# 1NC vs Dulles JL

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#### Empire has shifted from the administration of death to the production of life – the affs restructuring of global medical intervention is the new logic of biopolitical governance – no longer is imperialism a question of borders and military power, but rather the protection of bodies.

Ahuja ‘16

[Neel, English @ UNC Chapel Hill. 2016. “Bioinsecurities”] pat

One element common to this biopolitics of empire is an anxiety about the dependence of the human body on forces that appear inhuman, even inhumane: medical technologies to extend, optimize, or end life; markets and institutions that unequally distribute resources for sustaining life; environmental processes that support, deprive, or injure bodies. Such concerns were, of course, entirely common to twentieth-century modernist fears of alienation from nature, as well as to liberal, socialist, and fascist states that each proclaimed to defend the life of the people in the major imperial wars. Yet due to the ongoing expansion of government into life through technological, economic, and environmental interventions, a growing number of crises that advertise dreaded risks to life as we know it—climate change, nuclear toxicity, disease pandemics, biological weapons, and financial speculation, to name a few—have recently pressed critical studies of empire to think politics and agency at queer scales of relation, from the grand vantage of planetary geology and climate, through the lively migrations of commodities and animals, all the way down to the microbial, molecular, and quantum worlds of matter in which advanced sciences produce new technologies and knowledge. In an era in which excessive hope is invested in the idea that empire’s so-called free markets will inevitably deliver resources for improving life, discussions of risk and security increasingly provoke concern about how bodies are either threatened or safeguarded in links to other species, to ecology, and to technology. Public fears and hopes are thus invested in questions about how bodies interface beyond the skin of the organism. The living body is not only an ecology reproduced by constituent species (think of the life-sustaining work of gut bacteria or the ingested flesh of animals or plants). It is also an assemblage crosscut by technological, economic, and environmental forces (medical technologies, insurance markets, agricultural systems, toxic pollution) that render the body vulnerable as they reproduce its conditions of possibility.

Yet there remains a sense of tension concerning how social theorists frame the vulnerability of human life between biopolitics and these emerging posthumanist ideas. While biopolitical analysis foregrounds the contested figure of the human, emphasizing that the human body is an effect of power crafted through the social reproduction of nationality, race, sex, and/or class factors conjoined in inhuman fields of power, emerging posthumanist and newmaterialist fields including animal studies, environmental humanities, and object-oriented ontology more often emphasize the agency of the nonhuman and the surprising liveliness of physical matter. As such, despite the avowed critique of the human, they may take for granted the apparent universality of the human lifeworld from which they flee, foreclosing attention to the processes that anthropomorphize the human in order to characterize the human’s sovereign domination of the nonhuman. This move allows some posthumanist critics to project upon an outside, the nonhuman (in the form of environment, animal, machine, or other object), the possibility of resistance to anthropocentrism. Such thinking might be seen as a ruse of transcendence—an assumption that turning attention from the human to the nonhuman could bypass Marxist, feminist, critical race, and postcolonial critiques of imperial systems that proliferate inequality under the guise of universal human freedom.

Despite this liberal, idealist trend among posthumanists (which is more pronounced in the humanities than it is in the social sciences), studies of empire increasingly confront the fact that the apparent exteriority of the subject (the worlds of body, physical matter, and interspecies exchange) has more often formed the center of the politics of empire rather than its excluded outside. It is thus my hope that the collision of biopolitical and posthumanist thought may be salvaged in a practical if unexpected crossing: a more robust accounting of the ways in which politics, including the liberal and neoliberal politics of empire, is embedded in living bodies and planetary environments, which are themselves constituted as objects of knowledge and intervention for imperial science. Such an understanding goes beyond an assertion that life is controlled by human government, which would embrace the strong postEnlightenment division between government and life, human and nonhuman. I instead hope to explore the queer hypothesis that the adaptability, risk, and differentiation central to life increasingly constitute the very matter of politics. This book is about how disease outbreaks, medical technologies, and the relations between humans, animals, bacteria, and viruses galvanized racialized fears and hopes that determined the geopolitical form of US empire during the long twentieth century, following the continent-wide establishment of Euro-American settler networks. Before explaining that argument, however, this brief preface explores how—in addition to established methods of postcolonial study that define empire through histories of conquest, settlement, and the exploitation of labor and resources—the inequalities and violences of imperialism can productively be understood from the vantage of species, the field of life itself.

Research on colonial environmental history and disease control is long established in postcolonial studies, even as today there is growing attention to Global South environmental activism, advanced biotechnologies, and human-animal and human-plant interactions as significant concerns in the planetary routes of European and US empire. Yet my sense of an interspecies politics is still relatively unfamiliar from even the vantage of these studies. Extant studies have long highlighted questions of representation, agency, influence, and domination, explaining the unequal distribution of the privileges accorded for being anthropomorphized, for being made human through colonial ideological and social processes. While maintaining focus on such racialized inequalities fracturing the figure of the human in the worldwide routes of European and US imperialisms, it is the aim of this book to articulate an additional sense of the political as a lively zone of embodied connection and friction. “Interspecies relations form the often unmarked basis upon which scholarly inquiry organizes its objects, political interventions such as ‘human rights’ stake their claims, and capitalist endeavors maneuver resources and marshal profit.” A critique of the interspecies zone of the political—which at its broadest would expand beyond the human-animal and human-microbial relations discussed in this book to include the diversity of living species, matter, energies, and environmental systems that produce everyday life out of biosocial crossings—helps us understand the persistence of empire in a postcolonial age precisely because it conjoins power to forces that retreat into the seemingly natural and ahistorical domains of body and matter. From this vantage, empire appears not only as a process of territorial and economic accumulation across international divisions of labor and sovereignty, but also as a reproductive process managing bodies in unequal planetary conjunctions of life and death. Tracing this second phenomenon requires analysis of biosocial forms of exchange among microbes, plants, animals, and humans, as well as models of power and representation recognizing that bodies are not empty containers of human political subjects, but are lively, transitional assemblages of political matter.

There are risks in attempting to theorize a political process like empire via the material shape it takes in life and matter, anticipated in long-standing liberal and Marxist distinctions between human and natural history. Must such a move necessarily turn away from issues of interest, hegemony, violence, representation, and inequality that often define organized decolonial struggles? I would argue that this need not be so, and that vitalizing colonial discourse studies through an accounting of empire’s living textures may actually give a more grounded account of imperial power as well as the strategies of representation that have persistently masked its material articulations. To this end, I explore empire as a project in the government of species. Broadly, this idea refers to how interspecies relations and the public hopes and fears they generate shape the living form and affective lineaments of settler societies, in the process determining the possibilities and foreclosures of political life. In practice, the government of species has historically optimized and expanded some life forms (human or otherwise) due to biocapital investments in national, racial, class, and sex factors. Operating through interspecies assemblages known as bodies, such investments selectively modify and reproduce life forms and forms of life, extracting “the human” out of the planetary field of interspecies relation. Once securitized, this form is constantly under pressure from the unpredictable and inhuman risks of life in a world of ecological, economic, and political complexity. These forces in turn contribute to the ways publics experience and interpret their futures as more or less livable.

An account of the government of species thus explains that empire can be understood as a project in the management of affective relations—embodied forms of communication and sensation that may occur independently of or in tandem with sentient forms of thought and discourse. These affective relations cross the divisions of life and death, human and animal, media and bodies, and immune and environmental systems. In the process of forming the human out of cacophonous biosocial relations, empire often persists—even after the formal conclusion of colonial occupation or settlement—in part because it invests public hope in the management of bodily vulnerability and orients reproductive futures against horizons of impending risk, a phenomenon I call dread life. In such processes by which bodily vulnerability is transmuted into political urgency, techniques proliferate for managing the relations of populations and the living structures of species (human, animal, viral). As such, empire involves the control of life through accumulation of territory and capital, which may be securitized by activating life’s relational potential. Lauren Berlant describes a “lateral agency” that moves across bodies and populations rather than in the top-down fashion of sovereign power; it may, then, be possible to understand empire’s force of securitization not only through conventional dramas of domination and resistance, but rather through embodied processes of coasting, differentiating, adapting, withering, transition, and movement. These are processes that subtly determine how bodies take form, and to what extent they are able to reproduce themselves in space-time relation. They also more radically stretch the body beyond the organic lifetime and into evolutionary, environmental, and informational domains where life/death distinctions blur.

However, the intimate connection between the governmental imperatives to make live and to make die, which Jasbir Puar names “the bio-necro collaboration,” has long been obscured in social and political theories. It thus remains commonplace for biopolitical analyses to view power as either repressive or productive in essence. In his classic work on the topic, French philosopher and social theorist Michel Foucault argued that by the eighteenth century, a political form had emerged in Europe targeting the human as biological species as the central object of power. Power was no longer simply about the repressive force of the state and its controlling interests wielding the right to kill. Power was increasingly vested in the productive reshaping of the biological life of human organisms by institutions such as clinics, prisons, and asylums and their related forms of scientific knowledge; power meant letting live, albeit in constrained form. Foucault recognized the embedding of biopower across species, calling for a social history that incorporated “the evolution of relations between humanity, the bacillary or viral field, and the interventions of hygiene, medicine, and the different therapeutic techniques.” In the notes to his late lectures, he even speculated that neoliberalism involved a governmentality that can “act on the environment and systematically modify its variables.”

Foucault’s description of the rise of biopower is the inspiration for a number of studies in sociology and anthropology that assess new biopolitical shifts involving advanced biomedical technologies. Given that these biopolitical studies focus largely on the United States, western Europe, China, and India— states that have built biotechnology sectors as engines of unequal neoliberal growth—it is perhaps not surprising that a concomitant line of critique has emerged acknowledging vast and growing world sectors of biological and economic precarity. Building on a number of key postcolonial/feminist studies of the 1990s exploring Foucault’s theory beyond European borders, these necropolitical critiques announce that politics today often emerges as the specter of death. The world’s poor, as well as a growing “precariat” carved from shrinking national bourgeoisies, appear less often as the objects of technological uplift than as the human surplus of the political order of things, populations at risk for displacement, dispossession, captivity, and premature death. The precaritization of sweated labor, the subjection of agrarian populations to the twin scourges of neoliberal structural adjustment and environmental devastation, the proliferation of deterritorialized war and ethnic cleansing, and the growth of predatory industries and rents to recycle capital from surplus populations all reveal that those humans targeted for biopolitical optimization constitute a shrinking population who reproduce through the cannibalistic appropriation of life elsewhere. But necropower is not simply about the distribution of death; it is also about the accumulation of social or economic capital through death and precarity. For example, when suicide passes on social force through the deathly body, or when life insurance capitalizes death, death itself thus gives form to life.

#### TRIPS/compulsory licensing is a neoliberal ploy to both legitimize the WTO as a governing apparatus while covertly authorizing economic retaliation against nations who invoke it.

Ferrer ‘19

[Cory, MFA Candidate, University of Colorado Department of Communication. 2019. “THE RHETORIC OF “BALANCE”: NEOCOLONIALISM AND RESISTANCE IN THE GLOBAL BATTLE FOR GENERIC DRUGS,” www.proquest.com/openview/5cbb5aa35aec157b3cdf8b03d5d269b7/1?pq-origsite=gscholar&cbl=18750&diss=y] Harun + pat

Recall also, that compulsory licensing is only a limited solution to the problem of accessing patented drugs in poorer countries. As the Doha Declaration explains: “We recognize that WTO Members with insufficient or no manufacturing capacities in the pharmaceutical sector could face difficulties in making effective use of compulsory licensing under the TRIPS Agreement” (2). As long as a country doesn’t have the means to produce the drugs, there is no one to whom the government could issue a compulsory license. So long as TRIPS restricts patented medicines from crossing international borders, compulsory licenses fall far short of addressing the need for patented medicines in countries that have little or no manufacturing capacity. In what is possibly the most depressing sentence of the Doha Declaration, the document goes on to offer, not a solution, but an instruction to the TRIPS Council to “find an expeditious solution to this problem and to report to the General Council before the end of 2002” (2). In other words, these negotiations were not able reach a compromise, and so they simply left this for future negotiations.

Also conspicuously absent from the Doha Ministerial declaration is any language addressing the rights of countries who take advantage of these flexibilities and remain free from bilateral pressure for doing so. While one could easily argue that if the US chooses to impose sanctions on a country of their own accord, rather than initiate dispute proceedings through the WTO, then this doesn’t necessarily concern the TRIPS agreement. However, given WTO secretary general Mike Moore’s stated concern with countries “feeling secure” in taking advantage of these flexibilities, and given that the issue of “bilateral pressure” was raised as an obstacle to this security during the TRIPS Council negotiations, the absence of any language addressing this issue appears to be a hard concession to the interests of the US and its allies, allowing them to continue holding the threat of economic sanctions over any nation that takes advantage of the flexibilities granted by this declaration (Moore; “Governments”).

Overall, the Doha declaration makes some significant concessions to the demands of the Global South’s coalition yet stops well short of fully authorizing WTO Members to take full advantage of all public health policies that would put affordable medicines into the hands of their people. The declaration recognizes that it falls short and puts a pin in the issue until the next negotiation, having failed to create a suitable compromise between nations who profit from IP protection and nations who suffer from it. The results of these later negotiations will be discussed in the conclusion to this thesis. Ultimately, the Doha Declaration—and WTO policy in general—are constrained by the demand for a standard of consensus which leaves ultimate veto power in the hands of powerful nations profiting at the others’ expense.

‌Conclusion: What does “Balance” Do?

In the context of the Doha round of negotiations, we see “balance” invoked towards several different ends. The TRIPS agreement invokes “balance” as a form of strategic ambiguity, attempting to please multiple stakeholders by allowing competing interpretations of the same international law to clear the procedural hurdles of consensus. The WTO officers and the EU’s position paper invoked “balance” to build legitimacy for the TRIPS agreement, the deliberative process that produced it, and by extension, the global patent system itself. If the TRIPS agreement strikes a carefully negotiated balance between health and IP protection, then the current balance is presumed sufficient. The paper submitted by the US and its allies invoked “balance” only as a description of strong and effective IP enforcement, a passing nod to balance that ultimately served to build the moral credibility of their strong IP enforcement agenda. For the coalition of the Global South, balance means mutual advantage, but one that must be demonstrated. Their position did not presume the benefit of IP to public health outcomes and argued that when IP protection conflicted with public health outcomes, governments have a standing right to choose public health.

Balance is therefore a deeply contested signifier: both a site of neo-colonial domination, and a site of counter-colonial resistance. However, all these conceptions of balance have one thing in common. They all, in some way, reinforce the legitimacy of the TRIPS agreement and the WTO as a governing institution of the global economy. Though the DCGP openly challenged Western Hegemony of these forums, it did so by drawing on specific provisions of the TRIPS agreement and claiming a position as an authoritative interpreter of international law to which Western nations are (on paper) equally beholden. Instead of challenging the legitimacy of the WTO and TRIPS agreements, the governments of the Global South are claiming that legitimacy for themselves in a counter-colonial push to assert themselves as equal governors and rightsholder of the neo-liberal world order. Though “balance” is typically invoked as a resolution to conflict, it is in fact the very site of that conflict it’s supposed to resolve.

#### We will impact turn their claim to WTO legitimacy – it’s the newest form of capitalist imperialism that forcibly opens national bodies to the violence of globalization.

Fukuda ‘10

[Yasuo, Economics at Hitotsubashi University, Tokyo. January 2010. “WTO REGIME AS A NEW STAGE OF IMPERIALISM: DECAYING CAPITALISM AND ITS ALTERNATIVE,” <https://hermes-ir.lib.hit-u.ac.jp/rs/bitstream/10086/22161/1/0101106701.pdf>] pat

There is no colonization occurring under the WTO regime. Modern capitalism lacks the fifth pillar of early 20th century imperialism. However, this does not mean that modern capitalism is without imperialism. Monopoly capital has gained new methods of obtaining the governing power over developing countries in place of colonization.

First, major multinational corporations subcontract to firms in developing countries, thereby assimilating these firms into global business networks. For example, big food retailers such as Wal-Mart and Tesco have established global supply chain management networks which subcontract to farmers in developing countries, thereby bringing these farmers under centralized managerial control (South Centre and Traidcraft 2008). Here, prices fetched at farm gates are determined by monopolists at the top of the supply chain.

Second, monopoly capital now dictates the rules of trade by directly involving itself in the crafting of trade policy. Big business coalitions took part in drafting the WTO Agreements. In the case of GATS, multinational corporations, including Citigroup, J. P. Morgan Chase, and Barclays Bank, drafted the proposal under the authorization of US and EU governments, and then used lobbying to push the agreement through at the time of negotiations (Balanyá et al. 2003). In the case of the negotiations for the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), it was the US Intellectual Property Committee (USIPC), a US business group, which wrote the initial draft, at the request of the US Trade Representative (Weissman 1996). Those party to the USIPC include Monsanto, Pfizer, DuPont, and IBM. Market and trade rules amount to a form of infrastructure vis-à-vis the markets. The body which decides the rules of trade has a considerable advantage over other stakeholders. Under the current setting, it is large multinationals, especially the agents of US monopoly capital, which control the rules of trade, specifically through cozy relationships with the US government. Therefore, it is the governance of trade rules which most distinguishes modern capitalism from the imperialist systems of the early 20th century.

The IMF and the World Bank are monopoly capital’s third source of governing power over developing countries. The IMF and the World Bank are under the control of the G7 (the US, Japan, Germany, France, the UK, Canada, and Italy), which hold nearly 42 percent of the votes in these two organizations. Within the G7 itself, only the US (specifically the US Treasury Department) has the power of veto. Furthermore, US and EU companies routinely establish relationships with the IMF and the World Bank directly. Stanley Fisher, former deputy managing director of the IMF, became vice-chairman of Citibank shortly after finishing his IMF tenure. James Wolfensohn, a former World Bank president, came from a senior executive role at Salomon Brothers and, following his stint at the World Bank, returned to Wall Street as chairman of the International Advisory Board of Citigroup. In 1995, while president of the World Bank, Wolfensohn started a Staff Exchange Program in order to facilitate employee sharing between multinational corporations and the Bank (Cray 2006). It was against this backdrop that the IMF and World Bank, through loan conditionality, forced developing countries to adopt open door policies, resulting in a flood of imports from the developed world (Marsden 2003; Weissman 2000; Weisbrot et al. 2009).

Thus, the WTO regime is nothing short of a regime of imperialism, whereby monopoly capital exercises governing power over both national markets and the world economy. Whereas the first four of the five pillars by which Lenin defined imperialism still apply under the WTO regime, in place of the fifth (colonization), monopoly capital has gained new tools of dominance, most specifically the ability to design market rules. In losing the policy space to protect and develop local firms, developing countries are obliged to become incorporated into a global network managed by monopoly capital. In this way, income is steadily transferred from the lower rungs of the global economy to monopoly capital at the top. In short, the WTO regime constitutes a new stage of imperialism, in which monopoly capital holds hegemony over market rules in place of colonization.

The WTO Regime: A Decaying Stage of Capitalism

The WTO regime was devised under the initiatives of monopoly capital as a means to promote corporate globalization. The next task is to explore what corporate globalization has brought to society. The true nature of corporate globalization is expressed in its outcomes. Lenin characterized imperialism as a decaying stage of capitalism, owing to its unproductive character, which he described as rentier capitalism. The aim of this section is to show that corporate globalization too is nothing more than a decaying stage of capitalism.

Over the past three decades, multinational corporations have drastically increased their shares of foreign investment and have greatly expanded their activities in the global marketplace. UNCTAD publishes the Trans-Nationality Index (TNI), which is a composite of three ratios: (foreign assets)/(total assets), (foreign sales)/(total sales), and (foreign employment)/(total employment). The TNI for the world’s top 100 companies increased from 47.0 percent in 1993 to 55.8 percent in 2003, an increase of 8.8 percent (UNCTAD 2007). The top 200 companies increased their share of total assets by 655.9 percent between 1983 and 2002, while the world GDP increased by just 179.5 percent over the same period (Anderson et al. 2005). This gap between the growth rates of corporate assets and GDP shows a considerable income shift from wages to profits. This rise in profits against wages has advanced considerably in the course of globalization (Ellwood 2001).

Turning to the issue of standards of living in local communities, here the bleak side of corporate globalization is on full display. Corporate globalization has created a divided society, distinguished by rising levels of poverty among those at the lower end of the economic spectrum. In the US, which is the most unequal society among the OECD, the Gini coefficient (which measures household income inequality) has risen almost constantly since the late 1960s. Presently, the top 20 percent of US households possess 47.3 percent of total household income (2007) and 84.7 percent of net assets (2004) (Wolff 2001; Mishel et al. 2008/2009). This level of inequality is the result of considerable income gaps between capital and labor; management and the rank-and-file; standard and non-standard forms of employment; and large companies and subcontractors. It is the activities of monopoly capital which have caused the widening of these gaps.

#### This culminates in a form of dread life which organizes and deploys disaster biopolitics to justify constant interventionism, health apartheid, and antagonistic subject formation that turns and outweighs the aff.

Debrix ‘18  
(François Debrix, Professor and director of ASPECT, College of Liberal Arts and Human Sciences, Virginia Tech. “End piece: Dealing with disastrous life” in Biopolitical Disaster. Ed. Jennifer L. Lawrence and Sarah Marie Wiebe. 2018 Routledge forthcoming. cVs) rc/pat

Disastrous biopolitics makes possible dread life. I borrow the term “dread life” from Neel Ahuja’s recent study of the racialized dimensions of the governance and management of anxiety, particularly with regards to the fear of infectious diseases (Ahuja 2016). Dread life is a life that has grown accustomed to and has placed its trust in governance discourses that promise that life can be cared for or preserved through a series of social, political, economic, cultural, or technological interventions at the level of collective and individual bodies. Dread life is a life that has become reliant on discourses and representations of crises, looming dangers, impending catastrophes, and ongoing disasters (whether they are visible or not). As Ahuja puts it, dread life emerges as a result of discourses and representations “that (1) posit the environment as an unruly site of perpetual risk, and (2) shore up an imperial optimism in the force of the state that tends to far outstrip its actual ability to control [the crisis]” (Ahuja 2016: 9). Discourses that produce dread life abound because they keep the crisis or the disaster alive, productive, and always active. Through these discourses, the presence of dread life is a constant reminder of the fact that humanity remains under the spell cast by a bad or evil star, that, as fate has it, disasters will always be around. But, just as crucially, dread life also enables the production of an array of configurations, objects, and objectives, and subjectivities that help to make disastrous biopolitics into a set of tangible, material, and generable operations on a day-to-day basis. Thus, dread life breaks down into a series of subsets of disastrous life and living conditions. Depending on how, where, or when the crisis or disaster is mobilized (as many of this volume’s chapters have detailed), dread life can morph into resilient life, or into triaged life, or perhaps into deracinated life, or possibly into toxic life, or sometimes into emergency life, or maybe into a life suspended between disease and death. Any instance whereby dread life is placed in front of “an unruly site of perpetual risk” (as Ahuja puts it) is potentially productive of one of these (and other) subsets of disastrous life/living. Moreover, for any subset of dread life one finds a corresponding modality of governance/governmentality best suited (or so we are told) to manage the crisis or the disaster and, as such, most apt at keeping alive as dread. Thus, for example, resilient life calls for, justifies, and makes effective operations, technologies, and strategies of resilience. Secure life instantiates and authorizes security practices, policies, and politics. Toxic life requires responses in the form of environmentally conscious purifying or cleansing remedies that typically mobilize various layers of scientific expertise. Triaged life often calls for and normalizes clinical and administrative gazes that can sort bodies in order to repurpose them for upcoming disaster challenges (wars, future diseases, weather emergencies, etc.) Dread life is also productive of a range of subjects and subjectivities in charge of determining which types of interventions at the level of populations and bodies are more likely to cope with the disaster of deciding how the governing strategy that has been adopted (resilience, sustainable development, security, etc.) is to be deployed. This is precisely the point where what Ahuja calls “the optimism in the force of the state” (2016:9) is maximized. The state or, better yet, all sorts of agents/agencies in charge of the governance of dread life both depend on and become a function of the production of multiple instances of dread life so that they can serve as the ultimate guarantors of the safety, security, resilience, or sustainability of life itself (even if, more often than not, such a maintenance of dread life implies the culling of other bodies whose lives are not even worthy of being subjected to dread). Thus, as most of this volume’s chapters have revealed, one cannot think life under conditions of disaster without accounting for a series of governing or managing agents/agencies (the state, in some cases, but also various neoliberal assemblages such as corporations, environmental organizations, militaries and other security and enforcement agents, laws, policies and policy statements, extractive technologies, regimes of health, communities of experts, scientific pronouncements, etc.) that come together to make sure that dread life will be maintained as dread life and that disasters will be kept as productive discursive modalities for more dread life (and disasters) to come. This is not necessarily to say that these agents or agencies of governance of dread life are the instigators of dread life or of disastrous biopolitics. Rather, it is to say that these agents/agencies of biopolitical governance are active assemblages that are produced by discourses of disaster maintenance and by the need created in these discourses for life to remain tethered to disaster. Yet, these active assemblages of productive governance of dread life through disaster management display an actancy (through their active/creative performances) that enables discourses of disastrous biopolitics to be reproduced, re-imagined, or redeployed.

#### The alternative is autoaesthetics – liberal biopolitics is a form of resilient living that subverts human potential into endless dangers to be secured – voting negative reintroduces death to the question of life – ask yourself, what would it mean to have a death well lived?

Evans and Reid ‘14

[Brad Evans, International Relations at the University of Bristol, and Julian Reid, International Relations at University of London. 2014. “Resilient Life”] pat – DM me for the PDF

Even through a brief social detour on fire, however, we can see how the continual framing of life in terms of its biological vulnerability has a more contested history. Indeed, even though the compulsion to view life biologically developed to be one of the defining features of modernity, throughout this period there was nevertheless some belief that the subject was able to secure itself from the problems of the world. This was backed up by the proliferation of various myths about belonging that were central to the creation of political communities. Liberalism, in contrast, operates as if it is ‘limitless’. Its reach, growth and development demand more, and more, and more. However, instead of relating this to a new-found metaphysical awakening that allows us to think that there is more to life than its biological endowment, contemporary liberal biopolitics turns infinite potentiality into a source of limitless endangerment such that all there is to think about is the sheer necessity and survivability of things. In this sense, it is more proper to describe liberal biopolitics as limitless. For rather than taking the open horizon as a space for the infinitely possible, everything is internalized such that it is haunted by whatever remains irreducible to its current sensibility. This inevitably brings us to the vexed question of a death well lived.

We don’t need grand theorizing to make the point that mediations on death have a profound impact upon the way we live. Anybody who has known a person with a terminal illness and becomes anxiously consumed with the prospect of dying will appreciate how the thought and presence of death effectively stops them living. They cannot live because the very uncertainties (physical and intellectual) presented by the mere thought of death are a burden that proves too difficult to carry. Hence, working in an opposite direction to Heidegger’s much debated claim that the ‘absolute impossibility’ of thinking about death constitutes the very possibility of being, the possibility of its occurrence is sufficient to instill what in fact is less a fear of death but more a fear of living. But we cannot simply stop there. As we have suggested, what makes the art of living so dangerously fascinating today is that it requires us to live through the source of our endangerment. Trauma and anxiety as such become our weapons, as vulnerability is amplified and played back to us with increasing frequency to their point of normalization. The political significance of this should not be underestimated.

Our argument is that the political debasement of the subject through strategies of resilience more than puts the very question of death into question by removing it from our critical gaze. In doing so, it represents nothing short of a profound assault on our ability to think metaphysically. This in turn represents a direct attack upon our abilities to transform the world beyond the catastrophic condition in which we are now immersed. After all, how can we even conceive of different worlds if we cannot come to terms with the death and extinction of this one? Resilience as such is what we may term a ‘lethal ecology of reasoning’, for in taking hold and seeking to intervene in all the elements upon which life is said to depend, it puts the living on a permanent life support system that is hard, soft and virtually wired into the most insecure of social fabrics to the evacuation of all possible alternative outcomes. To open, then, a much debated but still yet to be resolved conflict in the history of political and philosophical thought, we maintain that if the biopoliticization of life represents the triumph of techne over poiesis, and if this very biopoliticization today thrives on the technical production of vulnerable subjects which learn to accept that fate, there is a need to resurrect with confidence the idea that what remains irreducible to life can be the starting point for thinking about a more poetic alternative art for living. As Peter Sloterdijk writes on the all too gradual demise of metaphysics:

Ever since the end of the eighteenth century, this has become a twilight zone where it was also possible to see the growth of nihilism, and it was precisely because there that art began to assume an enormous importance, and precisely because art makes it clear that it has a non-nihilistic way of coming to terms with the fact that we ourselves are responsible for the creation of what we think of as the essential. Art defends the truth of life against flat empiricism and deadly positivism, which are no longer capable of an awareness of anything more than the facts and which are therefore incapable of culling the energy to create new inter-relationships of vital or living forces.

Life as a Work of Art

So where does this leave us in our attempts to move beyond the resilient subject? How may we revitalize the very meaning of the political out of the torment of its catastrophic condition? What is further required so that post-biopolitical forms of living may be entertained? How, in other words, may we resurrect with affirmative vigour Nietzsche’s delightful and no less poignant provocation that life itself may become a work of art? We are yet to truly grasp the magnificence of Nietzsche’s work as it may play out in the field of politics. While the stylistic artistry of his particular interventions largely remained tied to the literary field, as witnessed most notably in the figure of Zarathustra, he nevertheless demanded with affirmative vigour rejoicing in the fullness of an experience that embraces the poetic and the aesthetic. Not only does this stake a claim to the creative power of transformation, it also gives over to life the political possibility that its aesthetical qualities may have both an affirmative and resistive potential to challenge dogmatic images of thought. Never has this calling seemed more pressing.

What is at stake here is not simply the ‘aesthetics of existence’ wherein life conforms to some glorious representational standard of beautification. Such constructed imaginaries always grey the magnificent colours of the earth. What is demanded is the formulation of alternative modes of existence that are not afraid to have reasons to believe in this world. As Deleuze succinctly put it, ‘In every modernity and every novelty, you find conformity and creativity; an insipid conformity, but also “a little new music”; something in conformity with the time, but also something untimely – separating the one from the other is the task of those who know how to love, the real destroyers and creators of our day’. Deleuze invariably provides a purposeful nod here to the Nietzchean idea of a poetic subject:

that he himself is really the poet who keeps creating this life... as a poet, he certainly has vis contemplative and the ability to look back upon his work, but at the same time also and above all vis creative, which the active human being lacks... We who think and feel at the same time are those who really continually fashion something that had not been there before: the whole eternally growing world of valuations, colours, accents, perspectives, scales, affirmations, and negations’.

What Nietzsche acknowledges in this passage is that ‘aestheticizing of life entails its artful, stylish disappropriation, a free fall into metaphor and un-self-ness. Autoaesthetics, the artful and chimerical fabrication of the (un)self, means development of strategies of self-mastery, power over one’s art and production, a convergence with self at the locus of the creation (and interpretation) of art’. This was not lost on Foucault, who was also of the opinion that ‘from the idea that the self is not given to us, I think that there is only one practical consequence: we have to create ourselves as a work of art... We should not have to refer the creative activity of somebody to the kind of relation he has to himself, but should relate the kind of relation one has to oneself to a creative activity’.

We may argue that conceiving of life as a work of art stands in direct contrast to the nihilism, indifference and alienation of the catastrophic subject. It resurrects Nietzsche’s claim about the death of God in a way that seeks to find new forms of meaning to life that are necessarily revelatory in nature. And it challenges head on the positivist conceit that a meaningful life can only be progressively reasoned on account of its biopolitical existence. This demands an account of the subject that is more than a historical unfolding of survivability. As Simon Critchley puts it, by drawing upon one of his arch provocateurs, Oscar Wilde, ‘When I think of religion at all, I feel as if I would like to found an order for those who cannot believe: the Confraternity of the Faithless, one might call it, where on an altar, on which no taper burned, a priest, in whose heart peace had no dwelling, might celebrate with unblessed bread and a chalice of empty wine. Everything to be true must become a religion. And agnosticism should have its ritual no less than faith’. This acceptance that there is something to existence that is less explicable to the prevailing logics of secularity, as Todd May explains, requires a more nuanced understanding of philosophical enquiry that moves away from ‘thinking metaphysics’ and all its ways of stupefying and rendering incapable the subject, towards questioning how we might live differently:

We don’t want to reduce it simply to a morally good life, as though a meaningful life were simply an unalienated moral life. Meaningful lives are not so limited and are sometimes more vexed. So we must ask what lends objective worthiness to a life outside the moral realm. Here is where the narrative character of a life comes into play... There are narrative values expressed by human lives that are not reducible to moral values. Nor are they reducible to happiness; they are not simply matters of subjective feeling. Narrative values are not felt, they are lived. And they constitute their own arena of value, one that has not been generally recognized by philosophers who reflect on life’s meaningfulness.

There are a number of qualifications that need to be made here. We cannot be content to see artistic production as something which fosters a negative response to the realities of the world. Creativity must precede any account of the dialectic. Nor must we confuse the art of living with the conforming arts that merely perform a well-rehearsed dance. Life as a work of art is necessarily affirmative in a sense that it appeals to the yet to be revealed. It has no taste for the simulacrum. Neither is it content to accept the need to live dangerously such that we are forced to live with déjà vu all over again. The self is to be actively produced as a non-stable subject that does not seek to emulate some normative standard, but instead forcefully challenges the vulnerable ground which it is said to occupy. So believing in the irreducibility of existence? Certainly. Hostile to all reactive and enslaving forces? Undeniably. Unapologetic in willing the event of its ongoing emergent existence? Steadfast. Openly committed to the affirmative potential of the autonomous subject? Categorically. A believer in a more affective notion of history that is forever in the making? Unreservedly. A student of the eschatological? Earnestly. Appreciative of the transformative political power of fabulation? Truly. A lover of the poetic over the mathematical? Wholeheartedly. Welcoming our coming into the world? Without reservation.

#### The Role of the Judge is to give up hope.

#### Hopeful affirmation warps within the biomedical sphere to structure policy toward the governance of difference – voting neg refuses to play into the affirmation of life for the sake of it

Ehlers and Krupar ‘14

[Nadine Ehlers, Women's and Gender Studies at Georgetown University, and Shiloh Krupar, Geographer and Provost's Distinguished Associate Professor at Georgetown University. Fall 2014. “Hope Logics: Biomedicine, Affective Conventions of Cancer, and the Governing of Biocitizenry,” <https://ro.uow.edu.au/lhapapers/1849/>] pat

Hope carries utopian promise; it offers possibilities of a “not yet,” a “to come,” and an imagining of life otherwise. In contemporary critique, hope has often been deployed as the means to effect radical social transformation and the reinvention of contemporary reality. It is seen as a way of reaching beyond the stymied conditions of today by orienting toward the horizon of an alternative tomorrow. Hope is invoked as an incantation, under conditions of uncertainty; it is an insistent affirmation of the ability to effect change. This change can be imagined politically and economically, psychologically and corporeally. Indeed, hope is ubiquitous in contemporary culture, from US President Barack Obama’s political memoir—The Audacity of Hope—to international food drives—the “Convoy of Hope”4—to biomedical understandings of illness and health. As in the above quotation from “Banners of Hope” (an online outreach for children with life-threatening diseases), hope is the panacea for chronic or terminal illness. Hope might be seen to operate as a logic within the biomedical arena, one that structures subjectivities, social realities, and corporeal states. It incites particular behaviors; it induces certain forms of community and belonging; it seduces us to believe in the possible transcendence of bodily limits and/or temporal constraints. As we explore in this essay, hope is the guiding principle of biomedicine’s telos toward the affirmation of life.

This essay argues that hope is conventionalized in particular ways that work in the service of biopolitical imperatives to govern life, and to secure, optimize, and speculate on that life. We orient the investigation toward the regulation of affect within the US biomedical arena to consider how affective conventions—that is, the perceptual, emotional, and corporeal modes of managing and responding to events—of hope perform a governing function. In relation to illness, for example, they condition responses to bodily vulnerability and uncertainty, manage the present for the future, and relentlessly affirm life. We ground these broad claims in an examination of the dominant affective conventions of hope at work in cancer activism and treatment. Documenting the ways in which hope is increasingly militarized, commodified, routinized, and delimited in the neoliberal era, the essay explores how such conventions of hope are actively made and maintained through aspects of cancer-related biomedical encounters—what we call infrastructures of care and bioethics of faith within oncology. The essay concludes by considering alternative hope tactics—“hoping for other things”—in relation to cancer.

## 1NC – Covid

### 1NC – Covid Dump

#### Their impact evidence is terrible – the Recna et al evidence – the research was initially submitted January 2021 and published in May – that’s before delta and second wave which obviously should have triggered the impact.

#### Can’t make enough vaccines vital components are too scarce

Tepper 4-10 James Tepper, 4/10 [James Tepper, (James M. Tepper is an American neuroscientist currently a Board of Governors Professor of Molecular and Behavioral Neuroscience and Distinguished Professor at Rutgers University and an Elected Fellow of the American Association for the Advancement of Science.)]. "Global Covid vaccine rollout threatened by shortage of vital components." Guardian, 4-1-2021, Accessed 8-8-2021. https://www.theguardian.com/world/2021/apr/10/global-covid-vaccine-rollout-threatened-by-shortage-of-vital-components // duongie

Vaccine-makers around the world face shortages of vital components including large plastic growbags, according to the head of the firm that is manufacturing a quarter of the UK’s jab supply. Stan Erck, the chief executive of Novavax – which makes the second vaccine to be grown and bottled entirely in Britain – told the Observer that the shortage of 2,000-litre bags in which the vaccine cells were grown was a significant hurdle for global supply. His warning came as bag manufacturers revealed that some pharmaceutical firms were waiting up to 12 months for the sterile single-use disposable plastic containers, which are used to make medicines of all kinds, including the Pfizer, Moderna and Novavax Covid-19 vaccines. But Erck and his British partners said they were confident they had enough suppliers to avoid disruption to the supply of Novavax. The vaccine is waiting for approval from the Medicines and Healthcare products Regulatory Agency (MHRA) but the first of 60 million doses ordered by the government are already in production in Teesside. The Fujifilm Diosynth Biotechnologies factory began growing the first cells for the Novavax vaccine in Billingham, County Durham this month and in a few weeks they will fill the bioreactor bag, ready to be transported to GlaxoSmithKline’s plant at Barnard Castle to be put into vials for distribution. “The first hurdle is showing it works and we don’t have that hurdle any more,” Erck said. But he added there were others still to overcome. “There’s the media that the cells have to grow in,” Erck said. “You grow them in these 2,000-litre bags, which are in short supply. Then you pour it out and you have to filter it, and the filters are in short supply. The little things count.” Novavax almost ran out of bags at one of its 20 factories earlier this year, but there had been no delays for the UK operation, according to Martin Meeson, global chief executive of Fujifilm Diosynth. “We started working on our part of the supply chain in summer last year,” he said. “We had to accelerate some of the investment here, but the commitment we made last summer to start manufacturing in February has been fulfilled.” Production of coronavirus vaccines is being ramped up. Production of coronavirus vaccines is being ramped up. Photograph: Christophe Archambault/AP Both Meeson and Erck said the UK’s vaccine taskforce had been helpful in sorting out supply issues so far, but other countries and other medical supplies might be affected. ABEC makes bioreactor bags at two plants in the US and two in Fermoy and Kells in Ireland, and delivered six 4,000-litre bags to the Serum Institute in India last year for its Covid vaccines. Brady Cole, vice-president of equipment solutions at ABEC, said: “We are hearing from our customer base of lead times that are pushing out to nine, 10, even 12 months to get bioreactor bags. We typically run out at 16 weeks to get a custom bioreactor bag out to a customer.” He said ABEC was still managing to fulfil orders at roughly that rate. “The bag manufacturing capacity can’t meet demand right now,” he added. “And on the component side, the tubes and the instruments and so forth that also go into the bag assembly – those lead times are also starting to get stretched as well. But the biggest problem we see is it really is just the ability to get bags in a reasonable amount of time.” ABEC expanded its factories last year and has now started making 6,000-litre bags, which are roughly the size of a minibus. Other firms including MilliporeSigma, part of German company Merck, have also been expanding their manufacturing facilities. American firm Thermo Fisher Scientific expects it will finish doubling its capacity this year. The US government has also blocked exports of bags, filters and other components so it can supply more Pfizer vaccines for Americans. Adar Poonawalla, the chief executive of the Serum Institute of India, said the restrictions were likely to cause serious bottlenecks. Novavax is hoping to avoid delays and “vaccine nationalism” by operating on four continents, with 20 facilities in nine countries. “One year ago, we had exactly zero manufacturing capacity,” Erck said. “We’re self-sufficient. The two main things we need to do are done in the UK. And in the EU we have plants in Spain and the Czech Republic and fill-and-finish in Germany and the Netherlands.” There was no need for vaccines to cross borders to fulfil contracts, he said. The Oxford/AstraZeneca vaccine was hit by a delay to a delivery of 5 million doses from India and a problem with a batch made in Britain, and the company has been dragged into a lengthy row between the UK and the EU over vaccine exports.

#### The plan only hurts manufacturing moving bottlenecks to less efficient manufacturers

Alex **Knapp, 5/7** [Alex Knapp, (senior editor at Forbes covering healthcare, science, and cutting edge technology.)]. "Patent Waivers Won’t Impact Big Pharma’s Bottom Line—But Could Slow Covid Vaccine Rollouts." Forbes, 5-7-2021, Accessed 8-5-2021. https://www.forbes.com/sites/alexknapp/2021/05/07/patent-waivers-wont-impact-big-pharmas-bottom-line-but-could-slow-covid-vaccine-rollouts/?sh=78866f727862 // duongie

On Wednesday, the Biden Administration stated that it would support a proposal to temporarily waive protection of intellectual property (IP) rights for Covid vaccines during the pandemic, in a bid to boost production and accelerate vaccine distribution throughout the world. Industry trade groups immediately criticized the move, and investors reacted simultaneously—share prices plummeted, though they’ve been slowly recovering Thursday and Friday. Wall Street analysts at Morgan Stanley, Jefferies and Brookline Capital Markets, however, said in reports this week that waiving vaccine IP was unlikely to impact the financials of major vaccine makers, noting that current bottlenecks in vaccine production are related to supply chain, technical knowledge and difficulty in scaling up production. However, they caution that for the same reason, waivers could slow down current production by disrupting the market for raw materials. “Manufacturing supplies, raw materials, vials, stoppers and other key materials are in limited supply for 2021, and certainly for the 2021 calendar year,” wrote analysts from Jeffries, meaning that waivers can’t solve immediate vaccination needs in India and South Africa, where Covid-19 cases are surging. That report also notes that the mRNA vaccines from Pfizer and Moderna have yet to be authorized for use in India, as regulators desired local clinical trial data, which is another hurdle to overcome. Morgan Stanley commented that U.S. support alone doesn’t necessarily mean that a World Trade Organization agreement on the waiver would happen, especially since Germany has expressed opposition. The firm additionally notes that “manufacturing vaccines is a much more complicated process than making chemical drugs, and a patent waiver by itself would not enable other entities to manufacture their own copies of complex vaccines.” Jefferies analysts also remarked that another barrier to increased vaccine production is “ensuring the quality of the product, which is also not trivial.” Contractors for vaccine makers Pfizer, AstraZeneca and Johnson & Johnson have all run into quality-control issues that have led to millions of vaccine doses being discarded. On a company earnings call yesterday, Moderna CEO Stéphane Bancel said he doubted that waiving IP rights would impact his company much, because it would take months or even years for other companies to scale up manufacturing. Meanwhile, the biotech company has recently committed to expanding its own manufacturing capacity and expects to be able to make up to 3 billion doses of vaccine in 2022. Morgan Stanley analysts noted that in October 2020, Moderna “stated it would not enforce its patents during the pandemic, but to our knowledge, no one else has started manufacturing a vaccine that would violate Moderna’s patents.” The team at Brookline Capital markets noted that if a company did begin manufacturing vaccines based on Moderna’s patents, the upside would be an additional licensing revenue stream for the company. On Friday, vaccine manufacturer Novavax, which has reached an agreement with the private-public global health partnership Gavi to provide 1.1 billion vaccine doses to low income countries, stated its opposition to the WTO waiving patents, arguing that it “could further constrain resources by diverting them to entities incapable of manufacturing safe and effective vaccines in the near term.” Jeffries analysts note that a waiver wouldn’t put Novavax at immediate risk, as a key component of the company’s vaccine “is in limited supply and a majority of the raw material has already been locked up” by the company. That said, Morgan Stanley struck a similar point to Novavax about the risk involved in waiving patents. The analysts point out waivers could be counterproductive and actually slow down vaccine manufacturing. “An IP waiver now may exacerbate supply issues,” they write, “if some countries start to try to secure raw materials ahead of being able to produce a vaccine and cause shortages and disruptions in the supply chain.”

#### Covid mutates too fast South Africa and UK variants prove

David **Ho 3/8** [David Ho, (David Da-i Ho is a Taiwanese-American AIDS researcher, physician, and virologist who has made a number of scientific contributions to the understanding and treatment of HIV infection.)]. "New Study of Coronavirus Variants Predicts Virus Evolving to Escape Current Vaccines, Treatments." Columbia University Irving Medical Center, 3-8-2021, Accessed 8-5-2021. https://www.cuimc.columbia.edu/news/new-study-coronavirus-variants-predicts-virus-evolving-escape-current-vaccines-treatments // duongie

A new study of the U.K. and South Africa variants of SARS-CoV-2 predicts that current vaccines and certain monoclonal antibodies may be less effective at neutralizing these variants and that the new variants raise the specter that reinfections could be more likely. The study was published in Nature(link is external and opens in a new window) on March 8, 2021. A preprint of the study was first posted to BioRxiv(link is external and opens in a new window) on January 26, 2021. The study’s predictions are now being borne out with the first reported results of the Novavax vaccine, says the study's lead author David Ho, MD. The company reported(link is external and opens in a new window) on Jan. 28 that the vaccine was nearly 90% effective in the company’s U.K. trial, but only 49.4% effective in its South Africa trial, where most cases of COVID-19 are caused by the B.1.351 variant. "Our study and the new clinical trial data show that the virus is traveling in a direction that is causing it to escape from our current vaccines and therapies that are directed against the viral spike,” says Ho, the director of the Aaron Diamond AIDS Research Center and the Clyde’56 and Helen Wu Professor of Medicine at Columbia University Vagelos College of Physicians and Surgeons. “If the rampant spread of the virus continues and more critical mutations accumulate, then we may be condemned to chasing after the evolving SARS-CoV-2 continually, as we have long done for influenza virus,” Ho says. “Such considerations require that we stop virus transmission as quickly as is feasible, by redoubling our mitigation measures and by expediting vaccine rollout.” After vaccination, the immune system responds and makes antibodies that can neutralize the virus. Ho and his team found that antibodies in blood samples taken from people inoculated with the Moderna or Pfizer vaccine were less effective at neutralizing the two variants, B.1.1.7, which emerged last September in England, and B.1.351, which emerged from South Africa in late 2020. Against the U.K. variant, neutralization dropped by roughly 2-fold, but against the South Africa variant, neutralization dropped by 6.5- to 8.5-fold.

## 1NC – Legitimacy

### 1NC – Dispute

#### Lack of robust DSM thumps and turns their internal link to legitimacy – fiat means inevitable backlash and challenges to the plan get papered over by the internal judiciary – it undermines conciliation and cooperative rule-making which is key.

Claude Barfield, May/June ‘2. Resident Scholar @ American Enterprise Institute. “WTO dispute settlement system in need of change,” Intereconomics, 37:3, Proquest.

Throughout the history of the postwar multilateral trading system, presided over first by the General Agreement on Tariffs and Trade and since 1995 by the new WTO, two distinct theories regarding the settlement of trade disputes have competed for dominance. On one side are the "pragmatists" who argue for a "diplomatic" approach that stresses conciliation and problem-solving over legal precision. This view of dispute resolution was generally espoused by Europeans; and as late as the 1980s, a Swiss GATT Director General stated: "GATT cannot be a world trade court. Conciliation is our priority: it is not our job to determine who is right and wrong." On the other side were the "legalists" or "rules-oriented" proponents who hold that legally binding rules will produce more certainty, predictability and fairness for all GATT/WTO member states. US trade policymakers and scholars, particularly, have championed this approach. Though the system today retains some blend of the diplomatic and legalistic philosophies, decisions taken during the Uruguay Round (1986-1994) marked a clear shift toward a more judicialized, legally binding dispute settlement system. The most far-reaching change on the dispute settlement process was the introduction of "automaticity," whereby decisions by WTO panels or the Appellate Body will stand unless there is a consensus (virtual unanimity) among WTO members against the panel or Appellate Body decision. Given the extreme difficulty of amending or interpreting WTO rules (requirement of consensus or three-fourths majority), de facto the new system gives final say to these judicial bodies. Given the imbalance between the very efficient, binding judicial system and the inefficient, cumbersome rulemaking apparatus, there is the danger - already identified by a number of WTO scholars - that WTO member states will increasingly look to the judicial system to "create" new law or amend existing laws. As Marco Bronckers, a leading European legal scholar has written: "Governments may too easily think that progress can be made in the WTO through enforcement; that litigation is a more convenient way to resolve difficult issues than an open exchange at the negotiating table. That is troubling because it undermines democratic control over international cooperation and rule-making ..." Further, the mindset of the new legal culture is at odds with diplomatic accommodation. Professor J.H.H. Weiler, a strong advocate of the new system, has candidly admitted that though the rule of law is supposed to be dispassionate and objective, when two parties both believe that the law is on their side and litigate, "then it becomes a profession of passion, of rhetoric, of a desire to win.. all inimical to compromise." Likewise, though legal professionals should act objectively on the merits of a case, in reality they are (like other professionals) "people with ambition, with a search for job satisfaction." Thus, according to Weiler: " `We can win in court' becomes in the hands of all too many lawyers an almost automatic trigger to `we should bring the case.' " The bottom line regarding the old system of consultation and conciliation, as one US trade lawyer has pointed out, is that it "has disappeared as a meaningful step in the process. To consult openly is to risk your country's case as an advocate, as any admission is going to be used against you. Only consult seriously if you wish to confess judgment and make amends that is the lesson of the DSU." The triumph of binding legalism came just at the time when the results of the Uruguay Round had vastly expanded the substantive reach of the international trade regime. New rules in the area of health and safety, and for the services industries - banks, insurance companies, telecommunications and the Internet, energy services and transportation, for example - meant that the multilateral trading system would be asked to deal with complex issues that go deep into the economic and social structures of its member states. In addition, a wholly new regime for intellectual property was established, at a time of great ferment within individual nations over challenges to intellectual property emerging from new technologies such as software and biotechnology. Sylvia Ostry, a former Canadian trade negotiator now at the University of Toronto, has described the resulting new model: "The degree of obtrusiveness into domestic sovereignty bears little resemblance to the shallow integration of the GATT with its focus on border issues ... The WTO has shifted from the GATT model of negative regulation - what governments must not do - to positive regulation, or what governments must do." Unsustainable Dispute Settlement System As the two leading superpowers of trade, the United States and Europe constitute the indispensable central core of the multilateral trading system. And the seeming intractability of an increasing number of disputes between the two WTO leaders is a harbinger of greater systemic problems. Specifically, in a recent book, I have argued that the new WTO dispute settlement system is unsustainable, both politically and substantively.' It is not sustainable politically because the constitutional flaw stemming from the imbalance between the powerful judicial system and the weak and ineffective rulemaking procedures will, over time, create major questions of democratic legitimacy. In retrospect, it was relatively easy to rebut charges of democratic illegitimacy against the delegates to Seattle in 1999: they were appointed officials of (mostly) democratic governments. It will be another thing, however, to defend the actions of WTO judicial bodies when it is alleged that they are "legislating" new rights and obligations through judicial interpretation. Substantively, there are two problems. First, even with the best of wills, panels and the Appellate Body face a daunting task in interpreting the underlying text and rules because, as even defenders of the new system admit, they contain numerous gaps and ambiguities, lacunae, and contradictory language that papers over basic policy differences among negotiators. More fundamentally, there is no consensus in a number of instances on the complex regulatory issues posed in such areas as services regulation, health and food safety, and national intellectual property regimes. The Beef Hormones Case For the purposes of this essay, two major WTO judicial confrontations between the US and the EU illustrate the political and the substantive conundrums engendered by the new system. The first is the wellknown Beef Hormones Case, which remains a standoff with Europe continuing to pay over $100 million in compensation for refusing to abide by a WTO ruling. There could be no better example of the folly of a promise of a legally "correct" decision in a program area than this case. Underlying the complicated facts of the dispute is a fundamental disagreement about how societies should handle risk. The EU is moving inexorably toward an expansive interpretation of the "cautionary principle," whereby nations can ban the import of goods with minimal (or no) scientific evidence. The US (and some other nations) are moving in the other direction - toward mandating credible scientific data before allowing trade restrictions. WTO rules seem to point to at least minimal scientific justification, and assume that invocation of the "precautionary principle" will be temporary, pending additional data. When confronted with such dissonances, the Appellate Body produced a decision laced with a hodgepodge of creative, yet unintegrated rationales. It upheld the need for scientific evidence, while undercutting that mandate by allowing socioeconomic arguments (including public opinion) to rank with science in determining import policy. It denied the EU's contention that the "precautionary principle" had reached the status of customary international law at this time - a truly radical assertion - but held out the possibility that in the future the situation might change. (Subsequently, the EU compounded the problem by flouting the clear statement in WTO rules that the "precautionary principle" can only be utilized "provisionally" and temporarily; in effect, it defended an invocation virtually in perpetuity.) Whatever the specific outcome in each of these questions, the debate centered on issues that potentially altered the rights and obligations of WTO members - and thus should not have been confined to the single discretion of WTO judicial bodies. The FSC Cases The equally famous FSC cases concerning alleged WTO-illegal tax subsidies for US exporters is another illustration of both the incapacity of the Dispute Settlement Understanding to deal with a complex international economic issue (international taxation) and the dangerous consequences of pronouncing on highly charged political issues. (It should be noted that the author is a strong opponent of any subsidies for exporters and would abolish as corporate welfare such US programs as those administered by the US Export-import Bank and OPIC. The issue here, however, relates to WTO rules and adjudication - and not the wrongheadedness of export subsidies.) Fundamentally, the issues in these cases stem from differing national approaches in taxing foreign source income of corporations. The United States generally uses a so-called worldwide system of taxation - that is, it taxes income of a person or corporation regardless of where the income is earned. European nations in general utilize the so-called territorial system under which countries tax all income within their border but do not tax income earned abroad. Conflicts have arisen for three decades as the United States has attempted to level the playing-field and replicate some part of the European foreign source income exemption. Suits and countersuits were launched in the 1970s under the old GATT. A standoff ensued when both the European (at least for several countries) and the US international tax system were found in violation of existing trade rules. In 1981, a political "Understanding," ratified by the GATT General Council, was reached that agreed that with respect to these cases "and in general, " economic processes, including transaction involving exported goods, need not be taxed by the exporting country. Fifteen years later, in a fit of pique and after much negotiating water had flowed over the dam, the EU challenged the then existing US export credit regime. Brushing past ample legal authority to uphold the validity of the 1981 Agreement, a WTO panel and the Appellate Body upheld the EU challenge. The US Congress then revised the export tax regime, only to have a panel and the Appellate Body once again find for the Europeans. In this last case, the Appellate Body put forward a standard that assumed the possibility of a "bright line" between foreign and domestic income - and struck down the US law for establishing formulas that partially mixed the two. As the US trade and tax expert, Gary Hufbauer, has stated, this interpretation could only have been advanced by a "firstyear law student ... with only limited knowledge of tax law." To conclude this section, these cases (and others that could be cited) illustrate the twin dangers inherent in the mindset of the panels and the Appellate Body that is, incautious incursions into highly volatile political areas such as food safety and international taxation, combined with a determination to provide a legally "correct" answer to all questions, even when it means - as with the FSC decisions - that they will be forced to venture into complex substantive areas beyond their competence. What is to be Done? The aim of the following recommendations for change in the WTO's dispute settlement system is: (1) to reintroduce some elements of the older GATT diplomatic approach, with an emphasis on mediation and conciliation rather than legal fiats; and (2) to rein in the judicial bodies and thereby lessen both sovereignty and legitimacy concerns. The recommendations are complementary but independent - that is, the WTO could adopt them singly or in some combination. 1. A Safety Valve: Mediation, Conciliation and Arbitration: Under this proposal, the WTO Director General or, alternatively a Committee of the WTO Dispute Settlement Body, would be empowered to step in and direct the contending WTO members to settle their differences through bilateral negotiations, mediation or arbitration by an outside party. Such action would be taken in situations where, in the judgment of the Director General or the Committee, the highly divisive political nature of the contest would permanently damage the WTO, or where clearly the underlying text masked deep substantive divisions between WTO members. 2. A Blocking Mechanism: The goal of this proposal is to redress the current imbalance between the highly efficient dispute settlement system and the inefficient, ineffective consensus-plagued rulemaking process. At any time, at least one third of the members of the WTO Dispute Settlement Body, constituting at least one quarter of trade among WTO members, disagreed with a judicial decision, that decision would be set aside until the issue could be negotiated out in the WTO General Council, or as part of an overall round of trade negotiations. In addition, two less radical changes should be considered. They would constitute new guidelines for future panels and the Appellate Body. 1. Non liquet Doctrine: This legal term literally means "it is not clear." Given the widespread agreement that WTO texts are replete with lacunae and contradictory provisions, and given that questions concerning the legitimacy of judicial decisions are magnified at the international level, the panels and the Appellate Body should be instructed to utilize this doctrine much more frequently - and throw the decision back to the WTO General Council or to trade round negotiations. Critics of non liquet have argued that it is prohibited because international law is necessarily "complete," or that it is the duty of judges to step in and fill gaps, particularly in contentious areas. WTO rules, by common consent, are certainly not "complete" and arguments for "gap-- filling" by judges reflect a dangerous - even antidemocratic - myopia. 2. Political Question Doctrine: Alternatively, the WTO could adopt a variation of the so-called "political issue doctrine," developed by the US Supreme Court. The doctrine is meant to provide a means for the judiciary to avoid decisions that have deeply divisive political ramifications and thus, in the opinion of the court, should be settled through more traditional democratic processes, involving both the legislature and the executive. Once again, if such a doctrine is deemed important for preserving checks and balances at the national level, an even more cogent argument can be advanced for its introduction in international law - where the sources of legitimacy of judicial bodies are much weaker than within democratically constructed nation states. In summary, the proposition advanced here is that heading off corrosive conflicts between the US and the EU in the future will necessitate reform of the international trading rules that have enmeshed - and indeed entrapped - both trading superpowers.

### 1NC – WTO D

#### Their entire internal link to escalation is that trade dampens conflict –

#### WTO not key to trade --- statistical analysis.

Andrew Rose, March 2004. Prof. Economic Analysis and Policy @ UC Berkeley Haas School of Business, American Economic Review, “Do We Really Know That the WTO Increases Trade?” 94:1.

Economists disagree about a lot, but not everything. Almost all of us think that international trade should be free.1 Accordingly, the multilateral organization charged with freeing trade-the World Trade Organization (WTO)-is probably the most popular international institution inside the profession, certainly compared with its obvious rivals, the International Monetary Fund (IMF) and the World Bank. This makes much of the furor over the WTO unfathomable to most of us. But should we-and the protestors-really care about the WTO at all? Do we really know that the WTO and its predecessor the General Agreement on Tariffs and Trade (GATT) have actually promoted trade? Maybe not. While theory, casual empiricism, and strong statements abound, there is, to my knowledge, no compelling empirical evidence showing that the GATT/WTO has actually encouraged trade. In this paper, I provide the first comprehensive econometric study of the effect of the postwar multilateral agreements on trade. It turns out that membership in the GATT/WTO is not associated with enhanced trade, once standard factors have been taken into account. To be more precise, countries acceding or belonging to the GATT/WTO do not have significantly different trade patterns than nonmembers. Not all multilateral institutions have been ineffectual; I find that the Generalized System of Preferences (GSP) extended from the North to developing countries approximately doubles trade. Thus the data and methodology clearly can deliver strong results. I conclude that we currently do not have strong empirical evidence that the GATT/WTO has systematically played a strong role in encouraging trade. To make my argument as persuasive as possible I use widely accepted techniques, a conventional empirical methodology, and standard data sets. I also examine the sensitivity of my results extensively. I do not attempt to provide any novelty in terms of data, theory, or methodology. Thus, any interest in this paper lies solely in its results; by design, there is no other innovation.

#### Any benefits go to developed nations ---- WTO doesn't promote development or growth

David Li and Changqi Wu, August 2002. Associate Prof. Econ. @ Hong Kong U. of Science and Technology; and Dept. Econ @ HKUST. “WTO Accession and Growth,” http://www.vanderbilt.edu/econ/faculty/Wooders/APET/Pet2004/Papers/WTO%20accession%20and%20growth.pdf.

The paper is an event study of the impact of GATT/WTO accession on individual domestic economies based on a panel data of 112 economies from 1960 to 1998. 74 of the 112 economies joined GATT/WTO during the sample period. Also, 18 of the 112 economies were already members of GATT by 1960. Apparently, the impact of GATT/WTO accession is likely to be different on different types of economies. We therefore classify the economies in two alternative ways. The first approach is to divide the sample economy into two groups by the level of per capita GDP in 1987, the medium year of our sample. We call the economies with per capita GDP over USD3,000 high-income economies and others low-income ones. Another classification is by the institutional configuration of an economy. We are inspired by the work of La Porta et. al (1999), who argued that the origin of the economy’s legal institutions is a key factor affecting economic performance. We thus divide the economies into common law economies, continental European law economies, and formerly socialist systems. Our classification of the economies in this fashion comes from La Porta et. al (1999). The findings are rather surprising. High-income economies (with per capita income over USD3,000 in 1987), rather than low-income economies, benefited significantly after accession to GATT/WTO, enjoying faster GDP growth, faster growth in capital stock, import, export, and foreign direct investment (FDI). Economies with common law origin also gained significantly in all these areas, while economies with continental European legal origins mostly saw more trade and FDI flows following the accession. To the contrary, those former socialist economies that accessed to GATT/WTO experienced little economic improvements. The findings have two straightforward implications. First, strategies focusing on openness to trade are not guarantees of faster growth and do not necessarily stimulate convergence. Second, supporting views expressed in the recent growth literature, such as Rodrik, Subramanian, and Trebbi (2002), the findings show that institutions are important. Strategies of openness to trade combined with proper institutions stimulate better economic performance.