permanently neutral countries do. Second, it allows for collective peacekeeping missions (in the sense of Hans Morgenthau’s “collective defense of neutrality”) 76 which would be an essential part of a mutual assistance agreement of a block of neutral states, in the sense of joint policing of the rule-based order in the overlapping maritime jurisdictions of the block, in accordance to the law of neutrality.77 It would be part of the reset in which Japan would still uphold its role to defend its territory, limited to the minimum level of force necessary. Consequently, there is space for Japan to be part of a buffer zone to reduce tensions between Beijing and Washington. Whether the revision of the Japanese Constitution will be the next step (to abolish or amend Article 9) remains tied to the country’s interpretation of its security environment and the moral principles it has upheld over the decades. What is certain is that the undercurrent of Japanese foreign policy as a self-defensive mechanism is in alignment with the laws of neutrality as long as it does not have alliances with other countries that would go beyond the scope of Japan’s constitutional obligation of defending only its territorial integrity.

#### Japan is a key testing ground to push Taiwan to embrace neutrality

Lottaz & Reginbogin 20 [Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, Herbert, Prof of IR and International Law at Catholic University, “Taiwanese Neutrality,” in *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.195-6]

In the early spring of 2018, Lu Hsiu-lien (Annette Lu), 29 a former democracy activist, feminists, and ROC Vice President (2000–2008), organized the first East Asia Peace Forum in Taipei which sported an oddly unfamiliar subtitle; “Peace in East Asia and the Neutrality of Taiwan.” When she opened the forum, the veteran politician came quickly to the point: “People in Taiwan want to be the master of their destiny and do not wish to be annexed by Communist [sic]. . . . Beyond the Taiwan Strait, the People’s Republic of China claims to own Taiwan, but it has never ruled Taiwan. . . . In recent years, concerned Taiwanese opinion leaders have launched a crusade to promote Taiwan’s peace and neutrality via referendum. They hope to emulate Switzerland and Sweden which maintain remarkable self-defense capability [sic].” 30 Lu’s remarks refer to herself and exponents of Tsai’s DPP who are seeking to force the government to adopt a foreign policy of “peace and neutrality” by way of a plebiscite.31 She started the political process for that when she presented the formal referendum proposal to the Central Election Commission in March 2019.32 Although Lu suffered a setback when only a month later the Legislative Yuan changed the National Referendum Act, allowing plebiscites to take place only every other year—effectively banning any referendum until 202133—her chances of success at the ballot box are not bad. Previous revisions to the law (effective since January 2018) considerably increased the likelihood of a positive vote. 34 The first successful referendums under the new rules in November 2018 demonstrated the direct democratic potential of the new instrument. Whereas no referendum had ever overcome the high statutory requirements for a valid plebiscite before, all ten referendums of that day were valid, and seven of them passed. On the other hand, the same referendums have also shown that the Taiwanese public is currently not in favor of taking risks regarding proclamations of sovereignty. Voters rejected a proposal that would have changed the name under which Taiwan competes in the Olympic Games from “Chinese Taipei” to “Taiwan.” 35 The move would have certainly angered the PRC and infringed upon an agreement with the International Olympic Committee, which might have led to Taipei’s expulsion from the Olympic Games—an argument of the no-committee that resonated strongly with voters. Together with the losses that the pro-independence leaning DPP had to register in local mayoral elections, the argument has gained ground that a majority of Taiwanese is not favoring a change in the status quo with the PRC. However, of all referendums that day, this one was the closest race, with 45 percent yes-votes to 55 percent rejections—a difference of only 1 million votes out of 20 million registered voters. This suggests that if a neutrality referendum was not framed as a move toward sovereignty, the proposal might succeed at the ballot box. However, if that was the outcome, what would a “Taiwanese neutrality” be? In fact, neutrality is a promising, peaceful solution of the Taiwanese quagmire by squaring a circle: satisfying the basic needs of Beijing, Taipei, and the US under a new consensus that avoids the issue of sovereignty, while also providing a new shared narrative to continue cross-strait relations under the status-quo. Concretely, Taiwanese neutrality could become part of a local security architecture that would decrease the security dilemma between the PRC and the US, while also delivering security guarantees to the Taiwanese population but without military alliances. A neutrality proclamation in the absence of a war toward which it is directed is called permanent neutrality36—akin to the foreign policies of Switzerland, Sweden, or Austria. It is a perpetual state coming with the duty of impartiality toward armed conflicts and the promise to abstain from military alliances. A permanent neutral is not allowed to take sides during wars, nor can it allow third parties to use its territory or infrastructure for military purposes. At the same time, however, permanent neutrals are able to engage constructively in diplomacy, offer humanitarian services, mediate in conflict, and pursue their national interests like any member of the international community. Since most historical instances of permanent neutrality involve sovereign governments, a unilateral Taiwanese declaration of neutrality might seem more of a provocation than a de-escalation in the standoff with the PRC, but that is not necessarily the case. Customary International Law distinguishes clearly between the concept of neutrality and sovereignty. They can go hand in hand—but they do not have to.37 “The idea of neutralization does not of itself connote a territorial guarantee,” 38 Malbone W. Graham noted already in 1927. “Neutralization,” in this context, refers to the act of several states agreeing in a treaty on the neutrality of a particular territory. What he and others39 knew was that “neutrality” and “territorial integrity” were usually guaranteed separately under International Law. Switzerland and Belgium were neutralized with explicit (but separate) guarantees for the sovereignty over their territories. Meanwhile, the Greek islands of Corfu and Paxos, and the Belgian colony of the Congo (while occupied and exploited by its European rulers) were neutralized without such guarantees. Even the Grand Duchy of Luxemburg was neutralized in 1867 by the Great Powers of Europe without any promises for its territorial integrity. 40 It was neutralized but put under the sovereign control of King William III of the Netherlands. 41 Other examples of the late nineteenth and early twentieth centuries include the Aaland Islands, the Samoan Islands, the Rhineland, the Saar territory, even the city of Danzig.42 Besides, also important waterways that flow through jurisdictions of sovereign governments have been permanently neutralized at various points in time, like the Panama Canal, the Suez Canal, the Straits of Magellan and, de facto, the Taiwan Straits (although the last one lacks any formal agreement thereof). Although these places were not declared sovereign, they still enjoyed the full protection of the law of neutrality. More importantly, they took a unique position in geopolitics. They were instances of what L. F. L. Oppenheim called “partial neutrality,” 43 or what can also be called “permanent territorial neutrality.” 44 Most cases of permanent territorial neutrality in International Law are European, but there are at least two precendences for territorial neutrality in Asia; Macau and Portuguese (East) Timor, during World War II. Both territories were colonies of neutral Portugal when the war in the Pacific broke out. Since they were regarded as extensions of the state under who’s possession they were, Macau and East Timor became, by implication, neutral territories. Although East Timor was soon invaded—first by the Allied forces and then through a counter-offensive by Japan’s Imperial Forces—the Japanese occupiers recognized the neutral status of the island. The official position of Tokyo was that Japan had to “liberate” the neutral territory and only stationed its troops on the island because the Portuguese colony was not able to guarantee that it would not be used by Japan’s enemies—which is one of the principal duties of a neutral. The Japanese also granted the Portuguese administrators in East Timor the control over private civilian matters, refraining from provocative actions against the local population. 45 Even more interesting is Macau which remained outside the warfare and unoccupied for the entire time of the Second World War, despite the tiny peninsula being an easy target for the Imperial Forces that had no problem invading British Hong Kong. Tokyo exercised strategic constraint toward Macau not because it had an ingrained respect for neutral territory but for political and practical reasons. On the one hand, it had no intention to draw Portugal into the war on the Allied side. It was difficult enough to justify and appease Lisbon after the counter-invasion of Timor, but, more importantly, the neutral status of Macau made the territory a valuable hub for intelligence gathering (espionage and counter-espionage) and allowed for a frenzy of diplomacy toward all sides. Macau was more precious as a neutral territory than as a prize of war. 46 As these examples show, there is no principle contradiction between a new consensus for a “One China Policy” and a declaration of permanent territorial neutrality. Taiwan could proclaim its permanent neutrality without announcing independence. Moreover, this new status would also be in line with the PRC’s foreign policy of military nonalignment according to its most recent white paper, which holds that “China advocates partnerships rather than alliances and does not join any military bloc.” In fact, a permanently neutral Taiwan would only strengthen that policy, not weaken it. There are other benefits that the PRC might get through a neutral Taiwanese island which will be explored below. But before that, the obvious elephant in the room to address is the security question. Some of the above examples are infamous because they ended with annexation or invasion; Portuguese Timor, the Saarland, Luxemburg, Danzig; they all were overrun by hostile forces who did not (or only partially) respected their neutral rights. Is this approach, therefore, invalidated? Permanent neutrality itself is not a magic potion that miraculously safeguards a state or a territory. Local security is just as dependent upon other factors like military preparedness, geostrategic position, and economic strength. The invaded neutral territories were all nearly defenseless. Luxemburg was not only neutralized but demilitarized. The other territories, too, had nearly no indigenous defenses, and, as described, the Japanese would most likely have refrained from invading Portuguese Timor had Portugal been able to repel the initial invasion by the Allied Forces under Australian command.47 Macau, on the other hand, just like Switzerland or Spain in World War II, had more to offer to the belligerents than what they would have gained through attacking and occupying these places which would have inflicted military damage for no good gain. The peace dividend that neutrals have to offer is just as crucial (or even more important) than an abstract status under international law. These aspects are necessary to explain why some neutrals in history managed to stay unharmed, while others were invaded or drawn into wars. Strategically permanently neutral states or territories do not differ from others. There have been countless examples only in the past century during which collective security approaches failed to provide the security they were supposed to bring.48 The Tripartite Pact did not save the Axis Powers of World War II from their demise (of their own making), South Vietnam’s Alliance with the US did not rescue it from the North, 49 and the Warsaw Pact failed to protect the Soviet Empire. Besides, the proposition for Taiwan’s permanent neutrality is not one to disarm the island. On the contrary, it is a proposal for an armed neutrality. Permanent neutrality is often confused with pacifism because of its refusal to join alliances. In reality, many successful permanent neutrals depended heavily on the deterrent power of their Armed Forces. Switzerland and Sweden are prominent examples. During the World Wars, when the danger of invasion was real, they mobilized their (relatively) large Military Forces to guarantee that their territories would not be utilized by any of the belligerents for purposes of warfare, signaling that an invasion would come at a hefty price. At the same time, both neutrals allowed the belligerents to make good use of the fact that they were not at war with anyone. All belligerents benefited from trade with them (including weapon exports), had access to their currencies, could use their diplomatic services, and could gather intelligence in their capitals.50 The message was simple; “we are more valuable to you outside the conflict than under your occupation”—the neutral carrot-and-stick approach. For this to work, the neutrals depended on credible military deterrents—which is anything but pacifists. That is what is usually called armed neutrality. Inversely, well-intended attempts at neutral solutions have failed because of a lack of military preparedness. The most prominent and recent cases in South East Asia are those of Laos and Cambodia. Both tried to escape the slaughter of the Vietnam War through neutralist strategies but were ultimately drawn right into the conflict. Laos was even officially neutralized through the 1962 “Geneva accord on the Neutrality of Laos” with all sites of the conflict promising to respect Cambodian neutrality and its territorial integrity.51 However, both countries lacked the military strength to guard their borders against the military operations of the belligerents. The Vietcong happily continued using supply-routs through both countries and recruited help from there. That, in turn, provoked the US into the bombing of Laotian and Cambodian territories, which then destabilized the national governments and drew them right into the conflict. Therefore, Taiwanese neutrality would not be a call to disarm the island or to cut it off from US weapon purchases. On the contrary, a well-prepared and adequately equipped army would be the backbone to a credible, permanently neutral island in the Pacific. Taiwan would need to be able to ensure that no nation could utilize either its airspace nor its territorial waters for military purposes and that it would not become an “unsinkable aircraft carrier” for the US nor a forward operating base for PRC Forces. Taiwan would be off-limits to all powers, thereby reducing the security dilemma toward both sides. The crux of the issue, however, is that a “real” neutral solution to the Taiwanese question would need to be just that—a solution. Permanent neutrality is first and foremost a treaty agreement through which it becomes an official status under international law. Just as the State Treaty that neutralized Austria in 1955 was essentially an agreement between the USSR and the US to declare Austria off limits for military planning (it never joined NATO nor the Warsaw Pact), Taiwanese neutrality would have to be “imposed” from the outside as much as it would have to be “desired” from the inside. Taiwan, adopting the status of a permanent neutral nation, would require an international agreement to which all relevant global and regional powers would become signatories to include the PRC and the US, but also Japan, South Korea, the Philippines, Indonesia, and Vietnam. These states would have to agree to the terms of an international deal that would codify their future relationship with the island. Otherwise, regarding International Law—and for reasons of Realpolitik—a unilateral Taiwanese declaration of permanent neutrality would carry no weight, neither politically nor under international law.52 In short, if Taiwan was ever going to be a “real” permanent neutral, the neutralization of the island would need to happen through an international agreement, and it would need to be a process resulting in an improvement over the ambiguous status quo for all parties—otherwise, they would just not sign up for it. That would be the tricky part for Taiwan after a favorable neutrality referendum. Its diplomats would have to go out and “sell” Taiwan’s neutrality, to make it truly permanent. Only a multilateral treaty would make a unilateral proclamation meaningful. However, that is not to say that a neutral solution cannot start locally. The Swiss are proud to this day that they were able to “defend” their neutrality during the Vienna Conference in 1815 when the High Powers neutralized their territory. One hundred forty years later, the Austrian Government convinced the US of the usefulness of its neutrality, despite Eisenhower’s initial opposition. Another 40 years later, Turkmenistan became the latest example for a successful case of a self-proclaimed neutral, who managed to be recognized by the international community. Ashgabat had its permanent neutrality affirmed in 1995, by way of a UN resolution—the first time that the UN was involved in the neutralization of a country.53 The UN might become a significant international forum if Taiwan was ever to push for the recognition of its neutrality. In 2017, while declaring December 12 the International Day of Neutrality, the UN also acknowledged “that the national policies of neutrality of some States can contribute to the strengthening of international peace and security” and recognized “that such national policies of neutrality are aimed at promoting the use of preventive diplomacy.” 54 The UN, thereby, threw its considerable weight behind permanent neutrality as something that was not only tolerable to the international community but worth fostering. It recognized that neutral actors, even when they are not members of the UN (like Switzerland until 2002), can contribute much to the peaceful development of international relations through active diplomatic contributions that only neutrals can deliver (mediation, good offices, fact-finding missions, negotiations, etc.). Most importantly, what Taiwan’s neutralist approach would have to deliver would be a vision of benefits not only for itself but for all international actors—the value proposition is crucial. How could mainland China, the US, and East Asian Nations benefit from a permanently neutral Taiwan? First, despite its bellicose rhetoric, Beijing has an interest in maintaining its economically advantageous relationship with Taiwan. Trade between the two was worth 181.83 billion USD in 2017,55 with over ninety thousand Taiwanese businesses investing into mainland China over the last thirty years and financial institutions of both sides operating on the soil of the other as part of an economic agreement. Furthermore, there are advantages if Taiwan remains an “offshore” market. For example, through its unique status Taipei would have the ability to intermediate the banking sectors. In 2012 Taiwan’s Central Bank signed an agreement with the People’s Bank of China, allowing for the direct settlement of Renminbi transactions. A year later it had already become the second largest trading place for China’s foreign currency after Hong Kong.56 The market has since moved but Taiwan remains and important trading place for the Renminbi and Beijing’s aspirations to internationalize the currency to make it an alternative to the US Dollar or the Euro. 57 A neutral banking place will prove invaluable as it will increase trust in operations and the stability of its trading places. Beijing could also benefit on a public diplomacy level from a neutral Taiwan. Despite its astounding and unique economic ascent, mainland China has failed to gather the kind of soft-power that was central to the success of other Powers. It has not produced a Blue-Jeans cult, or an Anime PopCulture diplomacy, or a K-pop style hype for the music of its younger gener- ation. The over-arching perception in the western public is one of a China that patrols the internet, uses its tech companies for spying activities, and locks away dissidents in politics, arts, culture, and even incarcerates bookshop keepers. Taiwan, on the other hand, is a beacon of democratic freedom, human rights, and liberal thought. Instead of fending-off these values, the PRC could utilize a neutral Taiwan as an isolated but distinctly Chinese provider of liberal values to the rest of the world. Chinese humanitarianism, for example, delivered through neutral Taiwan, in the form of humanitarian assistance, diplomatic services, and peacekeeping missions around the world. A distinctly Chinese “Switzerland of the East” would be able to help in negotiations between the two Koreas and mediate during constitutional crises in places like Sri Lanka, or during ethnic tensions like in Myanmar. If the PRC encouraged instead of stifled a neutral Taiwanese diplomatic approach, it would immediately benefit from the positive image these efforts produced. For the US, on the other hand, a permanently neutral Taiwan would be a way to ease tensions with Beijing, save money on military expenditures, and continue lucrative conventional arms sales, all while not changing the geostrategic balance. To talk about Taiwanese Neutrality would not suggest a step away from the US and undermine bilateral relations. Taiwan would still be part of the first island chain and not become a military base for the PRC’s Pacific Fleet. Nor would the arrangement pose a danger to the US-Japan security alliance or influence the US relationship to the Philippines. Military relations in the Pacific would stay what they are—just with less tension toward Beijing. Strategically and financially, this would be the least expensive way to clean up a messy situation that has the potential to escalate into a scenario under which US troops and US money would be needed to defend a status quo that is bound to come to an end, one way or another. A sustainable deal with Beijing about the fate of a neutralized Taipei is in the interest of Washington. Lastly, there is “the big” picture of regional security in East Asia. 58 A permanently neutral Taiwan would not only serve as a physical buffer zone between mainland China and the US, but it can become a blueprint for regional security agreements in the future—most prominently, for the Korean peninsula. Whatever the political course of the two Korean states, it is clear that Beijing will prevent at any cost the stationing of US troops or weaponry directly at its southern border. A unified Korea would need to be non-nuclear and neutral if it was ever to gain support from both superpowers for a common political future. The vision of politicians like Annette Lu go even further; her big picture also includes Japan and the Philippines as part of a “neutral belt” between China and the US. That would be an entire buffer region as a security guarantee to both nuclear powers that these countries and the exclusive economic zones of their maritime borders will not become threats. Whether or not such visions are ever to gain traction is another question, but it is clear that an armed permanently neutral Taiwan would be a potent testing ground for the viability of neutral zones between the big rivals of the twenty-first century.

#### Neutrality is the only way out of inevitable Taiwan war

Reginbogin & Lottaz 20 [Herbert, Prof of IR and International Law at Catholic University, Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.181-2]

Even for the Island of Taiwan, there are strong arguments that it could and should join a new security architecture built on permanent neutrality in East Asia. In fact, it might be the primary beneficiary of such a fundamental change because, apart from the Korean peninsula, it is the only densely populated territory in the area that is seriously disputed and for which no post–World War II settlement exists. Politically, Taiwan is caught in a quagmire82 as its official government narrative still is that Taipei is the capital of the ROC, which encompasses the entire Chinese territory as before the founding of the PRC in 1949. Unofficially, any aspirations to ever “recapture” the territories lost to Mao’s communist forces have long been abandoned, and the political debate inside the self-governed island today gravitates around the question if Taiwan should declare its independence, uphold the status quo, or strive for reunification with the PRC. The first choice, as outlined above, is an absolute red line for the PRC and would, very likely, trigger its military intervention. On the other hand, a reunification under the “One Country, Two Systems” principle offered by Beijing is to many citizens of Taiwan not an option either, as that would most likely set their political system toward a steady erosion of their liberal society (which by now even includes gay marriage and direct democracy) and lead to total central control by Beijing, as the case of Hong Kong exemplifies. The third option, to uphold the ambiguous status quo, is also under threat from both sides. Xi Jinping made it clear that it is a central interest of the PRC to integrate (and dissolve) the ROC into the motherland and, at the other end, there is a growing independence movement in Taiwan that is willing to take the risk of military confrontation to establish a “Republic of Taiwan.” In short, there seems to be little room for maneuvering to create a situation that would satisfy all parties involved. Permanent neutrality, however, might well be the face-saving way out of this stalemate. Chapter 9 of this volume explains the rationale of “Taiwanese Neutrality” in-depth, but the central argument is that there is not only a homegrown neutrality movement currently in motion in Taipei, 83 but there are several essential precedents that make permanent territorial neutrality of the island a viable option. First, the “neutralization” of Taiwan would, under international law, not require that it is recognized as a sovereign state. There are many examples of territories that were neutralized through international agreements but were not recognized nation-states. The Panama and Suez channels, the Greek islands of Corfu and Paxos, the Congo, Macau, and Portuguese Timor during World War II and even the Duchy of Luxemburg, were not recognized states while still settled—in different ways—as neutral territories.84 It is entirely conceivable to discuss a “Neutral Taiwan” (with the liberty to forge its domestic legislation following the principles of self-determination) with Beijing, as a complementary concept to the “One Country, Two Systems” framework. A permanently neutral Taiwanese status would not conflict either with the PRC’s stance of the “One China Principle,” nor would it be incompatible with the PRC’s own foreign policy, which, as outlined above, is also one of military nonalignment. 85 Second, the status quo today is already, for all practical means, a form of neutralization of the island. Due to its disputed status and the lack of recognition of the ROC by international organizations, Taipei is not able to forge any form of military alliances. Its only security guarantee by the US, the “Taiwan Relations Act” of 1979, is a unilateral promise that “the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient selfdefense capability.” 86 Furthermore, it holds that the US would take “appropriate action” in case of “any threat to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom.” 87 This law does not require Taiwan to act reciprocally and to take measures to support the United States in case of an attack by a third party on its assets or territory. Just like the “Treaty of Mutual Cooperation and Security between the United States and Japan,” which established a one-way defensive obligation from the US toward Japan, the Taiwan Relations Act also binds the US only one-directionally to Taiwan—albeit without any enforceable promises of actual military assistance. Furthermore, it does not require Taiwan to host US military personnel or give the US the right to station its military on the island. In effect, the one-directional and “ambiguous” 88 nature of the Taiwan Relations Act, in conjunction with Taipei’s incapacity of creating treaty relations with most countries or forging military alliances in its neighborhood, has already neutralized Taiwan to a large extent. In other words, the current situation is already one of de-facto neutrality. What is lacking is the explicit consent of the Super Powers together with a precise set of agreements on what this entails.

#### Taiwan is the most volatile flashpoint and goes nuclear– China is moving into pre-war mode and U.S. vagueness writ-large escalates tensions – credible deterrence is key to prevent escalation

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Taiwan is becoming **the most dangerous flashpoint in the world**. Events in and involving the small democracy could spark a war that draws in the United States, China, Japan, and possibly others. The administration of President Joe Biden should develop a **more credible U.S. strategy** to deter such a war. What even many watchers of world politics could neglect, distracted by so many other global problems and noisemakers, is how much the situation surrounding Taiwan has changed in the last few years. China’s decision to crush local governance and effective rule of law in Hong Kong has had large effects. **It changed politics in Taiwan** in favor of a president whom China regards as a separatist. Chinese leaders doubled down on xenophobic nationalism and repression, escalating pressure on Taiwan both **rhetorically and militarily**. Taiwan has begun a significant program of rearmament with a seriousness not seen in a generation, supported by the United States, yet there is a significant window of time before this program can bear sufficient fruit.We think the current war danger is half understood, but downplayed due to the invariable human tendency to assume that whatever the commotion, tomorrow will be pretty much like yesterday. This is an old problem. **Most international wars come as a surprise,** except to those planning them. In 1962, most experts (though not the CIA director) dismissed the possibility that the Soviets would deploy nuclear missiles to Cuba. In 1973, most experts, including in Israel, dismissed the possibility that Egypt and Syria would launch a war. In 1979, most experts dismissed the possibility that the Soviet Union would invade Afghanistan. In 1990, most experts dismissed the possibility that Iraq would invade Kuwait. In 2014, most experts dismissed the possibility that Russia would invade Ukraine. Notably, in the Iraq case, the lone voice predicting an invasion of Kuwait was the CIA’s national intelligence officer for warning, Charlie Allen. Regional experts, and even regional leaders, discounted the warning. Allen afterward admitted to one of us that he had no particular knowledge of the region, but he and his people were watching the Iraqi military prepare. To us, this recent history is humbling. We are not arguing a war is imminent or even more likely than not to happen. But what little we can know has led us to the conclusion that the risk of a Chinese war against Taiwan is much higher than it has been in decades. China is doing what a country would do if it were **moving into a prewar mode**. Politically, it is preparing and conditioning its population for the possibility of an armed conflict. Militarily, it is engaging now in a tempo of exercises and military preparations that are both sharpening and widening the readiness of its armed forces across a range of different contingencies on **sea, air, land, cyber, and in space**. As was true of the Israeli reading of Egypt’s intentions in the period before the outbreak of the 1973 war, this level of operational activity also complicates the work of foreign intelligence agencies and makes it harder for them to distinguish ominous signals from the background noise. At the beginning of 2021, leaders in President Donald Trump’s administration left behind an increasingly dangerous case. Watching the danger grow, the administration spoke much more loudly but carried about the same old stick. The first step is to stop the bluster. The new Biden administration has soothingly reaffirmed historical U.S. postures on Taiwan, while adding, perhaps fatefully, “Our commitment to Taiwan is rock-solid.” The tone of this statement was indeed “rock-solid.” Yet the underlying substance of “our commitment” is no clearer than it was before. The United States ought to take actions to sustain the political balance and deterrence that has kept the peace for the last 50 years. Second, the United States should immediately develop a more credible stick. A U.S. strategy to save Taiwan should depend less on U.S. aircraft carriers sailing to the rescue in waters China will dominate, and more on intensified and detailed coordinated planning to deter China and help Taiwan defend itself. We introduced these arguments in a recent special report published by the Council on Foreign Relations. Since our report was published, some readers have assumed that we simply endorse the status quo, or that we want to see Washington walk back from its interest in the fate of Taiwan. Neither of these assumptions is correct. But our proposal admittedly does not fit neatly into stock arguments about what the United States and its allies should do to prevent a crisis or how they should react if such a crisis unfolds. In the report, we offer three military scenarios: attacks on Taiwan’s periphery (like an offshore island), a quarantine that screens air and sea travel into Taiwan to prevent unwanted foreign arms supplies or interference, and a direct siege and invasion. We then weigh and cite many detailed public analyses (from the optimistic to pessimistic) evaluating what might happen in these scenarios. It is no longer politically or militarily realistic to assume that U.S. forces, uncoordinated with allies, can be relied upon to defeat any of these types of Chinese assaults on Taiwan. Nor is it realistic to presume that, during such a clash, the United States would or should simply escalate to general war against China with comprehensive blockades or strikes against targets on the Chinese mainland. If U.S. campaign plans only offer such unrealistic scenarios, they will likely be rejected by an American president and the U.S. Congress (if the Congress gets to decide, which is doubtful). The resulting U.S. ~~paralysis~~ \*inaction\* would not be the result of presidential weakness or timidity. Rather, it could arise because the most powerful country in the world did not have credible options prepared for the most dangerous military crisis facing it. Anyone analyzing alternative U.S. military strategies for Taiwan now studies a fog. Some assert that current defense plans are adequate, though this readiness may not be evident to the general public. Others claim current strategy is a Potemkin village, wishful assurances from a country that has already displayed this trait so often in recent years, from Iraq to Afghanistan, in pandemics and deep Texan winters. Reacting to our report, some current and former insiders think our worries are dead right: that if the emperor is not naked, his garb is at least threadbare. Others claim we just cannot see the clothes, or the tailors so hard at work. This is, of course, the challenge of debating war plans and defense preparedness without deep access to classified information. Again, our inference is not to assume the worst. But, humbled by uncertainty and what is at stake, we do not trust such mysteries and vague reassurances. **Effective defense plans are rarely mysterious.** Their plausibility ought to be evident. In principle, we see four main approaches for how the United States might respond to such a variety of Chinese actions, only the last of which we endorse. All of them assume continued willingness to sell arms to Taiwan to improve its defenses, and strong support for the Taiwan Relations Act. Approach #1 The United States could continue to sell arms to help Taiwan defend itself, but it would not share responsibility for the direct defense of Taiwan. Also, in a change from current U.S. campaign preparations as we understand them, it would not plan to intervene militarily in a conflict between China and Taiwan. Approach #2 The United States would not commit in advance to share responsibility for the direct defense of Taiwan, yet it would work to be ready to do just that. The likely U.S. campaign plan in a Taiwan conflict scenario would remain unclear to enemies and friends alike, and the allies and partners would therefore not join to prepare the coordinated execution of these plans. The United States would be similarly unclear about whether its direct defense of Taiwan would involve attacks into the Chinese mainland or whether such an extension of the war is necessary or not. These plans might not require significant changes in the current character and deployment of U.S. and Japanese forces, because it is not evident how those forces would be used. In our view, this was the status quo until the Trump administration, and may be again. Approach #3 The United States could plan and prepare to share responsibility for the direct defense of Taiwan in a variety of scenarios. It could commit, in advance, to defend the island. These plans might well involve peacetime deployment of at least U.S. military advisers in Taiwan, and U.S. initiation of attacks on the units of the People’s Liberation Army that have used force against Taiwan. This approach would require significant changes in the character and deployment of U.S. and Japanese forces, along with improved joint training and readiness to execute these war plans. American and Japanese readiness to execute such credible war plans would be evident and exercised. This third approach deserves careful consideration, although we do not endorse it. The presumed strategy for this is one of “denial,” leveraging new missile and sensor technology to create a 21st-century no man’s land in the air and seas surrounding Taiwan. We take account of ongoing defense innovations, and these are discussed in great detail in the sources we cited in our report. Defense experts who support such plans do not argue that the United States currently has the necessary forces and readiness to execute this approach. Rather, they say that their strategy is doable if and only if the United States will, during the coming years, do x, y, and z. At the same time, on the vital issue of geographic escalation, this approach is vague and open-ended about planned strikes into China. Such **vagueness thus significantly heightens the momentum for preemptive attacks from both sides and would raise the risks of general war, which might spread to the U.S. and Japanese homelands, or even to extreme scenarios about nuclear exchanges.** Three years ago, the Trump administration’s National Security Council approved strategic guidance that called on the United States to: devise and implement a defense strategy capable of, but not limited to: (1) denying China sustained air and sea dominance inside the ‘first island chain’ in a conflict; (2) defending the first island-chain nations, including Taiwan; and (3) dominating all domains outside the first island-chain. The Trump White House declassified and released this guidance in January 2021. In short, the Trump administration adopted, at least on paper, this third approach described above, which entails political judgments about U.S. vital national interests and political-military judgments about the credibility and viability of such plans — conclusions that should be shared and coordinated at least with Taiwan and Japan. We know of no credible net assessment that suggests the United States, in light of U.S. defense plans and considering Chinese advances in the same period, is now more ready to accomplish any of those three tasks than it was three years ago when the guidance was secretly issued. Thus, we are convinced that it is past time to devise a U.S. defense and deterrence strategy to deal with the Taiwan challenge as it is in the dangerous present, not as it could be sometime in the wishful future. It is tempting to believe, like Fitzgerald’s Gatsby, “in the green light, the orgiastic future that year by year recedes before us. It eluded us then, but that’s no matter — tomorrow we will run faster, stretch out our arms farther. … And one fine morning …” The People’s Republic of China gets to make moves too. It too has an x, y, and z list, as well as fundamental advantages in attention, geography, and sustainment. To paraphrase Donald Rumsfeld, while the U.S. military has been going to school on the People’s Liberation Army, the People’s Liberation Army has also been going to school on the U.S. military, especially in terms of Taiwan contingencies. There is yet a deeper problem. It may be possible, someday, theoretically, for Taiwan or the United States or Japan to build up the defensive systems, as the Trump administration posited, that will attain enough dominance to thwart Chinese attacks. In an intensely dynamic regional military environment, Beijing could then conclude that it **has a shrinking window of advantage** — a point we stress in the report. **This more confrontational posture** of the third option, one that threatens Beijing to watch out because the United States is preparing rapidly to directly defend Taiwan, soon, **might more likely cause a war** than prevent one.

#### China rise is wrecking US alliance system and stability in East Asia. Only a security architecture built on neutrality can resolve China’s ontological security and ensure regional peace.

Reginbogin & Lottaz 20 [Herbert, Prof of IR and International Law at Catholic University, Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.167-9]

This chapter highlights the changes, challenges, and tensions arising in the Indo-Pacific region due to China’s rise as a great power and explores the potential for neutral approaches of East Asian countries toward them. While China’s rise offers new trade opportunities, it also poses security risks. The East Asian seas used to be marginal to western security thinking, but their long histories of contestation and their roles as global trade routes are central to the global economy. Their geography is also a critical part of the bilateral relationship between China and the United States. However, the vastly different value systems of a liberal democracy and a Communist-Leninist one-party state is inadvertently problematic and has already produced many conflicts.1 Not only maritime disputes, but nuclear deterrence strategies impact the security of East Asian States profoundly, which are vital to understanding China’s firm stand to establish a comprehensive maritime domain in the South China Sea. While containment, deterrence, and public diplomacy appear to have their limitations and are unable to deliver a reconciliation between the Great Powers, this chapter proposes a reset of the security architecture in East Asia. At the core of this new security architecture is the reconceptualization of permanent neutrality which could serve as an incentive for China to return to the liberal world order and resolve issues in the East and South China Seas in a peaceful and equitable manner. China’s rise as a global power is ever more apparent in its determination to amend, challenge, and, at times, undermine the “operating system” of alliances, freedom of navigation, and sanctity of contracts established by the United States since the end of the Second World War. 2 Due to China’s economic development and military modernization, the strategic balance of power has changed in the Indo-Pacific region and particularly in the heartland of East Asia. This raises questions on the role of China, either as a benign and responsible power3 or one that might attempt to assert coercive influence on its neighbors and elsewhere in the world militarily or socio-economically (through its “One Belt, One Road” initiative) to create “a world without American global supremacy, and revise the US-dominated economic and geopolitical world order.” 4 Washington is especially concerned about China’s growing military capabilities, while Beijing has been critical of the United States’ alliance system and its “pivot to Asia” strategy since the Obama administration. Japan, the Republic of Korea (South Korea), and the Republic of China (ROC, Taiwan) are parts of the evolving North-East Asian regional order as essential allies of the United States. They are taking steps to uphold and promote a competitive, free, and open international order, which is at the center of Sino-US tensions. They are models of advanced democracies in East Asia, counterbalancing China’s authoritarian model of economic development. On the continent, the economically weak post-communist Mongolia, sandwiched between Russia and the People’s Republic of China (PRC), currently leverages its permanently neutral status to influence regional diplomacy, mediating trilaterally between North Korea, South Korea, and the US to advance peace in East Asia. 5 The US, at the same time, has been trying to mediate between its allies, Japan and South Korea, to overcome the “unfinished business” of World War II regarding reparations from Japan and Japanese companies for Korean forced labor and sexual slavery (the socalled “comfort women” issue). Naturally, this is a detriment to their alliance as well as the alliance with the US. Broader and united Japan–South Korea security coordination is needed not only to cope with North Korea’s nuclear threat but also to balance the PRC’s incredible economic rise and its repressive attitude toward democratization. Further south, in the Taiwan Strait, more conflict is boiling. As international waters and part of the regional security interests, the US and its Allies continue to conduct freedom of navigation operations, just as they do in the South China Sea.6 Beijing criticizes such maneuvers as provocations. However, Taiwan’s contested political status and its geostrategic position have enormous implications for US-Sino relations. The “One China Principle,” which Washington has accepted as the base for Sino-American relations since Nixon’s rapprochement to Beijing in 1971, has led to a complicated situation. The principle holds that there is only one Chinese state and that the island of Taiwan is part of it. To Beijing, this is a sacrosanct principle, and it lashes out at anyone who claims otherwise or seeks independence for Taiwan.7 To assert its standpoint, the PRC has steadily increased its military spending over the past decades. The build-up of its navy will enhance the power of its land forces and enable the PRC to challenge America’s dominance along the South and the East China Seas, 8 which it perceives as a natural part for the security of its southern provinces, the most populated and developed parts of the country. It is a core national interest, and Beijing has made it clear that it wants to control this sea, and Taiwan with it. 9 However, the territorial claims over an extensive range of islands and features in the South China Sea constitute the principal security concern also to Japan, South Korea, and several members of the Association of Southeast Asian Nations (ASEAN). Their region is increasingly becoming the primary node of global power politics.10 The PRC has repeatedly signaled that it will not adhere to the established rules and mechanisms of conflict settlement. For example, it refuses to accept a ruling by the Permanent Court of Arbitration (PCA) at The Hague that what it calls “historical rights” over land features in the South China Sea are void and that their occupation is illegal under international law. The PRC even refuses to acknowledge the jurisdiction of the ICA and continues to expand its large land reclamation projects on the Spratly and Paracel Islands. Subsequent militarization of these features has drawn international criticism and raised the alarm among other claimants, most prominently the Philippines. The reasons for the PRC’s assertive behavior are multifaceted and include Beijing’s perception of the historical, symbolic, and economic meaning of the South China Sea, as well as the overall national security interest and its military strategy for space and the deep sea. 12 Not all reasons can be elaborated here, but it is essential to consider that recent Chinese history includes traumatic experiences of victimization and humiliation as, for example, through the western “open-door policy” and the horrific Opium Wars of 1839–1842 and 1856–1860, which resulted in ten to twelve million Chinese addicts and devastated many of the large coastal cities. In the twentieth century, China continuously suffered from colonial enterprises, including that of Japan, who split off Manchuria from the Chinese mainland and waged a brutal war for fifteen years (1931–1945) against the National Government. That conflict included terrible war crimes such as the notorious “Rape of Nanking,” during which the capital city was destroyed, and tens of thousands of Chinese civilians were slaughtered by Japanese soldiers. 13 These experiences of suffering and victimhood cut as profoundly as the Civil War does in the US or the First and Second World Wars do in Europe. They are tragedies that shape perceptions for centuries. Proposals for security architectures in the Indo-Pacific have to deliver not only national and human security from current threats but must be commensurable with historical narratives to deliver ontological security as well. 14 Otherwise, proposals will run aground from local rejection. But first, the primary conflict dynamic between the two contesting super-powers needs to be studied. The following section explains common US perceptions of China’s role in Asian Security affairs.

#### Application of Article 30 of the Vienna Convention is key to resolving treaty conflicts and sustaining the credibility of treaties.

Davis 20 (Jeremy K. Davis, Lieutenant Colonel, Judge Advocate General's Corps, U.S. Air Force; Military Professor, Stockton Center for International Law, U.S. Naval War College, 2020, ARTICLE: Bilateral Defense-Related Treaties and the Dilemma Posed by the Law of Neutrality, 11 Harv. Nat'l Sec. J. 455, Accessed through Gonzaga University Nexis Uni, p. 21-24) MAM

This Article advances the analogous application of the VCLT, Article 30, framework as the appropriate methodology to employ when prioritizing a state's competing treaty and customary law obligations. 147Therefore, as a preliminary matter, we must grapple with the principal impediment to application of Article 30 in its traditional treaty vs. treaty context--identifying whether the treaties at issue **"relat[e] to the same subject-matter."** 148Before discussing the application of Article 30 in detail, we will briefly examine how certain provisions of the VCLT relate to the issue of conflicting treaties, as well as the respective rationales and resulting [\*482] ramifications of narrowly or more broadly construing the "same subject-matter" language in Article 30.

Since its enactment, the VCLT has been the lodestar by which states and their international lawyers have examined questions of treaty law. 149Regarding treaty conflicts, three articles of the VCLT are particularly relevant. Article 53 declares void treaties that conflict with jus cogens norms of international law in effect at the time of the treaty's conclusion. 150Articles 59 and 30 are the closest the VCLT comes to dealing with treaties that are incompatible with each other. Under Article 59, an earlier treaty is terminated or suspended when all the states party to the treaty subsequently conclude a later treaty, relating to the same subject-matter, and either (a) it appears that the parties intend the later-in-time treaty to prevail or (b) the later-in-time treaty is so incompatible with provisions of the earlier treaty that it is impossible to apply the treaties simultaneously. 151Article 59's focus, however, is on the end of a treaty's application, not on how to prioritize the ongoing obligations embodied in competing treaties. 152Addressing how states, hopefully in consultation with their international lawyers, should prioritize competing, ongoing treaty obligations is the province of Article 30. 153However, by its own title and terms, Article 30 is only applicable in cases of "successive treaties relating to the same subject-matter." 154Unfortunately, because scholars and practitioners ascribe different meanings to the vague phrase "relating to the same subject-matter," **there is no consensus** understanding of the term. 155Consequently, Article 30 fails to yield a uniformly understood rule by which to satisfactorily address the topic of [\*483] conflicting treaties. Contrary to its explicit wording, international lawyers should apply the rules of Article 30 whenever incompatible outcomes result from applying two or more treaties to the same facts. 156

A strict reading of Article 30's "same subject-matter" language elevates form over both substance and practicality. 157There are two readily-identifiable, but overly narrow, conceptions of treaty subject-matter that need to be addressed. The first is the form of two treaties from different categories (e.g., trade, environment, justice, defense) that seem applicable to the same circumstances. 158The other narrow conception of treaty subject-matter to be wary of involves treaties that are facially similar and that rationally apply to the facts, but, because of changed circumstances and the passage of time, one treaty contemplates developments and circumstances that the other could not have considered (e.g., Caspian Sea mineral rights). 159These misconceptions of the phrase "same subject-matter" present false obstacles to the application of Article 30.

Narrowly reading "same subject-matter" to be concerned with typological labels or as bounded by temporal considerations leads international lawyers to drastically limit the applicable scope of Article 30 by reading out of existence those conflicts where one treaty frustrates the purpose of another treaty. 160 To demonstrate how a narrow reading fails to appreciate the applicability of Article 30, a scenario could arise where state A and state B have in force between them a treaty requiring them to fully recognize each other's court decisions and to refrain from any action impeding their full enforcement. Simultaneously, state B has in force with state C a treaty under which state B is obligated not to surrender nationals of state C to any other state for purposes of criminal trial or punishment. In [\*484] appropriate circumstances, the treaty between state A and state B conflicts with the treaty between state B and state C, even though it is not factually impossible in all cases for state B to simultaneously fulfill its treaty obligations to both state A and state C--because not all extradition requests from state A will concern a national of state C. In cases where a national of state C is to be extradited, both treaties are implicated. State B's treaty obligation to state C is incompatible with its obligation to state A because it frustrates the purpose of that treaty in cases where state A requests state B extradite a national of state C.

In the strictest sense, treaties conflict when their terms make it such that a state party common to all of the treaties concerned is factually incapable of complying with all sets of its treaty obligations concurrently. 161Such a conflict arises, for example, in a case where state A enters into separate treaties under which it grants exclusive basing rights, at the same particularly described location, for the same time period, to both state B and state C. It is not factually possible for both state B and state C to exclusively occupy the same physical location, at the same time. Therefore, state A's basing treaties with state B and state C conflict. 162Such impossibility is not, however, the only way to conceive of treaty conflicts.

Rather than strictly reading "same subject-matter" in a way that renders Article 30 largely inapplicable, except when the potentially conflicting treaties are of the same categorical type, were concluded within the same or similar factual context, or present obvious factual impossibility, international lawyers should apply the rules of Article 30 whenever the facts call for application of two or more treaties and those treaties intersect in a way that evidences incompatibility. Incompatibility is expressly referred to in Article 30 itself, 163and it is also recognized by scholars in international law as a valid conception of "same subject-matter." 164States and the international lawyers advising them are best served by [\*485] abandoning a dogmatic reading of Article 30. 165They must understand and apply the structured approach set out in Article 30 in an inclusive manner that effectuates the fundamental purpose of that article for as many treaties as possible.

If international lawyers resist broadly applying Article 30 to cases where the facts implicate multiple treaties, on the basis that those treaties ostensibly concern different subjects, they were concluded in different eras or factual circumstances, 166or for some similar reason, **then they perpetuate both legal uncertainty and the devaluing of treaties.** In a world where ad hoc methodologies for resolving practical treaty incompatibility persist, states are unlikely to feel confident that they and the other states party share a common understanding of how their respective treaty rights and responsibilities should be prioritized. That uncertainty introduces unnecessary inter-state friction that is counterproductive to stable foreign policy positions and predictable inter-state relations. Once states and their international lawyers get past the paper tiger conundrum of whether to apply Article 30, they will find that the rules reflected in Article 30(2)-(4) form a coherent framework for use in determining how to prioritize incompatible treaties. 167For the same reasons set forth in the section that follows, Article 30 is also the appropriate methodology to apply to prioritize incompatible treaties and customary law obligations.

#### Interpretation of Article 30 is key to sustaining alliances when confronted with adversary attacks

Davis 20 (Jeremy K. Davis, Lieutenant Colonel, Judge Advocate General's Corps, U.S. Air Force; Military Professor, Stockton Center for International Law, U.S. Naval War College, 2020, ARTICLE: Bilateral Defense-Related Treaties and the Dilemma Posed by the Law of Neutrality, 11 Harv. Nat'l Sec. J. 455, Accessed through Gonzaga University Nexis Uni, Conclusion) MAM

To successfully meet current and emerging nation state threats, the United States needs to be able to rely on the cooperation of foreign partners around the globe. If it becomes involved as a belligerent in an international armed conflict, the United States will look to collect on its foreign partners' pre-existing defense-related treaty commitments. Without canvassing U.S. partners for their official positions, we cannot know to what extent the law of neutrality entered the mind of those negotiating defense-related treaties like those discussed in this Article. Perhaps the foreign negotiators did not foresee their states asserting themselves as neutrals and, therefore, viewed the issue of potentially conflicting legal obligations as moot. However, it is equally possible that the continued viability of neutrality law was minimally, if at all, in the minds of the negotiators and their international lawyers as they worked to produce an ad referendum text. States and the lawyers who advise them need to recognize that future circumstances may pose uncomfortable, but legitimate, questions about how to reconcile their competing treaty and neutrality law obligations. As well, they should think about the potential ramifications of the state's choice. [\*506] There is good reason to conclude that defense-related treaties like those discussed in this Article do not automatically terminate or suspend by operation of law in the event of an international armed conflict. The law of neutrality operates only in times of armed conflict. Therefore, if states with which the United States has such treaties elect to maintain a position of neutrality, and if their defense-related treaty obligations persist in armed conflict, then it is highly probable that those states' treaty obligations and their customary law neutrality obligations **will be incompatible.** States, in the free exercise of their sovereignty, can choose to conclude and bring into force treaties that contravene customary international law rules not constituting jus cogens norms. However, in doing so, they may find themselves in the legally and diplomatically uncomfortable position of owing valid treaty obligations to one state and equally valid, but incompatible, customary law obligations to another state. U.S. defense-related treaty partners that elect to remain neutral will quickly learn that they cannot satisfy their legal obligations to both the United States and the opposing belligerent. The VCLT Article 30 framework is the appropriate methodology for states and their international lawyers to apply when prioritizing a state's competing treaty and customary law obligations. Analogous application of Article 30 recognizes each contemporary legal obligation of the triangulated states--whether incurred by treaty or custom--as valid and ongoing. Further, it does not excuse any state from its responsibility to meet its obligations under international law. As with treaties where there is not unity of states party, both the treaty and customary law impose upon the neutral state valid, continuing legal obligations. The law of state responsibility imposes consequences for the breach of either obligation. Under the law of state responsibility, the neutral state's obligations under the law of neutrality do not excuse the wrongfulness of it breaching its treaty obligations. As well, the state's breach of its neutrality obligations is no less legally wrongful because it was complying with a valid treaty obligation. Where a state cannot meet both its treaty and neutrality obligations, policymakers, perhaps with the assistance and counsel of international lawyers, will need to make a decision regarding **which obligations to meet and which obligations to breach**. Making this decision will largely depend, as a matter of rational choice theory, on a careful weighing of the anticipated benefits of each decision against the severity of the corresponding adverse consequences anticipated. In either case, a demand for reparations is likely to find its way to the foreign ministry of the neutral state and the neutral state will probably find itself on the receiving end of acts of retorsion and countermeasures from the state aggrieved by the neutral state's nonperformance of its legal obligations. Generally speaking, so long as the foreign partner does not enter the armed conflict as a belligerent or cobelligerent, the state is entitled to maintain its neutral state status. A state's violation of its impartiality, nonparticipation, prevention, and internment obligations is not enough to change its legal status. The neutral state [\*507] continues to have the right to demand the belligerents respect its territorial integrity, unless and until it demonstrates it is unable or unwilling to prevent or terminate the use of its territory by one belligerent to attack the other belligerent. In that narrow circumstance, the injured belligerent is permitted to conduct attacks against the opposing belligerent in neutral territory. However, any armed attack on the neutral state itself, by either belligerent, even in response to the neutral state failing to meet its impartiality, non-participation, prevention, and internment obligations under the law of neutrality, violates both the U.N. Charter, Article 2(4) and customary international law prohibitions on the use or threat of force by one state against another. This Article explored the fundamental requirements imposed on states under the law of neutrality, identified some relevant bilateral defense-related treaty rights and obligations, proposed a conceptual framework for prioritizing a neutral state's treaty and neutrality obligations to belligerents, and analyzed the international legal consequences that attend a state choosing either to breach its treaty obligations, in favor of maintaining strict neutrality, or to breach its neutrality obligations, in favor of satisfying its treaty obligations to the United States. In the end, U.S. treaty partners like Japan, South Korea, Latvia, and Hungary face a choice between perpetrating an internationally wrongful act, by breaching their treaties with the United States, and perpetrating an internationally wrongful act, by breaching their neutrality obligations to the opposing belligerent

#### Solves collective threats to humanity, including climate change and arms races

Hopmann 20 [P. Terrence, Prof of IR at the Johns Hopkins School of Advanced International Studies, former Director of the Global Seucirty Program of the Thomas J. Watson Institute for International Studies, senior Fellow at the US Institute of Peace and the Woodrow Wilson International Centre for Scholars, “Neutrality and Security,” in *Permanent Neutrality: A Model for Peace, Security, and Justice*, ed. Pascal Lottaz & Herbert Reginbogin, p.51-2]

Without discounting these pragmatic considerations, contemporary international relations scholarship would also add to these factors normative principles and beliefs about the promotion of cooperative security in a global context in which all peoples and states face existential threats from a largely uncontrolled arms race and rampant climate change. In this context, security ought to take on a broader meaning than merely resisting threats from other hostile states; today’s threats are also systemic and are thus beyond the control of any single state. In a world in which military force and competition for global resources and political power remain essential factors, traditional aspects of state security cannot be neglected, and states must decide how best to respond to those threats. That said, the broader systemic threats to humanity cannot be met by any single form of alignment or nonalignment. Instead, they require approaches that respond to the common threats to all humanity. Although we still live in a global system composed of sovereign nation-states, we also live in a world that presents numerous severe threats to all humanity collectively. No alliance or any group of neutral states can meet these challenges unilaterally. In the final analysis, the systemic threats to human survival can only be met by collective action that is directed at solving these common problems rather than focusing on narrow conceptions of state security that disregard the collective challenges to humanity as a whole. Resolving these collective threats to humanity requires new ideas and ap- proaches to common security above and beyond a focus on national security. Without disregarding the requirements for state security, therefore, we must begin to explore new structures for international engagement that extend beyond the boundaries of international institutions and state policies as currently conceived. Alliances divide states into competing camps, and traditional neutrality can isolate states from engagement in the management of international peace and security. 34 In the face of existential threats such as climate change and a renewed arms race utilizing new and dangerous technologies heretofore unforeseen, new global structures are required to assure our survival. Since neutral states do not generally insist upon dividing the world into hostile, competitive blocs, they can play an essential role in leading the global system in the search for new institutional structures that respond to twenty-first century challenges to global security. In order to play this role, however, they must not seek “splendid isolation,” but instead, they must take the lead in overcoming global rivalries that divide us and instead promote joint action in responding to the shared threats to human civilization as a whole.

#### Order between international law and nationally-binding treaties is key – otherwise, legal ambiguity is inevitable

Merezkho 20 (Oleksandr Merezhko, Head of the Committee of Foreign Affairs and Inter-Parliamentry Cooperation of the Verkhovna Rada of Ukraine, April 2020, The Mystery of the State and Sovereignty in International Law, 64 St. Louis U. L.J. Available at: <https://scholarship.law.slu.edu/lj/vol64/iss1/4>) MAM

To give priority to an international treaty, the judge of an international court can refer as to authoritative normative facts to the articles 26 and 27 of the 1969 Vienna Convention on the law of treaties, according to which “[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith” (Art. 26) and the state “may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”232

In a word, in the mind of an international lawyer, international-legal facts take precedence over national-legal normative facts. The picture in the mind of a national lawyer might look differently. For instance, to the judge of the national court, the highest authority as a normative fact is the national constitution. Unlike the international lawyer, who tends to view the international treaty as one normative fact, in the eyes of the national judge there are three different normative facts: international inter-state treaties, international inter-governmental treaties, and international agreements of interministerial character.233 In the mind of the national judge the hierarchy between international and national normative facts is more complicated and he tends to apply international normative facts insofar as it is required by the national normative facts.234

In summary, there is no issue about the relationship between international and national law but rather an issue of how to build the hierarchy of international and national normative facts; constructing this hierarchy the national and international lawyers tend to proceed from different assumptions. The international lawyer assumes that the hierarchy of normative facts should be built with the preference for international normative facts, whereas the national lawyer gives preference ce to the national normative facts but first of all to national constitution.235

#### Clarity in treaty law undergirds all foreign policy – certainty is key to positive inter-state relationships and credibility of treaties

Davis 20 (Jeremy K. Davis, Lieutenant Colonel, Judge Advocate General's Corps, U.S. Air Force; Military Professor, Stockton Center for International Law, U.S. Naval War College, 2020, ARTICLE: Bilateral Defense-Related Treaties and the Dilemma Posed by the Law of Neutrality, 11 Harv. Nat'l Sec. J. 455, Accessed through Gonzaga University Nexis Uni, p. 18-19) MAM

The importance of treaties as a source of rights and obligations governing the international conduct of states has grown dramatically since the mid-18th century. 125The increasing number of treaties between states means there is more opportunity for states to create for themselves competing obligations under overlapping treaties and thereby generate uncertainty regarding the prevailing arrangement in a given circumstance. 126The customary international law rule pacta sunt servanda "undergirds much of international law and explains states' willingness to invest energies in concluding treaties." 127Tremendous chaos and uncertainty would ensue if states were free to not perform their treaty obligations. 128The pacta sunt servanda rule heightens the importance of the inquiry because the proliferation of treaties, as a means of recording the respective rights and obligations between states, means it is entirely possible that a state will conclude and bring into force **treaties that are in tension with other treaties** to which it is a party or with that state's customary law obligations. 129 [\*478] Without a clear, sensible, and reliable manner of resolving treaty conflicts, **treaties lose value as a tool** for expressing the relative rights and obligations of states and they become unreliable signposts by which states can formulate their foreign policy positions and predict inter-state relational outcomes. 130States and their international lawyers need a practical, dependable approach to resolving conflicts between treaties and customary law for the same reason--so that they can execute their foreign policy with some level of certainty regarding the rules governing their legal relationships vis-à-vis other states and so that they can understand the ramifications of the foreign policy decisions they make.

#### Containment and deterrence fail – only way to solve US/China conflict is a neutral buffer. Brings China back into the rules based LIO and solves the security dilemma.

Reginbogin & Lottaz 20 [Herbert, Prof of IR and International Law at Catholic University, Pascal, Asst Prof for Neutrality Studies at the Waseda Institute for Advanced Study in Tokyo, secretary of the Diplomatic Studies Section of the International Studies Association, *Permanent Neutrality: A Model for Peace, Security, and Justice*, p.183-4]

Three strategic options appear feasible from a US perspective to halt the expansionism of the PRC and to influence its decision-making process. One is containment, another one deterrence and diplomacy, and the third way is resetting the security architecture in East Asia through a belt of neutral countries. The strategy of containment is a product of the Cold War era, as a diplomatic doctrine set forth by the American diplomat George Kennan. 89 It played a critical role in the Cold War, prescribing US involvement in all theaters in Europe and Asia where the spread of the communist ideology needed to be stopped. Following this logic, the PRC should not be seen as a strategic partner, but as a rival and a challenger. Trade between the US and the PRC should be reduced to nonstrategic items, and an alliance of Asian states to contain China should be considered. This would include making Japan a pillar of a renewed US containment policy in the region. There is no doubt that the national interest of the United States is to resist the domination of any power in Asia. However, whether Tokyo, Seoul, Taipei, or Manila would want to participate in outright containment strategies is doubtful at best. Moreover, today’s PRC does not aim at spreading communism or any other form of ideology. It explicitly refrains from any such initiatives under its policy of not interfering in the internal affairs of other states. The Cold War containment analogy, therefore, suffers severely because it was never designed to contain the military might of a state but only its political influence. The second option, deterrence and diplomacy are about US public diplomacy backed by military power. Deterrence is a passive approach that is designed to discourage an opponent from action by threatening them with credible punishment. It is a strategy that necessitates military capabilities to dissuade an opponent from taking an undesirable action. This approach holds that international systems are stable when diplomacy is used effectively to deal with conflicts. Under this strategy, diplomacy and deterrence are complementary concepts—the more of the one, the less of the other—and the balance thereof depends on the willingness of all sides to engage constructively. When diplomacy as a tool is not used, relationships become focused on military strategy. This would be the beginning of an arms race in order to secure a strategic advantage and might lead to a confrontation which, in the end, could be the reason for war. America considers itself a liberal hegemon providing economic openness as a form of public diplomacy and using deterrence for global security. Deterrence is less provocative and requires less effort than containment. It is easier to achieve and less likely to fail. It is also worth noting that deterrence becomes successful when it is considered a legitimate exercise of power in the international community, and it is the modus-operandi of the US current approach when it conducts Freedom of Navigation Operations or deploys military assets to its bases in the Pacific. However, the hope that these tools will alter the PRC’s behavior and contribute to a stable regional order appears to be misplaced as the current developments in the South- and East China Sea showcase. 90 Beijing remains critical of the US alliance system and its “pivot to Asia” strategy since the Obama administration. Another approach is needed to end to maritime disputes and deescalate tensions between the US and the PRC. Especially regarding the control of nuclear proliferation to limit the growth of nuclear arsenals in the Pacific that would best be achieved through a renewed, multilateral Interme diate-Range Nuclear Forces (INF) Treaty91—this time including all nuclear weapons states, chiefly the US, the PRC, and Russia. The third option is to reset the security architecture in East Asia with a chain of neutral countries from the Pacific Northeast to the Philippines. Much remains to be explored in this regard, but a neutral buffer zone of the “first island chain” would allow Beijing to consider practical, time-tested precautions and not create a confrontation with the US through any miscalculation. A neutral Taiwan, together with an impartial Japan, neutralist ASEAN, and potentially a neutralized non-nuclear Korean peninsula could, in this sense, be the beginning of many benefits for the states involved and for their region. In short, a Pacific security architecture based on a neutral bloc of countries in East Asia operating under the norms of permanent neutrality could transform the Great Power Rivalry in the area back into a rule-based order. The security architecture could become the long-awaited grand design of American foreign policy to answer the security dilemma of the twenty-first century.