## 1NC – Off

#### Biotech industry strong now

Cancherini et al. 4/30 [(Laura, Engagement Manager @ McKinsey & Company, Joseph Lydon, Associate Partner @ McKinsey & Company, Jorge Santos Da Silva, Senior Partner at McKinsey & Company, and Alexandra Zemp, Partner at McKinsey & Company), “What’s ahead for biotech: Another wave or low tide?“, McKinsey & Company, 4-30-2021, https://www.mckinsey.com/industries/pharmaceuticals-and-medical-products/our-insights/whats-ahead-for-biotech-another-wave-or-low-tide] TDI

Belying this downbeat mood, biotech has in fact had one of its best years so far. By January 2021, venture capitalists had invested some 60 percent more than they had in January 2020, with more than $3 billion invested worldwide in January 2021 alone.5 IPO activity grew strongly: there were 19 more closures than in the same period in 2020, with an average of $150 million per raise, 17 percent more than in 2020. Other deals have also had a bumper start to 2021, with the average deal size reaching more than $500 million, up by more than 66 percent on the 2020 average (Exhibit 3).6

What about SPACs?

The analysis above does not include special-purpose acquisition companies (SPACs), which have recently become significant in IPOs in several industries. Some biotech investors we interviewed believe that SPACs represent a route to an IPO. How SPACs will evolve remains to be seen, but biotechs may be part of their story.

Fundamentals continue strong

When we asked executives and investors why the biotech sector had stayed so resilient during the worst economic crisis in decades, they cited innovation as the main reason. The number of assets transitioning to clinical phases is still rising, and further waves of innovation are on the horizon, driven by the convergence of biological and technological advances.

In the present day, many biotechs, along with the wider pharmaceutical industry, are taking steps to address the COVID-19 pandemic. Together, biotechs and pharma companies have more than 250 vaccine candidates in their pipelines, along with a similar number of therapeutics. What’s more, the crisis has shone a spotlight on pharma as the public seeks to understand the roadblocks involved in delivering a vaccine at speed and the measures needed to maintain safety and efficacy standards. To that extent, the world has been living through a time of mass education in science research and development.

Biotech has also benefited from its innate financial resilience. Healthcare as a whole is less dependent on economic cycles than most other industries. Biotech is an innovator, actively identifying and addressing patients’ unmet needs. In addition, biotechs’ top-line revenues have been less affected by lockdowns than is the case in most other industries.

Another factor acting in the sector’s favor is that larger pharmaceutical companies still rely on biotechs as a source of innovation. With the top dozen pharma companies having more than $170 billion in excess reserves that could be available for spending on M&A, the prospects for further financing and deal making look promising.

For these and other reasons, many investors regard biotech as a safe haven. One interviewee felt it had benefited from a halo effect during the pandemic.

More innovation on the horizon

The investors and executives we interviewed agreed that biotech innovation continues to increase in quality and quantity despite the macroeconomic environment. Evidence can be seen in the accelerating pace of assets transitioning across the development lifecycle. When we tracked the number of assets transitioning to Phase I, Phase II, and Phase III clinical trials, we found that Phase I and Phase II assets have transitioned 50 percent faster since 2018 than between 2013 and 2018, whereas Phase III assets have maintained much the same pace. There could be many reasons for this, but it is worth noting that biotechs with Phase I and Phase II assets as their lead assets have accounted for more than half of biotech IPOs. Having an early IPO gives a biotech earlier access to capital and leaves it with more scope to concentrate on science.

#### Lack of IP protection makes medical innovation prohibitively risky and expensive

Grabowski et al 15 [(Henry, Professor of Economics, member of the faculty for the Health Sector Management Program, and Director of the Program in Pharmaceuticals and Health Economics at Duke University) “The Roles of Patents and Research And Development Incentives In Biopharmaceutical Innovation,” Health Affairs, 2/2015] JL

The essential rationale for patent protection for biopharmaceuticals is that long-term benefits in the form of continued future innovation by pioneer or brand-name drug manufacturers outweigh the relatively short-term restrictions on imitative cost competition associated with market exclusivity. Regardless, the entry of other branded agents remains an important source of therapeutic competition during the patent term.

Several economic characteristics make patents and intellectual property protection particularly important to innovation incentives for the biopharmaceutical industry. **5** The R&D process often takes more than a decade to complete, and according to a recent analysis by Joseph DiMasi and colleagues, per new drug approval (including failed attempts), it involves more than a billion dollars in out-of-pocket costs. **6** Only approximately one in eight drug candidates survive clinical testing. **6**

As a result of the high risks of failure and the high costs, research and development must be funded by the few successful, on-market products (the top quintile of marketed products provide the dominant share of R&D returns). **7**,**8** Once a new drug’s patent term and any regulatory exclusivity provisions have expired, competing manufacturers are allowed to sell generic equivalents that require the investment of only several million dollars and that have a high likelihood of commercial success. Absent intellectual property protections that allow marketing exclusivity, innovative firms would be unlikely to make the costly and risky investments needed to bring a new drug to market.

Patents confer the right to exclude competitors for a limited time within a given scope, as defined by patent claims. However, they do not guarantee demand, nor do they prevent competition from nonidentical drugs that treat the same diseases and fall outside the protection of the patents.

New products may enter the same therapeutic class with common mechanisms of action but different molecular structures (for example, different statins) or with differing mechanisms of action (such as calcium channel blockers and angiotensin receptor blockers). 9 Joseph DiMasi and Laura Faden have found that the time between a first-in-class new drug and subsequent new drugs in the same therapeutic class has been dramatically reduced, from a median of 10.2 years in the 1970s to 2.5 years in the early 2000s. 10 Drugs in the same class compete through quality and price for preferred placement on drug formularies and physicians’ choices for patient treatment.

Patents play an essential role in the economic “ecosystem” of discovery and investment that has developed since the 1980s. Hundreds of start-up firms, often backed by venture capital, have been launched, and a robust innovation market has emerged. **11** The value of these development-stage firms is largely determined by their proprietary technologies and the candidate drugs they have in development. As a result, the strength of intellectual property protection plays a key role in funding and partnership opportunities for such firms.

#### MRNA solves a litany of diseases, but continued innovation is key

Gupta 5/7 [(Swati, vice president and head of emerging infectious diseases and scientific strategy at IAVI, a nonprofit scientific research organization that develops vaccines and antibodies for HIV, tuberculosis, emerging infectious diseases (including COVID-19) and neglected diseases, PhD and MPH from Yale University) “The Application and Future Potential of mRNA Vaccines,” Yale School of Public Health, 5/7/2021] JL

The implications of mRNA technology are staggering. Several vaccine developers are studying this technology for deployment against rabies, influenza, Zika, HIV and cancer, as well as for veterinary purposes. Its potential utility is based upon its being a “platform technology” that can be developed and scaled rapidly. Given that only the genetic code for a protein of interest is needed, synthetically produced mRNA vaccines can be made rapidly, in days. Other vaccine approaches involve growing and/or producing proteins in cells, a process that can take months. Messenger RNA vaccines are generally regarded as safe, since they do not integrate into our cells’ DNA and naturally degrade in the body after injection. They also can be safely administered repeatedly, as we are seeing with the two-dose regimen for both the Pfizer-BioNTech and Moderna vaccines.

Despite the current success of mRNA vaccines for COVID-19, scientists continue to work on making the technology better. A number of laboratories are testing more thermostable formulations of mRNA vaccines, which currently must be kept at freezing or ultra-cold temperatures. Others are investigating second-generation vaccines that will only require a single shot, and “universal” coronavirus vaccines that could protect against future emerging coronaviruses. Messenger RNA vaccines that target a broad range of different diseases, all in one shot, are also in development; this approach has the potential to greatly simplify current vaccination schedules.

Taken together, these advantages and potential future developments position mRNA vaccines as an increasingly important technology in our arsenal of tools against infectious disease outbreaks, and are likely to be critical to fighting future epidemics and pandemics. Global partnerships like the Coalition for Epidemic Preparedness and Innovation (CEPI), tasked with facilitating the development of vaccines to stop future epidemics, have called for vaccines to be able to be tested in the clinic within months after a new pathogen is identified. With the latest discoveries in mRNA technology, we are well on our way to this goal; the ability of this platform technology to be transformative is no longer a hope, but more likely to be a reality in the very near future.

#### Disease causes extinction – defense is wrong

Piers Millett 17, Consultant for the World Health Organization, PhD in International Relations and Affairs, University of Bradford, Andrew Snyder-Beattie, “Existential Risk and Cost-Effective Biosecurity”, Health Security, Vol 15(4), http://online.liebertpub.com/doi/pdfplus/10.1089/hs.2017.0028

Historically, disease events have been responsible for the greatest death tolls on humanity. The 1918 flu was responsible for more than 50 million deaths,1 while smallpox killed perhaps 10 times that many in the 20th century alone.2 The Black Death was responsible for killing over 25% of the European population,3 while other pandemics, such as the plague of Justinian, are thought to have killed 25 million in the 6th century—constituting over 10% of the world’s population at the time.4 It is an open question whether a future pandemic could result in outright human extinction or the irreversible collapse of civilization.

A skeptic would have many good reasons to think that existential risk from disease is unlikely. Such a disease would need to spread worldwide to remote populations, overcome rare genetic resistances, and evade detection, cures, and countermeasures. Even evolution itself may work in humanity’s favor: Virulence and transmission is often a trade-off, and so evolutionary pressures could push against maximally lethal wild-type pathogens.5,6

While these arguments point to a very small risk of human extinction, they do not rule the possibility out entirely. Although rare, there are recorded instances of species going extinct due to disease—primarily in amphibians, but also in 1 mammalian species of rat on Christmas Island.7,8 There are also historical examples of large human populations being almost entirely wiped out by disease, especially when multiple diseases were simultaneously introduced into a population without immunity. The most striking examples of total population collapse include native American tribes exposed to European diseases, such as the Massachusett (86% loss of population), Quiripi-Unquachog (95% loss of population), and theWestern Abenaki (which suffered a staggering 98% loss of population).

In the modern context, no single disease currently exists that combines the worst-case levels of transmissibility, lethality, resistance to countermeasures, and global reach. But many diseases are proof of principle that each worst-case attribute can be realized independently. For example, some diseases exhibit nearly a 100% case fatality ratio in the absence of treatment, such as rabies or septicemic plague. Other diseases have a track record of spreading to virtually every human community worldwide, such as the 1918 flu,10 and seroprevalence studies indicate that other pathogens, such as chickenpox and HSV-1, can successfully reach over 95% of a population.11,12 Under optimal virulence theory, natural evolution would be an unlikely source for pathogens with the highest possible levels of transmissibility, virulence, and global reach. But advances in biotechnology might allow the creation of diseases that combine such traits. Recent controversy has already emerged over a number of scientific experiments that resulted in viruses with enhanced transmissibility, lethality, and/or the ability to overcome therapeutics.13-17 Other experiments demonstrated that mousepox could be modified to have a 100% case fatality rate and render a vaccine ineffective.18 In addition to transmissibility and lethality, studies have shown that other disease traits, such as incubation time, environmental survival, and available vectors, could be modified as well.19-2

## 1NC-Off

#### CP: Member nations of the World Trade Organization should enter into a prior and binding consultation with the World Health Organization over reducing intellectual property protections for Covid vaccines. Member nations will support the proposal and adopt the results of consultation.

#### WHO says yes – it supports increasing the availability of the covid vaccine

Kimball 5/7 [(Spencer, news editor with CNBC.com) “WHO chief urges world to follow U.S. lead and support waiving Covid vaccine patent protections,” CNBC, 5/7/2021] JL

World Health Organization Director General-Tedros Adhanom Ghebreyesus on Friday urged other countries, particularly the Group of Seven industrialized nations, to follow the U.S. example and support a World Trade Organization motion to temporarily waive Covid-19 vaccine patent protections.

“Wednesday’s announcement by the U.S. that it will support a temporary waiver of intellectual property protections for Covid-19 vaccines is a significant statement of solidarity and support for vaccine equity,” Tedros said at a press briefing. “I know that this is not a politically easy thing to do, so I very much appreciate the leadership of the U.S. and we urge other countries to follow their example.”

#### Consultation displays strong leadership, authority, and cohesion among member states which are key to WTO legitimacy

Gostin et al 15 [(Lawrence O., Linda D. & Timothy J. O’Neill Professor of Global Health Law at Georgetown University, Faculty Director of the O’Neill Institute for National & Global Health Law, Director of the World Health Organization Collaborating Center on Public Health Law & Human Rights, JD from Duke University) “The Normative Authority of the World Health Organization,” Georgetown University Law Center, 5/2/2015] JL

Members want the WHO to exert leadership, harmonize disparate activities, and set priorities. Yet they resist intrusions into their sovereignty, and want to exert control. In other words, ‘everyone desires coordination, but no one wants to be coordinated.’ States often ardently defend their geostrategic interests. As the Indonesian virus-sharing episode illustrates, the WHO is pulled between power blocs, with North America and Europe (the primary funders) on one side and emerging economies such as Brazil, China, and India on the other. An inherent tension exists between richer ‘net contributor’ states and poorer ‘net recipient’ states, with the former seeking smaller WHO budgets and the latter larger budgets.

Overall, national politics drive self-interest, with states resisting externally imposed obligations for funding and action. Some political leaders express antipathy to, even distrust of, UN institutions, viewing them as bureaucratic and inefficient. In this political environment, it is unsurprising that members fail to act as shareholders. Ebola placed into stark relief the failure of the international community to increase capacities as required by the IHR. Guinea, Liberia and Sierra Leone had some of the world's weakest health systems, with little capacity to either monitor or respond to the Ebola epidemic.20 This caused enormous suffering in West Africa and placed countries throughout the region e and the world e at risk. Member states should recognize that the health of their citizens depends on strengthening others' capacity. The WHO has a central role in creating systems to facilitate and encourage such cooperation.

The WHO cannot succeed unless members act as shareholders, foregoing a measure of sovereignty for the global common good. It is in all states' interests to have a strong global health leader, safeguarding health security, building health systems, and reducing health inequalities. But that will not happen unless members fund the Organization generously, grant it authority and flexibility, and hold it accountable.

#### WHO is critical to disease prevention – it is the only international institution that can disperse information, standardize global public health, and facilitate public-private cooperation

Murtugudde 20 [(Raghu, professor of atmospheric and oceanic science at the University of Maryland, PhD in mechanical engineering from Columbia University) “Why We Need the World Health Organization Now More Than Ever,” Science, 4/19/2020] JL

WHO continues to play an indispensable role during the current COVID-19 outbreak itself. In November 2018, the US National Academies of Sciences, Engineering and Medicine organised a workshop to explore lessons from past influenza outbreaks and so develop recommendations for pandemic preparedness for 2030. The salient findings serve well to underscore the critical role of WHO for humankind.

The world’s influenza burden has only increased in the last two decades, a period in which there have also been 30 new zoonotic diseases. A warming world with increasing humidity, lost habitats and industrial livestock/poultry farming has many opportunities for pathogens to move from animals and birds to humans. Increasing global connectivity simply catalyses this process, as much as it catalyses economic growth.

WHO coordinates health research, clinical trials, drug safety, vaccine development, surveillance, virus sharing, etc. The importance of WHO’s work on immunisation across the globe, especially with HIV, can hardly be overstated. It has a rich track record of collaborating with private-sector organisations to advance research and development of health solutions and improving their access in the global south.

It discharges its duties while maintaining a dynamic equilibrium between such diverse and powerful forces as national securities, economic interests, human rights and ethics. COVID-19 has highlighted how political calculations can hamper data-sharing and mitigation efforts within and across national borders, and WHO often simply becomes a convenient political scapegoat in such situations.

International Health Regulations, a 2005 agreement between 196 countries to work together for global health security, focuses on detection, assessment and reporting of public health events, and also includes non-pharmaceutical interventions such as travel and trade restrictions. WHO coordinates and helps build capacity to implement IHR.

#### Extinction – defense is wrong

Piers Millett 17, Consultant for the World Health Organization, PhD in International Relations and Affairs, University of Bradford, Andrew Snyder-Beattie, “Existential Risk and Cost-Effective Biosecurity”, Health Security, Vol 15(4), http://online.liebertpub.com/doi/pdfplus/10.1089/hs.2017.0028

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#### WHO diplomacy solves great power conflict

Murphy 20 [(Chris, U.S. senator from Connecticut serving on the U.S. Senate Foreign Relations Committee) “The Answer is to Empower, Not Attack, the World Health Organization,” War on the Rocks, 4/21/2020] JL

The World Health Organization is critical to stopping disease outbreaks and strengthening public health systems in developing countries, where COVID-19 is starting to appear. Yemen announced its first infection earlier this month, and other countries in Africa, Asia and the Middle East are at severe risk. Millions of refugees rely on the World Health Organization for their health care, and millions of children rely on the WHO and UNICEF to access vaccines.

The World Health Organization is not perfect, but its team of doctors and public health experts have had major successes. Their most impressive claim to fame is the eradication of smallpox – no small feat. More recently, the World Health Organization has led an effort to rid the world of two of the three strains of polio, and they are close to completing the trifecta.

These investments are not just the right thing to do; they benefit the United States. Improving health outcomes abroad provides greater political and economic stability, increasing demand for U.S. exports. And, as we are all learning now, it is in America’s national security interest for countries to effectively detect and respond to potential pandemics before they reach our shores.

As the United States looks to develop a new global system of pandemic prevention, there is absolutely no way to do that job without the World Health Organization. Uniquely, it puts traditional adversaries – like Russia and the United States, India and Pakistan, or Iran and Saudi Arabia – all around the same big table to take on global health challenges. It has relationships with the public health leaders of every nation, decades of experience in tackling viruses and diseases, and the ability to bring countries together to tackle big projects. This ability to bridge divides and work across borders cannot be torn down and recreated – not in today’s environment of major power competition – and so there is simply no way to build an effective international anti-pandemic infrastructure without the World Health Organization at the center.

## 1NC-Off

#### CP: Member nations of the World Trade Organization should adopt the European Union’s proposal to:

#### Ensure that COVID-19 vaccines, treatments and their components can cross borders freely

#### Encourage producers to expand their production, while ensuring that those countries most in need of vaccines receive them at an affordable price

#### Facilitate the use of compulsory licensing within the WTO's existing Agreement on Trade-Related Aspects of Intellectual Property Rights

#### Solves vaccine access but avoids innovation

Brachmann 6/8 [(Steve, contributor to IPWatchdog.com, Research on Point, and Main Street Host writing about technology and innovation) “EU Offers Alternative to COVID-19 IP Waiver That Supports Innovation and Addresses Supply Chain Problems,” IP Watchdog, 6/8/2021] JL

The EU’s proposal to the WTO regarding COVID-19 vaccine access focuses on three key elements. The first element focuses on international supply chain issues, advocating for countries producing vaccines to increase international exports and to avoid any trade restrictions on vaccines or their raw materials that could hinder the supply chain either for countries in need or the global COVAX Facility initiative. Supply chain issues have a real and devastating effect on unvaccinated communities, as evidenced by the recent news that Thailand government officials acknowledged delays and reductions for a promised shipment of 17 million doses of Thai-produced AstraZeneca vaccines to the Philippines. One of the biggest supply chain issues facing the unvaccinated world right now is the decision of India’s government, which along with South Africa proposed the patent waiver at the WTO, to stop exporting vaccines manufactured by the Serum Institute of India, the world’s largest vaccine manufacturer, in order to address India’s own exploding COVID-19 infection rates. For its part, the United States under President Joe Biden recently announced an increase of 20 million doses to the country’s planned COVID-19 vaccine exports.

The second key element in the EU’s proposal requests that governments support vaccine manufacturers and developers to ensure affordable vaccine supplies. This portion of the EU’s proposal acknowledges the beneficial impacts of licensing, which ensures that developers and manufacturers enter into agreements that those companies are incentivized to uphold because they promote business interests. The EU’s proposal notes that the vaccine developers Pfizer, BioNTech, Johnson & Johnson and Moderna have all committed to agreements to deliver a combined 1.3 billion doses through 2021 at no profit to low-income countries and at low cost to middle-income countries.

The final key element in the EU’s alternative focuses on intellectual property and recognizes that “voluntary licenses are the most effective instrument to facilitate the expansion of production and sharing of expertise.” While compulsory licensing could be available without voluntary licensing due to the extraordinary nature of the COVID-19 pandemic, the EU advocates for using existing mechanisms for compulsory licensing under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). While the EU is currently drafting a communication dedicated to intellectual property rights which it plans to submit to all WTO members, the governmental body was clear on its thoughts regarding the India-South Africa proposal backed by many governments, including the Biden Administration:

As regards the broad waiver proposed by a number of WTO members, the European Commission, while ready to discuss any option that helps end the pandemic as soon as possible, is not convinced that this would provide the best immediate response to reach the objective of the widest and timely distribution of COVID-19 vaccines that the world urgently needs.

The forces urging the world towards waiving international patent rights under TRIPS for COVID-19 vaccines are about as legion as they are misguided. On June 7, the WTO announced that it had received a petition signed by 2.7 million people around the world calling for the suspension of patent rights on COVID-19 vaccines. Currently more than 60 nations have publicly supported the India-South Africa proposal to waive patent rights under TRIPS for COVID-19 vaccines. However, as the EU’s proposal indicates, developing effective responses to international supply chain issues regarding vaccines do not have to stoop to dismantling the system for encouraging the investment in pharmaceutical R&D that produced the vaccine in the first place. In fact, the EU’s proposal recognizes that properly respecting IP rights and encouraging voluntary licensing, while making some allowances for Article 31 of TRIPS, will be a much more effective answer than a political stance that creates more problems than it solves by reducing medical innovation at exactly the time that the world needs it the most.

In supporting the waiver, the Biden Administration has arguably abdicated one of its first promises: that it would be an administration guided by science and truth. There is no science that exists to show that patents are barriers to vaccine access. That is a fact that has been acknowledged by the World Intellectual Property Organization, the UN’s agency for intellectual property rights, since the beginning of the COVID-19 pandemic. The sentimentality driving those supporting the TRIPS waiver for COVID-19 vaccines won’t solve supply chain issues in manufacturing capacity, which the EU’s alternative does address, but it will do a great job at decreasing investment into medical R&D because weak patent rights decrease economic productivity. Decreased investment in medical R&D will slow down the research needed to cure new COVID-19 variants that continue to appear across the world, and needless human death will continue.

## 1NC – Case

### Contention 1

#### Unpatented medicine cause counterfeits—

Lynbecker 16 [(Kristina M. L. Acri née, an Associate Professor of Economics at Colorado College in Colorado Springs, where she is also the Associate Chair of the Department of Economics and Business and the Gerald L. Schlessman Professor of Economics. Dr. Lybecker’s research analyzes the difficulties of strengthening intellectual property rights protection in developing countries, specifically special problems facing the pharmaceutical industry.) “Counterfeit Medicines and the Role of IP in Patient Safety,” IPWatchDog, 7/27/16. <https://www.ipwatchdog.com/2016/06/27/counterfeit-medicines-ip-patient-safety/id=70397/>] RR

The threat of counterfeit goods took center stage on June 15th in a hearing convened by Senate Finance Committee Chairman Orrin Hatch (R-Utah). Focusing on trade opportunities and challenges for American businesses in the digital age, Senator Hatch stated:

“The Organization for Economic Co-Operation and Development (OECD) recently released a study that shows that counterfeit products accounted for up to 2.5 percent of world trade, or $461 billion, in 2013. This is a dramatic increase from a 2008 estimate that showed that fake products accounted for less than half that amount. Counterfeits are a worldwide problem, but the OECD estimates that the United States is the hardest hit, followed by Italy and France. Of the estimated $461 billion in counterfeit trade in 2013, goods with registered intellectual property rights in the U.S. represented 20 percent, or $92 billion, of the OECD estimate.”[1]

As the author of the chapter on illicit trade in counterfeit medicines within the OECD report, I worry that global policymakers may be working against each other when it comes to battling counterfeit drugs, especially in the context of intellectual property rights. While the Senate Hearing and the OECD report highlight the importance of strong IP protection in combating the growing threat of counterfeit goods, their efforts coincide with an initiative by the UN Secretary-General that has the potential to greatly worsen the problems of counterfeit pharmaceuticals. UN Secretary General Ban Ki Moon’s High Level Panel on Access to Medicines proposes “to review and assess proposals and recommend solutions for remedying the policy incoherence between the justifiable rights of inventors, international human rights law, trade rules and public health in the context of health technologies.”[2] The High Level Panel is a thinly veiled attempt to undermine the intellectual property rights architecture that incentivizes pharmaceutical innovation and protects patients from counterfeit medicines.

While patents and other forms of intellectual property rights are widely recognized as fostering pharmaceutical innovation, they also serve to inhibit counterfeiting. The World Health Organization has determined that counterfeiting is facilitated where “there is weak drug regulatory control and enforcement; there is a scarcity and/or erratic supply of basic medicines; there are extended, relatively unregulated markets and distribution chains, both in developing and developed country systems; price differentials create an incentive for drug diversion within and between established channels; there is lack of effective intellectual property protection; due regard is not paid to quality assurance”.[3]

[Kristina]

According to INTERPOL estimates, approximately 30 percent of drugs sold worldwide are counterfeit.[4] However, as is the case with many other counterfeit trade statistics, the origins of this figure are somewhat uncertain, as is the methodology used to make the calculation. Perhaps the most widely-cited statistic originates from the World Health Organization, which estimates that 10 percent of the global market for pharmaceuticals is comprised of counterfeits and reports place the share in some developing countries as high as 50-70%.[5]

While difficult to measure, estimates do exist on the extent of the market for counterfeit drugs and the harm done to human health. As noted in my chapter in the OECD report,

“INTERPOL estimates that more than one million people die each year from counterfeit drugs.[6] While counterfeit drugs seem to primarily originate in Asia, Asian patients are also significantly victimized by the problem. A 2005 study published in PLoS Medicine estimate that 192,000 people are killed in China each year by counterfeit medicines.[7] According to work done by the International Policy Network, an estimated 700,000 deaths from malaria and tuberculosis are attributable to fake drugs. [8] The World Health Organization presents a much more modest number noting that malaria claims one million lives annually and as many as 200,000 may be attributed to counterfeit medicines which would be avoidable if the medicines available were effective, of good quality and used correctly.[9] Even this number is double that presented by academic researchers Amir Attaran and Roger Bate who claim that each year more than of 100,000 people around the world may die from substandard and counterfeit medications.[10]” [11]

Given the devastating impact of counterfeit medicines on patients and the importance of intellectual property protection in combating pharmaceutical counterfeiting, it is troubling that the UN High Level Panel seems poised to prevent a series of recommendations that will undermine public health under the guise of enhancing access. Without the assurance of quality medicines, access is meaningless. Moreover, while falsely presenting intellectual property rights as the primary obstacle to global health care, the High Level Panel downplays a host of other factors that prevent developing country patients from getting the drugs they need: inadequate medical infrastructure, insufficient political will, a shortage of clinical trials in nations where neglected diseases are endemic, poverty, and insufficient market incentives.

#### Generic medicine is dangerous—contamination and unsanitary manufacturing conditions.

White 19 [(C. Micheal, Professor and Head of the Department of Pharmacy Practice, University of Connecticut) “Why your generic drugs may not be safe and the FDA may be too lax” The Conversation, 12/4/19. <https://theconversation.com/why-your-generic-drugs-may-not-be-safe-and-the-fda-may-be-too-lax-125529>] RR

This leads to a vital question: Are generics safe? If drug manufacturers followed the FDA’s strict regulations, the answer would be a resounding yes. Unfortunately for those who turn to generics to save money, the FDA relies heavily on the honor system with foreign manufacturers, and U.S. consumers get burned. Eighty percent of the active ingredients and 40% of the finished generic drugs used in the U.S. are manufactured overseas.

As a pharmacist, I know that the safety of prescription medications is vital. My research, recently published in the “Annals of Pharmacotherapy,” raises alarming concerns about our vulnerabilities.

Do experts have something to add to public debate?

Where are your drugs being made?

A pharmacist at a drug plant outside Mumbai in 2012, shortly after a change in patent law allowed production of a generic cancer drug. Rafiq Mugbool/AP Photo

Generic drug manufacturers either make bulk powders with the active ingredient in them or buy those active ingredients from other companies and turn them into pills, ointments or injectable products.

In 2010, 64% of foreign manufacturing plants, predominantly in India and China, had never been inspected by the FDA. By 2015, 33% remained uninspected.

In addition, companies in other countries are informed before an inspection, giving them time to clean up a mess. Domestic inspections are unannounced.

Faking results

The FDA informs manufacturing plants in other countries when it plans to inspect their plants. Andrew Harnik/AP Photo

As I detail in my paper, when announced foreign FDA inspections began to occur in earnest between 2010 and 2015, numerous manufacturing plants were subsequently barred from shipping drugs to the U.S. after the inspections uncovered shady activities or serious quality defects.

Unscrupulous foreign producers shredded documents shortly before FDA visits, hid documents offsite, altered or manipulated safety or quality data or utilized unsanitary manufacturing conditions. Ranbaxy Corporation pleaded guilty in 2013 to shipping substandard drugs to the U.S. and making intentionally false statements. The company had to withdraw 73 million pills from circulation, and the company paid a $500 million fine.

These quality and safety issues can be deadly. In 2008, 100 patients in the U.S. died after receiving generic heparin products from foreign manufacturers. Heparin is an anticoagulant used to prevent or treat blood clots in about 10 million hospitalized patients a year and is extracted from pig intestines.

Some of the heparin was fraudulently replaced with chondroitin, a dietary supplement for joint aches, that had sulphur groups added to the molecule to make it look like heparin.

One of the heparin manufacturers inspected by the FDA received a warning letter after it was found to have used raw material from uncertified farms, used storage equipment with unidentified material adhering to it and had insufficient testing for impurities.

These issues continue to this day. Dozens of blood-pressure and anti-ulcer drugs were recalled in 2018 and 2019 due to contamination with the potentially carcinogenic compounds N-nitrosodimethylamine or N-nitrosodiethylamine.

One of the major producers of these active ingredient powders used by multiple generic manufacturers was inspected in 2017. The FDA found that the company fraudulently omitted failing test results and replaced them with passing scores.

This raises a critical question: How many more violations would occur with inspections occurring as frequently as they do in the U.S., and more importantly, if they were unannounced? Relatively speaking, the number of drugs proved to be tainted or substandard has been small, and the FDA has made some progress since 2010. But the potential for harm is still great.

#### TRIPs waivers is a symbolic gesture that prevents vaccine production and distribution

Ikenson 6/25 [(Dan, former director of the Cato Institute's Herbert A. Stiefel Center for Trade Policy Studies, MA in economics from George Washington University) “Stop Blaming Patents For The World’s Low Vaccination Rates,” Forbes, 6/25/2021] JL

The premise of the need for a TRIPS waiver is simply absurd. It serves to divert attention from the failures of governments to protect their citizens with smart public health policies and, importantly, to demonize intellectual property protections more broadly. Governments are already free to waive IP protections and to engage in compulsory licensing in times of health crises but have not done so because patents are not the bottleneck. The bottlenecks result from limited global expertise in the highly technical process of producing the vaccine, the dearth of production facilities and capacity to ramp up production at existing facilities, the tight supply of crucial pharmaceutical ingredients (including vials, bags, and other components), and the limited distribution channels through which the proper handling of vaccines at proper temperatures can be assured.

To be sure, global health officials and biopharmaceutical companies have been working to resolve these real bottlenecks—a process that has benefited significantly from the fact that U.S. officials have more bandwidth to devote more attention and other resources to these matters precisely because U.S. vaccination efforts have been successful. And why have they been successful? In large measure, they have been successful because intellectual property protections have bred expectations of future intellectual property protections, which has invited and enabled an accumulation of R&D investment, infrastructure, and expertise in the United States.

The effort to surmount these real impediments to producing, distributing, and injecting vaccines is not made any easier by a symbolic waiver of IP protections—and may be made more difficult. The volume of vaccines necessary to ending the pandemic requires governments and public health officials to coordinate and focus on ramping up the capacity to produce and distribute, and to safeguard against the squandering of pharmaceutical ingredients by ensuring those inputs are channeled to producers with expertise in manufacturing and distribution. On the contrary, suspending IP protection might encourage novice firms with no expertise to end up wasting limited, essential ingredients.

#### The plan alienates pharma companies and doesn’t solve lack of vaccine purchasing

Glassman 5/6 [(Amanda, executive vice president and senior fellow at the Center for Global Development, research focuses on priority-setting, resource allocation and value for money in global health, former director for global health policy at the Center from 2010 to 2016, former deputy director of the Global Health Financing Initiative at Brookings and carried out policy research on aid effectiveness and domestic financing issues in the health sector in low-income countries, MSc from the Harvard School of Public Health) “Big Pharma Is Not the Tobacco Industry,” Barrons, 5/6/2021] JL

In fact, several of them did just that in the pandemic: invested their own money to develop patented manufacturing technologies in record time. Those technologies are literally saving the world right now. Public funding supported research and development, but companies also brought their own proprietary ingenuity and private investments to bear toward solving the world’s singular, collective challenge. Their reward should be astronomical given the insane scale of the health and economic benefits these highly efficacious vaccines produce every day. Market incentives sent a clear signal that further needed innovation—greater efficacy, single doses, more-rapid manufacturing, updated formulations, fast boosters, and others—would be richly rewarded. Market incentives could also have been used to lubricate supply lines and buy vaccines on behalf of the entire world; with enough money, incredible things can happen.

But activist lobbying to waive patents—a move the Biden administration endorsed yesterday—sends exactly the opposite signal. It says that the most important, valuable innovations will be penalized, not rewarded. It tells innovators, don’t bother attacking the most important global problems; instead, throw your investment dollars at the next treatment for erectile disfunction, which will surely earn you a steady return with far less agita.

It is worth going back to first principles. What problem are we trying to solve? We have highly efficacious vaccines that we would like to get out to the entire world as quickly as possible to minimize preventable disease and deaths, address atrocious inequities, and enable the reopening of society, trade, and commerce. Hundreds of millions of people have been plunged into poverty over the past year; in the developing world, the pandemic is just getting started.

What is the quickest way to get this done? Vaccine manufacturing is not just a recipe; if you attack and undermine the companies that have the know-how, do you really expect they’ll be eager to help you set up manufacturing elsewhere? Is the plan to march into Pfizer and force its staff to redeploy to Costa Rica to build a new factory? Do the U.S. administration or activists care that this decision could take years to negotiate at the World Trade Organization, and will likely be litigated for years thereafter? Does it make sense to eliminate the incentive for private companies to invest in vaccine R&D or in the response to the next health emergency? And if the patent waiver is only temporary and building a factory takes months or years, will anyone bother to do so, even if they could?

No, none of it makes sense. Worse still, we could solve the policy problem more easily by harnessing market incentives for the global good by ponying up cash to vaccinate the entire world. No confiscation necessary.

The big problem is that countries have not bought enough vaccine to inoculate most of their populations. Covax, buying on behalf of 91 lower-income countries, is only collecting enough funding to cover 20% of their population. In many parts of the world, such as the Middle East, sub-Saharan Africa and some countries in Latin America, we see very low levels of vaccine prepurchasing. We have seen this week that the government of India had not ordered enough vaccine to cover its own population, for example, resulting in export bans on its domestic vaccine manufacturers; nor has it approved the Pfizer vaccine. Our collective focus instead must be to make the market: to set up advance purchase agreements to establish demand via country cooperation, Covax, and the multilateral development banks.

#### No impact to econ decline

Clary 15 [Christopher Clary, PhD in Political Science from MIT and a Postdoctoral Fellow at the Watson Institute for International and Public Affairs at Brown, Economic Stress and International Cooperation: Evidence from International Rivalries, *MIT Political Science Department*, Research Paper No. 2015-8, p. 4]

Economic crises lead to conciliatory behavior through five primary channels. (1) Economic crises lead to austerity pressures, which in turn incent leaders to search for ways to cut defense expenditures. (2) Economic crises also encourage strategic reassessment, so that leaders can argue to their peers and their publics that defense spending can be arrested without endangering the state. This can lead to threat deflation, where elites attempt to downplay the seriousness of the threat posed by a former rival. (3) If a state faces multiple threats, economic crises provoke elites to consider threat prioritization, a process that is postponed during periods of economic normalcy. (4) Economic crises increase the political and economic benefit from international economic cooperation. Leaders seek foreign aid, enhanced trade, and increased investment from abroad during periods of economic trouble. This search is made easier if tensions are reduced with historic rivals. (5) Finally, during crises, elites are more prone to select leaders who are perceived as capable of resolving economic difficulties, permitting the emergence of leaders who hold heterodox foreign policy views. Collectively, these mechanisms make it much more likely that a leader will prefer conciliatory policies compared to during periods of economic normalcy. This section reviews this causal logic in greater detail, while also providing historical examples that these mechanisms recur in practice.

#### Their card is a hidden warming impact- No extinction – it takes 12 degrees without adaptation

Farquhar et al 17 [Sebastian Farquhar (PhD Candidate in Philosophy at Oxford and Project Manager at Future of Humanity Institute), John Halstead (climate activist and one of the co-founders of 350 Indiana-Calumet), Owen Cotton-Barratt (PhD in pure mathematics at Oxford. Previously worked as an academic mathematician and as Director of Research at the Centre for Effective Altruism), Stefan Schubert (Researcher at Department of Experimental Psychology at University of Oxford), Haydn Belfield (Associate Fellow at the Leverhulme Centre for the Future of Intelligence. He has a background in policy and politics, including as a Senior Parliamentary Researcher to a British Shadow Cabinet Minister, as a Policy Associate to the University of Oxford’s Global Priorities Project, and a degree in Philosophy, Politics and Economics from Oriel College, University of Oxford), Andrew Snyder-Beattie (Director of Research at the Future of Humanity Institute at Oxford, Holds degrees in biomathematics and economics and is currently pursuing a PhD in Zoology at Oxford), Existential Risk: Diplomacy and Governance, Global Priorities Project (Bostrom’s Institute), 2017-01-23, https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf] TDI

The most likely levels of global warming are very unlikely to cause human extinction.15 The existential risks of climate change instead stem from tail risk climate change – the low probability of extreme levels of warming – and interaction with other sources of risk. It is impossible to say with confidence at what point global warming would become severe enough to pose an existential threat. Research has suggested that warming of 11-12°C would render most of the planet uninhabitable,16 and would completely devastate agriculture.17 This would pose an extreme threat to human civilisation as we know it.18 Warming of around 7°C or more could potentially produce conflict and instability on such a scale that the indirect effects could be an existential risk, although it is extremely uncertain how likely such scenarios are.19 Moreover, the timescales over which such changes might happen could mean that humanity is able to adapt enough to avoid extinction in even very extreme scenarios. The probability of these levels of warming depends on eventual greenhouse gas concentrations. According to some experts, unless strong action is taken soon by major emitters, it is likely that we will pursue a medium-high emissions pathway.20 If we do, the chance of extreme warming is highly uncertain but appears non-negligible. Current concentrations of greenhouse gases are higher than they have been for hundreds of thousands of years,21 which means that there are significant unknown unknowns about how the climate system will respond. Particularly concerning is the risk of positive feedback loops, such as the release of vast amounts of methane from melting of the arctic permafrost, which would cause rapid and disastrous warming.22 The economists Gernot Wagner and Martin Weitzman have used IPCC figures (which do not include modelling of feedback loops such as those from melting permafrost) to estimate that if we continue to pursue a medium-high emissions pathway, the probability of eventual warming of 6°C is around 10%,23 and of 10°C is around 3%.24 These estimates are of course highly uncertain. It is likely that the world will take action against climate change once it begins to impose large costs on human society, long before there is warming of 10°C. Unfortunately, there is significant inertia in the climate system: there is a 25 to 50 year lag between CO2 emissions and eventual warming,25 and it is expected that 40% of the peak concentration of CO2 will remain in the atmosphere 1,000 years after the peak is reached.26 Consequently, it is impossible to reduce temperatures quickly by reducing CO2 emissions. If the world does start to face costly warming, the international community will therefore face strong incentives to find other ways to reduce global temperatures.

### Contention 2

#### No impact

### **Contention 3**

#### WTO decline inevitable and liberalization of trade fails.

Fickling 20 [(David, a Bloomberg Opinion columnist covering commodities, as well as industrial and consumer companies. He has been a reporter for Bloomberg News, Dow Jones, the Wall Street Journal, the Financial Times and the Guardian.) “The WTO Is Dead. Long Live the WTO” Bloomberg Quint, 5/14/20. <https://www.bloombergquint.com/global-economics/demise-of-wto-is-all-but-inevitable-with-azevedo-stepping-down>] RR

Many of the world’s multilateral organizations have the longevity of nation-states. The International Telecommunication Union is older than Germany. The World Intellectual Property Organization directly descends from a body Victor Hugo helped to establish. The institutions governing global trade, by contrast, last about as long as Spinal Tap drummers.

After 25 years of existence, the World Trade Organization may be hurtling toward the irrelevance that doomed its predecessors. Robert Azevedo, who has been director-general since 2013, will step down before his term formally ends next year, four people familiar with the matter told Bryce Baschuk and Jenny Leonard of Bloomberg News.

That decision is hardly surprising. The kingdom over which he presides is crumbling. Global trade liberalization — the original purpose of the WTO and its predecessor, the General Agreement on Tariffs and Trade, or GATT — hit a wall more than a decade ago when the Doha round of talks collapsed, thanks in part to the perennial sticking points of agriculture and services.

The so-called free trade deals that have been signed since are better described as preferential agreements, serving as much to constrain as to open up global commerce by creating in- and out-groups. Those on the outside often do worse than if no pact had been signed at all. The biggest regional agreements that have been worked on over the past decade, the Trans-Pacific Partnership and the Regional Comprehensive Economic Partnership, are more or less explicitly treated not as instruments to free up trade but as fronts in the long-term soft-power fight between the U.S. and China.

That same rivalry last year put paid to the Appellate Body, the WTO’s most important remaining function after the fall of the Doha round. The Geneva-based quasi-court, which adjudicates disputes between members, solved one of the most glaring problems with GATT, the inability of the trading system to bind its most powerful members. Still, it had always had its discontents — both in emerging economies, which often saw it as a tool to force open their markets to powerful multinationals, and in the U.S., which equally didn’t appreciate coming in on the losing side of cases. With the rise of China as an export powerhouse and the arrival of long-standing WTO skeptic Robert Lighthizer as President Donald Trump’s trade representative, the Appellate Body’s disintegration last year was all but inevitable.

The WTO Is Dead. Long Live the WTO

Right now, global trade seems under threat in a way it hasn’t been since the Cold War. In the short term, the coronavirus has brought swathes of international commerce to a halt: The WTO expects trade could decline this year by as much as 32%. World merchandise volumes, which almost always grow once you smooth out month-to-month volatilities, had been in decline for nearly a year even before the outbreak hit. The U.S.-China trade deal announced with great fanfare in January isn’t worth the paper it’s written on, as we’ve argued.

The WTO Is Dead. Long Live the WTO

Worse still, its main deliverable outcome ended up being a $200 billion-over-two-years increase in Chinese imports from the U.S. that would lean heavily on farm produce and petroleum. That’s now at the mercy of both Chinese demand and rickety virus-hit U.S. supply chains, not to mention plummeting prices and production of American oil, which will push the headline dollar target even further out of reach. Trump has recently been signaling deep discontent with the agreement as he ramps up anti-Chinese rhetoric around the coronavirus. In the current moment, January’s deal risks becoming less a balm for U.S.-Chinese relations than an irritant.

While all that seems quite grim, the course of liberalizing trade never did run smooth. GATT was born from the ashes of the International Trade Organization, which John Maynard Keynes had envisioned as a global body to eliminate trade surpluses and deficits. The WTO itself arose to fix GATT’s drift into irrelevancy in the 1980s, when a young lawyer named Robert Lighthizer assisted in a previous round of might-is-right trade diplomacy between the U.S. and Japan. Few suspected, as the WTO’s 1999 Seattle meeting attracted enormous anti-globalization protests, that China’s coming membership would kick off one of the richest periods for trade the world had ever seen.

That’s reason to hope that despite the current pre-dawn darkness, international commerce will some day find a way to rise above its current problems and open anew. The common view that trade liberalization has only helped the rich is justified — yet that was a shortcoming not of the WTO, but of the governments that failed to use the benefits of open commerce to improve the welfare of working people. Perhaps it requires the fall of the existing regime for the world to build a new trading system fit for the 21st century.

#### Alt causes to WTO decline— US-China trade war, increased Chinese tariffs, and Trump blocking judges.

Stockman 20 [(Farah, joined the New York Times editorial board in 2020 after covering politics, social movements and race for the national desk. She previously spent 16 years at the Boston Globe, nearly half of that time as the paper’s foreign policy reporter in Washington, D.C. She has reported from Afghanistan, Pakistan, Iran, South Sudan, Rwanda and Guantánamo Bay. She also served as a columnist and an editorial board member at The Globe, winning a Pulitzer Prize for commentary in 2016. She is the author of “American Made: What Happens to People When Work Disappears,” which will be published in the fall.) “The W.T.O. Is Having a Midlife Crisis,” NY Times, 12/17/20. <https://www.nytimes.com/2020/12/17/opinion/wto-trade-biden.html>] RR

If the World Trade Organization were a person, it would be that dude at the bar drinking the afternoon away in his business suit and wondering where it all went wrong. He used to be a big shot.

When the W.T.O. was created in 1995 to write the rule book for international trade and to referee disputes between countries, it was popular and powerful. Unlike most international bodies, it has a dispute-resolution mechanism that was widely used. Its decisions had teeth. If W.T.O. judges decided that a country wasn’t playing by the rules, judges could authorize retaliatory tariffs so that victims could recoup their losses. Even a superpower like the United States generally obeyed the rulings of its seven-member Appellate Body. If a member nation had a law that ran afoul of the W.T.O. treaty, then that law had to go.

But now the W.T.O. is all washed up. Like Rodney Dangerfield, it gets no respect. Its two biggest economies — China and the United States — are in a trade war, issuing tit-for-tat tariffs that violate its rules. No one fears the wrath of its Appellate Body anymore because that body has ceased to function. No new judges have been appointed to replace the old ones whose terms expired. Member states are actively floating alternatives. Its director general resigned in frustration a year before his term was up.

It’s tempting to believe that Mr. W.T.O. ended up drunk at this bar because he got punched in the nose by President Trump. There’s some truth to that. Mr. Trump did cripple the W.T.O. when he refused to appoint new judges so he could get out of having to abide by decisions he didn’t like. But the W.T.O. was on a downward spiral long before it got beaten up by Mr. Trump.

If President-elect Joe Biden is going to help fix the W.T.O., he can’t just roll back what Mr. Trump has done. Real recovery requires soul-searching about what went wrong.

When the W.T.O. was born in the 1990s, faith in free markets was at a record high. The Soviet Union had just collapsed. The United States, the world’s sole superpower, embraced an almost messianic belief in the ability of unfettered capitalism to improve lives around the world. Americans pushed more than 100 nations to join together to create a strong international body to remove barriers to international trade and protect investors. Weaker countries agreed because, in theory, it meant they would no longer be at the mercy of the strong. They could get W.T.O. judges on their side.

But the power of the W.T.O. became a problem pretty quickly. Domestic laws and programs that got in the way of “free trade” were swatted aside like cobwebs. The W.T.O. has ordered countries to gut programs that encouraged renewable energy and laws that protected workers from unfair foreign competition, as if international commerce were more important than climate change and workers’ rights.

The W.T.O. wasn’t just powerful. It was ambitious. Unlike the previous trade regulator, known as the General Agreement on Tariffs and Trade, which dealt primarily with tariffs, the W.T.O. aimed to tackle a whole host of things that had little to do with traditional trade. That’s partly because of corporations, which lobbied their governments behind closed doors to rewrite the rules of trade to their advantage.

Investment banks pushed for financial deregulation around the world, rolling back laws like Glass-Steagall, which kept Wall Street from recklessly gambling away pension funds. Pharmaceutical companies pushed to extend their patents, complicating the efforts in developing countries to get access to generic, affordable drugs. Big agriculture companies pushed to lift bans on genetically modified food. People began to grumble that the W.T.O. had fallen in with a bad crowd of bullies or that it had gotten too big for its britches.

The W.T.O.’s decision-making looked even more questionable after the body turned a blind eye to China’s bad behavior. Its judges ruled against government subsidies for locally produced solar panels in the United States and India, on the grounds that they were unfair to foreign producers. But a smorgasbord of subsidies in China were deemed no problem at all.

People began to complain that the W.T.O. just wasn’t up to the task of regulating the world economy. It didn’t help that it took years to render decisions, an eternity in the world of business.

The W.T.O. looked tardy and incompetent.

Now, as the world economy is in tatters from a pandemic and as a future crisis of climate change looms, the W.T.O. is drunk at a bar, waiting to see whether Joe Biden will come to its rescue.

There are some quick fixes that the Biden administration should support, such as the appointment of a new director general. Everyone but Mr. Trump seems to like Ngozi Okonjo-Iweala of Nigeria, who would become the first woman and first African to serve in that post. Removing American opposition to her candidacy might go a long way to building back trust and good will after the Trump era.

But Mr. Biden shouldn’t rush to fill the seats of the Appellate Body just yet.

The world has a historic opportunity to change the direction of international trade rules and carve out more space for countries to experiment with solutions to climate change and income inequality. Countries around the world could use economic stimulus funding to make strategic investments in green energy with subsidies. That’s what Mr. Biden’s Build Back Better plan is all about. But so much of the plan — from subsidies for green energy infrastructure to strong “Buy American” provisions — risks running afoul of W.T.O. rules.

That’s why the incoming administration should use this moment to try to get agreement on some of the deep-seated issues that brought us here in the first place. One reason the world has avoided those tough conversations for so long is that litigation is easier than negotiation. Now that that’s no longer an option, maybe W.T.O. member states will be able to forge an agreement to meet the moment.

There are hopeful signs that Mr. Biden intends to do just that. One of his veteran economic advisers, Jared Bernstein, has long argued that the rules of global trade should be revamped to meet the needs of ordinary people, not just corporations. The appointment of Katherine Tai as U.S. trade representative is an inspired choice. In her many years of experience working on U.S. trade policy, she stands out for her commitment to figuring how to balance the interests of corporations with the needs of American society, including workers' rights, environmental protection and racial justice.

She strikes me as the perfect person to stage an intervention.

#### WTO is too far gone— even after Trump it fails because of overriding environmental policies and lack of US support

Quiggen 19 [(John, Professor, School of Economics, The University of Queensland) “Arrogance tarnished WTO’s international credibility. What replaces it will be even worse,” The Print, 10/23/19. <https://theprint.in/world/arrogance-tarnished-wtos-international-credibility-what-replaces-it-will-be-even-worse/309972/>] RR

In line with his usual practice, Australia’s Prime Minister Scott Morrison has backed Donald Trump over the World Trade Organisation, criticising of China’s status in it as a “developing country”.

Critics of the intervention have pointed out that being a “developing country” doesn’t provide China with many benefit, and that Australia would be better off not taking sides.

But the debate, to use the cliché, is like arguing about the deck chairs on the Titanic.

In the absence of a surprising reversal from Trump, the World Trade Organisation will cease to exist as it has been in a matter of weeks.

More likely than not, it will never be revived.

The demise has been a long time coming.

Higher than heaven…

The WTO was established to replace the General Agreement on Tariffs and Trade at the end of the long Uruguay round of trade talks in 1995.

Its establishment coincided with the peak of market liberal triumphalism, exemplified by such books as Fukuyama’s The End of History and Thomas Friedman’s The Lexus and the Olive Tree.

It embraced the hubris of the times.

Its mission, according to one of its director-generals Renato Ruggiero, was “writing the constitution of a single global economy”.

In that context it felt free to override national governments on any issue that might affect international trade, most notably environmental policies.

Most famously, the WTO overrode US laws that required tuna and shrimp sold in the US (whether by US firms or importers) to follow practices that protected dolphins and turtles in decisions that were eventually reversed.

Unsurprisingly, it became a symbol of the way democratic governments were becoming powerless to resist the forces of the global economy. Popular resistance, including demonstrations and riots, boiled over at the 1999 WTO conference in Seattle.

Although tight security prevented a recurrence of the “Battle of Seattle” in later years, the WTO never recovered its aura of invincibility.

…too close to the sun

The Doha round of negotiations, launched in 2001, broke down over attempts by developed countries to push the so-called “Singapore issues” that would have extended the free trade agenda to government procurement, investment, and competition. They would have mandated the adoption of free-market policies throughout the world, and so met vigorous resistance.

After limping along for a decade or more, the negotiations petered out in a limited agreement reached at Bali in 2013.

Meanwhile, the United States, which had been the primary promoter of the worldwide rules-based WTO model, shifted its focus to one-on-one agreements unencumbered by rules, such as the Australia-US FTA, where it could take advantage of its superior bargaining power.

In all these agreements, including the Australia-US agreement, the US gave hardly any ground on issues such as agricultural protection, while extracting concessions on intellectual property and special treatment for US investors.

The culmination of the process was going to be the Trans-Pacific Partnership, a 12-nation agreement which had the geopolitical goal of keeping China out of important trading agreements.

This deal, lauded by Hillary Clinton as the “gold standard” of international agreements, was dumped by Trump. It was resurrected by the remaining parties, but is largely pointless without the participation of the US.

We’re entering a world with few rules…

As in other areas of policy, Trump’s tariff wars are often characterised as a radical break with the past, but they can also be seen as a continuation of long-standing trends.

Trump’s attempts to exploit the greater size of the US economy to extract concessions isn’t new. The problem is that his chosen targets, China and the European Union, have been big enough to resist, using the WTO.

His response has been to cripple the WTO by refusing to appoint new judges to its appellate panel.

By December only one judge will be left and the WTO will be unable to take on new cases.

To prepare for this likely outcome, the EU has set up structures that would allow it to retaliate against the US on a far larger scale than WTO rules would allow.

China is attempting to do the same thing using Regional Comprehensive Economic Partnership), in which Australia – but not the US – would be a member. And it is going beyond trade restrictions, warning Chinese tourists and businesses against travelling to the US.

The recent thaw in the trade war might halt the escalation for a while, but it’s unlikely to reverse it.

…for which we’ve few plans

If Trump is re-elected in 2020, the World Trade Organisation will be, for all practical purposes, finished.

The rules will revert to those of the earlier General Agreement on Tariffs and Trade, which give large countries like the US much more scope to do what they want.

Even if Trump is defeated, it is unlikely Humpty Dumpty can be reassembled. Likely Democratic alternatives such as Elizabeth Warren are not free-traders.

And, having rearmed in response to the US, other countries aren’t likely to put down their weapons.

It raises interesting questions for advocates of a “hard Brexit” who are relying on Britain relying on WTO rules.

UK trade minister Liz Truss says she is backing Trump in his campaign to “reform” the WTO, but the reform he is talking about will make its universally-applied rules weaker. By the time the UK emerges alone into the world market, it is likely to find there is little to protect it from the trading practices of the US, China and EU, whether they are fair or not.

The same points apply in spades to Australia. In backing Trump against China, our government is a (presumably unwitting) partner in the dismantling of the rules-based order we have previously defended.

It would be nice to imagine that we have plans for what comes next, but there is little to suggest we do.