### 1AC - Contention 1: Disease War

#### Article 31 of TRIPS Agreement

**WTO 95** \*Part II — Standards concerning the availability, scope and use of Intellectual Property Rights, <https://www.wto.org/english/docs_e/legal_e/27-trips_04c_e.htm#fnt-7>

(c) the scope and duration of such use shall be limited to the purpose for which it was authorized, and in the case of semi-conductor technology shall only be for public non-commercial use or to remedy a practice determined after judicial or administrative process to be anti-competitive;

(d) such use shall be non-exclusive;

(e) such use shall be non-assignable, except with that part of the enterprise or goodwill which enjoys such use;

(f) any such use shall be authorized predominantly for the supply of the domestic market of the Member authorizing such use;

(g) authorization for such use shall be liable, subject to adequate protection of the legitimate interests of the persons so authorized, to be terminated if and when the circumstances which led to it cease to exist and are unlikely to recur. The competent authority shall have the authority to review, upon motivated request, the continued existence of these circumstances;

#### We got lucky with COVID – future pandemics will be much worse and existing provisions in TRIPs are not used --- the status quo can’t solve.

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A proponent of IP protections may insist TRIPS already includes built-in exceptions adequate to the task. Article 31 grants governments rights to issue licenses for using a patent during the patent term without a patent holder’s consent. This exception was used 144 times between 2001 and 2016 to create flexibilities for 89 countries.29 In 2017, it was extended to allow licensed countries to export products to countries that lack production capacity. Isn’t that enough?

In reply, **Article 31 will not take us very far**. While useful for some applications, it is cumbersome. For example, for pharmaceutical products, after applying for an exception, exporting countries must prove products go only to destination nations, are readily identifiable based on variations of colour or shape, and include only product necessary to meet requirements of an eligible country; importing nations must notify the TRIPS

council of receipt. Fulfilling these requirements would needlessly delay the vital task of vaccinating the world.

Finally, critics might point to the case of Moderna, which voluntarily pledged (in October 2020) not to enforce its patents during the pandemic. Since companies have not lined up to produce Moderna’s vaccine, doesn’t that show the ineptitude of temporary waivers? In reply, a single pledge by a single company is a start, but **insufficient** to catalyse the global changes needed. In conclusion, loosening the grip of IP protections is not a miracle fix, and there are many other bar riers to a safer world. ~~This paper filled a gap in current debates about IP protections for COVID-19 vaccines by focusing on ethics. In the final analysis,~~ **~~a temporary waiver of IP protections is the world’s best bet.~~**

#### Developing countries need assistance – it’s time for the U.S. to step up to the plate and do its job

**Stone 21** – Judy Stone is an Infectious Disease specialist; “Covid Vaccine Equity - Developing Countries Need Our Help”; Forbes, May 11, 2021; <https://www.forbes.com/sites/judystone/2021/05/11/vaccine-equitydeveloping-countries-need-our-help/?sh=10939a363ec8> //advay

**A few months ago India was doing relatively well and the U.S. was getting crushed by a devastating second Covid-19 wave. Now it’s the reverse**. Public health measures were implemented too sporadically (U.S.) and reversed too quickly (both), with predictable results. **While the U.S. is beginning to focus attention on the growing catastrophe in India, not enough attention is being given to other areas in the region. Countries like Bangladesh, Nepal, Pakistan, Laos and others in the region may soon be matching the explosive growth of Covid in India**. **Nepal** is one of the poorest countries. Although it has a population of 30 million people, there are only 1595 ICU beds and 480 ventilators throughout the entire country. (This is not much less than in India, at ~1 ICU bed/19,000, but the US has ~1/3800). **There are only 80 physicians per 100,000 people, compared to 93 per 100,000 in India or 259 per 100,000 in the US**. With a 50% positivity rate for Covid testing, how long do you think those few beds and limited healthcare will last before being completely overwhelmed**. Cases in Nepal have increased by 1,645% in the past month. Thailand had a similar rate of increase, with most of their cases being the U.K. variant B.1.1.7, which is known to be more transmissible**. Part of the problem in Nepal is that its Prime Minister, Oli, like India’s PM Modi, and Donald Trump had allowed religious festivals and large political gatherings to continue as politically expedient, at the expense of public health and safety**. Heavily reliant on tourism to support its economy, Mount Everest has been opened to climbers; there have been outbreaks reported from the base camp although the government has denied this**. And much as our former president recommended injecting bleach, PM Oli has reportedly suggested gargling with guava leaves, which is at least less immediately hazardous, although still as useless as treatment. **This uncontrolled pandemic will endanger us all by increasing the likelihood of further mutations emerging and spreading globally**. India has a new “variant of interest,” called B.1.617⁠, which is also spread more rapidly. The South African variant, B.1.351, is also circulating in India, along with the UK’s B.1.1.7⁠. **This—and the huge number of cases—are what prompted the US to ban travel from India**. One of the problems in the region is that India’s Serum Institute was to supply much of the area with vaccines. **Instead, India is desperate, unable to meet its own country’s needs, and has banned the export of vaccines. Nepal has instead turned to China and Russia, who are engaging in vaccine diplomacy who are donating supplies while the US has been sitting on the sidelines.**

#### It’s not too late---COVID will continue across the developing worlds for years to come. Plus, reduction helps for black swan future pandemics.

Brink **Lindsey 21**. Vice President, Niskanen Center; Writes for Brookings, “Why Intellectual Property and Pandemics Don’t Mix,” Brookings, June 3, 2021, <https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/>, RJP, **DebateDrills**.

**Although focusing on these immediate constraints is vital, we cannot confine our attention to the short term. First of all, the COVID-19 pandemic is far from over. Although Americans can now see the light at the end of the tunnel thanks to the rapid rollout of vaccines, most of the world isn’t so lucky. The virus is**[**currently raging in India and throughout South America**](https://www.nytimes.com/interactive/2021/world/covid-cases.html)**, overwhelming health care systems and inflicting suffering and loss on a horrific scale. And consider the fact that Australia, which has been successful in suppressing the virus, recently announced it was sticking to plans to keep its borders closed until mid-2022. Criticisms of the TRIPS waiver that focus only on the next few months are therefore short-sighted: this pandemic could well drag on long enough for elimination of patent restrictions to enable new vaccine producers to make a positive difference.**

**Furthermore, and probably even more important, this is almost certainly not the last pandemic we will face. Urbanization, the spread of factory-farming methods, and globalization all combine to increase the odds that a new virus will make the jump from animals to humans and then spread rapidly around the world. Prior to the current pandemic, the 21st century already saw outbreaks of SARS, H1N1, MERS, and Ebola. Everything we do and learn in the current crisis should be viewed from the perspective of getting ready for next time.**

#### A temporary waiver is sufficient for now---it creates momentum for America to repeat against harsher future pandemics which spills over

Nancy S. **Jecker &** Caesar A. **Atuire 21**. \*Department of Bioethics & Humanities, University of Washington School of Medicine, \*\*Department of Philosophy, University of Johannesburg, Auckland Park, Gauteng, South Africa, “What’s yours is ours: waiving intellectual property protections for COVID-19 vaccines,” Journal of Medical Ethics, July 6, 2021, <https://jme.bmj.com/content/medethics/early/2021/07/06/medethics-2021-107555.full.pdf>., RJP, **DebateDrills.**

The extraordinary circumstances of a global pandemic demand more than minimal or even moderate social responsibility. Everyone in a position to help must show the high degree of social responsibility the moment calls for. Governments, especially in wealthy nations, should stand up to influence peddling by pharmaceutical companies,26 and should do their part, beginning with WTO members voting for a **temporary waiver** to IP protections for COVID-19 vaccines.

Against our proposal it might be claimed a temporary waiver is not enough. Manufacturing COVID-19 vaccines requires technical know-how, technology, raw materials and equipment, which are lacking in many LMICs. Pfizer, for example, says its vaccine requires 280 components from 86 suppliers in 19 countries, along with specialised equipment and trained personnel.27 Since it takes more than simply waiving IP to vaccinate the world, what good is a temporary waiver?

In response, we agree temporarily losing the right to exclude companies from manufacturing vaccines is not enough. However, it can help **break the logjam**, creating a climate favourable to investment, since it removes the threat of being sued or prosecuted. Expedient investment strategies should focus on developing and repurposing existing capacities; Guzman notes that some middle-income countries are **already producing COVID-19 vaccines**, and some manufacturers in LMICs are already able to manufacture viral vector vaccines, such as AstraZeneca’s, and to contribute to the fill-and-finish stage of vaccine production.28

#### Future pandemics at 10x more deadly - extinction

**Ceballos 5/27** Gerardo Ceballos [PhD, Dr Gerardo Ceballos is an ecologist and conservationist at the Universidad Nacional Autonoma de Mexico. He is particularly recognized for his influential work on global patterns of distribution of diversity, endemism, and extinction risk in vertebrates. He is also well-known for his contribution to understanding the magnitude and impacts of the sixth mass extinction.], 5/27/21, “THE SIXTH MASS EXTINCTION AND THE FUTURE OF HUMANITY”, Population Matters, <https://populationmatters.org/news/2021/05/sixth-mass-extinction-and-future-humanity> DD AG

Somewhere, sometime in late 2019, a coronavirus from a wild species, perhaps a bat or a pangolin, infected a human in China. This could have been an obscure event, lost without trace in the annals of history, as it is very likely this has occurred many times in the last centuries. But this particular event was somehow different. The coronavirus became an epidemic first and a pandemic later**. Covid-19 became the worst pandemic since the Spanish flu in 1918. The horrific human suffering it has caused, and its economic, social and political impacts, are still unraveling.**

**The reason Covid-19 and more than forty other very dangerous viruses, such as Lassa fever, HIV and Ebola, have jumped from wild animals to humans in the last four decades is the destruction of natural environments and the trafficking and consumption of wild animals.**

The wildlife trade is to satisfy the insatiable and extravagant demand for these species in the Asian market, in countries such as China, Vietnam and Indonesia. **The illegal wildlife trade is a gigantic business. It is as lucrative as the drug trade, but without the legal implications. The immense appetite of China and other Asian societies for exotic animals has promoted exponential growth in trade and profits. Wild and domestic animals sold in “wet markets” are kept in unsanitary and unethical conditions.** There, feces, urine and food waste from cages at the top spill into cages at the bottom, **creating the perfect conditions for viruses to leap from wild animals to domestic animals and humans**. Thousands of wildlife species or their products are traded annually.

**Wildlife trade is one of several human impacts, including habitat loss and fragmentation, pollution, toxification and invasive species, that have caused the extinction of thousands of species and threaten many more. Indeed, most people are unaware that the current extinction crisis is unprecedented in human history.** Extinction occurs when the last individual of a species dies. The UN recently estimated that one million species, such as the panda, the orangutan and the Sumatran rhino, are at risk of extinction.

The second finding is that population extinctions, which are the prelude to species extinctions, are occurring at very fast rates (Ceballos et al., 2017). Around 32 percent of a sample of 27,000 species have declining populations and have experienced massive geographic range contractions. Population extinctions are a very severe and widespread environmental problem which we have called “Biological Annihilation”.

Finally, our third finding indicates that the magnitude of the extinction crisis is underestimated because there are thousands of species on the brink of extinction (Ceballos et al., 2020). Those species will likely become extinct in the near future unless a massive conservation effort is launched soon.

Many times, people have asked me why we should care about the loss of a species. There are ethical, moral, philosophical, religious and other reasons to be concerned. But perhaps the one that is most tangible for most people is the loss of ecosystem services, which are the benefits that humans derive from the proper function of nature. Ecosystem services include the proper mix of gases in the atmosphere that support life on Earth, the quantity and quality of water, pollination of wild crops and plants, fertilization of the soil, and protection against emerging pests and diseases, among many others. **Every time a species is lost, ecosystem services are likely to erode and human well-being is reduced.**

**The loss of so many ecosystems and species is pushing us towards the point of collapse of civilization.** The good news is that there is still time to reduce the current extinction crisis. The species and ecosystems that we manage to save in the next 10 – 15 years will define the future of biodiversity and civilization. What it is at stake is the future of mankind.

### Framework

***Only* pleasure and pain are intrinsically valuable – all others exist in relation**

**Moen 16** [Ole Martin Moen, Research Fellow in Philosophy at University of Oslo “An Argument for Hedonism” Journal of Value Inquiry (Springer), 50 (2) 2016: 267–281] SJDI

Let us start by observing, empirically, that **a widely shared judgment about intrinsic value and disvalue is that pleasure is intrinsically valuable and pain is intrinsically disvaluable.** **On virtually any proposed list of intrinsic values and disvalues (we will look at some of them below), pleasure is included among the intrinsic values and pain among the intrinsic disvalues.** This inclusion makes intuitive sense, moreover, for **there is something undeniably good about the way pleasure feels and something undeniably bad about the way pain feels, and neither the goodness of pleasure nor the badness of pain seems to be exhausted by the further effects that these experiences might have.** “Pleasure” and “pain” are here understood inclusively, as encompassing anything hedonically positive and anything hedonically negative.2 **The special value statuses of pleasure and pain are manifested in how we treat these experiences in our everyday reasoning about values.** If you tell me that you are heading for the convenience store, **I might ask: “What for?” This is a reasonable question, for when you go to the convenience store you usually do so**, not merely for the sake of going to the convenience store, but **for the sake of achieving something further that you deem to be valuable.** You might answer, for example: “To buy soda.” This answer makes sense, for soda is a nice thing and you can get it at the convenience store. I might further inquire, however: “What is buying the soda good for?” This further question can also be a reasonable one, for it need not be obvious why you want the soda. You might answer: “Well, I want it for the pleasure of drinking it.” **If I then proceed by asking “But what is the pleasure of drinking the soda good for?” the discussion is likely to reach an awkward end. The reason is that the pleasure is not good for anything further; it is simply that for which going to the convenience store and buying the soda is good.**3 As Aristotle observes**: “We never ask [a man] what his end is in being pleased, because we assume that pleasure is choice worthy in itself.**”4 Presumably, a similar story can be told in the case of pains, for if someone says “This is painful!” we never respond by asking: “And why is that a problem?” We take for granted that if something is painful, we have a sufficient explanation of why it is bad. If we are onto something in our everyday reasoning about values, it seems that **pleasure and pain are both places where we reach the end of the line in matters of value.**

#### Thus, the standard is maximizing expected well-being. Prefer additionally –

#### 1. Death is bad and outweighs – agents can’t act if they fear for their bodily security which constrains every ethical theory

#### 2. Intuitions outweigh - since they’re the foundational basis for any argument and theories that contradict our intuitions are most likely false even if we can’t deductively determine why

#### 3. Actor spec—governments must use util because they don’t have intentions and are constantly dealing with tradeoffs

#### Extinction o/w -

**Pummer 15** [Theron, Junior Research Fellow in Philosophy at St. Anne's College, University of Oxford. “Moral Agreement on Saving the World” Practical Ethics, University of Oxford. May 18, 2015] AT

**There appears to be lot of disagreement in moral philosophy. Whether these many apparent disagreements are deep and irresolvable, I believe there is at least one thing it is reasonable to agree on right now**, whatever general moral view we adopt**: that it is very important to reduce the risk that all intelligent beings on this planet are eliminated by an enormous catastrophe, such as a nuclear war.** How we might in fact try to reduce such existential risks is discussed elsewhere. My claim here is only that **we – whether we’re consequentialists, deontologists, or virtue ethicists – should all agree that we should try to save the world.** According to consequentialism, we should maximize the good, where this is taken to be the goodness, from an impartial perspective, of outcomes. **Clearly one thing that makes an outcome good is that the people in it are doing well. There is little disagreement here.** If the happiness or well-being of possible future people is just as important as that of people who already exist, and if they would have good lives, it is not hard to see how **reducing existential risk is easily the most important thing in the whole world. This is for the familiar reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. There are so many possible future people that reducing existential risk is arguably the most important thing in the world, even if the well-being of these possible people were given only 0.001% as much weight as that of existing people.** Even on a wholly person-affecting view – according to which there’s nothing (apart from effects on existing people) to be said in favor of creating happy people – the case for reducing existential risk is very strong. As noted in this seminal paper, **this case is strengthened by the fact that there’s a good chance that many existing people will, with the aid of life-extension technology, live very long and very high quality lives. You might think what I have just argued applies to consequentialists only. There is a tendency to assume that, if an argument appeals to consequentialist considerations (the goodness of outcomes), it is irrelevant to non-consequentialists. But that is a huge mistake.** **Non-consequentialism is the view that there’s more that determines rightness than the goodness of consequences or outcomes; it is not the view that the latter don’t matter.** Even John Rawls wrote, “**All ethical doctrines worth our attention take consequences into account in judging rightness. One which did not would simply be irrational, crazy.**” **Minimally plausible versions of deontology and virtue ethics must be concerned in part with promoting the good, from an impartial point of view.** **They’d thus imply very strong reasons to reduce existential risk**, at least when this doesn’t significantly involve doing harm to others or damaging one’s character. What’s even more surprising, perhaps, is that even if our own good (or that of those near and dear to us) has much greater weight than goodness from the impartial “point of view of the universe,” indeed even if the latter is entirely morally irrelevant, we may nonetheless have very strong reasons to reduce existential risk. **Even egoism, the view that each agent should maximize her own good, might imply strong reasons to reduce existential risk.** It will depend, among other things, on what one’s own good consists in. If well-being consisted in pleasure only, it is somewhat harder to argue that egoism would imply strong reasons to reduce existential risk – perhaps we could argue that one would maximize her expected hedonic well-being by funding life extension technology or by having herself cryogenically frozen at the time of her bodily death as well as giving money to reduce existential risk (so that there is a world for her to live in!). I am not sure, however, how strong the reasons to do this would be. But views which imply that, if I don’t care about other people, I have no or very little reason to help them are not even minimally plausible views (in addition to hedonistic egoism, I here have in mind views that imply that one has no reason to perform an act unless one actually desires to do that act). **To be minimally plausible, egoism will need to be paired with a more sophisticated account of well-being.** To see this, it is enough to consider, as Plato did, the possibility of a ring of invisibility – **suppose that, while wearing it, Ayn could derive some pleasure by helping the poor, but instead could derive just a bit more by severely harming them. Hedonistic egoism would absurdly imply she should do the latter. To avoid this implication, egoists would need to build something like the meaningfulness of a life into well-being**, in some robust way, where this would to a significant extent be a function of other-regarding concerns (see chapter 12 of this classic intro to ethics). But **once these elements are included, we can (roughly, as above) argue that this sort of egoism will imply strong reasons to reduce existential risk.** Add to all of this Samuel Scheffler’s recent intriguing arguments (quick podcast version available here) that most of what makes our lives go well would be undermined if there were no future generations of intelligent persons. On his view, my life would contain vastly less well-being if (say) a year after my death the world came to an end. So obviously if Scheffler were right I’d have very strong reason to reduce existential risk. **We should also take into account moral uncertainty.** **What is it reasonable for one to do, when one is uncertain not (only) about the empirical facts, but also about the moral facts?** I’ve just argued that **there’s agreement among minimally plausible ethical views that we have strong reason to reduce existential risk – not only consequentialists, but also deontologists, virtue ethicists, and sophisticated egoists should agree.** But **even those (hedonistic egoists) who disagree should have a significant level of confidence that they are mistaken, and that one of the above views is correct. Even if they were 90% sure that their view is the correct one** (and 10% sure that one of these other ones is correct), **they would have pretty strong reason, from the standpoint of moral uncertainty, to reduce existential risk.** Perhaps most disturbingly still, **even if we are only 1% sure that the well-being of possible future people matters, it is at least arguable that, from the standpoint of moral uncertainty, reducing existential risk is the most important thing in the world.** Again, this is largely for the reason that there are so many people who could exist in the future – there are trillions upon trillions… upon trillions. (For more on this and other related issues, see this excellent dissertation). Of course, it is uncertain whether these untold trillions would, in general, have good lives. It’s possible they’ll be miserable. **It is enough for my claim that there is moral agreement in the relevant sense if**, at least given certain empirical claims about what future lives would most likely be like, **all minimally plausible moral views would converge on the conclusion that we should try to save the world.** While there are some non-crazy **views that place significantly greater moral weight on avoiding suffering than on promoting happiness**, for reasons others have offered (and for independent reasons I won’t get into here unless requested to), they nonetheless **seem to be fairly implausible views.** And **even if things did not go well for our ancestors, I am optimistic that they will overall go fantastically well for our descendants, if we allow them to. I suspect that most of us alive today – at least those of us not suffering from extreme illness or poverty – have lives that are well worth living, and that things will continue to improve.** Derek Parfit, whose work has emphasized future generations as well as agreement in ethics, described our situation clearly and accurately: “We live during the hinge of history. **Given the scientific and technological discoveries of the last two centuries, the world has never changed as fast.** We shall soon have even greater powers to transform, not only our surroundings, but ourselves and our successors. **If we act wisely in the next few centuries, humanity will survive its most dangerous and decisive period.** Our descendants could, if necessary, go elsewhere, spreading through this galaxy…. **Our descendants might, I believe, make the further future very good. But that good future may also depend in part on us. If our selfish recklessness ends human history, we would be acting very wrongly.**” (From chapter 36 of On What Matters)

### 1AC – Contention 2: WTO Credibility

#### The new head of the WTO is on track to push for reform and an increased role in the international arena, but is hindered now due to lack of vaccine agreement by nations that will never agree

**Baschuk 4-27** – Bryce Baschuk is a Bloomberg Reporter; ["WTO Chief Pursues a ‘Hectic’ Agenda to Fix World Trade’s Referee"; Bloomberg, April 27, 2021; https://www.bloomberg.com/news/articles/2021-04-27/wto-chief-pursues-a-hectic-agenda-to-fix-world-trade-s-referee](about:blank) //advay

**The head of the World Trade Organization raised an alarm about the credibility of the multilateral trading system, urging leaders to act fast to bolster the global economy with steps like fairer vaccine distribution and cooperate to resolve longer-term problems like overfishing**. During her first two months, WTO Director-General Ngozi Okonjo-Iweala has met with trade ministers around the globe to communicate a message that the WTO is important, it needs to be reformed and it needs to deliver results**. So far, she says the reception from world leaders has been positive, but quickly translating that goodwill into substantive outcomes during a global pandemic is just as daunting as she anticipated**. “The word I would use to describe it is absolutely hectic,” Okonjo-Iweala said in a phone interview on Tuesday when asked about her first few months in the job. “The challenges we thought were there are there and getting an agreement is not as easy because of longstanding ways of negotiating business positions.” Read More: Arcane WTO Pact Moves to Center of Vaccine Debate: Supply Lines **Countries need to move past the notion that one country’s gain in international commerce is another’s loss, she said.** “We need to break out of the zero-sum deadlock,” Okonjo-Iweala said. **“We need to remind the countries and members that the WTO is here to deliver for people. We can’t take 20 years to negotiate something**.” Okonjo-Iweala said her **top priority is to use trade to alleviate the pandemic and said her recent meeting with trade ministers and vaccine manufacturers provided a positive step in the right direction.** ‘More Pragmatism’ “That meeting yielded quite a lot,” she said. “I see more pragmatism on both sides.” **An important component of the WTO’s trade and health agenda is a proposal from India and South Africa that seeks to temporarily waive enforcement of the WTO’s rules governing intellectual property for vaccines and other essential medical products.** Read More: U.S. Trade Chief Meets Pfizer, AstraZeneca About Vaccine Supply **As of this week there are fresh signals that the Biden administration, which currently opposes a waiver to the WTO agreement on Trade-Related Aspects of Intellectual Property Rights, wants vaccine manufacturers like Pfizer Inc. and AstraZeneca Plc to help ramp up U.S. pandemic assistance to the rest of the world**. “**There is movement**,” Okonjo-Iweala said. “**Are we there yet? No, but there is a little bit of change in the air among members. I think hopefully we will be able to come to some sort of a framework for the WTO ministers to bless**.” “We don’t have time,” she added. “People are dying.” Okonjo-Iweala said **this month’s vaccine meeting also revealed areas where the developing world can increase its capacity to produce more doses rather than waiting for rich countries to send them their excess supplies**. She said various **emerging markets** such as India, Pakistan, Bangladesh, Senegal, Indonesia and Egypt already **have some capacity to begin producing vaccines for people living in developing economies.**

#### A U.S. patent waiver through WTO mechanism is necessary to revitalize WTO’s credibility, create momentum for further reform, and solve stalemates in current talks

**Meyer 6-18-21** – David Meyer is the Editor of CEO Daily and a senior writer on Fortune’s European team. Author of the digital rights primer, Control Shift: How Technology Affects You and Your Rights; “The WTO’s survival hinges on the COVID-19 vaccine patent debate, waiver advocates warn”; Fortune, June 18, 2021. <https://fortune.com/2021/06/18/wto-covid-vaccines-patents-waiver-south-africa-trips/> //advay

**The World Trade Organization knows all about crises**. Former U.S. President Donald Trump threw a wrench into its core function of resolving trade disputes—a blocker that President Joe Biden has not yet removed—and there is widespread dissatisfaction over the fairness of the global trade rulebook. The 164-country organization, under the fresh leadership of Nigeria's Ngozi Okonjo-Iweala, has a lot to fix**. However, one crisis is more pressing than the others: the battle over COVID-19 vaccines, and whether the protection of their patents and other intellectual property should be temporarily lifted to boost production and end the pandemic sooner rather than late**r. According to some of those pushing for the waiver—which was originally proposed last year by India and South Africa—the WTO's future rests on what happens next. "**The credibility of the WTO will depend on its ability to find a meaningful outcome on this issue that truly ramps-up and diversifies production," says Xolelwa Mlumbi-Peter, South Africa's ambassador to the WTO**. "Final nail in the coffin**" The Geneva-based WTO isn't an organization with power, as such—it's a framework within which countries make big decisions about trade, generally by consensus**. It's supposed to be **the forum where disputes get settled**, because all its members have signed up to the same rules. And one of its most important rulebooks is the Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS, which sprang to life alongside the WTO in 1995**. The WTO's founding agreement allows for rules to be waived in exceptional circumstances, and indeed this has happened before: its members agreed in 2003 to waive TRIPS obligations that were blocking the importation of cheap, generic drugs into developing countries that lack manufacturing capacity**. (That waiver was effectively made permanent in 2017.) **Consensus is the key here**. **Although the failure to reach consensus on a waiver could be overcome with a 75% supermajority vote by the WTO's membership, this would be an unprecedented and seismic event. In the case of the COVID-19 vaccine IP waiver, it would mean standing up to the European Union, and Germany in particular, as well as countries such as Canada and the U.K.—the U.S. recently flipped from opposing the idea of a waiver to supporting it, as did France**. It's a dispute between countries, but the result will be on the WTO as a whole, say waiver advocates. "**If, in the face of one of humanity's greatest challenges in a century, the WTO functionally becomes an obstacle as in contrast to part of the solution**, I think **it could be the final nail in the coffin**" for the organization, says Lori Wallach, the founder of Public Citizen's Global Trade Watch, a U.S. campaigning group that focuses on the WTO and trade agreements. "**If the TRIPS waiver is successful, and people see the WTO as being part of the solution—saving lives and livelihoods—it could create goodwill and momentum to address what are still daunting structural problems**." Those problems are legion. Reform needs Top of the list is the WTO's Appellate Body, which hears appeals in members' trade disputes. It's a pivotal part of the international trade system, but Trump—incensed at decisions taken against the U.S. —blocked appointments to its seven-strong panel as judges retired. The body became completely paralyzed at the end of 2019, when two judges' terms ended and the panel no longer had the three-judge quorum it needs to rule on appeals. Anyone who hoped the advent of the Biden administration would change matters was disappointed earlier this year when the U.S. rejected a European proposal to fill the vacancies. "The United States continues to have systemic concerns with the appellate body," it said. "**As members know, the United States has raised and explained its systemic concerns for more than 16 years and across multiple U.S. administrations.**" At her confirmation hearing in February, **current U.S. Trade Representative Katherine Tai reiterated those concerns—she said the appellate body had "overstepped its authority and erred in interpreting WTO agreements in a number of cases, to the detriment of the United States and other WTO members**," and accused it of dragging its heels in settling disputes. "**Reforms are needed to ensure that the underlying causes of such problems do not resurface**," Tai said. "While the U.S. [has] been engaging [with the WTO] it hasn't indicated it would move quickly on allowing appointments to the Appellate Body," says Bryan Mercurio, an economic-law professor at the Chinese University of Hong Kong, who opposes the vaccine waiver. "**This is not a good sign. In terms of WTO governance, it's a much more important step than supporting negotiations on an [intellectual property] waiver**." **It's not just the U.S. that wants to see reform at the WTO. In a major policy document published in February, the EU said negotiations had failed to modernize the organization's rules, the dispute-resolution system was broken, the monitoring of countries' trade policies was ineffective, and—crucially—"the trade relationship between the U.S. and China, two of the three largest WTO members, is currently largely managed outside WTO disciplines." China is one of the key problems here.** It became a WTO member in 2001 but, **although this entailed significant liberalization of the Chinese economy, it did not become a full market economy.** As the European Commission put it in February: "The level at which China has opened its markets does not correspond to its weight in the global economy, and the state continues to exert a decisive influence on China's economic environment with consequent competitive distortions that cannot be sufficiently addressed by current WTO rules." "China is operating from what it sees as a position of strength, so it will not be bullied into agreeing to changes which it sees as not in its interests," says Mercurio. **China is at loggerheads with the U.S., the EU and others over numerous trade-related issues. Its rivals don't like its policy of demanding that Chinese citizens' data is stored on Chinese soil, nor do they approve of how foreign investors often have to partner with Chinese firms to access the country's market, in a way that leads to the transfer of technological knowhow.** They also oppose China's industrial subsidies. Mercurio thinks China may agree to reforms on some of these issues, particularly regarding subsidies, but "only if it is offered something in return." All these problems won't go away if the WTO manages to come up with a TRIPS waiver for COVID-19 vaccines and medical supplies, Wallach concedes. "But," she adds, "the will and the good faith to tackle these challenges is increased enormously if the WTO has the experience of being part of the solution, not just an obstacle." **Wallach points to a statement released earlier this month by Asia Pacific Economic Cooperation (APEC) trade ministers, which called for urgent discussions on the waiver. "The WTO must demonstrate that global trade rules can help address the human catastrophe of the COVID-19 pandemic and facilitate the recovery," the** statement read in its section about WTO reform. Okonjo-Iweala's role The WTO's new director general, whose route to the top was unblocked in early 2021 with the demise of the Trump administration, is certainly keen to fix the problems that contributed to the early departure of her predecessor, Brazil's Robert Azevedo**. "We must act now to get all our ambassadors to the table to negotiate a text" on the issue of an IP waiver for COVID vaccines**, Ngozi Okonjo-Iweala, director general of the World Trade Organization, has said. Dursun Aydemir—Anadolu/Bloomberg/Getty Images Earlier this week, **when the U.S. and EU agreed a five-year ceasefire in a long-running dispute over Boeing and Airbus aircraft subsidies, Okonjo-Iweala tweeted: "With political will, we can solve even the most intractable problems**." However, Mercurio is skeptical about her stewardship having much of an effect on the WTO's reform process. "Upon taking [over she] stated it was time for delegations to speak to each other and not simply past each other, but at the recent General Counsel meeting delegations simply read prepared statements in what some have described as the worst meeting ever," he says. "On the other hand, Ngozi is very much someone who will actively seek solutions to problems, and in this way different to her predecessor. If the role of mediator is welcomed, she could have an impact not in starting discussions but in getting deals over the finish line."

#### Post Covid WTO legitimacy and credibility are necessary to prevent a downward spiral of protectionism – U.S. action ensures best implementation

**Solís 20** – Mireya Solís is director of the Center for East Asia Policy Studies, Philip Knight Chair in Japan Studies, and a senior fellow in the Foreign Policy program at Brookings; “The post COVID-19 world: Economic nationalism triumphant?”; July 10, 2020; <https://www.brookings.edu/blog/order-from-chaos/2020/07/10/the-post-covid-19-world-economic-nationalism-triumphant/> //advay

**The damage caused by the worst global health crisis in a century is vast.** The new coronavirus has traveled far and fast, infecting more than 8.7 million people and killing more than 460,000. **One after another, economies have gone into lockdown to slow down the spread of the disease**. The combined supply and demand shocks have ravaged the world economy with the most severe downturn since the Great Depression; anticipated drops to international trade and investment flows of 30% and 40%, respectively; and unemployment spikes in many countries. **The pandemic has cost lives and livelihoods and has erased the chances of returning to the status quo ante, but it has also brought little clarity regarding what kind of international order it will usher in. Is the future one of deglobalization, decoupling, and reshoring of economic activity? The pandemic hit an already wounded multilateral trading system. The chances that the World Trade Organization (WTO) can deliver a multilateral round of trade negotiations to slash tariffs across the board and update the trade and investment rulebook are nil.** But **the WTO has also lost its central role as arbiter of trade disputes among its members.** In December 2019, the Appellate Body ceased to function due to the U.S. block of new appointments, citing judicial overreach. At a time of rising protectionism, the erosion of a rules-based mechanism to adjudicate disputes bodes ill. **Longstanding challenges to the WTO have been exacerbated by an abdication of leadership from the great powers to ensure its survival**. China has been the godchild of globalization, leveraging its accession to the WTO to become workshop for the world and a huge domestic market coveted by foreign firms. But **China lost its appetite for economic reform**, **reinvesting on a state capitalism model that imposes heavy costs on other nations**. Unchecked subsidies and privileges awarded to its state-owned enterprises, insufficient protection of intellectual property, foreign investment restrictions, forced technology transfers, and cyber protectionism all make the Chinese government’s self-proclamation as champion of global free trade ring hollow. The Trump administration judges the WTO incapable of tackling the China challenge, but instead of creating coalitions of like-minded countries to bring about effective multilateral trade governance, it appears determined to further harm cripple the international organization. It has offered no blueprint to fix the dispute settlement mechanism, has abused the national security exemption to raise tariffs against allies, and is gearing up for its most fundamental assault to date on the WTO: a tariff reset through which the U.S. may unilaterally abandon its commitments on bound tariffs and apply larger duties to force other countries to open their markets. **Trade spats as other countries retaliate in kind is a more likely result. Tariff wars and the battle for technology supremacy have come to define U.S.-China great power competition**. After a grueling trade conflict, the United States and China reached a limited trade agreement in January 2020. The deal marked a pause in the tariff war and addressed some non-tariff barriers on foreign direct investment and intellectual property; but it left intact the core of Chinese industrial policy (public subsidies and state-owned enterprises) and retained U.S. duties on $360 billion worth of Chinese products. China’s massive purchase commitments ($200 billion) were quickly rendered unattainable by the severe economic downturn in China due to COVID-19. **In fighting for the new economic order, setting standards on cutting-edge technologies will be at the forefront. China is using all the levers of industrial policy to gain technological primacy in areas like AI and quantum computing.** Telecom and the battle over 5G offer a preview of quarrels to come. Deeply concerned with the cybersecurity risks that Chinese telecom giants like Huawei pose, the U.S. government placed the company on its Entity List, banning American exports without a license. It has since tightened the restrictions by barring foreign companies from supplying Huawei with products manufactured with American equipment and technology. **National security concerns are increasingly encroaching on existing webs of economic interdependence.** Wary of China’s acquisition of critical technology, countries like the United States, Australia, and Japan have tightened their screening of foreign direct investment. **The pandemic has only exacerbated concerns that weakened companies in strategic sectors are at risk of foreign takeover. COVID-19’s impact on the international trading system is twofold.** **It has reinforced existing trends such as the deceleration and now drop in the volume of international trade, the rise of economic security as governments expand their toolkit to restrict trade and investment flows, and it has laid bare the fallout in U.S.-China relations**. But the pandemic also brought new challenges that exposed the extent to which trade cooperation is in short supply. **Export protectionism has risen in prominence with national restrictions on shipments of essential medical supplies and personal protective equipment**. **The WTO allows for such curbs for public health purposes – provided the measures are temporary and transparent**. Few countries, however, have bothered to comply with their notification commitments. **The blow comes at a time when the WTO is adrift with the decision of Director General Roberto Azevedo to step down early**, opening the search for new leadership in a climate of divisiveness. Graph detailing the number of countries that imposed export restrictions on various categories of medical supplies and devices in response to the coronavirus pandemic. Are we on the eve of a renationalized world economy? That is the aspiration of several American and European public officials who fault extended global supply chains and overdependence on China for the current mishaps in tackling the pandemic. **But the view that economic nationalism and reshoring of manufacturing is a fail-safe path to security and prosperity is wrong.** For one, it skirts the responsibility of governments to properly stockpile essential medical supplies. Furthermore, **the export curbs will be counterproductive, eliminating incentives for producers to expand capacity and increasing the cost of much needed medicines and medical devices**. If the recent lockdowns have taught us anything, it is that exclusive reliance on the domestic market is too risky. Diversification of supply, redundancies in the manufacturing chain, and stockpiling programs are better alternatives. In this endeavor, global supply chains are part of the solution, not the problem. COVID-19 will not produce an exodus of foreign companies from the Chinese market. Recent surveys of American companies with operations in China show that most firms intend to stay put. A February survey of Japanese companies conducted by Tokyo Shoko Research shows that only a fraction (4%) are considering exit from China. Therefore, the Japanese government’s $2.2 billion fund to restructure supply chains should be understood as risk management, not decoupling. When international companies map out their business strategies, they must factor in heightened risks – protectionism, national security controls, and economic lockdowns**. Hence, efforts by middle powers to offer an interim arbitration mechanism at the WTO to handle trade disputes and to commit to maintaining open supply chains in essential medical goods are the right antidote to rising economic nationalism.** As a staunch supporter of rules-based trade and with its decision to forego export protectionism in the current crisis, Japan has much to contribute to these efforts.

#### Trade solves great power competition – mere perceptual regionalism causes militarized crises

**Lake 18** – David Lake is a Professor of Social Sciences and Distinguished Professor of Political Science at the University of California, San Diego; "Economic Openness and Great Power Competition: Lessons for China and the United States”; April 30, 2018; <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3171196/> //advay

I develop two central arguments. **First, historically, great power competition has been driven primarily by exclusion or fears of exclusion from each power’s international economic zone,** including its domestic market. **Great powers in the past have often used their international influence to build zones in which subordinate polities** – whether these be colonies or simply states within a sphere of influence – are integrated into their economies. **These economic zones, in turn, are typically biased in favor of the great power’s firms and investors, with the effect of excluding (in whole or part) the economic agents of other great powers.** **These other great powers, in response, are then compelled to develop or expand their own exclusive economic zones.** **The “race” for economic privilege can quickly divide the world up into economic blocs**. Like the security dilemma, **great powers need not actually exclude one another from their zones; the fear of exclusion alone is enough to ignite the process of division**. The race for privilege then draws great powers into over-expanding into unprofitable regions and, more important, militarized competition. Economic and military competition are thus linked, with the former usually driving the latter. **The most significant military crises have, historically, been over where to draw the boundaries between economic zones and subsequent challenges to those boundaries. Economic closure and fear of closure have been consistent sources of great power conflict in the past – and possibly will be in the future**. The major exception to this trend was the peaceful transfer of dominance in Latin America from Britain to the United States in the late nineteenth century. **This suggests that economic closure and great power competition is not inevitable, but a choice of the great powers themselves**. Second, this **international competition is driven, in turn, by domestic, rent-seeking groups and their economic interests**. In all countries, scarce factors of production, import competing sectors, and domestically-oriented firms have concentrated and intense preferences for market restricting policies, including tariffs and the formation of exclusive economic zones. **Consumers and free trade-oriented groups have diffuse preferences for market enhancing policies, and thus tend to lose at the ballot box and in the making of national policy**. This inequality in preference intensity does not mean protectionists always win; after 1934, the United States insulated itself by shifting authority to the executive and negotiating reductions through broad, multi-product international agreements.8 Yet, as the recent return to economic nationalism of the Trump administration suggests, protectionism often wins out. Rent-seeking is a central tendency, not an inevitable success. **Contemporary great power relations are at a critical juncture**. **As China’s influence expands, the role of special economic interests in China is especially worrisome**. In pursuit of stability, political support, or private gains, the government will always be tempted to create economic zones that favor its nationals. In this way, China will be no different than the majority of great powers before it. But, given the expansive role of the state in the Chinese economy, especially its backing of outward foreign investments by its state-owned enterprises (SOEs), and the close ties between business elites and its authoritarian political leaders, however, it will be even harder for China to resist biasing any future economic zone to benefit its own firms. Although **China has gained greatly from economic openness, its domestic political system will be prone to rent-seeking demands by important constituents in areas of future influence.** Critically, **the United States is also moving toward economic closure with the election of President Trump on a platform of economic nationalism**. Demands for protection against Chinese goods have been growing over time.9 **The “China shock” that followed Beijing’s joining the World Trade Organization was a huge disruption to the international division of labor, U.S. comparative advantage, and especially U.S. industry**.10 **The Trans-Pacific Partnership, though now defunct, was “marketed” by President Barak Obama as a means of “containing” China, both economically and militarily, but was opposed by virtually all of the candidates in the 2016 presidential election for its trade-enhancing potential. President Trump has already signaled a much more hostile and protectionist stance toward China – as well as calling for the repeal of NAFTA and even questioning the utility of the European Union**. Not only has he imposed tariffs on washing machines, solar panels, steel and aluminum, dangerously declaring the latter two issues of national security, he is making exceptions on these tariffs for friends and allies. 11 Implicitly targeting China, these protectionist moves by the administration risk creating preferential trading blocs not seen since the 1930s. He has also now proposed punitive tariffs on over $60 billions of imports from China into the United States.12 Acknowledging his inconsistencies on many policy issues, Trump’s economic nationalism has remained the core of his political agenda. **The threat to the liberal international economy is not only that China might seek an economic bloc in the future, but that the United States itself is turning more exclusionary**. For each great power to fear that the other might seek to exclude it from its economic zone is not unreasonable. **If so, great power competition could break out in the twenty-first century not because of bipolarity or any inevitable tendency toward conflict, but because neither great power can control its own protectionist forces nor signal to the other that it would not exclude it from its economic zone**. The British-U.S. case, again, suggests that exclusion and competition are not inevitable, but the current danger of economic closure is real and increasing. This article is synthetic in its theory and merely suggestive in its use of historical evidence. **The theory aims to integrate current work on political economy and national security, not to develop a completely original take on this relationship**. In turn, **rather than testing the theory in any rigorous sense or delving into particular cases to show the theoretical mechanisms at work, so to speak, it surveys selected historical episodes to illustrate central tendencies**. It is the recurring pattern across multiple cases that suggests why we should worry today. The remainder of this essay is divided in three primary sections. Section I briefly outlines the analytics of economic openness and great power competition. Section II focuses on historical instances of great power competition, highlighting the role of economic openness as a central cleavage in international politics. Section III examines contemporary policies in and between China and the United States. The conclusion suggests ways that the potential for conflict may be mitigated. The Open Economy Politics of Great Power Competition **All states have a tendency towards protectionism at home and exclusive economic zones abroad**. A tendency, though, is not an inevitability. **The pursuit of protection and economic zones by domestic interests is conditioned by the political coalition in power at any given time and institutions that aggregate and bias the articulation of social groups**. **13 The tendency is also influenced, however, by the actions of other countries. Protectionism can sour great power relations, but it is the desire for exclusive economic zones that drives great power competition and, given the possibility of coercion, influences grand strategy**. Thus, the theory sketched here integrates insights from international political economy (see below), the literature on domestic politics and grand strategy,14 and systemic theories of international relations.15

#### Independently, WTO cred solves nuclear war – allows an off-track for nuclear weapons

**Hamann 09** – Georgia Hamann is a J.D. Candidate, Vanderbilt University Law School, “Replacing Slingshots with Swords: Implications of the Antigua-Gambling 22.6 Panel Report for Developing Countries and the World Trading System”; 2009; // advay

**Voluntary compliance with WTO rules and procedures is of the utmost importance to the international trading system**.'0 0 **Given the increasingly globalized market, the coming years will see an increase in the importance of the WTO as a cohesive force and arbiter of disputes that likely will become more frequent and injurious**. 01' **The work of the WTO cannot be overstated in a nuclear-armed world, as the body continues to promote respect and even amity among nations with opposing philosophical goals or modes of governance**. 10 2 **Demagogues in the Unites States may decry the rise of China as a geopolitical threat**, 0 3 and extremists in Russia may play dangerous games of brinksmanship with other great powers, **but trade keeps politicians' fingers off "the button**. ' 10 4 **The WTO offers an astounding rate of compliance for an organization with no standing army and no real power to enforce its decisions, suggesting that governments recognize the value of maintaining the international construct of the WTO**. 105 In order **to promote voluntary compliance, the WTO must maintain a high level of credibility**. 106 **Nations must perceive the WTO as the most reasonable option for dispute resolution or fear that the WTO wields enough influence to enforce sanctions.** 10 7 The arbitrators charged with performing the substantive work of the WTO by negotiating, compromising, and issuing judgments are keenly aware of the responsibility they have to uphold the organization's credibility. 108

#### Extinction – nuke war fallout creates Ice Age and mass starvation

Steven **Starr 15**. “Nuclear War: An Unrecognized Mass Extinction Event Waiting To Happen.” Ratical. March 2015. <https://ratical.org/radiation/NuclearExtinction/StevenStarr022815.html> TG

**A war fought with 21st century** strategic **nuclear weapons would be more than just a great catastrophe in human history. If we allow it to happen, such a war would be a mass extinction event that**[**ends human history**](https://ratical.org/radiation/NuclearExtinction/StarrNuclearWinterOct09.pdf)**. There is a profound difference between extinction and “an unprecedented disaster,” or even “the end of civilization,” because even after such an immense catastrophe, human life would go on.**

But **extinction, by definition, is an event of utter finality, and a nuclear war that could cause human extinction should really be considered as the ultimate criminal act**. It certainly would be the crime to end all crimes.

**The world’s leading climatologists now tell us that nuclear war threatens our continued existence as a species**. Their **studies predict that a large nuclear war, especially one fought with strategic nuclear weapons, would create a post-war environment in which for many years it would be too cold and dark to even grow food**. Their findings make it clear that **not only humans, but most large animals and many other forms of complex life would likely vanish forever in a nuclear darkness** of our own making.

**The environmental consequences of nuclear war would attack the ecological support systems of life at every level. Radioactive fallout produced not only by nuclear bombs, but also by the destruction of nuclear power plants and their spent fuel pools, would poison the biosphere. Millions of tons of smoke would act to**[**destroy Earth’s protective ozone layer**](https://www2.ucar.edu/atmosnews/just-published/3995/nuclear-war-and-ultraviolet-radiation)**and block most sunlight from reaching Earth’s surface, creating Ice Age weather conditions that would last for decades.**

Yet the political and military leaders who control nuclear weapons strictly avoid any direct public discussion of the consequences of nuclear war. They do so by arguing that nuclear weapons are not intended to be used, but only to deter.

Remarkably, the leaders of the Nuclear Weapon States have chosen to ignore the authoritative, long-standing scientific research done by the climatologists, **research** that **predicts virtually any nuclear war, fought with even a fraction of the operational and deployed nuclear arsenals, will leave the Earth essentially uninhabitable.**

### 1AC – Solvency: Public IP Holiday

#### The patent system for pandemic-related drugs is currently out of balance---there’s spurious over-patenting under the guise of innovation, which paradoxically hurts innovation by juicing profits. A temporary waiver in the U.S. for pandemics rebalance the system.

Brink **Lindsey 21**. Vice President, Niskanen Center; Writes for Brookings, “Why Intellectual Property and Pandemics Don’t Mix,” Brookings, June 3, 2021, <https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/>, RJP, **DebateDrills**.

When we take the longer view, we can see a **fundamental mismatch** between the policy design of intellectual property protection and the policy requirements of effective pandemic response. Although patent law, properly restrained, constitutes one important element of a well-designed national innovation system, the way it goes about encouraging technological progress is **singularly ill-suited** to the emergency conditions of a pandemic or other public health crisis. Securing a TRIPS waiver for COVID-19 vaccines and treatments would thus establish a salutary precedent that, in emergencies of this kind, governments should employ other, more **direct means** to incentivize the development of new drugs. Here is the basic bargain offered by patent law: encourage the creation of useful new ideas for the long run by slowing the diffusion of useful new ideas in the short run. The second half of the bargain, the half that imposes costs on society, comes from the temporary exclusive rights, or monopoly privileges, that a patent holder enjoys. Under U.S. patent law, for a period of 20 years nobody else can manufacture or sell the patented product without the permission of the patent holder. This allows the patent holder to block competitors from the market, or extract licensing fees before allowing them to enter, and consequently charge above-market prices to its customers. Patent rights thus slow the diffusion of a new invention by restricting output and raising prices.The imposition of these short-run costs, however, can bring net long-term benefits by sharpening the incentives to invent new products. In the absence of patent protection, the prospect of easy imitation by later market entrants can deter would-be innovators from incurring the up-front fixed costs of research and development. But with a guaranteed period of market exclusivity, inventors can proceed with greater confidence that they will be able to recoup their investment.For the tradeoff between costs and benefits to come out positive on net, **patent law must strike the right balance**. Exclusive rights should be valuable enough to encourage greater innovation, but not so easily granted or extensive in scope or term that this encouragement is outweighed by output restrictions on the patented product and discouragement of downstream innovations dependent on access to the patented technology.Unfortunately**, the U.S. patent system** at **present is out of balance**. Over the past few decades, the expansion of patentability to include software and business methods as well as a general relaxation of patenting requirements have led to **wildly excessive growth** in these temporary monopolies: the number of patents granted annually has [skyrocketed **roughly fivefold**](https://www.uspto.gov/web/offices/ac/ido/oeip/taf/us_stat.htm) since the early 1980s. One unfortunate result has been the rise of “non-practicing entities,” better known as patent trolls: firms that make nothing themselves but buy up patent portfolios and monetize them through aggressive litigation. As a result, a law that is supposed to **encourage innovation has turned into a**[**legal minefield**](https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=4620&context=clr) for many would-be innovators. In the pharmaceutical industry, firms have abused the law by piling up patents for **trivial, therapeutically irrelevant “innovations**” that allow them to [extend their monopolies](https://www.i-mak.org/wp-content/uploads/2018/08/I-MAK-Overpatented-Overpriced-Report.pdf) and keep raising prices long beyond the statutorily contemplated 20 years. Patent law is creating these **unintended consequences** because policymakers have been caught in an **ideological fog** that [conflates “intellectual property” with actual property rights](https://www.niskanencenter.org/wp-content/uploads/2019/09/LT_IPMisnomer-2-1.pdf) over physical objects. Enveloped in that fog, they regard any attempts to put limits on patent monopolies as attacks on private property and view ongoing expansions of patent privileges as necessary to keep innovation from grinding to a halt. In fact, patent law is a tool of regulatory policy with the usual tradeoffs between costs and benefits; like all tools, it can be misused, and as with all tools there are some jobs for which other tools are better suited. A well-designed patent system, in which benefits are maximized and costs kept to a minimum, is **just one of various policy options** that governments can employ to stimulate technological advance—including tax credits for R&D, prizes for targeted inventions, and direct government support.

#### The plan seamlessly shifts to a direct support model during pandemics, which allows pharma companies to profit and innovate while speeding up the process---that solves but avoids the innovation DA.

Brink **Lindsey 21**. Vice President, Niskanen Center; Writes for Brookings, “Why Intellectual Property and Pandemics Don’t Mix,” Brookings, June 3, 2021, <https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/>, RJP, **DebateDrills**.

**PUBLIC HEALTH EMERGENCIES AND DIRECT GOVERNMENT SUPPORT**

For pandemics and other public health emergencies, patents’ mix of costs and benefits is **misaligned** with what is needed for an effective policy response. The basic patent bargain, even when well struck, is to pay for more innovation down the road with **slower diffusion of innovation today**. In the **context of a pandemic**, that bargain is a bad one and should be rejected entirely. Here the imperative is to **accelerate** the diffusion of vaccines and other treatments, not slow it down. Giving drug companies the power to hold things up by blocking competitors and raising prices pushes in the completely wrong direction.

What approach to encouraging innovation should we take instead? How do we incentivize drug makers to undertake the hefty R&D costs to develop new vaccines without giving them exclusive rights over their production and sale? The most effective approach during a public health crisis is **direct government support**: public funding of R&D, advance purchase commitments by the government to buy large numbers of doses at set prices, and other, related payouts. And when we pay drug makers, we should not hesitate to pay generously, even extravagantly: we want to offer drug companies big profits so that they prioritize this work above everything else, and so that they are ready and eager to come to the rescue again the next time there’s a crisis.

It was direct support via **Operation Warp Speed** that made possible the astonishingly rapid development of COVID-19 vaccines and then facilitated a relatively rapid rollout of vaccine distribution (relative, that is, to most of the rest of the world). And it’s worth noting that a major reason for the faster rollout here and in the United Kingdom compared to the European Union was the latter’s [misguided penny-pinching](https://www.nytimes.com/2021/05/17/opinion/europe-vaccines-commission.html?smid=tw-share). The EU bargained hard with firms to keep vaccine prices low, and as a result their citizens ended up in the back of the queue as various supply line kinks were being ironed out. This is particularly ironic since the Pfizer-BioNTech vaccine was developed in Germany. As this fact underscores, the chief advantage of direct support isn’t to “get tough” with drug firms and keep a lid on their profits. Instead, it is to accelerate the end of the public health emergency by making sure drug makers profit handsomely from doing the right thing.

Patent law and direct support should be seen **not as either-or alternatives but as complements** that apply different incentives to different circumstances and time horizons. Patent law provides a decentralized system for encouraging innovation. The government doesn’t presume to tell the industry which new drugs are needed; it simply incentivizes the development of whatever new drugs that pharmaceutical firms can come up with by offering them a temporary monopoly. It is important to note that patent law’s incentives offer no commercial guarantees. Yes, you can block other competitors for a number of years, but that still doesn’t ensure enough consumer demand for the new product to make it profitable. **DIRECT SUPPORT MAKES PATENTS REDUNDANT** The situation is different in a pandemic. Here the government knows exactly what it wants to incentivize: the creation of vaccines to prevent the spread of a specific virus and other drugs to treat that virus. Under these circumstances, the decentralized approach isn’t good enough. There is no time to sit back and let drug makers **take the initiative** on their own timeline. Instead, the government needs to be more involved to incentivize specific innovations now. As recompense for letting it call the shots (pardon the pun), the government sweetens the deal for drug companies by insulating them from commercial risk. If pharmaceutical firms develop effective vaccines and therapies, the government will buy large, predetermined quantities at prices set high enough to guarantee a healthy return.

#### Thus the plan: The United States of America ought to reduce intellectual property protections for the COVID-19 vaccine. The plan’s implemented through a TRIPS waiver for the U.S through the WTO TRIPS council.

-- that’s Moderna, Pfizer-BioNTech, Johnson & Johnson/Janssen

#### The plan bolsters the number of vaccines---arguments about supply and logistics are empirically disproven.

Nancy S. **Jecker &** Caesar A. **Atuire 21**. \*Department of Bioethics & Humanities, University of Washington School of Medicine, \*\*Department of Philosophy, University of Johannesburg, Auckland Park, Gauteng, South Africa, “What’s yours is ours: waiving intellectual property protections for COVID-19 vaccines,” Journal of Medical Ethics, July 6, 2021, <https://jme.bmj.com/content/medethics/early/2021/07/06/medethics-2021-107555.full.pdf>., RJP, **DebateDrills.**

Since consequentialist justifications treat the value of IP as purely instrumental, they are also vulnerable to counterarguments showing that a sought-after goal is not the sole or most important end. During the COVID-19 pandemic, we submit that the vaccinating the world is an overriding goal. With existing IP protections intact, the world has **fallen well short** of this goal. Current forecasts show that at the current pace, there will **not be enough vaccines to cover the world’s population** until 2023 or 2024.15 IP protections further frustrate the goal of universal access to vaccines by limiting who can manufacturer them. The WHO reports that 80% of global sales for COVID-19 vaccines come from five large multinational corporations.16 Increasing the number of manufacturers globally would not only **increase supply, but reduce prices**, making vaccines more affordable to LMICs. It would stabilise supply, minimising disruptions of the kind that occurred when India halted vaccine exports amidst a surge of COVID-19 cases.

It might be objected that waiving IP protections will not increase supply, because it takes years to **establish manufacturing capacity**. However, since the pandemic began, we have learnt it takes less time. Repurposing facilities and vetting them for safety and quality can often happen in 6 or 7months, about half the time previously thought.17 Since COVID-19 will not be the last pandemic humanity faces, expanding manufacturing capacity is also necessary preparation for **future pandemics**. Nkengasong, Director of the African Centres for Disease Control and Prevention, put the point bluntly, ‘Can a continent of 1.2billion people—projected to be 2.4billion in 30 years, where one in four people in the world will be African—continue to import 99% of its vaccine?’18

#### AT: Innovation

**Innovation is never in the interest of public health—only profit.**

**Chaudhry 20**

Faisal Chaudhry; Professor of Law, University of Dayton; 1-28-2020; &quot;A secret reason Rx drugs cost so much: A global web of patent laws protects Big Pharma&quot;; https://theconversation.com/a-secret-reason-rx-drugs-cost-so-much-a-global-web-of-patent-laws-protects-big-pharma-122028, Conversation, accessed 7-30-2021; JPark

Since 1994, Big Pharma has imposed ever more severe requirements around patent rights. They have insisted that

patent rights are necessary to “incentivize” the availability of drugs for conditions like tuberculosis and malaria that,

having no markets in the developed world, require guaranteed premiums from whatever countries they are sold in.

Yet for just as long, critics have alleged that Big Pharma typically uses inflated, misleading or otherwise opaque cost

data to tout the billions of dollars it claims to spend on drug development. Likewise, critics have continuously called

attention to the way that most drug development is built on publicly funded research. And, finally, critics have never

stopped highlighting the fact that Big Pharma long ago largely abandoned research and development for drugs for

infectious ailments in developing nations, and increasingly switched to spending on blockbuster noninfectious

disease drugs. Yet as diseases such as cancer and heart disease begin to take an even greater toll in the developing

world, patents will extract an ever greater toll on patient populations across the world. In a developing world where

public health problems increasingly look similar to the developed world’s, in fact, multinational pharmaceutical

corporations could become better – not worse – placed to expand their profits by tapping new markets for drugs like

insulin and beta blockers.

**IPR stagnates the growth of actually effective medical treatments.**

**Chaudhry 17**

Faisal Chaudhry; Assistant Professor of Law &amp; History; Hanley Institute Sustainability Scholar; 12-1-2017;

Intellectual Property And The Global Crisis Of Non-Communicable Disease (December 1, 2017). North Carolina

Journal Of Law And Technology, Vol. 19, No. 2, 2017, Available At Ssrn: Https://Ssrn.Com/Abstract=3192074&quot;;

accessed 7-30-2021; JPark

First, some of the most effective existing therapies for treating infectious diseases are insulated by patent protection.

This allows patent holders to price these therapies at a cost that the world’s poor are not able to afford. Second, the

new therapies that are greatly needed for treating these same infectious diseases are few and far between. As

discussed earlier, firms are more focused on creating drugs that are functionally similar to lucrative equivalents

already on the market or instead focused on creating new drugs for treating diseases that are most prevalent in high-

income countries that generate more revenue. 123 Therefore, with regard to drugs for neglected diseases in low and

middle-income countries, the market has proven incapable. There is no coordinating a proper overlap between the

willingness (due to the underlying inability) of the afflicted to pay for existing therapies and the prices at which drug

makers are allowed to set their willingness to accept payment. In turn, the market has been incapable of generating

new therapies for infectious diseases that are already undersupplied. We can further restate both halves of this two-

sided failure for treating infectious diseases in terms of conventional economic theory. In the language of

information economics, the failure to broaden access to communicable disease drugs corresponds to what Stiglitz

calls the “static inefficiency” that IPRs create.124 Strict patent rights exclude end users or competitors from

capturing the additional utility value that their increased consumption of (medicinal) goods would otherwise make

possible. This is because the main input to such goods is knowledge, the use of which carries no marginal cost. If

consumers were permitted to consume more knowledge-based goods, or, if competitors to the patent holder were

able to consume more knowledge for production, then more welfare would materialize. Accordingly, with

knowledge-based goods, there is no a priori reason to think increasing output will lead to rising costs and increases

in consumer prices. Indeed, there also is ample reason to think they would actually decrease due to more robust

competition and market expansion.125

#### AT: Developing Countries

**IP protections unjustly target developing nations.**

**Shah 20**

Saeed Shah; ; 9‐17‐2020; ”Developing Countries Push to Limit Patent Protections for Covid‐19 Vaccines”; https://www.wsj.com/articles/developing‐countries‐push‐to‐limit‐patent‐protections‐for‐covid‐vaccines‐11600355170; Wall Street Journal; accessed 7‐21‐2021; JPark

**A group of developing countries**, backed by United Nations agencies and activist groups, **is pushing to limit patent protections for Covid‐19 vaccines** being tested by some of the world’s biggest pharmaceutical companies **so that inexpensive copies can be produced for poorer nations**. **South Africa, Ghana, Senegal, Pakistan and others argue they won’t be able to afford to protect their people without lower‐cost, generic alternatives to the vaccines now being tested by companies such as Pfizer Inc., AstraZeneca PLC and Moderna** Inc. That stance puts the countries at odds with the pharmaceutical industry, which says it supports wide distribution of the vaccines but warns that allowing drugs to be copied would undermine innovation and raise the risk of unsafe vaccines. Albert Bourla, chief executive of Pfizer, has said calls to sidestep patent protections for Covid‐19 vaccine are nonsense, and dangerous. The developing countries’ campaign is part of an intense global race to secure supplies of Covid‐19 vaccines. **Even before the drugs are fully tested, richer countries have struck deals worth billions of dollars to buy up much of the known manufacturing capacity. It is an effort that echoes moves in the late 1990s to reduce the price of drugs used to treat AIDS.** After years of being criticized, drugmakers allowed inexpensive generic copies of AIDS drugs to be distributed in some countries. International law permits countries to eliminate patent restrictions in some emergency situations and issue “compulsory licenses” to allow domestic industry to copy a medicine and even export it to other nations in need. **South Africa has already called for the intellectual property barriers for Covid‐19 vaccines to be lifted at the World Trade Organization.** At the United Nations General Assembly this month, the World Health Organization plans to set out operational details of a voluntary patents pool where Covid‐19 technology can be shared. Companies would be paid a royalty for the use of their vaccine, but one well below what they could earn otherwise. “We cannot afford to have a monopolistic approach to intellectual property for treatments and vaccines, nor maintain a system which puts profits before the lives of people,” said Winnie Byanyima, executive director of UNAIDS, a U.N. agency set up to combat HIV.

**IP Protections Hinder Medicine Distribution in Developing Countries**

**Islam 19**

**Most of the *ex-ante* studies found large negative effects of stronger IP provisions on prices and costs of medicines. Following the introduction of stronger IP laws, prices of medicines were predicted to go up by 50% to over 600%**

**Jung 18**

**Intellectual property rights (IPR) protection for pharmaceuticals has been comprehensive and strict since the establishment of the World Trade Organization in 1995 and the subsequent implementation of the TRIPS Agreement.** This study investigated the relationship between the level of IPR and national pharmaceutical expenditure using panel data of 22 OECD countries from 1970 to 2009. The patent index was used to measure the level of national protection for IPR along with other covariates: GDP per capita, the percentage of population aged over 65, number of doctors, proportion of public financing among total pharmaceutical expenditure, under-5 mortality, price index, and period indicators. **The regression analysis results showed that the level of IPR protection was significantly correlated with pharmaceutical spending even after controlling for various factors that affect pharmaceutical expenditure. The results were consistent in OLS regression and GLS regression. However, the effect of IPR was stronger and more significant in countries with a relatively small-sized pharmaceutical market than in those with big market. Many developed countries incur a financial burden due to rapidly growing pharmaceutical expenditure; therefore, the results of this study present the possibility that stronger IPR would produce welfare loss in developed countries.**