# 1NC

Do you have any black authors?

Nope

How does the 1AC help black people?

Yes it helps – solves addictive opioids crisis among the black body

Wtf do you actually solve in debate?

### Body ptx

#### Next is T – Black Framework:

#### AFFIRMATIVES must demonstrate how they engage efforts to advocate the plan BEYOND hypothetical imagination

Shanara Reid-Brinkley 2020, “The Future is Black: Afropessimism, Fugitivity, and Radical Hope in Education”, Edited by Carl Grant, Ashley Woodson, Michael Dumas, https://books.google.com/books?id=SMHyDwAAQBAJ&pg=PR5&source=gbs\_selected\_pages&cad=2#v=onepage&q&f=false//WY

What lies in the wake" of competitive policy debate? How are Black debaters doing wake work? In the following section I take two examples from the National Debate Tournament Final Round to demonstrate wake work in competitive debate. Next, I ana-lyze the central argument in the final round characterizing the current clash of civilizations in debate and the ramifications of building community in debate. The final round of the 2017 National Debate Tournament was not just a com- petition, it was a referendum on the notion of a universal community and the structural exclusions and fairness issues that characterize the traditions and norms of competitive practice. Georgetown is affirmative in the debate and of fer a federal policy toward Alaska as an example of a specific proposal to combat catastrophic climate change. Based on the norms of competition, Georgetown presents a coherent affirmative argument providing an effective stasis point for fair deliberation of the climate change resolution. After the affirmative's speech Rutgers is allowed to cross-examine the speaker. Devane Murphy asks, “When is the first life saved as a result of the afffirmative]?” (2017). While Georgetown admits that a debate round cannot save lives directly, they argue that discuss- ing climate change policy is a valuable academic conversation. Rutgers then asks a series of questions about Georgetown's relationship as individuals to the people and places targeted by the federal policy they suggest: “Do you know any people in the arctic? Do you know any communities in the arctic? Can you name a family in the arctic?” (Murphy, 2017). While Georgetown answers no to these questions, they argue that a focus on debaters as individuals rather than the policy option they have presented is a distraction from the stasis point they have set for the debate. Using Afropessimism as a heuristic for engaging the resolution, debaters like Rutgers, reject any affirmation of the United States Federal Government. For these students, the federal government is always an unethical actor. In as much as the resolutional statement requires the affirmative to posit federal govern- ment action as an ethical response to public need, the vast majority of Black debaters refuse to take such a position. To combat this refusal to follow com- petitive norms, the Framework argument developed to confront the disruption of the normative form and content of policy debate competition. Framework debaters (mostly White and non-Black POCs) argue that if a team violates the norms of common practice they reject the normative stasis points for delibera-tion destroying the educational benefits of policy debate. Framework has operated as a strategic tool of capture and exclusion of Black thought in competitive debate. However, as "the holds multiply" so too does Black innovation. Rutgers' strategy in the final round took the form of the traditional Framework argument, but using Black thought to revise the content and turn it against the norms of traditional debate. Black Framework, Rutgers' strategy, argued that the affirmative must embody their politics and demonstrate how they directly engage in efforts to reduce climate change. Rutgers' argues that Georgetown is disconnected from their politics which is why they can advocate a policy that may affect the people of the Arctic while having little knowledge of those people or their lives. This kind of orientation toward policy action is dangerous, encouraging what Rutgers refers to as “ascetic tourism" by which debaters role-playing policy advocates “tour [the] trauma of various populations without ever acting to alleviate the harm” (Murphy, 2017). When Georgetown seeks further clarification of Black Framework, Rutgers' responds: "We provided an interpretation of what we think debate should look like, the same way in which when you're negative and you read my affirmative and you say we should not be able to do what we do. Very simple” (Murphy, 2017). Georgetown often runs the traditional Framework argument against Black Debate teams who fall outside their interpretation of a fair stasis point for debate about the resolution. Rutgers' turns the tables on Georgetown argu- ing that the traditional form of policy debate produces poor policy advocates and that Black Debate practice which centers embodied political practice is a superior method of training political advocates**.** Black Framework is an exam- ple of political theorizing from the hold. It operates from the perspective that anti-blackness is the stage upon which all political deliberation is played and then strategically identifies a tactic and an exigency for disruption.Rutgers capitalizes on the growing middle majority of judges who agree that Black Debate practice is an effective training tool for political advocacy. The use of Black Framework flips the script; it is a jarring (re)performance of the acts of exclusion that Black debaters have faced for decades. It took the form of Framework, paired with Black content, to argue that the neo-liberal norms of civil society would no longer get a free pass as the base frame for political negotiation. Rutgers turned a mirror on debate and offered a reflection of itself haunted by the specter of Black death. Arguing Black Framework was an act of bringing out the dead.

#### They violate

#### 1] Ascetic tourism – reading absent direct efforts to challenge communal violence posits them as tourists to violence. Benefits to scenario planning don’t disprove violation.

#### 2] Revitalization of stasis - Our offense isn’t just “going beyond scenario planning” BUT specification of such since it revitalizes stasis forces research beyond traditional norms.

#### 3] Effects T – Words holding potential of action proves scenario planning could effect action, which links since it still posits them as tourists over violence, and is infinitely regressive – anything can could effect each other.

### K

#### The topic is haunted by black ghosts. A chorus of voices led by Henrietta Lacks, whose non-consent has formed the basis for medical advancement. The 1AC chooses to begin the conversation at access as opposed to consent which legitimizes the fungibility of blackness.

**Nelson 07** (Alondra Nelson is professor of sociology and gender studies at Columbia University, where she has served as the inaugural Dean of Social Science and Director of the Institute for Research on Women, Gender, and Sexuality. She is President-elect of the Social Science Reseach Council and Chair of the American Sociological Association Section on Science, Knowledge, and Technology. Prior to joining Columbia in 2009, Nelson was on the faculty of Yale University, where she received the Poorvu Award for interdisciplinary teaching excellence. She graduated with a PhD from New York University in 2003. She is the twelfth President of the Social Science Research Council. “Unequal Treatment.” The Washington Post, WP Company, 7 Jan. 2007, www.washingtonpost.com/wp-dyn/content/article/2007/01/05/AR2007010500180.html.)

A fresh account of **the Tuskegee study**, including new information about the internal politics of the panel charged by the Department of Health, Education and Welfare with investigating it in 1972, lies at the center of Harriet A. Washington's courageous and poignant book. The balance of Medical Apartheid reveals, with arresting detail, that this scandal **was neither the first chapter nor the last in the exploitation of black subjects in** U.S. **medical research**. Tuskegee was, in the author's words, "the longest and most infamous -- but hardly the worst -- experimental abuse of African Americans. **It has been eclipsed in** both **numbers and egregiousness by other** abusive medical **studies**." Although medical experimentation with human subjects has historically involved vulnerable groups, including children, the poor and the institutionalized, Washington enumerates how black Americans have disproportionately borne the burden of the most invasive, inhumane and perilous medical investigations, from the era of slavery to the present day. (This burden has become global in the last few decades.) In 1855, **John "Fed" Brown, an escaped slave, recalled that the doctor to whom he was indentured produced painful blisters on his body in order to observe "how deep my black skin went."** This study had no therapeutic value. Rather, fascination with the outward appearance of African Americans, whose differences from whites were thought to be more than skin deep, was a significant impulse driving such medical trials.Shielding whites from excruciating experimental procedures also proved a powerful motivation. **J. Marion Sims**, a leading 19th-century physician and **former president of the A**merican **M**edical **A**ssociation, **developed** many of his **gynecological treatments through experiments on slave women who were not granted** the comfort of **anesthesia**. Sims's legacy is Janus-faced; he was pitiless with non-consenting research subjects, yet he was among the first doctors of the modern era to emphasize women's health. Other researchers were more guilty of blind ambition than racist intent. Several African Americans, including such as Eunice Rivers, the nurse-steward of the Tuskegee study, served as liaisons between scientists and research subjects. The infringement of black Americans' rights to their own bodies in the name of medical science continued throughout the 20th century. **In 1945, Ebb Cade,** an African American trucker being treated for injuries received in an accident in Tennessee, **was** surreptitiously **placed without his consent into a radiation experiment sponsored by the U.S. A**tomic **E**nergy **C**ommission**. Black Floridians were** deliberately **exposed to** swarms of mosquitoes carrying **yellow fever** and other diseasesin experiments conducted **by the Army and the CIA in the early** 19**50s.** Throughout the 1950s and '60s, black inmates at Philadelphia's Holmesburg Prison were used as research subjects by a University of Pennsylvania dermatologist testing pharmaceuticals and personal hygiene products; some of these subjects report pain and disfiguration even now. **During the** 19**60s and '70s, black boys were subjected to** sometimes **paralyzing neurosurgery by a U**niversity of **Miss**issippi **researcher** who believed brain pathology to be the root of the children's supposed hyperactive behavior**. In the** 19**90s**, **African American youths in New York were injected with Fenfluramine** -- half of the deadly, discontinued weight loss drug Fen-Phen -- **by Columbia researchers investigating** a hypothesis about **the genetic origins of violence.** Washington's litany of experimental misdeeds done to African Americans is more extensive than can be described here. With such damning evidence, one wonders why she felt it necessary to include examples that, while clearly offensive, do not rise to the threshold of medical experimentation. For instance, supporters of slavery, to justify the peculiar institution, cited data from the 1840 census showing that free African Americans had poorer mental and physical health than enslaved blacks. Nonetheless, taking ideological liberties with questionable statistics is not, in and of itself, an example of medical experimentation, nor was circus impresario P.T. Barnum's display of black Americans as entertainment. While demonstrating the widespread exploitation of blacks, it confuses the thrust of Washington's argument. But Washington also sheds light on how our understanding of what constitutes medical research requires broadening in the face of new developments in genetic science. Federal and state forensic DNA databases contain a disproportionate number of samples from African Americans, for example. Because genetic samples collected for this purpose carry information about a subject's health, blacks are particularly vulnerable to the exposure of sensitive medical information. And although experimentation with human subjects is less invasive than it once was, Washington cautions that it is no less injurious. Researchers still need to be mindful of the rights of their subjects. Given the history presented in Medical Apartheid, it is no surprise that some African Americans continue to regard the medical system with apprehension, despite more stringent safeguards enacted by the federal government in the 1970s. Washington attributes this outlook, which she calls iatrophobia, to the seeds of distrust sown in black communities by the Tuskegee scandal and a history of lesser-known mistreatment.

#### This lack of consent forms the basis for a cyclical form of antiblack violence. The 1AC furthers the intergenerational legacy that marks freedom on the basis of black non consent.

**Wilderson 20** (Frank B. Wilderson III is a full professor of Drama and African American studies at the University of California, Irvine. He received his BA in government and philosophy from Dartmouth College, his MFA from Columbia University and his PhD in Rhetoric and Film Studies from the University of California, Berkeley. He is the author of Incognegro: A Memoir of Exile and Apartheid (South End Press, 2008), which won the American Book Award for 2008, and Red, White, & Black: Cinema and the Structure of U.S. Antagonisms (Duke University Press, forthcoming). He spent ﬁve years in apartheid South Africa, working as an elected ofﬁcial in the African National Congress; a member of the ANC’s armed wing Umkhonto we Sizwe; a lecturer at the University of Witwatersrand, Vista University. “Afropessimism”. Liverright Publishing Corporation. 2020.)

**The** Electoral College is a prime example of a **so- called “democratic” institution** that **owes its condition of possibility to the sexualized violence against**, and captivity of, **Black people.** **Without** the sexualized violence against and mass incarceration of **hundreds of thousands of Black captives, America**ns **would not be able to elect a** U.S. **president.** Thomas Jefferson would never have become president. In the late eighteenth and early nineteenth centuries, “389,000 [that’s less than a half million] . . . African slaves, bred like horses or sheep, became four- million enslaved African- Americans . . . [T]he forced mating of slaves . . . gave slave states more voting power based on the number of slaves they held captive.” Virginia was the largest slave- breeding state. As a result it gained twenty- five percent of the forty- six Electoral College votes, more than enough to send Jefferson to the White House. Think about that. The kind of captivity needed to breed slaves dwarfs the kind of captivity Muslims are subjected to in Guantánamo or in the “love nest” where the female CIA agent raped the young Afghan. How else can 389,000 people be made to procreate, under pain of torture or death, into 4 million people if they are not incarcerated and forced into sex? Slave- breeding is a kind of forced sex that makes words like rape and incarceration puny and inadequate . The young Afghan man had a prior moment of freedom, and a prior space of consent, before the White woman held him captive and raped him. **For Blacks there is no prior space and time of freedom and consent: the freedom of all others**— in the form of electoral politics— **owes its** condition of **possibility to the** unfreedom (**lack of consent) of** and sexualized violence against **Black people**. People of color experience this madness from time to time; but the forced procreation of Blackness is the bedrock of this madness. The young Afghan’s rights were violated by the White woman; but the concept of rights that can be violated, or respected, rises up out of the breeding of Blacks like cattle. **You can speak of prisoners’ rights, but the term slave rights is an oxymoron.** A historical analysis of the Electoral College illustrates how Black people are political currency, not political subjects. And that is the paradigm of Black people’s existence today. **Black people are political currency** or objects, **not** political actors or **subjects.** Subjects havehomes, or at leastthe capacity forsome sort ofsanctuary. Objects exist as implements, tools, in the psychic life of Human subjects. Hartman’s analysis of the paradox that the idea of rape presents for the woman who is Black, who is a slave, alerted me to the fact that **this universal possession** **of** the oppressed and the oppressor— **consent**— **wasn’t universal at all.** **Consent was not an inherent**, organic capacity, an **element of political ontology that belonged to everyone**, high and low. My mind abstracted in ever- widening concentric circles: if the Black woman cannot be raped because she had no consent to give or withhold, and if this absence of consent is both particular and general— in other words, if it applies broadly to the status of Blackness, and not only to the status of Black women who come before the court as plaintiffs in nineteenth century courts, and if, qua Sexton, the Black man can by raped by the White woman, and if (the culminating and most devastating if) “rape” is too feeble a concept to explain the violation\* of Black flesh— then **all** of us **who are** **marked as Black are of a** different species than all of those who are not. We are a **species of sentient beings that cannot be injured** or murdered, for that matter, because we are dead to the world. No narrative arc of dispossessi**on** can accrue to us. What do I mean by that? Just this: for there to be **a narrative arc** the persona in the narrative must move from possession to dispossession to (the denouement) the prospect of repossession. Another way **of** earmarking the points on the narrative arc would be: Equilibrium to disequilibrium to equilibrium (restored, renewed, and/or reimagined). Rape can be seen on this arc: consent as an ontological and social possession: followed by rape, which would be **dispossession** of consent: followed by consent restored via the trial of the perp, or his/her murder, or the narrative could explain how the victim regained their self- esteem and self- worth even if justice was not done. But even here, when the denouement does not include justice, **there is an assumption that the victim had a “self” to be violated**. In other words, no matter how you slice it, no matter the details of the arc, the narrative arc itself is possible because there exists within the ontology of the subject the Human capacity of consent that could be restored just as it was taken away.

#### The medicines the 1AC claims to provide cannot rectify the disease of antiblackness that they intensify. The alternative is wake work, an analytic that gives rise to new forms of care that arise from our theory of social death that refuses the universalism of consent.

**Hartman 17** (Saidiya Hartman, Professor of English and Comparative Literature at Colombia University, PhD from Yale University, February 2, 2017, “In the Wake: A Salon in Honor of Christina Sharpe,” <https://www.youtube.com/watch?v=DGE9oiZr3VM>, uploaded February 7, 2017 by Barnard Center for Research on Women, transcribed from video 6:11-10:18)

Wake work is the center of Sharpe’s critical repertoire. **The wake is “the conceptual frame** of and **for** living blackness in the diaspora in the still unfolding aftermaths of Atlantic chattel slavery.” To be in the wake is Sharpe’s way of **describing the afterlife of slavery and the** constitutive and **gratuitous violence that makes Black death the norm** of our modernity. In **the Wake offers** a way of thinking about life lived in the wake of antiblack violence—and in **an intimate relation with death**—**that moves** us **beyond the prevailing debate about Afro-Pessimism and Black vitalism**, social death and love. The **forms of social life and** the **practices of care** that **emerge in, and** that **are conditioned by, social death** are the focus of Sharpe’s extended meditation on slavery and its afterlife. **Wake work**, too, **is a method**. It is “**a turn away from disciplinary solutions to Blackness’s ongoing abjection**” and **toward apprehending the multiple meanings of that abjection** “through inhabitation, that is, through living them as consciousness.” **Wake work is an analytic, an existential ontology, an ethics of engagement, and a poetics of relation that demands we take care**, that we take care of one another. One of the refrains which structures the text is “we are constituted through and by continued vulnerability to this overwhelming force” yet “we are not only known to ourselves and each other by that force.” There is beauty and care and creation. Other key terms that structure the work are “the Door of No Return,” “aspiration,” “annotation” and “redaction,” “anagrammatical blackness,” “trans\*,” “orthography,” “partus sequitur ventrem,” “the intramural,” and “the afterlife of slavery.” Sharpe is a deft and creative reader of literary texts and visual images. Her **archival rearrangements produce new** objects to think with as well as **ways of understanding** and apprehending **the past**. This is, in part, the result of her gaze. **When looking at images of Black suffering**, “I keep looking because that cannot be all there is to see or to say. **I had to take care.” Care is the antidote to violence**. Her method of archival engagement, **annotation and redaction, are ways** to imagine-otherwise a mode of transcription, reconstruction, and creation. In her words, they “are ways **to make Black life visible, if only momentarily**.” The text moves poetically, associatively, and by thinking through juxtaposition. The series of refrains that structure the text produce a collective utterance, rich with the songs and cries of centuries. Sharpe deeply inhabits the words and thoughts of Fanon, Kamau Brathwaite, Dionne Brand, NourbeSe Philip, and others, making obvious the point that we never speak alone, that the chorus is the vehicle for thought, that we are always in relation and need only recognize it. The Wake, the Ship, the Hold, and the Weather are the key constellations of the text. Sharpe’s elaboration of these across the Atlantic and the Mediterranean, across North America, the Caribbean, Europe, and Africa attends to the global dimensions of Black Studies, embracing the captive, the migrant, and the refugee. Reading In the Wake, one has the sense that Sharpe brings all she knows and loves to the object under consideration, to the ship that is a girl, to eyes that reach out to her and to us, and to the lives lost in the wake. Sharpe is a collector and a curator, a poet and a critic, and her strategies of reading, imagining, erasing, and creating have created a beautiful work that is destined to be one of the classics of Black Studies.

### CP

#### CP: The TRIPs Council should vote to reduce intellectual property protections for [The Member Nations of the World Trade Organization should terminate current and ban secondary patents of opioid painkillers], amending TRIPs to mandate the [The Member Nations of the World Trade Organization should terminate current and ban secondary patents of opioid painkillers]

#### The United States should:

#### --Publicly rescind support for the WTO waiver

#### -- Veto this motion and refuse to comply

#### The remaining member nations should initiate proceedings against the United States through the World Trade Organization Dispute Settlement Body which ought to find against the United States. The United States ought to comply with this ruling.

#### Counterplan competes ---

#### 1] The plan has the “member nations” act individually, while the counterplan is the WTO through the Council and eventually the DSB.

**Collins Dictionary n.d.** “member nations” RJP, DebateDrills https://www.collinsdictionary.com/us/dictionary/english/member-nations

member nations

The [United](https://www.collinsdictionary.com/us/dictionary/english/unite) [Nations](https://www.collinsdictionary.com/us/dictionary/english/nation) is an [international](https://www.collinsdictionary.com/us/dictionary/english/international) organization [comprised](https://www.collinsdictionary.com/us/dictionary/english/comprise) of about 180 member nations.

Sociology (1995)

At the Nato [summit](https://www.collinsdictionary.com/us/dictionary/english/summit), he called on all the member nations to [pledge](https://www.collinsdictionary.com/us/dictionary/english/pledge) to [spend](https://www.collinsdictionary.com/us/dictionary/english/spend) at least 2% of their [national](https://www.collinsdictionary.com/us/dictionary/english/national) [income](https://www.collinsdictionary.com/us/dictionary/english/income) on [defence](https://www.collinsdictionary.com/us/dictionary/english/defence).

Times, Sunday Times (2015)

The [beneficiaries](https://www.collinsdictionary.com/us/dictionary/english/beneficiary) will not be [limited](https://www.collinsdictionary.com/us/dictionary/english/limit) to EU member nations, but [worldwide](https://www.collinsdictionary.com/us/dictionary/english/worldwide).

Times, Sunday Times (2012)

Definition of 'nation'

nation

(neɪʃən)[Explore 'nation' in the dictionary](https://www.collinsdictionary.com/us/dictionary/english/nation)

COUNTABLE NOUN

A nation is an individual country considered together with its social and political structures.

#### 2] Immediacy

#### Ought and should are used interchangeably.

Anastasia **Koltai 18**. CEO of MyEnglishTeacher, “Difference Between Ought to and Should,” MyEnglishTeacher, September 25, 2018, <https://www.myenglishteacher.eu/blog/difference-between-ought-to-and-should/>, RJP, DebateDrills.

In most cases, SHOULD and OUGHT TO are used interchangeably today. Both SHOULD and OUGHT TO are used to express advice, obligation, or duty.

#### “Should” is immediate

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record.[16](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn16)

[CONTINUES – TO FOOTNOTE]

[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) *In praesenti* means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or *immediately effective*, as opposed to something that *will* or *would* become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### The plan would require US companies to disclose information and waive IP protections---the counterplan has the US resist to avoid political backlash, but that violates WTO disclosure requirements.

Jorge Contreras 21. Presidential Scholar and Professor of Law at the University of Utah with an adjunct appointment in the Department of Human Genetics, JD @ Harvard, “US Support for a WTO Waiver of COVID-19 Intellectual Property – What Does it Mean?” Bill of Health Harvard Law, May 7, 2021, <https://blog.petrieflom.law.harvard.edu/2021/05/07/wto-waiver-intellectual-property-covid/>, RJP, DebateDrills

The proposed WTO IP waiver is significant because it includes trade secrets. Thus, under the waiver’s original language, a country that wished to suspend trade secret protection for COVID-19 technology could do so without violating the TRIPS Agreement. Such a country could also, presumably, mandate that foreign companies operating in the country disclose their proprietary manufacturing, storage, and testing information to local producers under a compulsory license.

The details of this disclosure requirement, and any compensation payable to the originator of the information, would need to be worked out in whatever waiver is eventually adopted by the WTO, but the prospect for a mandatory trade secret transfer — something that would be unprecedented in the international arena — is worth watching carefully. [As reported by Intellectual Asset Management on May 4, 2021](https://www.iam-media.com/coronavirus/brazilian-senate-passes-compulsory-covid-19-know-how-licensing-bill), the Brazilian Congress is currently considering legislation that would nullify the patents of any company that fails to disclose know-how and data related to a compulsory COVID-19 patent license. It will also be interesting to see whether the United States stands behind such a requirement, which goes far beyond the compulsory licensing of patents.

Will the U.S. require companies to share their know-how with others?

As noted above, under the waiver, a country could impose a trade secret disclosure requirement on companies operating within its jurisdiction. But that requirement would have little effect on U.S. vaccine producers who do not, themselves, have material operations overseas. Only the U.S. government could require a U.S.-based company to disclose its trade secrets. Would the U.S. impose such a requirement? This is not known, but I think it’s unlikely. It is one thing for the U.S. to agree not to challenge other countries’ compulsory licensing regimes as violations of TRIPS, but a very different thing for the U.S. to issue a compulsory licensing order of its own, particularly in the area of trade secrets, where it would be met with significant internal opposition.

#### DSB is underutilized currently but using it for major dispute settlement shores it up---that’s key to combat Chinese IP violations.

James **Bacchus 18**. Member of the [Herbert A. Stiefel Center for Trade Policy Studies](https://www.cato.org/herbert-stiefel-center-trade-policy-studies), the Distinguished University Professor of Global Affairs and director of the Center for Global Economic and Environmental Opportunity at the University of Central Florida. He was a founding judge and was twice the chairman—the chief judge—of the highest court of world trade, the Appellate Body of the World Trade Organization in Geneva, Switzerland. “How the World Trade Organization Can Curb China’s Intellectual Property Transgressions,” CATO, March 22, 2018, <https://www.cato.org/blog/how-world-trade-organization-can-curb-chinas-intellectual-property-transgressions>, RJP, DebateDrills.

Quite rightly, President Donald Trump and his Administration are targeting the transgressions of China against US intellectual property rights in their unfolding trade strategy. But why not use the WTO rules that offer a real remedy for the United States without resorting to illegal unilateral action outside the WTO?  
  
Seventeen years after China joined the WTO, China still falls considerably short of fulfilling its WTO obligations to protect intellectual property. About 70 percent of the software in use in China, valued at nearly $8.7 billion, is pirated. The annual cost to the US economy worldwide from pirated software, counterfeit goods, and the theft of trade secrets could be as high as $600 billion, with China at the top of the IP infringement list. China is the source of 87 percent of the counterfeit goods seized upon entry into the United States.  
  
One possible response by the United States is the one the Trump Administration seems to be taking: slapping billions of dollars of tariffs on imports of more than 100 Chinese products through unilateral trade action. Given its protectionist predilections, taking this approach is surely tempting to the Trump Administration. Doing so will, however, harm American workers, businesses, and consumers, and contribute to further turmoil in the global economy.

The results will likely include retaliation by China against the goods and services of American companies and workers; lawful economic sanctions imposed by China on American exports to China after the US lost to China in WTO cases; the hidden tax of higher prices for American consumers; less competitiveness in the US market and in other markets for American companies that depend on Chinese imports as intermediate goods in production; and doubtless still more American and global economic landmines from the downward spiral of tit-for-tat in international trade confrontations.  
  
These tariffs are not only self-defeating and counter-productive; they are also illegal under international law. Where an international dispute falls within the scope of coverage of the WTO treaty, taking unilateral action without first going to WTO dispute settlement for a legal ruling on whether there is a WTO violation is, in and of itself, a violation of the treaty. The WTO treaty establishes mandatory jurisdiction for the WTO dispute settlement system for all treaty-related disputes between and among WTO Members. The WTO Appellate Body has explained, “Article 23.1 of the (WTO Dispute Settlement Understanding) imposes a general obligation to redress a violation of obligations or other nullification or impairment of benefits under the covered agreements only by recourse to the rules and procedures of the DSU, and not through unilateral action.”  
  
Thus, the United States is not permitted by the international rules to which it has long since agreed to be the judge and the jury in its own case. Imposing tariffs on Chinese products without first obtaining a WTO ruling that Chinese actions are inconsistent with China’s WTO obligations is a clear violation by the United States of its WTO obligations to China – as WTO jurists will doubtless rule when China responds to the tariffs by challenging the tariffs in the WTO.  
  
Such a legal loss by the United States, with all its unforeseeable economic and geopolitical consequences, can be avoided while still confronting Chinese IP violations effectively. Before resorting to unilateral action outside the WTO and in violation of international law, the United States should take a closer look at the substantial rights it enjoys under the WTO treaty for protecting US intellectual property against abuse.  
  
Potential remedies in the WTO exist and should not be ignored. These remedies can be enforced through the pressure of WTO economic sanctions. WTO rules do not yet cover all the irritants that must be addressed in US-China trade relations. Even so, instead of just concluding that there are no adequate remedies under WTO rules to help stop IP infringement, the United States should first try to use the remedies in rules we have already negotiated that bind China along with all other WTO Members.  
  
A number of these rules have not yet been tested against China or any other country – which is not proof they will not work. Generally, when tried for the first time, WTO rules have been found to work, and, generally, when China has been found to be acting inconsistently with its WTO obligations, it has complied with WTO rulings. The actual extent of Chinese compliance with WTO judgments can be questioned; in some instances it is seen by some as only “paper compliance.” But whether any one WTO rule can in fact be enforced cannot be known if no WTO Member bothers to try to enforce it.  
  
The WTO rules in the WTO Agreement on the Trade-related Aspects of Intellectual Property Rights – the so-called TRIPS Agreement – are unique among WTO rules because they impose affirmative obligations. Yet, this affirmative aspect of WTO intellectual property rules has been largely unexplored in WTO dispute settlement. In particular, WTO Members have so far refrained from challenging other WTO Members for failing to enforce intellectual property rights.  
  
On enforcement, Article 41.1 of the TRIPS Agreement imposes an affirmative obligation on all WTO Members: “Members shall ensure that enforcement procedures… are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.”  
  
Note that this “shall” be done by all WTO Members; it is mandatory for compliance with their WTO obligations. And yet what does this obligation mean by requiring that effective actions against infringements must be “available”? Is this obligation fulfilled by having sound laws on the books, as is generally the case with China? Or must those laws also be enforced effectively in practice, which is often not the case with China?  
  
The Appellate Body has said that “making something *available* means making it ‘obtainable,’ putting it ‘within one’s reach’ and ‘at one’s disposal’ in a way that has sufficient form or efficacy.” Thus, simply having a law on the books is not enough. That law must have real force in the real world of commerce. This ruling by the Appellate Body related to the use of the word “available” in Article 42 of the TRIPS Agreement and to a legal claim seeking fair and equitable access to civil judicial procedures. Yet the same reasoning applies equally to the enforcement of substantive rights under Article 41.  
  
In the past, the United States has challenged certain parts of the overall Chinese legal system for intellectual property protection – and successfully – in WTO dispute settlement. Despite its overall concerns about enforcement by China of US intellectual property rights, the United States has not, however, challenged the Chinese system as a whole in the WTO. Instead of indulging in the illegality of unilateral tariffs outside the legal framework of the WTO, the Trump Administration should initiate a comprehensive legal challenge in the WTO, not merely, as before, to the bits and pieces of particular Chinese IP enforcement, but rather *to the entirety of the Chinese IP enforcement system*.  
  
To be sure, a systemic challenge by the United States to the application of all China’s inadequate measures relating to intellectual property protection would put the WTO dispute settlement system to a test. It would, what’s more, put both China and the United States to the test of their commitment to the WTO and, especially, to a rules-based world trading system.  
  
As Trump’s trade lawyers will hasten to say, a systemic IP case against China in the WTO would also involve a perhaps unprecedented amount of fact-gathering. It would necessitate an outpouring of voluminous legal pleadings. It would, furthermore, force the WTO Members and the WTO jurists to face some fundamental questions about the rules-based trading system. Yet it could also provide the basis for fashioning a legal remedy that would in the end be mutually acceptable to both countries, and could therefore help prevent commercial conflict and reduce a significant obstacle to mutually beneficial US-China relations.

#### Stopping tech stealing is key to avoid war

Timothy R. **Heath 18**. RAND Senior Defense and International Analyst, “Avoiding “Avoiding U.S.-China Competition Is Futile: Why the Best Option Is to Manage Strategic Rivalry”; Asia Policy; Vol 13 No 2; April 2018, RJP, DebateDrills

This article argues that the structural drivers of U.S.-China competition are too deep to resolve through cooperative engagement and that policymakers must instead accept the reality of strategic rivalry and aim to manage it at a lower level of intensity. main argument Rising tensions between China and the U.S. have spurred fears that the two countries could end up in conflict or recreate the Cold War. To avoid these outcomes, analysts have proposed ways to defuse competition and promote cooperation. However, because these arguments do not address the structural drivers underpinning U.S.-China competition, such proposals are unlikely to end the rivalry. Conflict is not inevitable, however, and aggressive strategies that unnecessarily aggravate the sources of rivalry are likely to prove dangerously counterproductive. The best option at this point is, paradoxically, for the U.S. to accept the reality of the growing strategic rivalry and manage it at a lower level of intensity. policy implications • Maintaining a technological edge is critical for the U.S. to successfully manage the rivalry with China. Policies should be pursued to ensure that the U.S. continues to attract and nurture the best science and technology talent and retains its status as the global leader in technology. • To compete with China’s narrative about leading regional integration, the U.S. should both put forth a compelling vision for the region that encompasses widely held economic, security, and political values and continue to bolster its diplomatic and military positions in Asia. • To maintain the U.S.-China rivalry at a stable level, policymakers in both countries should prioritize measures that discourage the mobilization of popular sentiment against the other country and encourage cultural exchanges. • U.S.-China competition will likely become increasingly entwined with rivalries between China and U.S. allies and partners such as Japan and India. U.S. policymakers will need to take into account the independent dynamics of those separate rivalries when managing relations with China. The United States and China find themselves increasingly enmeshed in a strategic rivalry, the basic nature of which remains poorly understood in the United States. To be sure, disagreements between the two countries have gained widespread attention. Disputes involving Chinese confrontations with U.S. allies and partners such as Japan, the Philippines, and Taiwan have frequently grabbed the headlines. At other times, disagreements over Chinese trade practices and U.S. military activities in the South China Sea have occasioned discord. All these sources of conflict are genuine, but they mask the main drivers of rivalry, which are twofold. First, the United States and China are locked in a contest for primacy—most clearly in Asia and probably globally as well. The United States has been the dominant power, and China seeks to eventually supplant it. By definition, two different states cannot simultaneously share primacy at either the regional or global level. Second, economic, demographic, and military trajectories suggest that China has the potential to contend in a significant way for leadership at the global systemic level. At this level, the most decisive competition will be for technological leadership. Should China supplant the United States as the world’s premier country in terms of technology, its claim to regional and global supremacy will be difficult to deny. And once it has gained that supremacy, China will be well positioned to restructure institutional arrangements to privilege itself and disadvantage the United States. Although this competition is occurring simultaneously at both levels, observers have focused primarily on the struggle for primacy at the regional level and overlooked or downplayed the competition at the global systemic level.1 To counter China’s pursuit of regional primacy, the United States has bolstered its alliances in Asia (albeit inconsistently), expanded diplomatic outreach to China and rising powers in Southeast Asia, and revised its military posture—efforts captured by President Barack Obama’s “rebalance to Asia.” President Donald Trump may have abandoned the rebalance, but many of the related initiatives remain more or less in place.2 China’s challenge at the global systemic level, especially in the field of technology, has received less attention. Confidence in the proven U.S. ability to produce new technologies and facile assumptions about the difficulties China will face in promoting innovation in new industries have led many to dismiss the challenge posed by China. **But the contest for technological leadership is actually even more consequential than that for regional primacy.** Should China succeed in surpassing the United States as the world’s technological leader, U.S. diplomacy and military power will not suffice to hold the line either in Asia or around the globe**.** Under those conditions, countries throughout the world, including U.S. allies in Asia, will be forced to come to terms with the new leading economy. Military power projection could be far less relevant as China moves to consolidate its leading status at both the regional and global levels in such a scenario. Accordingly, although the United States cannot abandon its efforts to bolster its diplomatic and military position in Asia, the country must step up its efforts to strengthen its faltering lead in new technology development. While China clearly grasps the stakes, it is not clear that the United States does. For example, China’s government has promoted R&D into quantum computing. The investment appears to be paying off, as the country has leaped ahead of the United States in developing quantum communications.3 Similarly, the U.S. Congress has proposed to dispense with subsidies for the purchase of electric vehicles, even as China pushes ahead in its plan to become the lead producer of this technology.4 And while the U.S. government seeks to restrict immigration and discourage foreign students from attending U.S. universities (and staying after they receive their advanced training), China has revised its policies to welcome foreigners, prioritizing those with science and technology expertise. Moreover, Chinese investment in basic R&D is rapidly catching up to that of the United States.5 Studies have also noted a shrinking U.S. lead in science and technology as such investment is beginning to bear fruit.6 Similarly, the United States has lost its once-undisputed lead in the per capita number of engineers and scientists.7 Understanding the nature of the U.S.-China rivalry at the regional and global systemic levels, as well as how these two levels interact with one another, is essential if the United States is to successfully manage the challenge posed by China in a manner that avoids war. This study aims to contribute to that understanding. The article is organized into the following sections: u pp. 95–102 provide an overview of the growing rivalry between China and the United States, including a discussion of the meaning and role of strategic rivalry in interstate conflict and a comparison with the U.S.-China rivalry during the Cold War. u pp. 102–4 review the dynamics of the rivalry at the regional systemic level. u pp. 104–10 analyze the dynamics of the rivalry at the global systemic level. u pp. 110–15 examine why proposals to avoid rivalry through cooperation or aggressive competition are unlikely to succeed. u pp. 115–19 discuss the idea of strategic rivalry management and offer recommendations on ways to sustain the rivalry at a lower level of intensity the growing rivalry between the united states and china Strains between China and the United States have deepened in the past few years over a proliferating array of issues. President Trump has stepped up accusations against China of unfair trade practices and inadequate pressure on North Korea. He also provoked controversy early in his term when he floated the idea of increasing official contacts with Taiwan, which Beijing considers a renegade province.8 These disputes add to tensions that had expanded under President Obama, who moved to strengthen U.S. alliances in Asia, promote a regional trade pact, criticize Chinese behavior in the cyber and maritime domains, and shift more military assets to the Asia-Pacific as part of the rebalance to Asia strategy.9 China has in turn dismissed U.S. concerns about the construction of artificial islands in the South China Sea, intensified its criticism of U.S. security leadership in Asia, and tightened its grip on disputed maritime territories.10 The baleful state of bilateral relations has spurred plenty of finger-pointing. On the Chinese side, officials denounce the United States’ “Cold War mindset” and warn of conflict if Washington does not adjust its policies.11 A 2015 defense white paper described an “intensifying competition” between the great powers.12 Military officials and many Chinese analysts regard increasing tension between the two countries as unavoidable, although they do not regard war as likely. People’s Liberation Army (PLA) deputy chief of staff Qi Jianguo commented that “no conflict and no confrontation does not mean no struggle” between China and the United States.13 According to Chinese official media, polls in China suggest a large majority believes that the United States intends to pursue a containment policy.14 Reflecting this point of view, Niu Xinchun, a scholar at the China Institutes of Contemporary International Relations, argued that the “greatest obstacle to the further integration of emerging countries such as China into the international system comes from the United States.”15 Western officials and commentators tend to blame China for current strains. Senior U.S. leaders have criticized “assertive” Chinese behavior, while some analysts blame Xi Jinping for pushing a more confrontational set of policies.16 Other Western observers worry that a further souring of relations could lead to conflict.17 But even if war remains unlikely, the deepening tensions increase the risks of miscalculation, crises, and potential military clashes involving the world’s two largest powers. Echoing a view widely held among U.S. foreign policy experts and officials, former CIA director General Michael Hayden has warned that mishandling the U.S.-China relationship could be “catastrophic.”18 Rivalry at the Heart of the U.S.-China Relationship This widespread concern reflects a realistic appraisal of the dangers inherent in the U.S.-China relationship. But developing successful policies to manage an increasingly sensitive and complex situation requires an accurate assessment of the phenomenon of interstate rivalry that lies at the heart of that relationship. Rivalry is a concept that, while widely acknowledged, remains poorly understood. To be sure, most experts take for granted the idea that powerful nations compete for status and influence, and they acknowledge the danger posed by a rising power’s challenge to a status quo power. Yet investigation into the phenomenon of rivalry too often stops at these well-trodden findings. Less often discussed are the conclusions regarding the dynamics of rivalry that experts on conflict studies have arrived at within the past few years. Much of this scholarship draws from improvements to the analyses and data regarding interstate crisis and conflict.19 This research has generated useful and interesting insights regarding the start and conclusion of rivalries, crises, and war, although these remain largely unexplored outside academic circles. Analysts have established, for example, that rivalry is perhaps the most important driver of interstate conflict. As defined by political scientists, “rivals” are states that regard each other as “enemies,” sources of real or potential threat, and as competitors. At the root of rivalries thus lie disputes over incompatible goals and perceptions that countries possess both the ability (real or potential) and the intention to harm each other. Wars have historically tended to be fought by pairings of these states and their allies. Rivals have opposed each other in 77% of wars since 1816 and in over 90% of wars since 1945.20 Not only are rivals more likely to fight than non-rivals, but rivals also have a tendency to be recidivists because they are unable to resolve their political differences on the battlefield. Yet that does not always discourage them from trying to do so repeatedly. Rivals that cannot prevail due to parity frequently compete for advantage by building internal strength through arms racing or by leveraging external power through the strengthening of alliances and partnerships. Rivals are also prone to serial militarized crises**.** Mutual perceptions of each other as hostile enemies and the inconclusive outcome of previous militarized disputes typically fuel a pattern of recurrent crises characterized by deepening resentment, distrust, and growing willingness to risk escalation. Studies have also established that the risk of conflict increases sharply after three episodes of militarized crises.21 Rivalries do not progress in a linear direction, however. Their intensity can wax and wane in response to shocks and other important developments. Periods of relative stability can alternate with turbulent periods of tension and conflict. Similarly, cooperative activities can be interspersed with periods of acute tension and hostility. Nevertheless, the link between rivalry, crises, and interstate conflict is pervasive. Drawing from these sources, one can describe the Sino-U.S. relationship as a rivalry characterized as a competition between two major powers over incompatible goals regarding their status, leadership, and influence over a particular region—in this case principally the Asia-Pacific. The dynamics of this type of strategic rivalry differ in significant ways from the far more numerous rivalries over territory that have characterized conflict between so many countries, especially weaker and poorer ones. In contrast with rivalries over territories, strategic rivals do not necessarily share borders, although allies of one power may be engaged in a territorial dispute with the other major power. Strategic rivalries among major powers tend to be especially long-lived, with the average enduring for about 55 years.22 Strategic rivalries are incredibly complex phenomena that include overlapping and often reinforcing layers of disputes over leadership, status, and territory between the principal rivals and their allies. Such rivalries are almost always multilateral affairs that also involve allies and partners, some of which have their own rivalries with the other side. Competition in the economic, political, and military domains can serve as expressions as well as drivers of rivalry, as can sports and cultural competition. Strategic rivalries can be confined to one region, with the basic conflict reducible in some respects to which rival will occupy the top rung of the regional hierarchy. In other cases, however, a rivalry can span regional and global domains either sequentially or simultaneously. The U.S.-China rivalry, for instance, is already both a regional and, to a lesser extent, a global rivalry, but there is still considerable room for competition to expand. The complex and overlapping nature of the disputes makes strategic rivalries extremely crisis- and conflict-prone. Strategic rivalries come in a grim package deal that includes strained and hostile relations, serial crises, and in some cases wars. The comprehensive and multifaceted nature of the disputes also explains why such rivalries have proved so durable and why their wars have been so devastating. Conflict between strategic rivals has historically occasioned the most destructive wars, of which World Wars I and II are the most recent examples. The fact that experts at the time of each historic episode of systemic conflict consistently underestimated the duration or extent of war offers cold comfort to analysts today who seek to predict the trajectory of any conflict that might involve China and the United States. Comparisons of the Current Environment with the U.S.-China Rivalry during the Cold War How did the two countries arrive at this position? The most widely accepted narrative argues that China’s rapid economic growth has provided the resources with which it can press demands on long unresolved issues such as unification with Taiwan. China and the United States may have enjoyed stable relations in the 1980s when they cooperated on a limited basis against the Soviet Union, but that foundation of cooperation eroded considerably once the Soviet bloc dissolved in the early 1990s. Moreover, China’s rapid growth in economic power has given the country fresh resources to press its own demands on the United States and U.S. allies. By 2010, China’s economy had outpaced that of Japan to become the second-largest in the world.23 The persistence of long-standing sources of antagonism, such as the U.S. security partnership with Taiwan, has both reflected and aggravated a broader competition for leadership. For its own reasons, Washington has resisted Beijing’s demands, and the result has been growing fear and distrust.24 The intensifying rivalry between the rising power and the status quo leader is as old as antiquity itself. Indeed, Graham Allison coined the term “Thucydides trap” to describe such a situation, a term that he subsequently applied to the current U.S.-China situation.25 The popular narrative is not entirely incorrect, yet in some ways it remains incomplete. A closer look at history reminds us that antagonism between China and the United States is not unprecedented. In the 1950s and 1960s, the two countries engaged in an intense strategic competition for status and influence in Asia, one that occasionally burned hot, as it did when they clashed on the Korean Peninsula or more indirectly in Vietnam. This Cold War–era rivalry saw a complex network of competing alliances and partnerships, principally in Asia. The United States supported Taiwan and South Korea in bitter disputes with China and its allies, North Korea and the Soviet Union. This rivalry terminated in the 1970s primarily due to Beijing’s decision to counter a growing Soviet menace and the United States’ decision to pursue China as a potential partner for its own rivalry with the Soviet Union. But the existence of a period of intense U.S.-Chinese tension and competition provides a helpful baseline of comparison. What requires explanation is not the fact that the United States and China are engaged in a rivalry but the difference between today’s rivalry and that of the Cold War. What distinguishes the rivalry today from that of the earlier period is both the closer parity in relative power—albeit still more potential than real—between the two countries and the comprehensiveness, complexity, and systemic nature of the disputes between them. Paradoxically, these features make the current rivalry potentially far more threatening to the United States, despite the fact that so far U.S.-China relations have remained peaceful, and even though the U.S. and Chinese militaries fought each other in the Korean War. The dangerous potential of the current rivalry ultimately owes to the risk that China could rise to the position of global system leader and subordinate the United States accordingly. As has happened in previous power transitions, China as a system leader could exploit existing arrangements to its benefit and to the detriment of the outgoing leader, the United States. Due to the enormous rewards that accrue to a systemic leader and the high costs for the state that loses this position**,** struggles for global leadership have historically proved to be especially destructive. The possibility that China and the United States could find themselves in a similar struggle, while unlikely at this point, cannot be ruled out given the reality of the relative decline in U.S. power and the concomitant increase in Chinese comprehensive national power. At the most basic level, this fact may be measured superficially by the U.S. share of world GDP, which eroded from 40% in 1950 to 16% in 2014, adjusted for purchasing power parity. Over the same period, China’s share expanded from around 5% to 17%.26 An important consequence of the narrowing of the gap in comprehensive power has been an intensifying competition for leadership in the international economic and political order. In this way, the popular discussion of the Thucydides trap correctly recognizes the dangers of the U.S.-China competition. This feature contrasts sharply with the previous episode of rivalry. In the 1950s and 1960s, the asymmetry in power meant that the United States and China competed for influence and even clashed militarily in countries along China’s borders, but rarely elsewhere. As a largely rural, impoverished country, China had little stake in the system of global trade promoted by the industrialized West. Excluded from the United Nations, Maoist China also lacked the institutional ability to influence geopolitics and project power much beyond its immediate environs—and even that capability was sorely handicapped. Outside Asia, the United States faced minimal competition from China and generally regarded the Soviet Union as a more pressing threat. By contrast, the current competition features a China fully enmeshed in a political and economic order led by the United States. While generally supportive of this order, China is also seeking to revise aspects of the regional and international order that it regards as obstacles to the country’s revitalization as a great power. The main theater of this competition for influence and leadership is the Asia-Pacific, as it was in the Cold War, but U.S.-China rivalry increasingly is expanding globally. Moreover, unlike the largely military, regional, and ideological Cold War competition, the current contest is far more multifaceted and comprehensive in nature; it includes military, economic, technological, and political dimensions. The following two sections review the state of the competition at both the regional and the global systemic levels. the u.s.-china rivalry at the regional level At the regional level, U.S.-China competition spans the political, economic, and military realms. Politically, the two countries have feuded over the role of liberal values and ideals, a dispute that widened after the 1989 Tiananmen Square massacre. However, the 1996 Taiwan Strait crisis elevated the potential threat of conflict between the two countries and may therefore be regarded as the starting point of the current rivalry. Coinciding with impressive gains in China’s economic and military power following two decades of market reforms, the standoff saw Washington and Beijing deploy military assets to back up their respective positions regarding Taiwan’s right to hold a presidential election, elevating the risk of a clash. Since then, the competition for political influence and leadership has intensified. In 2011, the United States announced its rebalance to Asia, which was aimed in part at shoring up U.S. alliances, partnerships, and influence.27 Although on the surface Washington has abandoned the effort, the Trump administration has reintroduced a vision for Asia’s economic and security order premised on values favorable to U.S. interests.28 The 2017 National Security Strategy stated, for example, that the United States upholds a “free and open Indo-Pacific.”29 Beijing, by contrast, has increased its efforts to advance a vision for a regional order premised on Chinese leadership. In recent years, China has promoted major economic and geostrategic initiatives to deepen Asia’s economic integration through the Belt and Road Initiative, Asian Infrastructure Investment Bank (AIIB), and other initiatives.30 In 2017, China for the first time issued a white paper that outlined the government’s vision for Asia-Pacific security. The paper stated that China takes the advancement of regional prosperity and stability “as its own responsibility.”31 These policies build on directives issued by Xi Jinping in 2013, when he called for policies to bolster China’s attractiveness as a regional leader.32 Economically, the two countries are competing over the evolution of Asia’s economic future—a region anticipated to drive global growth in coming decades. Both countries are also competing to shape the terms of trade. President Trump may have abandoned the Trans-Pacific Partnership (TPP), but his advisers have advocated other measures to shape favorable trade terms.33 Meanwhile, China has stepped up advocacy of the Regional Comprehensive Economic Partnership, a proposed free trade agreement for the region that excludes the United States.34 China also has promoted the AIIB, while the United States and Japan continue to instead support the Asian Development Bank.35 Militarily, the growing arms race and the establishment of rival security institutions stand among the most obvious manifestations of an increasing competition in this domain. China and the United States have designed an array of military capabilities and doctrines partly aimed at each other. The PLA has developed weapons systems to counter potential U.S. intervention in any contingency along China’s periphery, which the United States has in turn sought to counter with its own innovations, such as the Joint Operational Access Concept.36 U.S. secretaries of defense Chuck Hagel and Ashton Carter outlined a “third offset” strategy to compete with China and Russia in military technology.37 To promote regional security, the United States has strengthened its military alliances and partnerships, while China has strengthened ties with Russia and argued that regional security is best protected through the Shanghai Cooperation Organisation, the Conference on Interaction and Confidence Building Measures in Asia, and other Chinese-led institutions. In 2014, Xi indirectly rebuked the United States for seeking to bolster its security leadership in the region, stating that “it is for the people of Asia to uphold the security of Asia.”38

### Case

### AT: UV

Theory hedge:

1AR theory is skewed towards the aff— [A] the 2NR must cover substance and over-cover theory, since they get the collapse and persuasiveness advantage of a 3 minute 2AR [B] their responses to my counter interp will be new, which means 1AR theory necessitates intervention. [C] They get 7 minutes on theory when I only get 6 – creates an irreversible structural skew - Implications—

A] 1AR theory can’t be a legitimate check for abuse and you should reject it B] dropping the argument minimizes the chance the round is decided unfairly C] if intervention will happen on theory debates, then judges should intervene in a way that decreases the asinine nature of LD theory

### AT: ADV

Disproportionate focus on opioid crisis is antiblack – America treats Opioid addiction in white people like a sickness but it’s the same as it is for black people

#### Multiple studies demonstrate a positive cyclical relationship between IPR reform and economic development – including the pharma industry.

Ezell and Cory 19 Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation and  [Nigel Cory](https://itif.org/person/nigel-cory), “The Way Forward for Intellectual Property Internationally”, 25 April 2019, <https://itif.org/publications/2019/04/25/way-forward-intellectual-property-internationally> | MU

* FDI = foreign direct investment

IPRs Strengthen Trade, FDI, and Technology Transfer

A wealth of academic research has documented the relationship between the strength of a country’s intellectual property protections and the extent of trade, foreign direct investment, and technology transfer it enjoys.

Strengthening IPR protection has been shown to correlate with increased trade.27 For instance, Fink and Primo Braga found that IPR protection is positively associated with international trade flows, in particular of manufactured, non-fuel imports.28 Other studies have found a positive association between IPR protection and trade flows in high-technology products.29 Likewise, strengthening of IPR protection has also been connected with increased inflows of FDI. Cavazos Cepeda et al. found that a 1 percent increase in the protection of IPRs as measured by the Patent Rights Index (a measure of the strength of countries’ IPR regimes) is associated with a 2.8 percent increase in the inflow of FDI.30 Similarly, a 1 percent increase in trademark protection levels is associated with a 3.8 percent increase in incoming FDI; and a 1 percent increase in copyright protection yields a 6.8 percent increase in FDI.31 Moreover, the researchers identified a virtuous cycle between FDI and protection of IP, whereby improvements in the IPR environment are associated with improved economic performance—in particular with respect to FDI—and, in turn, further improvements in the IPR environment. Park and Lippoldt showed that stronger IPRs in developing countries are associated with an increase of technology-intensive FDI, while Awokuse and Yin provided a concrete example concerning the relationship of IPR protection in China to FDI inflows, concluding that IPR reforms in China have had a positive and significant effect on inbound FDI.32 There is also evidence that countries with similar levels of intellectual property protection trade more with one another.33

Academic research also signals a strong correlation between IPR and technology transfer. Lippoldt showed that IPR strengthening in countries—particularly with respect to patents—is associated with increased technology transfer via trade and investment.34 Research has revealed that a country’s level of intellectual property protection considerably affects whether foreign firms will transfer technology into it.35 That matters because the welfare gains from the importation of technology via innovative products, while differing across countries, can be substantial.36 For instance, foreign sources of technology account for over 90 percent of domestic productivity growth in all but a handful of countries.37 The research on this matter is clear and consistent. For example, a 1986 United Nations Conference on Trade and Development (UNCTAD) study found that direct investment in new technology areas such as computer software, semiconductors, and biotechnology is supported by stronger intellectual property rights policy regimes.38 (However, as this report later clarifies, subsequent UNCTAD reports have lamentably taken a more skeptical view toward IP.) A 1989 study by the United Nations Commission on Transnational Corporations (UNCTC) found that weak IP rights reduce computer software direct investment; and a 1990 study by UNCTC found that weak IP rights reduce pharmaceutical investment.39 Mansfield conducted firm-level surveys and found that perceptions of strong IP rights abroad have a positive effect on incentives to transfer technologies abroad. Likewise, survey research by the World Bank’s International Finance Corporation found that, with variations by sector, country, and technology, at least 25 percent of American and Japanese high-tech firms refuse to directly invest, or enter into a joint venture, in developing countries with weak intellectual property rights; and a later study confirmed those survey findings with actual foreign direct investment data.40 And an Institute for International Economics study of World Bank data concluded that weak intellectual property rights reduce flows of all these commercial activities, regardless of nations’ levels of economic development.41

A wealth of academic research has documented the relationship between the strength of a country’s intellectual property protections and the extent of trade, foreign direct investment, and technology transfer it enjoys.

Studies have also shown how the benefits of intellectual property extend to developing countries. Diwan and Rodrik demonstrated that stronger patent rights in developing countries give enterprises from developed countries a greater incentive to research and introduce technologies appropriate to developing countries.42 Similarly, Taylor showed that weak patent rights in developing countries lead enterprises from developed countries to introduce less-than-best-practice technologies to developing countries.43 Interestingly, the relationship goes in both directions. Branstetter and Saggi showed that strengthened IPR protection not only improves the investment climate in the implementing countries, but also leads to increased FDI in the country producing the original innovation.44 They concluded that IPR reform in the “global South” (e.g., developing countries) may be associated with FDI increases in the “global North” (e.g., developed countries). As northern firms shift their production to southern affiliates, this FDI accelerates southern industrial development, creating a cyclical feedback mechanism that also benefits the North. Another study by Liao and Wong, which focused on firm-level analysis, highlights the inter-relationship of IPR reform in developed and developing countries. Their study concluded that developing countries can entice technology transfer from the North by providing IPR protection for incoming products (although they note there is a need for redoubled R&D efforts in developed countries to spur needed