### I affirm the resolution resolved: The member nations of the World Trade Organization ought to reduce Intellectual Property Protections for medicine

### Definitions:

**Intellectual property:**

**WIPO 2020**; World Intellectual Property Organization. “What is Intellectual Property?” (2020) <https://www.wipo.int/about-ip/en/>

**“Intellectual property" refers to creations of the mind.**

**TRIPS: Trade Related Aspects of International Property Rights**

**Willis 13**; Willis, Ben. E-International Relations. “The Argument For and Against the TRIPS Agreement.” December 23, 2013. https://www.e-ir.info/2013/12/23/the-arguments-for-and-against-the-trips-agreement/

The standard line in support of TRIPS stems from recognition of the contemporary significance of the knowledge economy, and private intellectual property (IP) as a major component of international trade (WTO, 2008: 39). Disagreements over, and absence of, IPR protection constitute significant non-tariff barriers to trade, and TRIPS is the result of the need for a robust multilateral framework to replace what was an ineffective patchwork of pre-existing IPR agreements[i] (Matthews, 2002: 10-12). For the first time, therefore,. **TRIPS has put in place a global minimum standard of IP protection that all WTO members must adhere to** This **covers copyrights, trademarks, etc**, industrial designs, geographical indications, patents, integrated circuit designs, trade secrets, and anti-competitive contract restrictions. Like other WTO agreements, it **applies** the fundamental **principles** **of non-discrimination – most-favoured-nation treatment** (no discrimination between trading partners) **and national treatment** (giving foreigners the same treatment domestically as one’s own nationals).

### Trips Plus: These are extra protections decided on a country-to-country basis between member nations

**Jose 17**; Jose, Tojo. Indian Economy. “What is TRIPs Plus? What is Data Exclusivity?” March 12, 2017. <https://www.indianeconomy.net/splclassroom/what-is-trips-plus-what-is-data-exclusivity/#:~:text=TRIPs%20Plus%20are%20higher%20level,by%20the%20WTO's%20TRIPs%20regime.&text=Rather%2C%20the%20term%20is%20used,minimum%20standards%20imposed%20by%20TRIPs>.

**TRIPs Plus are higher level of protection norms demanded by the developed countries that are not prescribed by the WTO’s TRIPs regime.** Although they are named as ‘TRIPS-Plus,’ they are not formally related to TRIPs. Rather, the term is used to indicate that **these requirements go beyond the minimum standards imposed by TRIPs.** Many developing countries who are members of FTAs are under pressure to enact these tougher conditions in their patent laws.

#### My value is morality because the word ought in the framework requires a moral obligation.

#### My value criterion is maximizing general welfare. Prefer this framework for the following reasons:

#### **1) States maximize general welfare because they only have the information to make choices based on averages and aggregates of what will happen for the most people, so states have to be utilitarian in approach.**

 GOODIN 98 [Goodin, Robert, Professor of Philosophy, 1998, Utilitarianism as a public philosophy] LHP SV

Consider, first, the argument from necgooessity. **Public officials are obliged to make their choices under uncertainty,** and uncertainty of a very special sort at that. All choices – public and private alike – are made under some degree of uncertainty, of course. But in the nature of things, private **individuals** will usually **have more complete information on**the peculiarities of**their own circumstances and on the ramifications that alternative possible choices** might have for them. Public officials, in contrast, are relatively poorly informed as to what effects that their choices will have on individuals, one by one. What they typically do know are generalities: averages and aggregates. They know **what will happen**most often**to most people as a result of their**various possible**choices**. But that is all. **That is enough to allow public policy-makers to use utilitarian calculus** – if they want to use it fat all – to choose general rules of conduct. **Knowing aggregates and averages, they** can proceed to **calculate the utility** payoffs from **[of]**adopting each alternative possible **general rule**.

#### 2) Util is a lexical pre-requisite to any other framework: threats to bodily security and life preclude the ability for moral actors to effectively utilize and act upon other moral theories since they are in a constant state of crisis that inhibit the ideal moral conditions which other theories presuppose – so, util comes first and my offense outweighs theirs under their own framework

#### 3) Pleasure and pain are intrinsically valuable. Pleasure is good, and pain is bad which is objectively true to everyone.

#### Thus, maximizing general welfare is a prerequisite to any other value criterion

## Contention 1: Access to medicine

### Subpoint A: Hierarchies

#### TRIPS-plus is root cause of increased intellectual property protections in free trade agreements

**U.S. Int’l Trade Commission 06/2021** The United States International Trade Commission is an independent, bipartisan, quasi-judicial, federal agency of the United States that provides trade expertise to both the legislative and executive branches. United States International Trade Commission, https://www.usitc.gov/publications/332/pub5199.pdf

While the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) represents a milestone in the development of international IPR norms, it **[TRIPS] specifically reserves discretion for its members to implement “more extensive protection” than required by the agreement**.938 Reflecting this discretion, U.S. **FTAs** have grown in breadth and scope to incorporate IPR standards that exceed those in TRIPS (known as TRIPS-plus provisions), as described in chapter 2. Similarly, IPR provisions in RTAs involving the European Union (EU), the European Free Trade Association countries (Switzerland, Norway, Liechtenstein, and Iceland), and others have **expanded to include more TRIPS-plus provisions.**939 The literature documents increasing levels of IPR protection as countries have implemented the requirements of TRIPS, U.S. FTAs and other RTAs, and their own reforms. As a rough proxy for IPR protection, much of the literature has relied on an index of legislative patent protection, the GP Index created by Ginarte and Park (1997), which covers nearly all countries on a five-year basis beginning in 1960.940 Although the GP Index does not explore the reasons why countries have changed their levels of patent protection, the items measured by the index (patentability of different types of inventions membership in international treaties, the length of patent terms, enforcement mechanisms, and limitations on patent rights) overlap with TRIPS requirements. GP Index data show substantial increases in countries’ patent protection levels after the implementation of TRIPS.941 In USITC 2016, the Commission found thatincreases in patent protections from 1995 to 2010 were larger for TRIPS members than nonmembers and that the average increase was greater for TRIPS members with a U.S. FTA than for those without. These facts suggested that patent reforms correlated with participation in trade agreements during this period, with the caveat that the United States entered into FTAs with countries that may have been reforming their patent systems for other reasons.942 Since USITC 2016, researchers have begun to catalog all IPR provisions in RTAs (not just patent provisions), including TRIPS-plus provisions.943 For example, Morin and Surbeck (2020) identify and code **TRIPS-plus provisions in 126 RTAs signed between 1991 and 2016.**944 They find that the **most frequent types of TRIPS-plus provisions in RTAs are those related to patents, copyrights, and trademarks**. U.S. FTAs cover these topics, as well as enforcement, the protection of undisclosed information (trade secrets), and other IPR issues. By contrast, TRIPS-plus provisions that cover geographical indications are highly prominent in EU RTAs but occur much less frequently in other RTAs. 945

#### TRIPS-plus is decreasing access to medicines:

**Reid 15** Jennifer Reid. Infojustice**.** June 18, 2025. THE EFFECTS OF TRIPS-PLUS IP PROVISIONS ON ACCESS TO AFFORDABLE MEDICINES. http://infojustice.org/archives/34601

The effects of patenting pharmaceutical products on access to medicines in developing countries are relatively recent as these countries have only been mandated by the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property (TRIPS) rules to grant patents on pharmaceuticals since 2005. As a result there are a limited number of empirical studies documenting these effects.

However, **patents grant** the **patent holder a monopoly on the market** that **allows the blocking of price-lowering generic competition and** the **raising of prices which restricts affordable access to medicines.** **Where** patent and otherintellectual property **(IP) barriers do not exist, generic competition has proven to lower prices of medicines.** The attached memo provides numerous examples where intellectual property rules stronger than those required by TRIPS have raised the cost of medicines.

For example, the **US F**ood and **D**rug **A**dministration **reports** **that “on average, the cost of a generic drug is 80 to 85 percent lower than the brand name product.”** The experience of HIV medicines prices illustrates this. When first-line antiretroviral medicines were first introduced in developing countries, they were priced out of reach of millions at more than US $10,000 per patient, per year. Following the introduction of generic versions, prices fell dramatically. Today prices for first line regimens in developing countries are 99 percent lower – as low as $100 per person, per year.

Evidence documenting the effect of TRIPS and patenting of pharmaceuticals on promoting innovation is similarly lacking, however some **reports have already documented the lack of impact patents have in promoting innovation targeting the specific needs of patients in developing countries.**

**Implementation of** **stricter IP obligations** (referred to as **TRIPS-plus**) is even more recent for many countries, but increasingly these additional or expanded provisions that go beyond what is required by the TRIPS agreement and which limit TRIPS flexibilities **have been** pushed for or **implemented in developing countries through trade agreements** and other tools. These include patent term extensions, patent linkage, data exclusivity, lower patentability criteria and additional enforcement measures. Examples of TRIPS-plus provisions appearing in trade agreements include the Dominican Republic-Central America FTA (DR-CAFTA), the US-Jordan free trade agreement and the currently under negotiation Trans-Pacific Partnership Agreement (TPP) between 12 Pacific-Rim countries, including several developing countrie=s.

The effects of TRIPS-plus provisions on access to affordable medicines and pricing are not yet well documented, particularly in developing countries. However, a review of existing literature indicates that a number of studies, reports and statements, have in fact documented, assessed and/or projected the effects of TRIPS-plus provisions on access to medicines, including at least 28 resources. Several of these are from countries like the US that have had a longer experience in the implementation of TRIPS-plus provisions in their national law.

#### An independent study by the Commission of Intellectual Property Rights proves that TRIPs plus provisions reduce access and should not be incorporated into free trade agreements.

**WHO 10** World Health Organization. Regional Office for the Eastern Mediterranean. (‎2010)‎. Public health related TRIPS-plus provisions in bilateral trade agreements: a policy guide for negotiators and implementers in the WHO Eastern Mediterranean Region. <https://apps.who.int/iris/handle/10665/119913>

Within the context of this history of WHO’s involvement in these issues, and in the wake of many regional and bilateral trade agreements which were negotiated after 1995 and which further aim to strengthen and prolong patent regimes beyond the TRIPS standards, the CIPIH recommended tha**t “Bilateral trade agreements should not seek to incorporate TRIPS-plus protection in ways that may reduce access to medicines in developing countries”.** In making the recommendation the **Commission was fully conscious o**f the sensitive nature of bilateral relations between the countries and of their sovereignty and **right to agree mutually on what they consider important for them**. Yet it was also aware of **the growing number of bilateral trade agreements between countries** which were stipulating higher levels of patent protection than the TRIPS Agreement and which **could have negative effects on access to medicines in less resourceful partners** in these agreements. In the Eastern Mediterranean Region this trend became clear as one after another such agreement was finalized and, much later, came to public knowledge. The idea for this policy guide matured with this background. An additional and important concern was that ministries of health were hardly involved at all in these bilateral trade negotiations. Yet they have had, and will have, to deal with the implications of the TRIPS-plus provisions in terms of difficulties they will face in making available new and patent protected medicines and health technologies of public health importance to their populations. Not only were they generally not involved in these negotiations, but most ministries of health also lacked capacity to take part in these discussions, let alone analyze the implications and develop strategic responses.

### Subpoint B: HIV

#### TRIPS plus provisions reduce access to HIV treatments in developing countries:

**Pigoni 20**; Pigoni, Alessandro. April, 19, 2020. “TRIPS-Plus Provisions and the Access to HIV Treatments in Developing Countries.” <https://www.e-ir.info/2020/04/19/trips-plus-provisions-and-the-access-to-hiv-treatments-in-developing-countries/>

Since its establishment a considerable body of literature has been published on the impact of the TRIPS agreement on public health, however, far too little attention has been paid to the fact that **TRIPS-Plus provisions have a much more negative impact on the affordability of treatments for spreadable diseases such as** thehuman immunodeficiency virus **(HIV) that affects the lives of 37.9 million people** (Unaids.org, 2019).

Furthermore, a point that is worth stressing is that **this exacerbating effect is disproportionally felt by the poorest communities living in developing countries** that are more vulnerable to HIV spreading. In fact, “the vast majority of people living with HIV are located in low- and middle-income countries, with an estimated 68% in living in sub-Saharan Africa”. (Carlson, 2019).

Hence, the intent of this essay is to provide evidences that disclose that the inclusion of TRIPS-Plus provisions in recent trade agreements is a strategic move carried out by high-income countries to limit the generic competition in the pharmaceutical industry that represents for the global South because it further limits the possibilities of developing countries to obtain affordable medicines needed to face the epidemic of HIV.

Therefore, in the first part, this essay will address the minimum global standard of intellectual property protection set by the 1995 TRIPS agreement with regards to patent regulations as well as theoretical arguments supporting the inclusion in recent trade agreements of stronger provisions on intellectual property. Subsequently, this essay will challenge these arguments by presenting evidence suggesting that **TRIPS-Plus provisions** are largely justified by profit-driven motives and that they **pose a serious threat to public health in developing countries because they reduce access to essential treatments for HIV** by delaying the entry of cheaper generics in domestic markets and causing significant price increases in medicines. This essay will conclude that the theoretical justifications in support of TRIPS-Plus provisions can be partially considered reasonable, however, once they are applied to the reality of international trade, they tend to disclose their shortcomings. Hence, the **inclusion of TRIPS-Plus provisions in recent trade negotiations serves** primarily as a strategic tool **in the hands of developed countries for avoiding competition** with cheaper generic drugs produced in developing countries**, however, this comes at the expense of developing countries’ ability to access affordable antiretroviral regimens for HIV treatments**.

#### The HIV disease is very serious, TRIPs-plus provisions put millions of lives at stake

**Global Affairs Canada**. “HIV/AIDS in developing countries.” June 8, 20**17**. <https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/global_health-sante_mondiale/hiv_aids-vih_sida.aspx?lang=eng>

HIV stands for human immunodeficiency virus. This virus breaks down the body’s immune system. **Without the protection against infection and disease, HIV causes people to become sick with infections that wouldn't normally affect them**. If it is left untreated HIV can lead to the disease AIDS (acquired immunodeficiency syndrome). Sub-Saharan Africa remains the most affected area. At the end of 2015, there were 36.7 million people worldwide living with HIV. Sub-Saharan Africa remains the most affected area with nearly 1 in every 25 adults living with HIV. In the hardest-hit countries, girls account for more than 80% of all new HIV infections among adolescents. Globally adolescent girls and young women (15-24 years) are twice as likely as males of the same age to be at risk of HIV**. Access to drugs and health services makes a difference** There is progress in the fight against HIV/AIDS. In 2016, 17.3 million people living with HIV had access to anti-retroviral therapy and fewer people are dying of AIDS-related illnesses. In 2015, 1.1 million people died from AIDS-related causes worldwide, compared to 2 million in 2005. There was a 45% decrease in new infections between 2000 and 2015.

This **progress** **is largely due to** advances such as **scaled-up access to new drugs and treatments**, improved access to health services through stronger health systems, and effective prevention programs and public awareness campaigns.

## Contention 2: TRIPs is good

#### TRIPs Plus only has negative impacts, passing the plan reduces the provisions to the regular TRIPS agreement. TRIPS-plus provisions aren’t even effective in a vacuum, which means removing them would not hurt the economy, TRIPs is the good one – U.S. report proves

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<https://www.usitc.gov/publications/332/pub5199.pdf>

The Commission finds that the **effects of membership in RTAs with TRIPS-plus provisions are ambiguous**. On the one hand, RTAs with TRIPS-plus provisions have a positive and statistically significant effect on members’ total trade across all sectors. However, such RTAs typically include other substantial tariff and nontariff commitments which can also increase trade. To further explore this issue, the Commission examined the effects of RTAs with TRIPS-plus provisions separately on trade in IPR-intensive sectors and non-IPR-intensive sectors. While RTAs with TRIPS-plus provisions are found to have a positive and statistically significant effect on trade in IPR-intensive sectors, they have a larger effect on non-IPRintensive sectors than on IPR-intensive sectors. 494 Thus, **there is limited evidence of TRIPS-plus provisions actually increasing trade in IPR-intensive sectors,** as other commitments in RTAs may be driving the positive effects on trade for both IPR-intensive and non-IPR-intensive sectors. As reflected in the literature**, TRIPS has already increased trade in IPR-intensive sectors such that the additional effects of TRIPS-plus provisions** may be **relatively small.**

#### The TRIPS agreement is sufficient to solve for trade and economic development amongst WTO member nations

**Willis 13**; Willis, Ben. E-International Relations. “The Argument For and Against the TRIPS Agreement.” December 23, 2013. https://www.e-ir.info/2013/12/23/the-arguments-for-and-against-the-trips-agreement/

The standard line in support of TRIPS stems from recognition of the contemporary significance of the knowledge economy, and private intellectual property (IP) as a major component of international trade (WTO, 2008: 39). Disagreements over, and absence of, IPR protection constitute significant non-tariff barriers to trade, and TRIPS is the result of the need for a robust multilateral framework to replace what was an ineffective patchwork of pre-existing IPR agreements[i] (Matthews, 2002: 10-12). For the first time, therefore, TRIPS has put in place a global minimum standard of IP protection that all WTO members must adhere to. This covers copyrights, trademarks, industrial designs, geographical indications, patents, integrated circuit designs, trade secrets, and anti-competitive contract restrictions. Like other WTO agreements, it applies the fundamental principles of non-discrimination – most-favoured-nation treatment (no discrimination between trading partners) and national treatment (giving foreigners the same treatment domestically as one’s own nationals).

Various wider benefits to society are said to accrue from the imposition of temporary monopolies and other limitations that result from private IPRs (WTO, 2008: 39; CIPR, 2002: 14-18). **By instituting legal protection – tackling piracy and counterfeiting – the disclosure of new knowledge and creativity is encouraged, and the significant costs associated with the creative process** (such as with research and development) **can therefore be recouped and remuneration earned.** **Innovation is thus both rewarded and further promoted.** The scope and reliability offered by a global IPR regime should not only stimulate domestic innovation, but the security offered to developed world patent holders and others can also encourage foreign direct investment, technology transfer and licensing, and the diffusion of knowledge to the developing world (Matthews, 2002: 108-111). **TRIPS is therefore able to play a significant role in the overall promotion of trade and economic development.**

The agreement also takes care to recognize the differing position of member states vis-à-vis their relative economic status, administrative capabilities, and technological base. As per other WTO agreements, developing countries were afforded special and differential treatment as detailed in Part VI of the agreement under ‘transitional arrangements’. While developed countries had to ensure compliance by 1 January 1996, developing and post-communist countries were instead allocated a further four years to achieve this (with another five years granted for new patents products). Under Article 66.1, least-developed countries (LDCs) were given until 2006 to enact TRIPS, with the possibility of further extensions; the 2001 Doha Declaration on TRIPS and Public Health has also subsequently allowed a further ten years for pharmaceutical products for LDCs (WTO, 2001). Article 66.2 meanwhile explicitly encourages technology transfer from developed states to the LDCs so as to assist in the establishment of a viable technological base, and Article 67 obliges developed countries to provide technical and financial assistance to facilitate implementation of the agreement.

A further advantage inherent within TRIPS is the ‘flexibility’ offered to all members in interpreting various articles of the agreement (Vandoren, 2001). Article 27.3, for example, allows members to exclude certain inventions and subject matter from patentability, and permits the protection of others – such as plant varieties – through compatible *sui generis* systems. The Doha Declaration reiterated that developing countries have the right to grant compulsory licences or allow parallel importing for pharmaceutical products under Article 31 to tackle ‘national emergencies or other circumstances of extreme urgency’ –  and that public health crises such as HIV/AIDS , malaria, and other epidemics can be declared as such (WTO, 2001).

Crucially, **TRIPS also represents a significant improvement on previous IPR agreements in having considerable monitoring, enforcement, and dispute settlement capabilities** (Matthews, 2002: 79-95). A TRIPS Council – comprising all WTO members – reviews national legislation and implementation of the agreement. Should serious disputes occur, any member may ultimately bring a case to the WTO’s Dispute Settlement Body, which has the power to issue punitive trade sanctions to ensure compliance. Successful cases launched by Ecuador and Brazil show that the dispute resolution mechanism works for both developed and developing countries alike (MIP, 2010). TRIPS is therefore seen by its supporters as representing an enforceable global system of IPR protection that plays an essential role in the modern global information society. **By rewarding and encouraging innovation, it facilitates international trade, spurs economic growth, and enables technological progress and the dissemination of knowledge, ultimately benefiting both producers and users throughout the developed and developing world**

**The TRIPS agreement is positive, it sets a good ground and should be kept, TRIPS is good, but the IP protection on medicine that should be removed is TRIPS-plus because it decreases access to medicine and has devastating impacts on developing countries, so we urge the judge to vote aff.**

**EXTENTIONS:**

**FW:**

**Goodin 98: states use this and because debate should model the real world as much as possible (its most educative) we should use this too**

**Lexical prerq🡪 we can only effectively act if we are safe, thus maximizing general welfare is the only way we can decide what is moral.**

**US INTLL TRADE COMISION:**

**Tpp are the root cause of increased IP, the statistic shows tpp wwere in 126 RTA signed between 1991 and 2016**

**REID🡪 TPP reducing access to medicine**

**Patent holders get a monopoly, and there is a huge raising of prices killing generic competition. The only reason people who are poor can get these medicines is because the generic company prices are more than 80 percent lower. Otherwise these people ltierallly die.**

**WHO🡪 WHO AGREES THIS IS SO IMPORTANT proves**

**Pigoni 20: TPP much more neg inpact, and this is mainly fely in poorest country. They reduce access to the medicine for HIV, ONE EXAMPLE HWO TPP KILLING PPL AND SHOULD BE REMOVED, IF U BELIEVE IN SAVING LIVES VOGTE AFF**

**GAC:**

**HIV HUGE IMPACT, progress🡪 medicines**

**US INTLL 6/21🡪 This is such an ikprotant evidence proves that TRIPS Plus doesn’t have any positive effects, trips is the only thing helping economy, trips plus doesn’t help the economy so there is literally no reason to keep it, YOU MUST VOTE AFF. Their main arg is that Innocation is hurt but the main point is that TRIPS is the one protecting that while TRIPS plus is severely harmful with no benefits.**

**Willis 13🡪 Trips is good to sovle trade probs and encourage innovaters their main point is that IP Law is good for innovation but we agree that TRIPS is doignthis and trips should be kept, we takin away other one.**