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CONTENTION 1 IS RELATIONS

Warming is real and anthropogenic – keeping it below 2-C is key

Economist 9/27 – cites new 2013 IPCC study (“It's still our fault”, 2013, http://www.economist.com/blogs/babbage/2013/09/ipcc-climate-change-report) EL

The report is more definitive than in the past about the role of people in causing climate change. It say that it is "extremely likely"—IPCC speak for having a probability of over 95%—that man is responsible. This contrasts with the tentative tone of the early IPCC reports. “The observed increase [in surface air temperatures] could be largely due to this natural variability,” said the first one, in 1990. The next report in 1995 merely suggested a link between rising temperatures and human activity. That link was deemed “likely” (which means probability of 66%) in 2001, and “very likely” (90%) in 2007. The latest iteration identifies radiative forcing, the difference between the amount of heat coming into the climate and the amount reflected back, as the immediate cause of warming. Radiative forcing is expressed in watts per square metre (W/m2), a unit of energy. A rise indicates that heat is building up in the system. Total radiative forcing from man-made sources since 1750 (ie, before industrialisation) has risen from 0.29-0.85W/m2 in 1950 to 0.64-1.86W/m2 in 1980 to 1.13-3.33W/m2 in 2011. The average has jumped from 0.57 to 1.25 to 2.29, respectively—a four-fold increase in 60 years. The big change recently, the report points out, is that the cooling effect of aerosols seems to have been less strong than it used to be. But there is no sign that the rise in radiative forcing has slowed during the past 15 years of flat surface temperatures. The best estimate for total man-made radiative forcing in 2011 is 43% above 2005 levels. Of course, more heat does not necessarily equal perceptible climate change. The IPCC admits the pause in the rise of surface air temperatures is real. “The rate of warming over the past 15 years,” it says, “[is] 0.05ºC per decade...smaller than the rate calculated since 1951.” In its 2007 report the panel had said the rate of warming was 0.2ºC per decade in 1990-2005 (four times the current rate). It predicted that this would continue for the next two decades. But it plays down the long-term significance of the shift, saying that “due to natural variability, trends based on short records are very sensitive to the beginning and end dates and do not in general reflect long-term climate trends.” The start of the recent 15-year trend, in 1998, was a year of a strong worldwide fluctutation in the climate known as El Niño. This produced a temperature spike. Still, all the extra heat implied by higher radiative forcing has to go somewhere. It isn’t going into the air. It is possible that not all that much is going into the surface waters of the oceans, either. The report says that “it is about as likely as not that ocean heat content from 0-700 metres increased more slowly during 2003-2010 than during 1993-2002.” That only leaves one other heat sink: the deep oceans below 700 metres, where it could be locked up in the deep oceans without affecting other parts of the climate. And indeed, most of the extra heat does go into the oceans, which is not surprising given that they cover two thirds of Earth’s surface and have a much greater capacity to absorb heat than the air does. “Ocean warming,” the report says, “is largest near the surface and the upper 75 metres warmed by 0.11ºC per decade over the period 1971-2010.” It adds that more than 60% of the net energy increase in the climate system is stored in the upper ocean (0-700 metres)...and about 30% is stored in the ocean below 700 metres. In fact, vasty deeps are a plausible candidate to explain the pause in surface air temperatures. The trouble is that measurements deep down, while improving, remain patchy. The IPCC says that it is likely that the ocean warmed from 3,000 metres to the bottom in 1992-2005 and that heat will penetrate from the surface down. Moreover, in a report earlier this month in Nature (published too late to make it into the IPCC report), Yu Kosaka and Shang-Ping Xie of the Scripps Institute of Oceanography, in San Diego, suggests that a cooling trend in an area of the eastern equatorial Pacific ocean may be “the cause of the pause”. But at the moment, this conclusion remains tentative. Global warming is, then, continuing unabated in the watery world. It is not clear whether the trend itself has changed dramatically since 1990 or whether the rise is due to improved measurements, which have enabled scientists to gauge more exactly what has been going on. Probably the latter. The new assessment says that, since the fourth report in 2007, "instrumental biases in upper-ocean temperature records have been identified and reduced, enhancing confidence in the assessment of change." Either way, the trend is worrying. Since water, like almost everything else, expands as it gets hotter, its rising temperature causes sea levels to rise. It is "very likely", the report adds, “that the mean rate of global averaged sea level rise was 1.7mm a year between 1901 and 2010, 2.0mm a year between 1971 and 2010 and 3.2mm a year between 1993 and 2010.” The rate of sea-level rise all but doubled between the start of the 20th century and its end. That is a significant change and one that the first IPCC assessment report in 1990 had little inkling of. That report reckoned that “the average rate of rise over the last 100 years has been 1.0-2.0 mm a year. There is no firm evidence of acceleration in sea level rise during this century.” The rate is now thought to be higher—and growing. New instruments are providing better information about the rate at which ice sheets and glaciers are melting, too. In particular, the launch of the twin GRACE satellites has provided more detail about how much ice there actually is. GRACE, which stands for Gravity Recovery and Climate Experiment, enables the mass of objects on Earth to be worked out more precisely by measuring tiny changes in their gravitation pull. The report says that “the average rate of ice loss from glaciers around the world, excluding glaciers on the periphery of the ice sheets, was very likely 226Gt [trillion tonnes] a year over the period 1971-2009 and very likely 275Gt a year over the period 1993-2009.” In other words, it has speeded up. The Greenland ice sheet, the Antarctic sea ice and the Arctic sea ice have all lost mass (got thinner). The extent of the Arctic sea ice has shrunk by 3.5-4.1% a decade in 1979-2012, more than was estimated in 2007, and the summer sea-ice minimum is shrinking by about 10% a decade, though this year’s summer ice melt was smaller than last year’s. What does that mean for the future? The report uses four new sets of scenarios for greenhouse-gas concentrations to claim that “global surface temperature change for the end of the 21st century is projected to be likely to exceed 1.5ºC relative to 1850 to 1900 in all but the lowest scenario considered, and likely to exceed 2ºC for the two high scenarios.” The 2ºC mark is widely considered to be the dividing line between warming which is just about tolerable and that which is dangerous. For the first time, the IPCC gives some credence to the possibility that Earth’s climate may not be responding to higher concentrations of greenhouse gases quite as sharply as was once thought. The response is referred to as “equilibrium climate sensitivity” and defined as the rise in surface temperatures in the long term which accompanies a doubling of the concentration of CO2 in the atmosphere. In its previous report, the IPCC put this at between 2ºC and 4.5 ºC, with a most likely figure of 3ºC. But recent work, partly influenced by the pause in temperatures, has suggested sensitivity might be somewhat lower. The IPCC’s new range of 1.5-4.5ºC (the same as in its first report) reflects the new consensus (though some new research puts the upper bound of sensitivity below 4.5ºC). The IPCC also decided to scrap its central “best guess”. Perhaps this is meant to reflect uncertainty in the science. If so, some scientists argue, then perhaps it should not have increased its confidence that man is the main cause of global warming. In theory, a lower climate sensitivity means temperatures would rise more slowly for any given amount of extra radiative forcing. Earth might hence have a little more time to adjust to a changing climate. But whether such breathing space actually exists depends on how many tonnes of greenhouse gases people are putting into the atmosphere. So, for the first time, the IPCC has set what is usually called a carbon budget. To have a two-thirds chance of keeping global warming below 2ºC, it says, “will require cumulative CO2 emissions from all anthropogenic sources to stay between 0 and about 1,000 [trillion tonnes]”. The world has already blown through just over half that amount (531 trillion tonnes) by 2011. At current rates of greenhouse-gas emission, the rest of the budget will have been spent before 2040. The odds of keeping the eventual rise in global temperatures to below 2ºC will lengthen—even if climate sensitivity is lower than was thought and even if the pause in surface air temperatures persists for a while. As Thomas Stocker, the co-chair of the report depressingly put it: “we are committed to climate change…for many centuries even if emissions of CO2 stop.”

Models prove warming causes biodiversity loss and extinction

IPCC 07 – “Climate Change 2007: Working Group II: Impacts, Adaptation and Vulnerability”, http://www.ipcc.ch/publications\_and\_data/ar4/wg2/en/ch4s4-4-11.html) EL

Considerable progress has been made since the TAR in key fields that allow projection of future climate change impacts on species and ecosystems. Two of these key fields, namely climate envelope modelling (also called niche-based, or bioclimatic modelling) and dynamic global vegetation modelling have provided numerous recent results. The synthesis of these results provides a picture of potential impacts and risks that is far from perfect, in some instances apparently contradictory, but overall highlights a wide array of key vulnerabilities (Figures 4.2; 4.4; 4.5, Table 4.1). Climate envelope modelling has burgeoned recently due to increased availability of species distribution data, together with finer-scale climate data and new statistical methods that have allowed this correlative method to be widely applied (e.g., Guisan and Thuiller, 2005; McClean et al., 2005; Thuiller et al., 2005b). Despite several limitations (Section 4.3 and references cited therein) these models offer the advantage of assessing climate change impacts on biodiversity quantitatively (e.g., Thomas et al., 2004a). Climate envelope models do not simulate dynamic population or migration processes, and results are typically constrained to the regional level, so that the implications for biodiversity at the global level are difficult to infer (Malcolm et al., 2002a). In modelling ecosystem function and plant functional type response, understanding has deepened since the TAR, though consequential uncertainties remain. The ecophysiological processes affected by climate change and the mechanisms by which climate change may impact biomes, ecosystem components such as soils, fire behaviour and vegetation structure (i.e., biomass distribution and leaf area index) are now explicitly modelled and have been bolstered by experimental results (e.g., Woodward and Lomas, 2004b). One emerging key message is that climate change impacts on the fundamental regulating services may previously have been underestimated (Sections 4.4.1, 4.4.10, Figures 4.2; 4.3; 4.4). Nevertheless, the globally applicable DGVMs are limited inasmuch as the few plant functional types used within the models aggregate numerous species into single entities (Sitch et al., 2003). These are assumed to be entities with very broad environmental tolerances, which are immutable and immune to extinction. Therefore, underlying changes in species richness are not accounted for, and the simultaneous free dispersal of PFTs is assumed (e.g., Neilson et al., 2005; Midgley et al., 2007). The strength of DGVMs is especially in their global application, realistic dynamics and simulation of ecosystem processes including essential elements of the global C-cycle (e.g., Malcolm et al., 2002b). Thus, it is reasonable to equate changes in DGVM-simulated vegetation (e.g., Figure 4.3) to changes in community and population structures in the real world. What overall picture emerges from the results reviewed here? It appears that moderate levels of atmospheric CO2 rise and climate change relative to current conditions may be beneficial in some regions (Nemani et al., 2003), depending on latitude, on the CO2 responsiveness of plant functional types, and on the natural adaptive capacity of indigenous biota (mainly through range shifts that are now being widely observed – see Chapter 1). But as change continues, greater impacts are projected, while ecosystem and species response may be lagged (Sections 4.4.5, 4.4.6). At key points in time (Figure 4.4), ecosystem services such as carbon sequestration may cease, and even reverse (Figure 4.2). While such ‘tipping points’ (Kemp, 2005) are impossible to identify without substantial uncertainties, they may lead to irreversible effects such as biodiversity loss or, at the very least, impacts that have a slow recovery (e.g., on soils and corals). Figure 4.4 Figure 4.4. Compendium of projected risks due to critical climate change impacts on ecosystems for different levels of global mean annual temperature rise, ΔT, relative to pre-industrial climate (approach and event numbers as used in Table 4.1 and Appendix 4.1). It is important to note that these impacts do not take account of ancillary stresses on species due to over-harvesting, habitat destruction, landscape fragmentation, alien species invasions, fire regime change, pollution (such as nitrogen deposition), or for plants the potentially beneficial effects of rising atmospheric CO2. The red curve shows observed temperature anomalies for the period 1900-2005 (Brohan et al., 2006, see also Trenberth et al., 2007, Figure 3.6). The two grey curves provide examples of the possible future evolution of temperature against time (Meehl et al., 2007, Figure 10.4), providing examples of higher and lower trajectories for the future evolution of the expected value of ΔT. Shown are the simulated, multi-model mean responses to (i) the A2 emissions scenario and (ii) an extended B1 scenario, where radiative forcing beyond the year 2100 was kept constant to the 2100 value (all data from Meehl et al., 2007, Figure 10.4, see also Meehl et al., 2007, Section 10.7). In the two simulations presented in Figure 4.2 (warming of 2.9°C and 5.3°C by 2100 over land relative to the 1961-1990 baseline), the DGVM approach reveals salient changes in a key regulating service of the world’s ecosystems: carbon sequestration. Changes in the spatial distributions of ecosystems are given in Figure 4.3 (where it must be stressed that the figure highlights only key vulnerabilities through depicting appreciable vegetation type changes, i.e., PFT change over >20% of the area of any single pixel modelled). In the B1 emissions scenario (Figure 4.3b) about 26% of extant ecosystems reveal appreciable changes by 2100, with some positive impacts especially in Africa and the Southern Hemisphere. However, these positive changes are likely to be due to the assumed CO2-fertilisation effect (Section 4.4.10, Figure 4.3). By contrast, in mid- to high latitudes on all continents, substantial shifts in forest structure toward more rain-green, summer-green or deciduous rather than evergreen forest, and forest and woodland decline, underlie the overall drop in global terrestrial carbon sequestration potential that occurs post-2030, and approaches a net source by about 2070 (Figure 4.2; 4.3). In the A2 emissions scenario, roughly 37% of extant ecosystems reveal appreciable changes by 2100. Desert amelioration persists in the regions described above, but substantial decline of forest and woodland is seen at northern, tropical and sub-tropical latitudes. In both scenarios the current global sink deteriorates after 2030, and by 2070 (ΔT ~2.5°C over pre-industrial) the terrestrial biosphere becomes an increasing carbon source (Figure 4.2; see also Scholze et al., 2006) with the concomitant risk of positive feedback, developments that amplify climate change. Similar results were obtained by using a wide range of climate models which indicate that the biosphere becomes consistently within this century a net CO2 source with a global warming of >3°C relative to pre-industrial (Scholze et al., 2006). On the other hand, it must be noted that by about 2100 the modelled biosphere has nevertheless sequestered an additional 205-228 PgC (A2 and B1 emissions scenarios respectively) relative to the year 2000 (Lucht et al., 2006). Climate envelope modelling suggests that climate change impacts will diminish the areal extent of some ecosystems (e.g., reduction by 2-47% alone due to 1.6°C warming above pre-industrial, Table 4.1, No. 6) and impact many ecosystem properties and services globally. Climate impacts alone will vary regionally and across biomes and will lead to increasing levels of global biodiversity loss, as expressed through area reductions of wild habitats and declines in the abundance of wild species putting those species at risk of extinction (e.g., 3-16% of European plants with 2.2°C warming (Table 4.1, No. 20) or major losses of Amazon rainforest with 2.5°C warming above pre-industrial, Figure 4.4, Table 4.1, No. 36). Globally, biodiversity (represented by species richness and relative abundance) may decrease by 13 to 19% due to a combination of land-use change, climate change and nitrogen deposition under four scenarios by 2050 relative to species present in 1970 (Duraiappah et al., 2005). Looking at projected losses due to land-use change alone (native habitat loss), habitat reduction in tropical forests and woodland, savanna and warm mixed forest accounts for 80% of the species projected to be lost (about 30,000 species – Sala, 2005). The apparent contrast between high impacts shown by projections for species (climate envelope models) relative to PFTs (DGVMs) is likely to be due to a number of reasons – most importantly, real species virtually certainly have narrower climate tolerances than PFTs, a fact more realistically represented by the climate envelope models. DGVM projections reveal some increasing success of broad-range, generalist plant species, while climate envelope model results focus on endemics. Endemics, with their smaller ranges, have been shown to have a greater vulnerability to climate change (Thuiller et al., 2005a), and may furthermore be dependent on keystone species in relationships that are ignored in DGVMs. Therefore, for assessing extinction risks, climate envelope modelling currently appears to offer more realistic results. As indicated in the TAR, climate changes are being imposed on ecosystems experiencing other substantial and largely detrimental pressures. Roughly 60% of evaluated ecosystems are currently utilised unsustainably and show increasing signs of degradation (Reid et al., 2005; Hassan et al., 2005; Worm et al., 2006). This alone will be likely to cause widespread biodiversity loss (Chapin et al., 2000; Jenkins, 2003; Reid et al., 2005), given that 15,589 species, from every major taxonomic group, are already listed as threatened (Baillie et al., 2006). The likely synergistic impacts of climate change and land-use change on endemic species have been widely confirmed (Hannah et al., 2002a; Hughes, 2003; Leemans and Eickhout, 2004; Thomas et al., 2004a; Lovejoy and Hannah, 2005; Hare, 2006; Malcolm et al., 2006; Warren, 2006), as has over-exploitation of marine systems (Worm et al., 2006; Chapters 5 and 6). Overall, climate change has been estimated to be a major driver of biodiversity loss in cool conifer forests, savannas, mediterranean-climate systems, tropical forests, in the Arctic tundra, and in coral reefs (Thomas et al., 2004a; Carpenter et al., 2005; Malcolm et al., 2006). In other ecosystems, land-use change may be a stronger driver of biodiversity loss at least in the near term. In an analysis of the SRES scenarios to 2100 (Strengers et al., 2004), deforestation is reported to cease in all scenarios except A2, suggesting that beyond 2050 climate change is very likely to be the major driver for biodiversity loss globally. Due to climate change alone it has been estimated that by 2100 between 1% and 43% of endemic species (average 11.6%) will be committed to extinction (DGVM-based study – Malcolm et al., 2006), whereas following another approach (also using climate envelope modelling-based studies – Thomas et al., 2004a) it has been estimated that on average 15% to 37% of species (combination of most optimistic assumptions 9%, most pessimistic 52%) will be committed to extinction by 2050 (i.e., their range sizes will have begun shrinking and fragmenting in a way that guarantees their accelerated extinction). Climate-change-induced extinction rates in tropical biodiversity hotspots are likely to exceed the predicted extinctions from deforestation during this century (Malcolm et al., 2006). In the mediterranean-climate region of South Africa, climate change may have at least as significant an impact on endemic Protea species’ extinction risk as land-use change does by 2020 (Bomhard et al., 2005). Based on all above findings and our compilation (Figure 4.4, Table 4.1) we estimate that on average 20% to 30% of species assessed are likely to be at increasingly high risk of extinction from climate change impacts possibly within this century as global mean temperatures exceed 2°C to 3°C relative to pre-industrial levels (this chapter). The uncertainties remain large, however, since for about 2°C temperature increase the percentage may be as low as 10% or for about 3°C as high as 40% and, depending on biota, the range is between 1% and 80% (Table 4.1; Thomas et al., 2004a; Malcolm et al., 2006). As global average temperature exceeds 4°C above pre-industrial levels, model projections suggest significant extinctions (40-70% species assessed) around the globe (Table 4.1). Losses of biodiversity will probably lead to decreases in the provision of ecosystem goods and services with trade-offs between ecosystem services likely to intensify (National Research Council, 1999; Carpenter et al., 2005; Duraiappah et al., 2005). Gains in provisioning services (e.g., food supply, water use) are projected to occur, in part, at the expense of other regulating and supporting services including genetic resources, habitat provision, climate and runoff regulation. Projected changes may also increase the likelihood of ecological surprises that are detrimental for human well-being (Burkett et al., 2005; Duraiappah et al., 2005). Ecological surprises include rapid and abrupt changes in temperature and precipitation, leading to an increase in extreme events such as floods, fires and landslides, increases in eutrophication, invasion by alien species, or rapid and sudden increases in disease (Carpenter et al., 2005). This could also entail sudden shifts of ecosystems to less desired states (Scheffer et al., 2001; Folke et al., 2004; e.g., Chapin et al., 2004) through, for example, the exeedance of critical temperature thresholds, possibly resulting in the irreversible loss of ecosystem services, which were dependent on the previous state (Reid et al., 2005)

Status quo ocean acidification guarantees extinction but emission cuts solve

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They are calling it “the other CO2 problem”. Its victim is not the polar bear spectacularly marooned on a melting ice floe, or an eagle driven out of its range, nor even a French pensioner dying of heatstroke. What we have to mourn are tiny marine organisms dissolving in acidified water. In fact we need to do rather more than just mourn them. We need to dive in and save them. Suffering plankton may not have quite the same cachet as a 700-kilo seal-eating mammal, but their message is no less apocalyptic. What they tell us is that the chemistry of the oceans is changing, and that, unless we act decisively, the limitless abundance of the sea within a very few decades will degrade into a useless tidal desert. In every way — economically, environmentally, socially — the effects of ocean acidification are as dangerous as climate change, and even harder to resist. It has been a slow dawning. Until recently, marine scientists have had little luck in engaging the public or political mind. The species most directly at risk — plankton, corals, sea snails, barnacles and other stuff that most people have never heard of — seemed as remote from our lives as cosmic dust. But now at last “the other CO2 problem” may have found a mascot of its own — the tiny but colourful clownfish, winsome star of the Disney classic Finding Nemo. In the film, Nemo gets lost. Now it turns out that real clownfish might lose their way too. In early February, the American academic journal Proceedings of the National Academy of Sciences (PNAS) carried a paper titled “Ocean acidification impairs olfactory discrimination and homing ability of a marine fish”. The sombre language concealed a stark message. What the researchers had found was that clownfish larvae in acidified water were unable to detect the odours from adult fish that led them to their breeding sites. The implications were obvious. If the fish don’t breed, the species will not survive, and what is true for one species must be true for others. In time, the world’s fishing fleets will be less a food resource than a disposal problem. What’s happening is this: the oceans absorb carbon dioxide (CO2) from the atmosphere. As most climate scientists and governments now agree, human activity — most importantly, burning fossil fuels — has intensified CO2 in the atmosphere, causing long-term climate change. The good thing is that the seas have absorbed a lot of the gas and so have slowed the pace of atmospheric warming. The bad thing is that CO2 reacts with sea water to make carbonic acid. Since 1800, humans have generated 240 billion tonnes of carbon dioxide, half of which has been absorbed by the sea. On average, each person on Earth contributes a tonne of carbon to the oceans every year. The result is a rapid rise in acidity — or a reduction in pH, as the scientists prefer to express it — which, as it intensifies, will mean that marine animals will be unable to grow shells, and that many sea plants will not survive. With these crucial links removed, and the ecological balance fatally disrupted, death could flow all the way up the food chain, through tuna and cod to marine mammals and Homo sapiens. As more than half the world’s population depends on food from the sea for its survival, this is no exaggeration. This is why 155 marine scientists from 26 countries recently signed the Monaco Declaration, identifying the twin threats of global warming and ocean acidification as “the challenge of the century”. It is, nevertheless, a challenge they have taken up only recently. “The whole scientific community was caught with its pants down,” says Jason Hall-Spencer, research lecturer at Plymouth University, who was one of the signatories. The term “ocean acidification” was coined only in 2003 — by odd coincidence the same year Finding Nemo was released and 35,000 people died in the European summer heat wave — though, unlike global warming, it has not had to face the opposition of truth-deniers. Verging on panic in 2005, the Royal Society published a 68-page report in which it calculated that acidification had increased by 30% in 200 years. If we went on as we were, it said, this would rise to 300% by 2100, making the seas more corrosive than they had been at any time for hundreds of millennia. In every practicable sense, the damage was irreversible. “It will take tens of thousands of years for ocean chemistry to return to a condition similar to that occurring at pre-industrial times,” the Royal Society said. It is a truism that might have been minted for the Darwin bicentenary. A species once lost is gone forever. You can’t rewind evolution, or reinvent fish. We are not talking about dispossessing our children, or even our grandchildren’s grandchildren. We are talking so many generations into the fog of geological time that we might not even be talking about the same species. We are certainly not talking about low-lying countries protected by coral reefs, such as the Maldives. In future they will not be studying the marine environment: they will be part of it. Doomy stuff like this, of course, is nothing new. The “warmists”, as the deniers like to call them, have been telling us for years that our rate of consumption is unsustainable and that future generations will pay a terrible price for our carelessness. If you don’t want to believe in climate change, you can argue that forecasts created by computer modelling are “theoretical”. Or you can confuse the long-term graph of “climate” with the short-term spikes of “weather”. Look, there’s a snowflake! Global warming can’t be happening! But acidification permits no such equivocation. It is demonstrable, visible and measurable, and there is nothing theoretical about how it is caused or what it does. All the same, until now there has been one significant shortcoming. As with the clownfish, it has been easy enough under laboratory conditions to see how individual species respond to acidity. What is much less easy is to observe the effects on entire ecosystems. This problem has now been cracked by a team from Plymouth led by Jason Hall-Spencer, who scanned the world for a location where the sea conditions expected in future were already happening naturally. They found it in the Bay of Naples, just off the holiday island of Ischia. The sea bed here is chalk. Deep geological activity converts some of this into carbon dioxide and forces it up through volcanic vents into the water. In and around the neighbourhood of these vents, the result is a perfect “gradient” of pH levels from the normal 8.1 all the way down to 7.4 (remember: the lower the pH, the higher the acidity). To non-scientists, the giving or taking of a few decimal points can look undramatic. To experts they mark the difference between life and death. The 30% increase in acidity during the industrial age is reflected by a drop in pH of just 0.1. On current trends, it will plummet by another 0.4 points to hit an unprecedented low of 7.7 by 2100. By 2300 it could be down to 7.3. Few species living in the sea have experienced conditions like these at any time throughout their entire life on Earth. With pH as low as this, it is at least questionable that land creatures emerging from the primal swamp could have evolved into the bony specimens that roam the Earth today. And it is certain that the pace of environmental change is far too fast for evolution to keep in step. As a recipe for life on Earth, it is about as efficacious as nuclear war. Experiments have shown that the tipping point at which shell growth ceases comes at a pH of 7.8. This is the level which, on current trends, will be the global norm before the end of the century, and it is the level at which the Plymouth team has focused its attention. Given all the dire warnings, the first visual impression at Ischia is something of a surprise. There are plenty of fish. Is it, then, a false alarm? Could the world’s scientists have got their statistical knickers in a twist and jumped to a false conclusion? Will life just go on as normal? Alas, no. The acidified water is a small zone in a wider sea. There is no barrier. The fish are just visitors. They come to feed on the soft-bodied algae that survive in the altered conditions, then they swim away again. What they don’t do is breed — which is exactly what the Nemo research predicts. “Fish breed naturally at a pH of 8.1,” says Hall-Spencer. He believes the sensory loss observed in clownfish is only one part of the story. “Losing the sense of smell,” he says, “is not likely to be the only effect. It’s much more likely to be one impairment among many. Eggs in these conditions cannot develop normally.” Shelled creatures in the Ischian waters are visibly suffering. Sea urchins thin out and disappear as the acidity increases; so do corals, limpets and barnacles. Sea snails straying into the zone have thin, weak shells, and produce no young. There is another important absentee, too — the coralline algae (seaweed with a chalk skeleton) that glues coral reefs together. Without it, reefs become weakened and fall apart. In just a few decades, if the output of carbon dioxide does not abate, this will be the condition of all the world’s oceans. Many if not all commercially fished species, including shellfish, will suffer. So, too, will coral reefs, whose disintegration will leave low-lying coasts in the tropics unprotected from the rising seas and fiercer storms that climate change will unleash. By some calculations reefs will have vanished by 2065, and nobody expects them to survive into the 22nd century. Nature, however, will continue to abhor a vacuum. Species that disappear will be replaced by alien invaders. Shelled and vertebrate creatures will be replaced by the soft and the blobby. Celebrity chefs, if they survive as a species, will be teaching us how to stuff jellyfish. The plant species that thrive around the volcanic vents in the Bay of Naples are alien to the Mediterranean, laying the foundations of an entirely different ecosystem. Already, says Hall-Spencer, similar changes are occurring along the southern coasts of England. Oyster farmers and ships discharging ballast water have accidentally introduced Japweed, Sargassum muticum, a fast-growing brown seaweed that clogs beaches and harbours. Originally a native of southeast Asia and Japan, it is unfazed by low pH and almost impossible to eradicate. As in the classic case of the grey squirrel ousting the red, the invasive alien expels and replaces the natives. “It perturbs the ecosystem and drives out things that should live there,” says Hall-Spencer. Plants are the base of the food chain, so everything in the water depends on them directly or indirectly. With the professional caution of the scientist, he declines to speculate on which species will be the first to disappear, but acknowledges that many creatures have little hope of survival. To reprise the old Star Trek mantra, there will be life here, but not life as we know it.

Latin America is key – status quo movements in Latin America send a global signal that economic growth and emission reduction are compatible

Edwards and Arias 8/6 – Guy Edwards is a Brown University Research Fellow with a focus on Latin America, international relations & climate change & co-founder of Intercambio Climatico, Gilberto Arias was formerly Ambassador from Panama to the UK and Head of Delegation from Panama to the International Maritime Organization and co-chairing IMO's Expert Group on Market-based Measures dealing with international shipping emissions, principal negotiator for Panama at the UNFCCC and remains active in a number of negotiating track (2013, “Can Latin America’s leaders balance climate and growth?” http://www.rtcc.org/2013/08/06/can-latin-americas-leaders-balance-climate-and-growth/) EL

In a bid to protect future prosperity from serious climate change impacts, Latin American countries are attempting to balance climate action with economic growth, through domestic policy and at the UN climate talks. Latin American countries are challenging the conventional wisdom that confronting climate change undermines economic growth by arguing that climate action provides an opportunity to leapfrog traditional development, while delivering low carbon, sustainable development. Following the Stern Review on the Economics of Climate Change’s principal conclusion that taking action now to reduce emissions is cheaper than dealing with climate impacts later, these countries strongly back an ambitious global regime to avoid these future costs. The Inter-American Development Bank says these costs could reach US$100 billion annually in the region by 2050, even under a 2˚C average global temperature increase. Examples from Brazil, Mexico and the Dominican Republic suggest that climate policies do not necessarily undermine economic growth, while an example from Ecuador reveals how climate-related policies run the risk of being sidelined by the need to use natural resources. Brazil has established a national greenhouse gas reduction target of roughly 36 percent of projected emissions by 2020. Brazil’s greenhouse-gas emissions fell nearly 39%, with a 76% drop in cumulative emissions from deforestation, between 2005 and 2010. Brazil attributes the dramatic improvements in forestry protection to a raft of policies implemented in 2004. However, research also points out that decreasing prices for agricultural products also led to a reduction in deforestation. As Viola suggests reducing emissions does not necessarily mean compromising economic growth. From 2005-09 Brazil dramatically reduced its carbon emissions while maintaining economic growth at 3.5% annually. New legislation Mexico was the first developing country to create a comprehensive climate change law in 2012 with targets to reduce GHG emissions by 30% by 2020 and 50% by 2050. The law also states that 35% of energy should come from renewable sources by 2024. Investments in renewable energy in Mexico grew from US$352 million in 2011 to US$1.9 billion in 2012, highlighting the opportunity to combine clean energy and job creation. The Dominican Republic recently presented a voluntary pledge to reduce 25% of absolute 2010 emissions by 2030. The plan, protected by law, is projected to add 100,000 permanent jobs while expanding the DR’s renewable energy capacity and integrating low-carbon development in the tourism sector. Climate-related policies can be undermined by the need to use natural resources for economic growth. Ecuador’s Yasuní-ITT Initiative seeks compensation for roughly half the estimated value of certain untapped oil deposits, in order to leave these resources untouched. The funds are earmarked to protect national parks and promote renewable energy. However, the plan has so far raised less than US$500 million, leading President Correa to announce a re-evaluation of the initiative and its limits on oil extraction. Competitive edge Latin American countries are fast growing economies with growing middle classes with substantial development and infrastructure goals. They can take advantage of the opportunities and competitive advantages arising in a future carbon constrained world through the early introduction of climate policies for carbon-efficient economies. The region will be required to almost double its installed power capacity to roughly 600 GW by 2030, yet the Inter-American Development Bank says Latin America can meet its future energy needs through renewable sources including solar and wind, which are sufficient to cover its projected 2050 electricity needs 22 times over. Investments in sustainable development in the region are increasing, delivering climate-resilient economies while avoiding emissions. This drive has led to the introduction of cross-ministerial policies, but climate policy across the region suffers from weak implementation. Trade-offs between climate action and economic interests are inevitable, however, these trade-offs appear less significant than the major economic costs associated with climate impacts. Climate policy is becoming a fixture on Latin American political agendas, including the recognition of vulnerability to climate impacts and that early action on reducing emissions will avoid greater costs later. Latin American countries are attempting to promote a new narrative that early climate action is compatible with low-carbon, sustainable prosperity. Successful experiences in Latin America can also positively feed into the UN climate change negotiations and help push for higher ambition and strengthen the discourse that climate change action is compatible with economic growth.

Venezuela blocks climate progress –

a. creates regional fragmentation

Shifter 13 – President at Inter-American Dialogue (“So Long, Chávez Where Does This Leave Venezuela?”, 3/5, http://www.foreignaffairs.com/articles/139014/michael-shifter/so-long-chavez) EL

Since 1999, however, when the recently deceased Venezuelan President Hugo Chávez came to power, the sense of community in the region has dissipated. Policy divergences among Latin American countries have become sharper; free trade and liberal democracy are no longer popular goals; and Latin America and the United States have, albeit cordially, gone their separate ways. Admittedly, generalizations about Latin America are risky; after all, for every country that has deviated from democratic norms, another has moved toward them. And Chávez was not single-handedly responsible for deflating the hopeful spirit that prevailed two decades ago. But his relentless defiance of Washington and its chief allies -- often accompanied by aggressive, even belligerent, rhetoric -- polarized the region. To be sure, Chávez’s boldness partially helped inspire pride and political self-confidence in the region, in addition to revitalizing the dream of leftist revolution in Latin America. Chávez’s contributions, however, were minimal compared with the positive impact of larger and more important factors, such as the rise of Brazil, the commodity boom, the growing assertiveness of many of the region’s countries, and the acute fiscal and political shortcomings of the United States. Far from unifying Latin America and thereby realizing the vision of Chávez’s hero, nineteenth-century independence leader Simón Bolívar, Chávez contributed to the fragmentation of the hemisphere. His attempts at regional cooperation, such as the socialist Bolivarian Alternative for the Americas (ALBA), appealed to only a handful of like-minded countries. After all, both at home and abroad, Chávez was mainly intent on accumulating power, not fostering cooperation. That is what motivated him to curtail Washington’s influence in Latin America and around the world. To pursue his aims, Chávez not only relied on his endless energy and seductive rhetoric but also a great deal of money. The former president took full advantage of the benefits of being at the helm of one of the world’s largest oil producers. Despite declining oil production and exports stemming from Venezuela’s dismal governance and crumbling institutions, Chávez got lucky during his reign: the price of oil skyrocketed, from just $10 a barrel in 1999 to around $100 today; the peak, in 2008, was $145 per barrel. Unique among Latin American leaders in the scope of his ambitions and resource wealth, Chávez forged security and economic alliances with China, Iran, and Russia. He also became the chief benefactor to a host of regional governments, which he supplied with subsidized oil under highly favorable financing terms. In 2005, Chávez made this patronage more official by establishing the Petrocaribe oil alliance, which now includes some 18 countries throughout Central America and the Caribbean. Many member states have profited from reselling part of their share of subsidized Venezuelan oil. In Haiti, for example, the practice accounts for roughly $400 million a year, or four percent of GDP. Precise figures are hard to come by, but there is little question that a number of Petrocaribe countries depend on Venezuelan largess. In ALBA countries, shared political ideology has deepened economic reliance. Cuba, for example, imports an estimated 100,000 barrels of Venezuelan oil every day at preferential prices. The annual subsidy is approximately $3 billion to $4 billion a year, a substantial part of Cuba’s overall economy. Under Chávez’s rule, Venezuela essentially supplanted the Soviet Union as Cuba’s lifeboat. Similarly, Nicaragua enjoys roughly $500 million a year in subsidies from Venezuela. Whether even a like-minded successor government could maintain such commitments is a major worry for dependent governments, especially in light of mounting economic pressures in Venezuela. Chávez left his imprint on recently founded regional organizations, too, all of which exclude the United States and Canada. Chief among them are the Union of South American Nations, created in 2008, and the Community of Latin American and Caribbean States, which was launched in 2011 and also includes Mexico and Central American countries. Although the organizations were designed to reflect Latin America’s unity, independence, and reorientation away from the United States, there is considerable disagreement among members on key issues of economic and trade policy, democracy, and U.S. relations. This raises doubts about how meaningful a role such institutions can play in the region.

b. Venezuela makes it try or die – either they exploit heavy crude oil and warming passes the tipping point or they spearhead a global treaty that solves

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Regardless of one's position on el Comandante Hugo Chávez, the death of the Venezuelan president opens the door for a policy debate on a critical issue for Venezuela and the world's security: climate change. As the 2015 deadline to create a new global treaty on climate change approaches, the question for the oil-rich country looms: will Venezuela be a key architect of an ambitious and equitable deal, or will it sabotage progress?

The International Energy Agency reports that no more than one-third of proven fossil fuel reserves can be consumed prior to 2050 if we are to limit warming to 2C. Writer Bill McKibben pointed out that if Venezuela were to exploit its heavy crude oil and Canada's tar sands are fully tapped, this would mean "game over" for the climate as both reserves would fill up the remaining "atmospheric space" or "carbon budget."

President Chávez oversaw a schizophrenic posture on climate change. He insisted that climate change is an existential crisis caused by capitalism, while simultaneously pushing for the development of the Orinoco's heavy crude. Under Chávez, Venezuela's oil dependency increased and it now obtains 94% of export earnings and more than 50% of its federal budget from oil revenues.

Due to high oil prices and Chávez's leadership, poverty and inequality have dropped. Chávez's administration appeared committed to increase oil production to continue funding its social programmes, often through long-term agreements with China to supply oil. Venezuela's "commodity backed loans" from China, estimated at more than $35bn, require it to pay back China in oil.

The key to solving climate change is shifting all countries to low carbon economies. At a United Nations negotiation in Bonn, Germany, in 2009, however, a Venezuelan official said that a shift to a low-carbon economy would adversely impact developing country oil exporters, suggesting that a robust climate change treaty would conflict with Venezuela's development model.

At the climate negotiations, Venezuela has clung to arguments that developing countries have the right to emit to ensure their development. Undermining Venezuela's position at the negotiations has been their often vociferous rhetoric, while exhibiting a lack of action at home. Meanwhile, a number of poorer countries have shown a willingness to take on far more ambitious emissions cuts.

Venezuela releases only 0.56% of the global total of greenhouse gas emissions, but its per capita emissions (at approximately six tonnes per person) are much higher than the world's poorest nations. Venezuela's current emissions, however, pale in significance compared to what is at stake if it does fully develop its oil reserves. Former UK special representative for climate change John Ashton has said that a country's ability to contribute to global efforts to tackle climate change depends on the credibility of its domestic policies.

Venezuela's national development plan (2013-19) includes measures to limit emissions, which include the oil industry and would create a world movement to confront climate change. The Venezuelan government has invested $500m in windfarms and distributed 155m energy-saving lightbulbs.

However, critics suggest that Venezuela has little interest and commitment in tackling climate change, and that the plan's objectives are unlikely to be implemented. According to ClimateScope, which ranks a country's ability to attract capital for low-carbon energy sources and efforts to build a green economy, Venezuela is currently 24th out of 26 countries.

In the UN climate negotiations, Venezuela is part of the Bolivarian Alliance for the Peoples of Our Americas (ALBA) with Ecuador, Bolivia, Cuba and Nicaragua, which is praised by many citizens' groups for fighting for climate justice. Venezuela is also a member of the Like-Minded group alongside China, India, Saudi Arabia and its ALBA partners.

Venezuela will understandably not stop oil production at the expense of its social programmes, nor its loan repayments to China. Partial or full compensation for loss of revenue from keeping the oil in the ground is unlikely. Venezuela could consider backing Ecuador's fascinating plan to be proposed at the next Opec meeting to create a 3-5% 'Daly-Correa' tax on every barrel of oil exported to rich countries to raid billions for poor countries to adapt to climate change.

With the death of its great leader, Venezuela has a choice on climate change. It can rebrand itself as a proactive actor at home by working towards a low-carbon economy while joining with its ambitious neighbors at the UN climate negotiations. With the largest known oil reserves, Venezuela's position on climate change is pivotal. En route to 2015, it remains to be seen whether it will be regarded as an engineer of an ambitious and equitable global treaty, or as a saboteur.

And, the plan’s key –

a. it bolsters US credibility in the region and makes regional coalitions possible

Griffin, 13 – Harvard editorial writer (John, “Engage with Venezuela,” The Harvard Crimson, 3 April 2013, http://www.thecrimson.com/article/2013/4/3/Harvard-Venezuela-Chavez-death/)

Diplomatically, positive engagement with Venezuela would be a major step toward building American credibility in the world at large, especially in Latin America. Chávez (along with his friends the Castros in Cuba) was able to bolster regional support for his regime by pointing out the United States’ attempts to forcibly intervene in Venezuelan politics. Soon, a number of populist governments in Latin America had rallied around Chávez and his anti-American policies. In 2004, Bolivia, Ecuador, Nicaragua, and three Caribbean nations joined with Venezuela and Cuba to form the Bolivarian Alliance for the Peoples of our America, an organization in direct opposition to the Free Trade Area in the Americas proposed (but never realized) by the Bush administration. Chávez galvanized these nations—many of whom have experienced American interventionist tactics—by vilifying America as a common, imperial enemy. Unfortunately for the United States, its general strategy regarding Venezuela has often strengthened Chávez’s position. Every time Washington chastises Venezuela for opposing American interests or attempts to bring sanctions against the Latin American country, the leader in Caracas (whether it be Chávez or Maduro) simply gains more evidence toward his claim that Washington is a neo-colonialist meddler. This weakens the United States’ diplomatic position, while simultaneously strengthening Venezuela’s. If Washington wants Latin America to stop its current trend of electing leftist, Chavista governments, its first step should be to adopt a less astringent tone in dealing with Venezuela. Caracas will be unable to paint Washington as an aggressor, and Washington will in turn gain a better image in Latin America. Beyond leading to more amicable, cooperative relationships with Latin American nations, engagement with Venezuela would also be economically advisable. With the world’s largest oil reserves, countless other valuable resources, and stunning natural beauty to attract scores of tourists, Venezuela has quite a bit to offer economically. Even now, America can see the possible benefits of economic engagement with Caracas by looking at one of the few extant cases of such cooperation: Each year, thousands of needy Americans are able to keep their homes heated because of the cooperation between Venezuela and a Boston-area oil company. Engagement with Venezuela would also lead to stronger economic cooperation with the entirety of Latin America. It was mostly through Venezuela’s efforts that the United States was unable to create a “Free Trade Area of the Americas,” an endeavor that would have eliminated most trade barriers among participant nations, thereby leading to more lucrative trade. In a world where the United States and Venezuela were to enjoy normalized relations, all nations involved would benefit from such agreements. For both diplomatic and economic reasons, then, positive engagement is the best course of action for the United States. As it stands, the negative relationship between the countries has created an atmosphere of animosity in the hemisphere, hindering dialogue and making economic cooperation nearly impossible. While there is much for which the Venezuelan government can rightly be criticized—authoritarian rule, abuse of human rights, lack of market-friendly policies—nothing that the United States is doing to counter those drawbacks is having any effect. The United States should stop playing “tough guy” with Venezuela, bite the bullet, and work toward stability and prosperity for the entire hemisphere. We aren’t catching any flies with our vinegar—it’s high time we started trying to catch them with honey.

b. develops information sharing and communication channels

Welsh and Schneider 13 – Nancy Welsh is the William Trickett Faculty Scholar and Professor of Law at Penn State Law and Andrea Kupfer Schneider is a Professor Of Law at Marquette University Law School (“The Thoughtful Integration of Mediation into Bilateral Investment Treaty Arbitration”, Spring) EL

3. Recommended “Default” Model of Mediation for the Investor-State Context Arguably, at least, the aim of mediation in the investment context should be enhancing parties’ ability to communicate, inform, and negotiate directly with each other. After all, it will be important for the parties to maintain or improve ongoing relationships, collaborate on the implementation of any agreement, and acknowledge volatile political situations (often accompanied by difficult emotions) to enable representatives (and their constituencies) to embrace good solutions, even if they are not everyone’s preferred solutions. All of these factors suggest the value of a “default” model of mediation that begins with facilitative or elicitive interventions and a focus on interests. Such a model should be preceded by careful preparation. Importantly, however, this model of mediation should also be supplemented as necessary with evaluative or directive interventions and consideration of legal rights and norms. As we have discussed supra, it is the combination of these interventions that is the hallmark of effective mediators. A process that begins facilitatively should enable the parties’ “mutual consideration”165 of each other’s perspectives and underlying needs. In other words, it should facilitate the parties’ ability to engage in a procedurally just process with each other. Investors and states will need sufficient opportunity to speak and be heard, but also to listen to each other, reflect upon what was said, demonstrate that they have listened to each other, and also make meaningful movement toward resolution.166 This recommendation assumes that states and investors need access to mediation because they currently have only three other procedures available to them—negotiation, conciliation, and arbitration— to resolve their disputes.167 The “default” mediation model that is presumptively facilitative and interest-based therefore offers something new and useful. First, of course, it provides a third party to assist the parties’ negotiations; this differentiates it from negotiation. Second, its focus is on facilitating the parties’ communication, information- sharing and negotiation, thus placing it within the “facilitated” category of processes, while conciliation and binding arbitration fit into the “advisory” and “imposed” categories, respectively. Finally, this model of mediation provides an explicit opportunity to identify and focus on the discussion of interests, while conciliation and arbitration presumptively focus on rights. As a “default,” parties may elect to depart from this model, but they must do so explicitly and agree upon such a departure.

c. US leadership and resources are key

Maykranz 7/10 – Research Asssociate at Global Solutions (Alisondra, 2013, “Climate Change: An Opportunity for a 'New Era of Relations'”, http://globalsolutions.org/blog/2013/07/Climate-Change-Opportunity-New-Era-Relations) EL

U.S. relations with Latin America have not always been exemplary, but climate change is an issue that presents an opportunity for the U.S. to cooperate with its southern neighbors and to provide the leadership that such a global threat requires. According to the Pew Research Center data cited in Harrison’s blog, Latin America as a whole is a region very concerned with climate change. In each of the seven Latin American countries polled, climate change was the most widely recognized threat. Sixty-five percent of Latin Americans identify climate change as a threat to their respective countries, compared to 40 percent of people in the United States. In Brazil the percentage is as high as 76, and Argentina is not far behind at 71 percent. Furthermore, not a single Latin American country reported numbers below 50 percent. Even in the oil-rich country of Venezuela, 53 percent of the public recognizes climate change as a threat. This is significant considering that oil-exporting countries generally resist the implications of climate change. A 2012 study by the World Bank shows that Latin America is at greater risk to the dangers of climate change than most of the world. To make matters worse, many regions within Latin America have insufficient capability to cope with these potentially devastating effects of climate change. The Amazon rainforest, one of the most delicate regions of Latin America, is already experiencing negative effects from climate change. The indigenous peoples who depend on the rainforest are also among the most vulnerable populations in the world, according to a 2010 World Bank study. Climate change in the Amazon not only affects Brazil’s population, but also has a far reaching impact on many other parts of Latin America, as explained by Amazon Watch: “The Amazon Basin’s hydrological system plays a critical function in regulating the global and regional climate…Among the regions directly linked to the Amazon by a complex weather system is the Rio de la Plata basin of southeastern South America, one of the most important agricultural zones on the planet.” The success of the region’s agriculture rests largely on the conditions in the Amazon. Environmental economists S. Niggol Seo and Robert Mendelsohn, through a project with the World Bank, found that climate change could lead to as much as a 62 percent loss in farm earnings in Latin America, with the Amazon and Equatorial regions likely losing the most. Given this information, it is no surprise that Brazil and Argentina reported the highest percentages of people who recognize climate change as a threat. As the Obama Administration turns its focus toward domestic policies on climate change, it should also put climate change on its international agenda. At the end of May, Vice President Biden traveled to Rio de Janeiro as part of the effort to strengthen U.S.-Brazil relations. He spoke in Rio about a “new era of relations” between the U.S. and Brazil, as well as Latin America more generally, but the focus was on increasing economic ties. Not once was the subject of climate change even mentioned, let alone given the attention it deserves. With 76 percent of Brazilians and 65 percent of Latin Americans concerned about climate change, it would truly signal a “new era of relations” between the U.S. and Latin America if the Administration were to demonstrate their own concern for what is taking place in the Western Hemisphere by taking the lead in multilateral climate change initiatives. This really is an opportunity that I can only hope the Obama Administration will consider as important as the economic opportunities it is currently pursuing in Brazil and Latin America.

Altering development paths in Latin America is key to address climate change

Pierson 10-- an intern with the Brazil Institute at the Woodrow Wilson Center (Elizabeth, 9/24, “Latin America’s Future: Emerging Trends in Economic Growth and Environmental Protection”, http://www.newsecuritybeat.org/2010/09/latin-americas-future-emerging-trends-in-economic-growth-and-environmental-protection/#.UmveU\_mTils) EL

Economic development and environmental sustainability in Latin America and the Caribbean are intrinsically connected, as evidenced by a seminar this summer organized by the Woodrow Wilson Center’s Brazil Institute (on behalf of the Latin American Program), and co-sponsored by the U.S. Agency for International Development (USAID). The seminar — the culmination of six workshops and a regional meeting in Panama — presented the new Wilson Center report Emerging Trends in Environment and Economic Growth in Latin America and the Caribbean (also available in Portuguese and Spanish), which identifies key trends likely to shape the economy and natural environment in Latin America and the Caribbean over the next 10 years. Janet Ballantyne, acting deputy assistant administrator of USAID’s Latin America and the Caribbean Bureau, stated that Latin America is “not our backyard, it’s our front yard.” It’s time that we “open the front door,” she claimed, and address the issues facing Latin America — issues that have long-term consequences for not only the region, but the United States and the world as well. A Broad Range of Challenges Christine Pendzich, principal author of the report and technical adviser on climate change and clean energy to USAID, covered the five interrelated economic and environmental trends that the report discusses: climate change, clean energy, indigenous and minority issues, challenges facing small economies, and urban issues. To capitalize on the Latin American demographic transition that will soon result in a large number of working age adults, Pendzich argued that the region needs to increase skilled job creation, educate workers to fill those positions, and maintain economic stability. She also declared that recent climate change trends are a “game changer,” which can fundamentally alter development paths. While closer economic ties with China have contributed to Latin America’s above-average recovery from the global economic downturn, Pendzich argued that this economic relationship could add to the social and environmental problems facing the region. She added that insufficient innovation could lead to the continuation of the region’s dependence on commodity exports, while also noting that the inadequate economic integration and educational opportunities for indigenous and minority groups “drags everyone down.” In terms of the regional economic trends, Eric Olson, co-author of the report and senior associate of the Mexico Institute, highlighted six challenges and opportunities for Latin America and the Caribbean. Olson claimed that the recovery of the global economy will hurt net importers of fossil fuels, especially in Central America and the Caribbean; have a negative impact on the environment; increase natural resource exploitation that may exacerbate inequality and social conflict; increase demand for primary products that will decrease the incentive to diversify Latin American economies; provide opportunities to promote environmentally friendly growth; and allow for increased utilization of existing trade benefits and intra- and sub-regional trade opportunities. Recognizing the Need for an Integrated Response Three of the 77 participants involved in the formation of the report explored in greater depth what Geoffrey Dabelko with the Environmental Change and Security Program described as the “integration and interconnectivity” of the five trends discussed in the report. Blair Ruble, chair of the Comparative Urban Studies Project, noted that with 78 percent of the Latin American population living in urban areas, “cities and urban life create a context in which there are opportunities for solutions to problems,” opportunities that can be used to further innovation, encourage social equality, and promote good governance. Meanwhile, working with rural indigenous communities and minority groups can also provide valuable opportunities for change, specifically in the area of climate change, according to Judith Morrison, senior adviser at the Inter-American Development Bank’s Gender and Diversity Unit. Morrison argued that indigenous populations are the ones most affected by climate change, but also the most able to improve environmental stewardship as a result of their unique knowledge of the local geography. Maria Carmen Lemos, associate professor at the University of Michigan, highlighted that vulnerability to climate change depends on two sets of factors: geographical location and socioeconomic factors. As a result, Lemos asserted that climate-change adaption measures must focus on poverty reduction as well as the vulnerability of specific geographic locations. Julie L. Kunen, senior adviser to the Bureau of Policy, Planning, and Learning at USAID, applauded the report for its cross-trend analysis and called the development community to work together to address these trends in the Latin American and Caribbean region. The next step, Kunen claimed, must be to develop an ambitious strategy and “convene everyone who cares about the issues and rally them around the agenda.”

1ac – plan

The United States federal government should negotiate a mediation-inclusive Bilateral Investment Treaty with Venezuela.

1ac – investment regime

CONTENTION 2 IS INVESTMENT REGIME COMPETITIVENESS

Scenario 1 is Dispute Resolution –

The international investment regime is approaching a tipping point.

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Whether states are embracing mediation by developing their¶ own corps of quasi-mediators or bringing investment arbitration to a¶ point of crisis by withdrawing from BITs, the stage is set for the integration¶ of mediation into the investment treaty context.66 The International¶ Bar Association’s recent approval of rules to facilitate the¶ use of investor-state mediation offers substantial evidence that we¶ are reaching the “tipping point.”67 These developments also suggest¶ the need for discipline and precision in defining the model or models¶ of mediation that will be used, the breadth of any compulsory elements,¶ mechanisms for providing transparency and ensuring quality,¶ and the identity and role of the mediators. Such discipline and precision¶ will come from adherence to the principles of dispute system design¶ and the research and theories of procedural justice.¶ III. DISPUTE SYSTEM DESIGN AND PROCEDURAL JUSTICE¶ A. Dispute System Design¶ No dispute or dispute resolution process exists in a vacuum.¶ Rather, every “conflict, issue, dispute, or case submitted to any institution¶ for managing conflict (including one labeled ADR [alternative¶ dispute resolution]) exists in the context of a system of rules,¶ processes, steps, and forums. In the field of ADR, this is called dispute¶ system design.”68 Dispute system design is based on an amalgam¶ of conflict theory, theories of organizational development, and an¶ understanding of both “traditional” and “alternative” dispute resolution.¶ It provides guidance regarding the process to be used in structuring¶ a system, determining the component parts of the system, and¶ measuring the system’s effectiveness.¶ Based on field experience resolving disputes in the coal industry,¶ William Ury, Jeanne Brett and Stephen Goldberg first wrote about¶ dispute system design in their 1988 book, Getting Disputes Resolved.¶ 69 They found that disputes in the workplace often are resolved¶ through the use of power and rights, rather than interests.¶ When organizations focus on achieving power-based or rights-based¶ solutions, they miss the opportunity to find better solutions, better¶ engage their stakeholders, and save money.70 The second generation¶ of dispute system design, captured in Cathy Costantino and¶ Christina Sickles-Merchant’s book, Designing Conflict Management¶ Systems,71 discusses how organizations create ADR methods most responsive¶ to their needs in advance of the ripening of conflict.72 In¶ thinking about the array of choices available to organizations, they¶ outline six categories of ADR processes: (1) preventative (e.g., dispute¶ resolution clauses, partnering, consensus building), (2) negotiated; (3)¶ facilitated (e.g., mediation, conciliation, institutional ombuds); (4)¶ fact-finding (e.g., neutral experts, masters); (5) advisory (e.g., early¶ neutral evaluation, non-binding arbitration);73 or (6) imposed (e.g.,¶ binding arbitration).74¶ Applying this framework to investor-state disputes reveals that¶ the currently-dominant system for resolving investor-state disputes¶ relies explicitly on only one method in one category: binding arbitration,¶ in the imposed category. As noted earlier, a few states have begun¶ to experiment with mechanisms that fit into the preventative¶ category and that are available to an investor even before it begins to¶ frame its concern as a “dispute,”75 or has to turn to arbitration.¶ Now in the “next generation” phase of dispute system design,¶ commentators agree that the best systems are characterized by the¶ following:76 (1) multiple process options for parties,77 including¶ rights-based and interest-based processes; (2) ability for parties to¶ “loop back” and “loop forward” among these options; (3) substantial¶ stakeholder involvement in the system’s design (with significant concern¶ about the perceived unfairness of dispute system design systems¶ designed by one disputing party and imposed upon the other¶ disputing parties78); (4) participation that is voluntary, confidential,¶ and assisted by impartial third party neutrals; (5) system transparency¶ and accountability;79 and (6) education and training of stakeholders¶ on the use of available process options.¶ Dispute system design scholarship originally posited that the initial¶ focus in resolving disputes should be on interests, rather than¶ rights or power.80 The current use of arbitration represents a movement¶ from power (when some states bullied each other or bullied investors)¶ to rights (since states and investors are treated as equal¶ players, both bound by the terms of treaties and contracts). Mediation,¶ if understood as a presumptively interest-based technique,¶ would represent the next movement, from rights to interests.¶ But the more recent evolution of dispute system design no longer¶ assumes that attempts at resolution must begin with an interestbased¶ process. Instead, the best dispute systems simply include an¶ interest-based process, and parties may begin with that process or¶ another and loop forward and backward among the available¶ processes. Meanwhile, as will be discussed infra, today’s mediation¶ process is no longer assumed to be exclusively interest-based; rights¶ and power almost inevitably play a role.81 So, integrating mediation¶ into the investment treaty context would provide investors and states¶ with the opportunity to resolve their disputes through a process that¶ provides for explicit consideration of their interests, consistent with¶ dispute system design principles, without eliminating consideration¶ of rights.¶ Throughout the years, dispute system design literature also has¶ consistently emphasized stakeholders’ role in designing the dispute¶ system and the need to be able to demonstrate the system’s positive¶ impacts upon efficiency, effectiveness, stakeholders’ satisfaction, and¶ justice perceptions.82 Indeed, research suggests that stakeholders’¶ engagement in decision-making regarding the design of a dispute system¶ (including the processes that are included, the elements that are¶ compulsory, and mechanisms to assure both informed stakeholder¶ participation and system accountability), as well as their role in selecting¶ the particular process or processes they will use to resolve¶ their dispute and their subsequent experience with those processes,¶ all impact their perceptions of the procedural (and substantive) justice¶ offered by the system and individual processes. This Article will¶ next turn, therefore, to a discussion of this research and theories of¶ procedural justice.

Reforming the BIT regime to empower host states is key.

Bhusan and Nagaraj 12-- fifth year students pursuing BA LLB (Hons.) from NALSAR University of Law, Hyderabad (S. and Puneeth, 1/6, “Need to align bilateral investment treaty regime with global reality”, http://www.thehindu.com/business/companies/need-to-align-bilateral-investment-treaty-regime-with-global-reality/article4276916.ece) EL

The White Industries award against India whch granted close to Australian $10 million as damages for delays by Indian courts in the enforcement of an earlier arbitration award has brought India’s Bilateral Investment Treaty (BIT) regime into focus. White Industries, an Australian company, which had undertaken to supply equipment and develop the Pipawar Mine for Coal India Ltd. (CIL) initiated arbitration against CIL over some disputed payments in 1999. Though White Industries won the case in 2002, the award was not enforced even by 2010. Hence, it initiated an investment claim against the Government of India under the Australia-India BIT. BITs are international treaties between two countries which seek to create a stable investment environment by giving investors rights against States’ abuse of sovereign powers. Since the White Industries case, Vodafone has issued a notice under the India-Netherlands BIT against India for its proposed retrospective amendment to the tax code. This is not an isolated instance as other companies such as the Russian conglomerate Sistema, Norwegian company Telenor, and the British hedge fund Children’s Investment Fund, have reportedly initiated arbitration proceedings against India for various regulatory actions.¶ GLOBAL BACKLASH¶ In the light of the claims against the government, the Department for Industrial Policy and Promotion has called for a review of all 82 BITs signed by India. The review is only symptomatic of the larger global backlash against Investment Treaty Arbitration (ITA), that is, arbitration arising from BITs and other investment agreements. Australia, for example, has stopped signing BITs, which have arbitration provisions (ironically, the White Industries award was granted in favour of an Australian investor). South Africa has decided to review its existing BITs with “a view to terminating and possible renegotiation on the basis of a new Model BIT”. Further, Venezuela, along with Ecuador and Bolivia, before it, have denounced the ICSID Convention (which establishes the International Centre for the Settlement of Investor Disputes to arbitrate investor state disputes) to stem the investment arbitration cases against it.¶ Despite threat of new arbitration claims, India is attempting to sign BITs with the United States, Canada, and a host of other nations. This dichotomy is illustrative of India’s position as an economic power. India is not only an attractive destination for foreign investment but Indian investors have substantive investments abroad, too. Companies such as Tata Steel, Bharti Airtel and ONGC Videsh have interests abroad through acquisition of mines and oil fields.¶ The principal objective of BITs is to provide a stable investment climate, inter alia, by protecting investments from the arbitrary actions of a foreign government. While BITs may expose India to claims from foreign investors, they also guarantee protection of Indian investors’ investments abroad. This might explain why the States with which India has BITs are also the ones which attract a large proportion of Indian investment.¶ Corporate Europe Observatory, an influential European think tank, published a report titled ‘Profiting from injustice’ on November 27 giving voice to some widely held apprehensions regarding ITA. Criticisms include lack of transparency in proceedings despite involvement of taxpayer money; the need for judicial independence as arbitrators and counsel are drawn from a small ‘club’ belonging predominantly to capital exporting nations from Europe and the U.S.; and that it reduces States’ regulatory space. These criticisms are based on the idea that ITA is a predominantly pro-investor and anti-developing State mechanism which seek to profit from crisis situations. These criticisms are not entirely unfounded, given the experiences of Argentina. Having gone through a financial crisis at the turn of the millennium, it faced a flurry of claims before the ICSID. Indeed, Argentina has around 25 cases still pending before the ICSID. However, the Argentine example is also an instance of balancing State and investor claims. Many of the adverse awards against Argentina have since been annulled by review panels under the ICSID. Further, States are not completely helpless in such cases as they can raise counter-claims against investors and even win damages in the process. There have also been a number of claims against developed nations by investors from developing nations such as Mafezzini v Spain, where an Argentine national initiated a claim against Spain. In fact, States can even initiate claims against investors. Though this is rare, it is not entirely unfathomable-evident from three reported State-initiated cases, namely, Gabon v Société Serete (Government of Gabon against a French investor), East Kalimantan v PT Kaltim Prima Coal (provincial government in Indonesia against an Anglo-Australian joint venture) and Tanseco v IPTL (Tanzania’s state-owned electricity supply company proceeded against a Malayisa-Tanzania joint venture). There is a movement in international law to impose greater obligations upon corporations. State-initiated claims can fuel this movement, and herald a new generation of claims in ITA. BITs are necessary, as doing away with them will mean a return to the ugly days of gunboat diplomacy, diplomatic protection and politicisation of disputes.¶ NEED FOR REFORM¶ So, a case can be made out to pursue an aggressive BIT policy for a country like India which has as much to gain from investment protection as any other State party to BITs. But the need to evolve State empowering measures must be noted. The UNCTAD 2012 World Investment Report also confirms the need for reform in the existing BIT regime by expanding the role of the State. India has done so by allowing for State-initiated arbitration in its Model BIT. Though India is in a position to push for major BIT reform, the lacunae in India’s legal regime may defeat such efforts. The Indian Arbitration and Conciliation Act, 1996, cannot be applied to investment awards, which would mean that an investment award cannot be enforced in India. This inapplicability results from strictures in the Act that requires arbitration agreements to comply with the Indian Contract Act, 1872. Since ITA finds its roots in international law, more often than not, investment awards will be incompatible with Contract law. Further, India’s abstinence from the ICSID Convention will result in difficulty for a hypothetical Indian investor to enforce an investment award in its favour. The changing dynamic of the global economy has led to a transformation in the role of developing countries as both capital importing and exporting States. There is an urgent need to redefine the global BIT regime to reflect this changing paradigm rather than rejecting it altogether, an exercise that India’s BIT policy seems to be following to fruition.

Procedural justice in dispute resolution is key – controls investor confidence

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B. Procedural Justice Empirical research reveals that decision-making and dispute resolution procedures are most likely to be effective if they are perceived as procedurally fair.83 If parties perceive a dispute resolution or decision-making process as procedurally fair, they are more likely to perceive the outcome as substantively fair even if it is adverse to them,84 comply with that outcome,85 and perceive the institution that provides or sponsors the process as legitimate.86 Indeed, in the U.S., researchers have found that the public’s overall approval of, and confidence in, the courts are influenced most strongly by their perception that the procedures offered by the courts are fair.87 Researchers have found that perceptions of procedural justice matter in decision-making processes as well as dispute resolution processes,88 in one-on-one negotiation89 as well as mediation90 and arbitration, in workplaces as well as courts,91 and in countries with very different cultures.92 Four process characteristics reliably predict parties’ perceptions of fairness: the opportunity for parties to express themselves and their positions (“voice”),93 demonstration of sincere consideration of these expressions by a trustworthy decision-maker (“being heard”),94 even-handed treatment and the neutrality of the forum,95 and dignified, respectful treatment.96 Parties assess decision-makers’ trustworthiness97 in order to determine whether they “can trust that in the long run the [decision-making] authority with whom they are dealing will work to serve their interests.”98 Perhaps because parties element of procedural justice, it has also been described as an element of interactional justice, and even of distributive justice. See Robert J. Bies, Are Procedural Justice and Interactional Justice Conceptually Distinct?, in HANDBOOK OF ORGANIZATIONAL JUSTICE 85 (Jerald A. Greenberg & Jason A. Colquitt, eds., 2005). See also Welsh, Perceptions, supra note 83, at 170; Nancy A. Welsh, Remembering the Role of Justice in Resolution: Insights from Procedural and Social Justice Theories, 54 J. LEGAL EDUC. 49, 52 (2004); Welsh, Making Deals, supra note 83, at 820–21. Tom R. Tyler, one of the most prominent procedural justice researchers, has described these four elements slightly differently: What makes a process fair in the eyes of the public? Four critical factors dominate evaluations of procedural justice. First, people want to have an opportunity to state their case to legal authorities. They want to have a forum in which they can tell their story; they want to have a “voice” in the decision-making process. Second, people react to signs that the authorities with whom they are dealing are neutral. Neutrality involves making decisions based upon consistently applied legal principles and the facts of the case rather than personal opinions and biases. Transparency and openness foster the belief that decision-making procedures are neutral. Third, people are sensitive to whether they are treated with dignity and politeness and to whether their rights as citizens and as people are respected. Finally, people focus on cues that communicate information about the intentions and character of the legal authorities with whom they are dealing. People react favorably to the perception that the authorities are benevolent and caring and are sincerely trying to do what is best for the public—that is, when they trust that authority. Authorities communicate this concern when they listen to people’s accounts and explain or justify their actions in ways that show an awareness of people’s needs. Tyler, Rule of Law, supra note 85, at 664. realize that these procedural characteristics can be manipulated, however, they tend to be on high alert for “sham” procedures.99 For fairly obvious reasons, parties are likely to be particularly vigilant regarding the potential for a “sham” when they are uncertain that they can trust the others involved a dispute resolution process and/or the dispute is a very serious one, involving the potential for grievous harm.100 Several theories explain why parties care so much about procedural justice. First, parties want to be reassured that the decisionmaker has access to, and considers, the information they present. If the decision-maker has this information, and demonstrates consideration of it, parties are more willing to believe that their interests will be protected.101 Indeed, because it can be so difficult to determine whether an outcome is substantively fair, some have theorized that parties’ judgment regarding the fairness of a procedure acts as a heuristic for their judgments regarding the fairness of outcomes.102 Second, the procedures themselves communicate whether the parties The Effects of Trust in Authority and Procedural Fairness in Cooperation, 92 J. OF APPLIED PSYCHOL. 639, 646-47 (2007); see also David Markell, et al., What’s Love Got To Do With It?: Sentimental Attachments and Legal Decision-Making, 57 VILL. L. REV. 209, 239-40 (2012) (reporting research finding that trust in the motives of authorities is primary when sentimental values are at stake, while perceiving a decision-maker to be neutral is most important when monetary interests are primary). accessing those procedures are deserving of respect. If the neutral in a dispute resolution process listens to the parties before her and consistently demonstrates both respect and a sincere attempt to be openminded and even-handed, these behaviors signal to the parties that they are valued members of the group, regardless of whether that group is a nation, a local community, or a workplace.103 Refusal to listen or closed-mindedness signals a lack of respect. More recently, Allan Lind and others have urged that parties use their perceptions of procedure as a mechanism to manage the negative dynamics, sense of vulnerability, and risk often associated with uncertainty.104 A fair procedure communicates the decision maker’s (and the sponsoring institution’s) respect for, and well-meaning attitude toward, the party which can then help to reduce the anxieties associated with actual loss, feared loss, and/or an uncertain future. Recent research has also revealed that although procedural justice matters to most people, it can matter to some people more than others. For example, those who perceive themselves as having lower or uncertain status are more likely to perceive a just outcome if the higher status decision-maker—who could be the neutral or the other negotiator—treats them in a procedurally just manner.105 Parties who are collectivists or who find themselves in situations that accentuate hierarchy and unequal status106 are also likely to be very aware if they are treated in a procedurally just manner.107 Individualists and higher status parties, in contrast, are much less influenced by procedural justice. Indeed, their positive perceptions regarding a 103. This is the “group value” or “relational” theory. People notice the psychological message that procedures convey regarding their value to the relevant social group. To receive respect and sincere consideration signals the individual’s value and social standing. See Tyler, Psychological Models, supra note 85, at 858. process will matter less than the “bottom line”—i.e., whether the outcome is at least consistent with their expectations.108 Procedural justice research is particularly important in the investment treaty context, as some states threaten noncompliance and as all stakeholders express a desire to know that they are being treated fairly within a system that they perceive as legitimate. It is obviously important that states and investors perceive the investment treaty arbitration process as procedurally just.109 Procedural justice theories and research can provide useful procedural benchmarks to arbitrators and arbitral organizations committed to 108. See JANE ADLER ET AL., SIMPLE JUSTICE: HOW LITIGANTS FARE IN THE PITTSBURGH COURT ARBITRATION PROGRAM, 61-62 (1983) (discussing difference between organizational and individual parties’ reactions to Pittsburgh arbitration program); Lind et al., supra note 102, at 247 (reporting that procedural justice judgments strongly influenced litigants’ decisions whether or not to accept non-binding arbitration awards, regardless of whether litigants were individuals, small business owners, or corporate officers, except that corporate employees failed to demonstrate such link); Wayne Brazil, Hosting Mediations as a Representative of the System of Civil Justice, 22 OHIO ST. J. ON DISP. RESOL. 227, 237-38 (2007) (expressing no surprise that “bigtime economic actors” would acquire thicker “‘process skin’” and be “much more concerned about ends than means . . . [and thus] not likely to mind a little ‘process roughness’ if they sense that it increases the odds that they will get a deal”); Tyler, Social Justice, supra note 83, at 123 (describing the significance of social categorization and referencing research showing that “people are less concerned about justice when they are dealing with people who are outside their own ethnic or social group;” and “when people have a dispute with someone who is not a member of their own social group, they pay more attention to the personal favourability of a proposed dispute resolution when deciding whether to accept it”); Diane Sivasubramaniam & Larry Heuer, Decision Makers and Decision Recipients: Understanding Disparities in the Meaning of Fairness, 44 CT. REV. 62, 66 (2007-2008) (reporting several experiments that demonstrated that those assuming the role of authority or decisionmaker were more likely to define fairness in terms of outcome, while those who were decision recipients were more likely to be concerned with respectful, fair treatment). But see Donna Shestowsky & Jeanne Brett, Disputants’ Perceptions of Dispute Resolution Procedures: An Ex Ante and Ex Post Longitudinal Empirical Study, 41 CONN. L. REV. 63, 94-106 (2008) (finding that those who expressed pre-process preference for a process in which a third party made the decision were likely to be satisfied with that process, and detailing research indicating that corporations prefer mediation due to their ability to control outcome, which can be understood as being consistent with achieving expectations). achieving these goals.110 Perceptions regarding the procedural justice of investment treaty mediation, however, will also matter.111 In fact, perceived and actual procedural justice should be the goal for all of the dispute resolution procedures that comprise the dispute resolution system available in the investment treaty context.112 Further, we should take a step back to examine the decisionmaking process that leads to the development of the dispute resolution clauses in investment treaties, including such clauses’ definition of the array of available processes and the mechanism that will determine the process to be used for a particular dispute. Research suggests that stakeholders’ perceptions of procedural justice are likely to matter just as much in this “upstream” decision-making context as in the later “downstream” dispute resolution process.113 Professor Lisa Bingham has noted, “[i]n its best practice, DSD. . .uses inclusive, participatory, stakeholder-driven processes to change existing or create new dispute resolution structures. Its goal is to improve the capacity of systems to prevent, manage, or resolve certain streams or kinds of conflict.”114 Stakeholders are likely to perceive procedural justice in this sort of “inclusive, participatory” process, used to design or amend the dispute resolution clause in an investment treaty, if and only if they receive the opportunity for voice, serious and trustworthy consideration, and even-handed, dignified treatment in a neutral forum. 115 In other words, their perceptions of procedural justice will depend upon how their participation is managed. Such perceptions will matter because they will influence stakeholders’ perceptions regarding the substantive justice of the treaty’s dispute resolution clause and prescription of particular procedures. It will also impact the likelihood of the stakeholders’ compliance with the treaty provisions and their respect for the legitimacy of the states engaged in making the treaty. Thus, attention to procedural justice should enhance the effectiveness of the participatory stakeholder processes prescribed by dispute system design.116 urging that such opportunity will enhance parties’ perceptions of procedural fairness of process). But active “participation” in a decision-making process is likely to require something more than just “voice.” It requires give-and-take, and listening as well as expressing one’s own point of view. See Welsh, Stepping Back, supra note 81, at 606. Researchers have found that while mediating parties’ perceptions of procedural justice are enhanced by the opportunity to “tell their views,” these perceptions are not affected by the opportunity to “participate” in the process. This has led Roselle Wissler to suggest that “parties’ sense of voice is more important to their experience in mediation than is how much they participate.” Wissler, supra note 90, at 450. Much later, when a particular dispute emerges, dispute system design’s preference for loop-backs and loop-forwards suggests that the designated dispute resolution facility should provide the disputing state actors and investors with another opportunity for input— into the selection of the particular process that will be used to resolve their dispute (including, if appropriate, the particular model of that process),117 the timing of such process, and the particular neutral or neutrals who will conduct the process. Again, the opportunity for such input118 is likely to have positive effects in terms of procedural justice perceptions, provided that the parties believe that their input is being received respectfully, given serious and trustworthy consideration, and judged in an even-handed manner in a neutral forum.119 With this brief introduction to dispute system design and procedural justice, this Article will now turn to an examination of the experience with court-connected and court-oriented mediation in the U.S. This examination will reveal significant variations among mediation models. Only some of these variations are different enough from other available procedures (especially conciliation) to meet dispute 9; see also Chris Carlson, Convening, in THE CONSENSUS BUILDING HANDBOOK: A COM- R PREHENSIVE GUIDE TO REACHING AGREEMENT 169 (Lawrence Susskind et al., eds., 1999) (discussing the convening function); BARBARA GRAY, COLLABORATING: FINDING COMMON GROUND FOR MULTIPARTY PROBLEMS 261-7 (1989); BERNARD MAYER, THE DYNAMICS OF CONFLICT RESOLUTION: A PRACTITIONER’S GUIDE 225 (2000); Laurel S. Terry, From GATS to APEC: The Impact of Trade Agreements on Legal Services, 43 AKRON L. REV. 875, 888-89 (2010) (demonstrating the value of “conversation starter” provisions in international trade agreement that require the development of crossborder professional services working groups and have resulted in the active participation of state judiciaries responsible for the regulation of lawyers). system design’s prescription for multiple process options, interestbased processes as well as processes based on rights and power, and the need for meaningful loop-backs and loop-forwards. The Article will also examine the many variations among compulsory mediation referral schemes in order to find those few that are most likely to meet dispute system design’s prescription for stakeholder involvement as well as the opportunity for voice, serious and trustworthy consideration, and even-handed, neutral and dignified treatment that lead to procedural justice perceptions. Finally, the Article will discuss potential quality controls in the selection and performance of the pool of mediators, to provide for accountability pursuant to dispute system design.

Second is CREDIBILITY –

Investment is collapsing now—Venezuela is financing regional alternatives.

ADR Resources 07—private institution dedicated solely to providing specialized information on international ADR, and to promoting a better understanding and use of alternative dispute resolution mechanisms to resolve civil and business disputes (“No more arbitration. The ICSID faces a credibility crisis”, 5/14, http://adrresources.com/adr-news/457/no-arbitration-icsid-faces-credibility-crisis) EL

\*Bolivia’s not in OPEC. \*Venz creating alts to BITs with other countries.

Argentina has long been fed-up with the Word Bank, but it has not yet withdrawn from the Institution or its International Centre for Settlement of Investment Disputes, also known as the ICSID, itself the result of the Washington Convention, of March 18th, on the Settlement of Investment Disputes between States and Nationals of Other States, which the reader may consult in the accompanying documentation. Bolivia, however, has announced its withdrawal from this institution, and so has Venezuela. In fact, these countries are orchestrating an international movement against the ICSID, and the ICSID is so far not responding to what appears to be a domino effect, which should worry the World Bank.¶ ¶ Essentially, the World Bank does what any bank does: it lends money. However, the sums of money requested of this institution allow it to impose political and macroeconomic reforms on borrowing countries. Actually, not even large financing explains the World Bank’s extraordinary power but, rather, the precarious conditions under which financing is requested, oftentimes when countries face extraordinary social, political and economic turmoil and hardship. Loans alleviate extreme circumstances but, in the long run, chain countries to the World Bank’s demands for structural reform, or so it is believed by countries leaving or contemplating leaving the World Bank.¶ ¶ Many bilateral investment treaties (BIT’s) –the vast majority, in fact—incorporate a reference to the ICSID as the institution investors can turn to, to resolve investor/state disputes through arbitration. The reference to the ICSID is meant to protect investors. Let us remember that many BIT’s have “for the protection of investments” as a part of their official title.¶ ¶ The protection of investors through BIT’s requires independent, impartial dispute resolution procedures, since investors rarely wish to litigate in open ordinary courts of a country where the public administration is a defendant. It actually does not matter that a country’s constitution establishes a clear separation of powers between the executive, the legislative and the judiciary branches if investors do not trust the independence of the judiciary of the country where they plan to invest. As a matter of fact, the World Bank’s ICSID intends to be a cure to a state’s perceived lack of judicial independence. We dare go further. Many states agree to incorporate ICSID arbitration to attract investment because they know their legal systems have a credibility problem; they know that without arbitration, large investment ventures would be none or insufficient. We are not talking about small companies seeking opportunities abroad, a niche. We are really talking about huge, sophisticated multinationals capable of managing large billion-dollar infrastructure and natural resource projects.¶ ¶ ICSID’s statistics are the weapon some states use as arguments to withdraw from the World Bank or the Washington Convention. States withdrawing, or contemplating withdrawal, believe that the ICSID’s primary goal is to make sure investors get their money. Worse, on occasions, some states believe that “the system” perpetuates “extortion” because they believe that the Bank is not out there to protect investment, but investors.¶ ¶ Certainly, most arbitrations are not initiated by states, but by investors. Statistics are very clear on this fact. Additionally, the states which have begun this –let us call it “rebellion”—argue that most cases filed with the ICSID are filed by investors against developing countries, rarely against G-8 countries.¶ ¶ The secrecy/confidentiality of ICSID proceedings is criticized. Administrative and arbitrator fees are criticized. Some developing countries criticize that investors may bring an action before the ICSID without having begun to invest, that is, that they are allowed to arbitrate for compensation on unfinished projects when changing political and socio-economic circumstances impact on expected returns on investment, as if investors had to be guaranteed a sort of a “time-freeze” on contractual conditions, provided it is to their advantage.¶ ¶ Also, some countries argue that submitting the settlement of disputes to the ICSID is unconstitutional, on grounds that no constitution cedes sovereignty to a foreign institution when the interests of the state as a contracting party are at stake. These countries believe that disputes should be settled in their own courts of law. Fallacious indeed, as detractors of the ICSID on these grounds exercised a sovereign choice to adhere to and to ratify the Washington Convention. Fallacious or not, this is how some states feel.¶ ¶ No “mea culpa” is heard from states leaving, or contemplating leaving, not just the ICSID, but the World Bank itself. It is as if the governments which entered into these international agreements had been foreign, illegitimate, anti-democratic, and corrupt. Abandoning the World Bank and reneging the Washington Convention is hailed as the only means to regain sovereignty, control, and dignity. Social and economic revolution has become the path through which to regain core values and independence. We must be mindful, however, that in cases such as Bolivia and Venezuela, the path to their very own brand of revolution is legitimate as both presidents in these two countries were democratically elected. They have every right to look inward and to abandon international institutions they once joined.¶ ¶ It would not be too far-fetched to conclude that a growing number of states believe that large-scale investment on infrastructures and natural resources will come with or without the World Bank or the ICSID, although it appears to be a dangerous premise yet to be time-tested. To cure the uncertainty of withdrawal, the path chosen is added uncertainty in the form of regional institutions similar to the World Bank.¶ ¶ Given the enormity of Venezuela’s natural resources –principally oil—this country has seen fit to lead alternative regional financing through a network of “Pan-American Bolivarian” institutions yet to be established, their efficiency yet to be tested. The long-term consequences or wisdom of this course of action can’t probably be envisioned even by Venezuela’s President, whose legitimate mandate is not necessarily eternal as he may one day lose as democratically as he won. President Hugo Chavez may very well not see his project through. In fact, he may very well see it dismantled. Additionally, Venezuela’s new-found partners are led by democratically elected presidents whose mandates have to be renewed from time to time with the exception of Cuba, of course.¶ ¶ If Venezuela manages to lead viable regional financing alternatives, will the country itself overcome the “syndrome” of demanding a political quid-pro-quo in exchange for financing, as it blames the World Bank of doing? Some countries entering new regional institutions will be recipients of funds more than donors, and recipients pay: one way or the other, borrowers have to pay. However, “regional servitude” may be more palatable than “international servitude”. Time will tell.¶ ¶ Before this scenario, the World Bank is silent, or so it seems. Naturally, states are free to join or withdraw, but there is a crisis which appears unmanaged. Little, if anything, can be done if a state or a group of states feel aggrieved in their dignity and sovereignty by the World Bank itself. Pinpointing “what happened” may prove impossible due to the sheer size and complexity of the World Bank as a major international institution.¶ ¶ Regarding the ICSID, the World Bank can and should address criticism no matter how fallacious; if not, a domino effect may result in a myriad of regional institutions established principally to spite the World Bank. While some countries may think “too little, too late”, the way the ICSID works is perceived as a problem but, at least, they are telling the World Bank what the problems are.¶ ¶ Transparency¶ Arbitral proceedings have a clear public and private interest. It goes without saying that we do not question transparency, but the ICSID may want to address how transparency is perceived. Perhaps the record should be 100% public, as defined by Member States, not the ICSID, which is but a case administrator.¶ ¶ Costs¶ Defending billion-dollar claims with underlying political and social overtones and consequences is complex and not cheap. Nothing can be done about the fees attorneys charge states to represent their interests. The ICSID can and should do something about its fees and, above all, about arbitrator fees. Perhaps a pool of funds can be established to finance proceedings subject to final allocation by arbitrators. Perhaps, the States whose investors demand arbitration the most should foot a proportionate share of the pool destined to cover arbitration fees. No doubt, this course of action would take care of this aspect of the criticism towards the ICSID.¶ ¶ Case law¶ Argentina faces financial ruin. If Argentina lost all cases presently pending before the ICSID, it would be broke for millennia. Argentina has often claimed that facing a panel is facing a brand new uncertainty because decisions are independent and not used as bases for other similar cases. A double-edge sword no doubt, but this is a bitter criticism coming from Argentina.¶ ¶ When it comes to case law, Argentina probably looks for a single case, in which the award says that as a sovereign country it has the authority and legitimacy to amend contracts unilaterally when it feels social and economic conditions warrant such amendments. In essence, Argentina claims the right of “subject to change without notice”.¶ ¶ Yes, we are talking about arbitration but, really, at its core and origins, arbitration was designed to resolve B2B disputes, employment disputes, etc. Disputes filed before the ICSID are not just any kind of dispute and it knows it. Maybe a measure of case law should be allowed to be established.¶ ¶ Representation¶ All Member States have a say, but countries withdrawing don’t think so. Worse, these countries feel that the ICSID is an institution designed to serve the interests of investors. If the ICSID handles disputes filed principally against developing countries, it stands to reason that developing countries must be taken into consideration. “They are taken into consideration” the World Bank and the ICSID may claim. Time to do more then, because some states do not think so.¶ ¶ There is discontentment with the ICSID and the World Bank, and it is causing states to dream-up regional alternatives whose future itself is uncertain and, as such, potentially destabilizing to the world economy. The time may not have come for reform and change, but the time to listen when it comes to arbitration has indeed come. Or gone?

Venezuela currently rejects the international investment system

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In January 2012, the Bolivarian Republic of Venezuela denounced the ICSID Convention,[1] becoming the third country – after Bolivia and Ecuador – to do so. The exit from the global forum for the settlement of investment disputes signals these countries’ apparent loss of faith in the system and raises questions about the Convention’s fitness for purpose. This article looks at the possible reasons which prompted Venezuela to take this step, the impact it is likely to have and some broader issues arising from it. Policy context The Foreign Ministry’s 2012 press-release points out that the country acceded to the Convention in 1993 by “a decision of a provisional and weak government, devoid of popular legitimacy, and under the pressure of transnational economic sectors involved in the dismantling of Venezuela’s national sovereignty.”[2] The current government thus sees itself as correcting the mistakes of the earlier one. Far-reaching economic reforms by President Hugo Chávez’s government also indicate that – in the view of those currently in power – joining ICSID was one of many things where the previous regime had gone wrong. Chávez’s economic programme seeks to re-establish the role of the state in the economy, especially in strategic sectors, farmed out to foreign corporations in the 1990s. Over the past few years, Chávez’s government has carried out a wave of nationalizations of domestic-and foreign-owned assets in petroleum, steel, agribusiness, construction, tourism, telecommunications, banking and some other industries. Most foreign investors’ grievances against the government are the fallout of these claw-back policies; the main issue in dispute is usually whether the amount of compensation offered by the government is sufficient. Impact on pending and future claims From a purely legal perspective, withdrawal from ICSID does not offer any immediate benefits to Venezuela. Being second only to Argentina in this respect, the country currently has 20 cases pending against it at ICSID[3] (ten of them initiated in 2011) and faces the prospect of having to pay billions to successful claimants. These pending cases are in no way affected by Venezuela’s denunciation of the ICSID Convention. Furthermore, disgruntled foreign investors will still be able to initiate new cases during the six months between the notice of denunciation and the date when it becomes effective (25 July 2012). The question whether investors would have a right to continue bringing claims after 25 July 2012 has been a subject of some debate due to the unclear formulation of Article 71 of the ICSID Convention. The predominant view is that such claims, when they are based on a bilateral investment treaty (BIT), will not be registered, despite the fact that Venezuelan BITs remain in force and retain a reference to ICSID arbitration. This is because BITs are understood to record a country’s unilateral offer of consent to arbitration which must be “perfected” by an investor (by submitting a request for arbitration) before the country ceases to be a member of ICSID.[4] (By contrast, where consent to ICSID arbitration has been given by the country, for example, in a concession agreement with an investor, ICSID proceedings could be started even after the denunciation takes effect. This is because, unlike BITs, both parties to the contract give their advance consent to arbitration.) However, of the 26 BITs in force for Venezuela,[5] only two (with Chile and with Germany) name ICSID as the sole arbitral venue available to investors. All other BITs provide, in addition to ICSID, an opportunity to arbitrate under UNCITRAL Arbitration Rules and ICSID’s Additional Facility Rules.[6] This means that even after the withdrawal from ICSID becomes effective, investors from the covered countries will still be able to sue Venezuela outside its domestic courts. ICSID v. UNCITRAL What is special about arbitration under the ICSID Convention by comparison to the UNCITRAL or ICSID Additional Facility rules? The most important difference is that ICSID arbitral awards are equivalent to “a final judgment of a court”[7] in all of the ICSID Contracting States (i.e., they do not require internal judicial procedures to enable enforcement), and are therefore directly executable in most countries around the world. (This reading of the Convention has been opposed by Argentina’s lawyers who insist that claimants, who have received an ICSID award against Argentina, must still apply to an Argentine court to have the ICSID award executed in the country.[8]) In contrast, arbitral awards rendered under the UNCITRAL Arbitration Rules (or the ICSID Additional Facility Rules) do require additional domestic enforcement procedures. This process, however, is greatly facilitated by the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which (1) contains only very limited grounds for refusing recognition and enforcement, and (2) enables enforcement in any state party to the New York Convention (currently, 146 states). Even if the enforcement procedures are thus more cumbersome than under the ICSID Convention, it is still feasible to execute these awards in countries around the world where Venezuela has assets. Ideological battleground over enforcement If exiting from ICSID does not solve Venezuela’s problem with foreigners bringing international claims against it, what is its main purpose? The reasons appear to be more political than legal. By denouncing the Convention, the government seems to be sending a political message: we think this system is unfair, we disavow it and refuse to cooperate with it in future. The part about the future is very important because it relates to the collection of damages to be ordered by ICSID tribunals against Venezuela. Interesting to note in this connection is the government’s view, or at least its portrayal, of ICSID as pandering to transnational corporations. According to the Foreign Ministry’s 2012 press-release, ICSID tribunals have “ruled 232 times in favor of transnational interests out of the 234 cases filed throughout its history.” While a gross misrepresentation of ICSID’s record (in fact, so far states have won more cases in ICSID than they have lost[9]), it nevertheless reveals the Venezuelan government’s view of this forum. Accusing ICSID of bias gives ideological backing to President Chávez’s statement that the Republic “will not recognize any ICSID decisions.”[10] The government has already moved its gold reserves from foreign banks to Caracas (160 tons valued at nearly US$9 billion);[11] it was also reported as preparing to transfer US$6 billion in cash reserves held in European and U.S. banks to Russian, Chinese and Brazilian banks.[12] The latter, presumably, are seen as less likely to accommodate freezing orders and to facilitate the enforcement of arbitral awards against Venezuela. Experience has shown that it can be a challenge to enforce an award (be it ICSID or non-ICSID) outside the territory of the respondent country as a lot of state assets are protected by the sovereign immunity doctrine.[13] Is ICSID the one to blame? ICSID is a dispute resolution forum; arbitrators apply the rules, which are created by states and enshrined in bilateral investment treaties. Venezuela’s discontent with ICSID seems to go beyond the remit of this forum and concerns a much broader issue regarding the ability of BITs to deal with economic and political reforms. This issue is not limited to Venezuela; it has universal significance in light of the general trend towards increasing state intervention in the economy[14] and especially in countries undergoing regime change.[15] Venezuela’s disputes primarily concern nationalizations. The government has confirmed its commitment to pay “fair compensation […] in accordance with Venezuelan law”[16] which it understands as the book value of an investment (i.e., determined by reference to the amounts invested) as opposed to the market value (based on the present value of future cash flows). The latter will often be significantly higher than the former, especially if an enterprise has good business prospects. BITs routinely require compensation equal to the “fair market value” of the expropriated investment, even if the expropriation is in the public interest, non-discriminatory and carried out in accordance with due process of law. Commentators have pointed out that a rigid rule for full compensation (i.e. calculated on the basis of the market value of investment) would in reality render any major economic or social programme impossible.[17] The amount of compensation for assets lawfully expropriated, especially as part of a broad economic reform, should take into account equitable factors, unrelated to a strict business valuation exercise. For example, was the original “deal” agreed by an investor with the (earlier) government a reasonable bargain or was it granted on terms unfavourable to the country and against its national interests? Was there a change in circumstances (such as an increase in oil prices) that benefits one party only? Has the investor recouped its sunk costs and has it enjoyed a lengthy period of (highly) profitable operations by the time of the nationalization? The law, as it currently stands in most BITs, practically wipes out the differences in compensation for lawful and unlawful expropriations.[18] The rigid compensation rule in most BITs and a high risk of arbitrators rigidly enforcing it, thereby leading to outcomes perceived as unacceptable, unfair and unsustainable financially at home, push countries like Venezuela to look for ways to get out of the system. Dealing with the BIT regime To fully dismantle the system of arbitration under BITs, Venezuela would need to terminate – in addition to the ICSID convention – all of its BITs. After such termination it would have to wait for the expiry of the additional period of 10-15 years (depending on a treaty), during which the agreements will continue to apply to investments established prior to the treaty’s termination. All of Venezuela’s BITs have such a “survival” clause. In 2008, Venezuela gave notice to terminate its BIT with the Netherlands thus triggering the sunset period, which will end in 2023. The Dutch BIT must have been a source of particular annoyance to the country as it has served as a basis of at least ten ICSID cases against Venezuela (the Netherlands is often used by firms from other countries for incorporating holding companies and structuring investments). Aside from the Dutch treaty, Venezuela has not moved to terminate any of its other BITs. Withdrawals from ICSID by Bolivia, Ecuador and now Venezuela, and termination of BITs[19] are a radical expression of a much broader trend to revisit key aspects of an international investment regime. In recent times, a significant number of countries have been reviewing their model investment treaties and renegotiating existing agreements in order to make them clearer, more balanced and conducive to fair outcomes. There is a pronounced need for further collective thinking and constructive engagement on these issues.

Investment credibility controls capital flows and is a prerequisite to global economic growth

D’Agostino 12 (Joseph D’Agostino J.D. Candidate 2012, U of Virginia School of Law; “Rescuing International Investment Arbitration: Introducing Derivative Actions, Class Actions, And Compulsory Joinder”; Virginia Law Review, Vol. 98; http://www.virginialawreview.org/content/pdfs/98/177.pdf; JRS)

THE rapidly expanding network of international investment arbitration (“IIA”) has reached a state of crisis that could threaten the foreign investment system. The number and economic influence of arbitration claims have exploded over the past two decades, along with denunciations of IIA. Many involved in IIA believe that crucial parts of the system could disintegrate over the next few years if systemic reforms are not implemented. Given IIA’s role in the growth of international investment, especially in developing countries, such a result could restrict international capital flows, improvements in the livelihoods of residents of developing nations, returns on investment in developed countries, and global economic growth itself. The future of international investment could rest on whether the World Bank-affiliated International Convention for the Settlement of Investment Disputes (“ICSID”) or the bilateral investment treaties (“BITs”) that usually operate within ICSID’s framework are reformed within the next few years. After listing the mounting complaints against it, a former official at the U.S. Agency for International Development and current Visiting Researcher at Harvard Law School concluded, “If ICSID, the principal foreign investment forum, does not adequately resolve foreign investment disputes, a backlash against foreign investment—one of the main factors for economic development—looms.” Numerous well-informed observers have warned of this developing crisis in the last few years. “[T]he rise of investment treaties and investment-treaty arbitration has attracted critical attention from the users of the dispute-settlement mechanism (that is, investors and host states) as well as various interest groups that claim to represent ‘civil society’ and the ‘public interest.’” This chorus has “contributed to a considerable amount of literature intimating that investment law may be in a veritable ‘legitimacy crisis.’” Critiques of both the substantive (“this crisis is caused by the vagueness and indeterminacy of the standard investor rights, leading to problematic predictability in the application of investment treaties”) and procedural (“relating to the overlap between different arbitral institutions and control mechanisms and the resulting inconsistencies in the decisions of different arbitral tribunals”) aspects of IIA have gained heavy traction. As prominent IIA scholar Susan D. Franck explains, “The legitimacy of investment treaty arbitration is a matter of heated debate. Asserting that arbitration is unfairly tilted toward the developed world, some countries have withdrawn from World Bank dispute resolution bodies [including ICSID] or are taking steps to eliminate arbitration.” The impact of even a partial IIA breakdown could be high since “[w]ith a four-fold increase [over the last decade] in the number of disputes, billions of dollars at stake, and national sovereignty and international relations on the line, investment treaty arbitration has become a vital aspect of the debate about the international political economy.”

Economic decline leads to war.

Royal, 10 – Jedediah Royal, Director of Cooperative Threat Reduction at the U.S. Department of Defense (Economic Integration, Economic Signaling and the Problem of Economic Crises, Economics of War and Peace: Economic, Legal and Political Perspectives, ed. Goldsmith and Brauer, p. 213-215)

Second, on a dyadic level. Copeland's (1996. 2000) theory of trade expectations suggests that 'future expectation of trade' is a significant variable in understanding economic conditions and security behaviour of states. He argues that interdependent states are likely to gain pacific benefits from trade so long as they have an optimistic view of future trade relations. However, if the expectations of future trade decline, particularly for difficult to replace items such as energy resources, the likelihood for conflict increases, as states will be inclined to use force to gain access to those resources. Crises could potentially be the trigger for decreased trade expectations either on its own or because it triggers protectionist moves by interdependent states.4 Third, others have considered the link between economic decline and external armed conflict at a national level. Blomberg and Hess (2002) find a strong correlation between internal conflict and external conflict, particularly during periods of economic downturn. They write, The linkages between internal and external conflict and prosperity are strong and mutually reinforcing. Economic conflict tends to spawn internal conflict, which in turn returns the favour. Moreover, the presence of a recession lends to amplify the extent to which international and external conflicts self-reinforce each other. (Blombcrj! & Hess. 2002. p. 89) Economic decline has also been linked with an increase in the likelihood of terrorism (Blomberg. Hess. & Weerapana, 2004). which has the capacity to spill across borders and lead to external tensions. Furthermore, crises generally reduce the popularity of a sitting government. "Diversionary theory" suggests that, when facing unpopularity arising from economic decline, sitting governments have increased incentives to fabricate external military conflicts to create a 'rally around the flag' effect. Wang (1996), DeRouen (1995), and Blombcrg. Mess, and Thacker (2006) find supporting evidence showing that economic decline and use of force are at least indirectly correlated. Gelpi (1997), Miller (1999). and Kisangani and Pickering (2009) suggest that the tendency towards diversionary tactics arr greater for democratic states than autocratic states, due to the fact that democratic leaders are generally more susceptible to being removed from office due to lack of domestic support. DeRouen (2000) has provided evidence showing that periods of weak economic performance in the United States, and thus weak Presidential popularity, are statistically linked to an increase in the use of force.

Independently, FDI solves escalation of war.

Desbordes and Vicard 05-- Rodolphe Desbordes is a Reader in the Department of Economics at the University of Strathclyde and Vincent Vicard is an economist at the Banque de France (6/22, “Being nice makes you attractive: the FDI - international

political relations nexus”, TEAM-University of Paris I Panth¶eon-Sorbonne, http://carecon.org.uk/Conferences/Conf2005/Papers/Vicard.pdf) EL

International Relations theory highlights the importance of taking into account the potential reversal causal relationship, i.e that bilateral FDI fosters cooperation among nations and deters the use of violence. Empirical results tend to support the liberal peace hypothesis that countries trading intensively with each other are less prone to conflict (Oneal & Russett, 1997, 1999)6 . The traditional argument underlying the \liberal peace hypothesis" that trade reduces con°ict relies on an opportunity cost analysis. Because states sharing economic linkages benefit from them, war, which is considered to shut those linkages down, is costly. Hence the prospect of higher war cost is said to deter economically interdependent states from resorting to violence to solve their disputes. Economic interdependence should foster diplomacy and lead to peace. Boehmer et al. (2001) develop an alternative theoretical explanation to support this hypothesis. Their model suggests that interdependence facilitates a reduction in the frequency of interstate disputes by making it easier for states economically linked to engage in costly signaling short of military violence . Both arguments can be applied to interdependence through trade or FDI; if bilateral FDI is considered as benefiting both countries, it should deter interstate conflicts and foster cooperation as international trade does7 ; the empirical literature has put forward that FDI tend to generate a positive impact on the host country's productivity and growth (Lispey, 2004). Hence, it is likely that FDI and interstate political relations are jointly determined8

1ac -- solvency

FDI resolves economic instability in Venezuela and forces Maduro to say yes.

Helios Global 13—service and professionalism of a consultancy; the principles and commitment of a social enterprise; and the creative ingenuity of a research institute (“Change in Venezuela Yields Political and Economic Uncertainty”, 4/29, World Trends Watch, http://www.heliosglobalinc.com/world-trends-watch/?p=152) EL

Nicholas Maduro’s narrow electoral triumph over opposition leader Henrique Capriles Radonski in Venezuela’s April 14 elections to serve out the remainder of the late president Hugo Chavez’s current presidential term signifies a turning point in Venezuelan politics. Maduro’s victory has also reverberated beyond Venezuela’s borders. Due to its role as a major source of oil, the course of political events in Venezuela also has important implications for the world economy. The death of Hugo Chavez has also raised concerns about the prospects of social, political, and economic stability in Venezuela. The victory of Chavez’s heir apparent – Chavez and his supporters went to great lengths to ensure the survival of the Bolivarian Revolution launched by Chavez’s United Socialist Party of Venezuela (known by its Spanish acronym PSUV) – in a politically charged and polarized climate has already resulted in unrest and violence between Maduro’s supporters and his opponents. Venezuela’s increasingly dire economic predicament has further exacerbated tensions across the country. Despite a contentious bilateral relationship, Venezuela remains the fourth-largest supplier of imported oil to the United States. Given the peculiarities of its oil, namely, the category of relatively low quality heavy crude oil that represents the bulk of its oil capacity, Venezuela relies heavily on U.S. refineries located in the Gulf of Mexico that were designed to refine oil from Venezuela (and Mexico). Roughly forty-percent of Venezuela’s oil exports are delivered to the United States. Consequently, the United States is Venezuela’s top trade partner. This is the case even as U.S. imports of Venezuelan oil have steadily declined in recent years. In 1997, the United States imported about 1.7 million barrels of oil per day (bpd) from Venezuela. In contrast, only about 1 million bpd of Venezuelan oil makes its way to the United States today. Venezuela also boasts major natural gas reserves, possibly the second-largest natural gas reserves in the Western Hemisphere. At the same time, Venezuela’s oil production capacity continues to deteriorate due to mismanagement, corruption, and antiquated infrastructure. With its emphasis on South-South cooperation, Latin American integration, and opposition to what it refers to as U.S. imperialism, Venezuela’s foreign policy has largely reflected its Bolivarian Revolutionary principles. Even as it has continued to serve as a major source of crude oil to the United States, Venezuela has also devoted significant diplomatic and economic resources toward checking U.S. influence in the Americas. Initiatives such as its Bolivarian Alliance for the Americas (known by its Spanish acronym ALBA) have served to expand Venezuela’s influence across the region. This support has come in the form of diplomatic and, especially, economic assistance to governments led by leftist political parties and movements that are often enmeshed in their own disputes with the United States, including Cuba, Nicaragua, and Bolivia. Venezuela has also supported a number of militant groups in the region, most notably, the leftist Revolutionary Armed Forces of Colombia (known by its Spanish acronym FARC) in neighboring Colombia. Venezuela has also engaged closely with other left-leaning governments across the region, including Brazil, a rising regional and geopolitical power in its own right that is slowly emerging as a challenger to the United States. Outlook Chavez’s appointment of Nicolas Maduro, a trusted loyalist, as Vice President was emblematic of efforts by the incumbent regime to ensure ideological and political continuity in any post-Chavez scenario. At the same time, despite its popularity among a sizable segment of the Venezuelan populace, it is unclear whether the PSUV will be able to retain its dominant role in Venezuelan politics without Chavez in the long-term. Maduro’s narrow victory in this month’s elections – Maduro is reported to have defeated his opponent by less than 2 percent of the total vote – reflects a shift in Venezuelan public sentiment. The removal of Chavez from the political equation will also have an important geopolitical impact that will be felt beyond Venezuela’s borders. Venezuela remains an important supplier of discounted oil for its regional partners and a source of other vital economic support. On the surface, Maduro’s decision to travel to Cuba for his first foreign trip in late April reflects his determination to continue the populist and activist foreign policy forged by his late predecessor. Venezuelan largesse in the form of discounted oil and other benefits has helped sustain Cuba’s Communist Party. Yet it appears that Maduro is operating under a weaker popular mandate. This raises important questions about his ability to maintain his late predecessor’s approach to foreign affairs, especially given the presence of an increasingly organized and emboldened opposition. Risks Operating under a weaker popular mandate and in a politically charged and polarized climate raises the specter of widespread disturbances in Venezuela. Capriles announced on April 25 that his movement plans to boycott an official audit of the election results due to concerns relating to voter registration irregularities. He has also called for a new presidential vote. Capriles and his supporters seem determined to step up pressure on the fledgling Maduro presidency. Countries that depend on Venezuelan largesse to support their economies through the receipt of subsidized oil and preferential trade access to the Venezuelan market, including Cuba, Nicaragua, and Bolivia, among others, stand to lose a great deal should Maduro choose to shift Venezuelan foreign policy, however slightly, from the Bolivarian Revolutionary ideals enshrined during Chavez’s rule. Having to contend with their own economic troubles, the loss of subsidized oil or other benefits provided by Venezuela, for example, can destabilize fragile polities, impoverishing millions in the process. This raises the potential of social, political, and economic instability throughout the region. Opportunities Despite his declared commitment to toe his predecessor’s ideological line, the gravity of the economic problems affecting Venezuela may force Maduro to depart from some of Chavez’s policies, especially those governing foreign direct investment (FDI) in Venezuela. Maduro may elect to liberalize certain sectors of the Venezuelan economy and institute other economic reforms in a possible bid to cater to his more moderate opponents, undercutting segments of the opposition and bolstering his own credentials in the process. The potential loss of a Venezuelan benefactor will also present new opportunities in countries previously dependent on Caracas. Eager to adapt to an evolving geopolitical order, countries previously reliant on Venezuela will seek out new partners and, potentially, sources of FDI.

The plan’s key.

Committee of House Ways and Means 99—“REPORT ON TRADE AND ECONOMIC GROWTH MISSION TO VENEZUELA, CHILE AND

BRAZIL”, 3/31, <http://www.gpo.gov/fdsys/pkg/CPRT-106WPRT3/pdf/CPRT-106WPRT3.pdf>) EL

CEVEU is committed to Venezuela being a part of the international community. As such, Mr. Maturet listed the main goals of their organization: (1) promotion of trade in general and particularly a preferential relationship with the United States; (2) completion and implementation of both the pending U.S.-Venezuelan bilateral investment treaty (BIT) and the pending U.S.-Venezuelan Tax Treaty; and (3) enhancing the role of the private sector in Venezuelan society. U.S. Ambassador John Maisto reiterated the U.S. position in support for both treaties as well as the hope that they might be concluded and signed at an early date. In response to a comment by one of the CEVEU members that President-elect Chavez has promoted a law that guarantees the sanctity of foreign investments in Venezuela, the Ambassador pointed out that such a law did not take the place of the BIT. A discussion followed, led primarily by Pedro Carmona, with regard to the domestic political environment in Venezuela, Mr. Carmona was a candidate for one of the state assemblies in voting that occurred in late 1998. He lost his election by 600 votes out of 26,000 cast. The President-elect has promoted the idea of a new constituent assembly to replace the current Congress. The CEVEU favors reform of the current Congress rather than the replacement favored by the President-elect. If the Congress is a vehicle for enacting changes in the Venezuelan Government, each of the 26 states must ratify those changes. President-elect Chavez says that ratification will not happen if the states must ratify all changes. The current constitution was written in 1961 by the two major political parties in closed door sessions. Venezuela has had 23 constitutions in its history, including 4 this century. Until 2 years ago, when changes were enacted, the President appointed every governmental official, including mayors and governors. The Congress did, however, appoint the Supreme Court. In commenting on the initial appointment of the Chavez government, Mr. Carmona made the observation that most of the new Chavez team is only now discovering the world that exists beyond Venezuela, highlighting their almost exclusively domestic political focus. He said that the new President’s Chief of Staff, in particular, was a surprise. President Chavez appointed a prominent newspaperman to this job, which is ministerial level. The new Chief of Staff was described as a cross between Larry King and John McLaughlin and someone who had not always agreed with Chavez in the past and certainly not during the campaign. Mr. Carmona said that the new President is tentatively reaching out to the business community but that community remains wary given the President-elect’s ties to Cuba and the fact that he went to Cuba after his release from jail for leading an abortive coup against the government. A discussion ensued with regard to business conditions in Venezuela. Oscar Machado, another CEVEU board member, commented that bank loans now carried a 49-percent interest rate. In addition, under Venezuelan law, 70 percent of bank deposits must stay in the Venezuelan Central Bank and that fact severely limits funds available for loans. In particular, he noted that there is no market for small business loans, which hampers promotion and expansion of the private sector. Again, with regard to the private sector, he strongly stressed the importance of continued preferences for Venezuela under the Generalized System of Preferences. Meeting with Gerencial Maldonado, Minister of Industry and Commerce Participants: Minister Maldonado and Dr. Astudillo, Director, Venezuelan Trademark Agency (SAPI) Caracas, Venezuela; Friday, January 8, 1999 The delegation met with Industry and Commerce Minister Maldonado and Dr. Astudillo, the head of the Venezuelan Trademark Agency. The Minister began the meeting by noting that Venezuela is in a time of transition but the change would be peaceful. Although the incoming government has new plans, he expects continuity. The Minister then raised the bilateral investment treaty being negotiated between the United States and Venezuela. He said that the ‘‘fundamentals’’ are done, but there have been difficulties in concluding the agreement. He hopes that concluding the ne14 gotiation will be a point of continuity with the new government. The particular difficulties that he pointed to include Venezuelan requirements for technology transfer as a condition for foreign investment. In addition, Venezuela seeks certain exceptions that the United States disagrees with, including an exception for certain ‘‘economic integration schemes’’ to which Venezuela belongs (such as Andean Community members). The Minister also pointed to the issue of compensation for foreign firms in the event that their assets are destroyed by the Venezuelan armed forces during civil unrest, noting that this issue is less difficult to solve. It is in the national interest to conclude an agreement, and all parties must search for flexibility, he said. The ‘‘perfect should not be the enemy of the good,’’ he concluded.