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I affirm the resolution, resolved: The member nations of the World Trade Organization ought to reduce intellectual property protections for medicines.

**Because the resolution involves international trade law, a notoriously complex topic, I would like to start this debate by offering the following definitions:**

**First, as financial analyst and writer Evan Tarver in 2021 explains**

Tarver, Evan. “How Best to Define the World Trade Organization (WTO).” *Investopedia*, Investopedia, 15 June 2021, www.investopedia.com/terms/w/wto.asp. // LHP PS

**Created in 1995**, **the World Trade Organization (WTO) is an international institution that oversees the global trade rules among nations**. It superseded the 1947 General Agreement on Tariffs and Trade (GATT) created in the wake of World War II. **The WTO is based on agreements signed by the majority of the world’s trading nations.** T**he main function of the organization is to help producers of goods and services, as well as exporters and importers, protect and manage their businesses. As of 2021, the WTO [with] has 164 member countries,** with Liberia and Afghanistan the most recent members, having joined in July 2016, and 25 “observer”countries and governments.

**Second, the World Intellectual Property Organization defines Intellectual Property As:**

“What Is Intellectual Property (Ip)?” *WIPO*, www.wipo.int/about-ip/en/. // LHP NP

**Intellectual property** (IP) **refers to creations of the mind**, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. **IP is protected in law** by, for example, patents, copyright and trademarks, **which enable people to earn recognition** or financial benefit **from what they invent** or create.

**Third, intellectual property for medicine is explained best by OXFAM AMERICA as**

**Intellectual property (IP) has different forms; in the case of access to medicines, we are talking about patents**. **Patents are a public policy instrument aimed at stimulating innovation. By providing a monopoly through a patent**—which gives inventors an economic advantage—governments seek to provide an incentive for R&D. At the same time, the public benefits from technological advancement.

**Fourth, Cambridge Dictionary defines reduce as, “to** [**become**](https://dictionary.cambridge.org/us/dictionary/english/become) **or to make something** [**become**](https://dictionary.cambridge.org/us/dictionary/english/become)[**smaller**](https://dictionary.cambridge.org/us/dictionary/english/small) **in** [**size**](https://dictionary.cambridge.org/us/dictionary/english/size)**,** [**amount**](https://dictionary.cambridge.org/us/dictionary/english/amount)**,** [**degree**](https://dictionary.cambridge.org/us/dictionary/english/degree)**,** [**importance**](https://dictionary.cambridge.org/us/dictionary/english/importance)**, etc.” This means that affirmative keeps intellectual property, however, it alters IP laws into a better form. Thus, the negative must prove that IP is good the way it exists in the status quo, and they cannot solely win by proving that IP is good generally.**

I Value Morality because ought in the resolution implies a moral obligation according to Meriam Webster https://www.google.com/search?q=merrium+webster+ought+definition&rlz=1C5GCEM\_enUS961US961&oq=merrium+webster+ought+definition&aqs=chrome.69i57j69i59j69i60l4j69i61l2.4985j0j7&sourceid=chrome&ie=UTF-8

The value criterion is to maximize well-being, prefer for the following reasons:

#### [1] It’s a lexical pre-requisite. Threats to bodily security and life preclude the ability for moral actors to effectively act upon other moral theories since they are in a constant state of crisis that inhibit the ideal moral conditions that allows them to be moral

#### [2] Consequences influence our decisions - we need to use consequences because what we intend to do is influenced by what we know will happen.

#### [3] Actor specificity - Every government policy benefits some and harms others which means side constrains freeze action because the WTO has no way to respond justly – the only fair way for WTO to resolve tradeoffs is to help the most people because that doesn't arbitrarily favor groups.

#### [4] Respect for human worth justifies utilitarianism -

Cummiskey 90 David Cummiskey 90, AssocProf/Phil @ U of Chicago, “Kantian Consequentiaism,”<http://www.jstor.org/stable/2381810>.

We must not obscure the issue by characterizing this type of case as the sacrifice of individuals for some abstract “social entity.” It is not a question of some persons having to bear the cost for some elusive “overall social good.” Instead, the question is whether some persons must bear the inescapable cost for the sake of other persons. Robert Nozick, for example, argues that “to use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has.” But why is this not equally true of all those whom we do not save through our failure to act? ***By emphasizing solely the one who must bear the cost if we act, we fail to*** sufficiently ***respect*** and take account of ***the many other*** separate ***persons***, each with only one life, ***who will bear the cost of our inaction***. In such a situation, what would a conscientious Kantian agent, an agent motivated by the unconditional value of rational beings, choose? A morally good agent recognizes that the basis of all particular duties is the principle that “rational nature exists as an end in itself”. Rational nature as such is the supreme objective end of all conduct. ***If*** one truly believes that ***all rational beings have an equal value, then the rational solution to such a dilemma involves maximally promoting the lives and liberties of as many rational beings as possible***. In order to avoid this conclusion, the non-consequentialist Kantian needs to justify agent-centered constraints. As we saw in chapter 1, however, even most Kantian deontologists recognize that agent-centered constraints require a non- value-based rationale. But we have seen that Kant’s normative theory is based on an unconditionally valuable end. How can a concern for the value of rational beings lead to a refusal to sacrifice rational beings even when this would prevent other more extensive losses of rational beings? If the moral law is based on the value of rational beings and their ends, then what is the rationale for prohibiting a moral agent from maximally promoting these two tiers of value? If I sacrifice some for the sake of others, I do not use them arbitrarily, and I do not deny the unconditional value of rational beings. ***Persons*** may ***have dignity***, that is, an unconditional and incomparable worth” ***that transcends any market value, but persons also have a fundamental equality that dictates that some must sometimes give way for the sake of others.*** The concept of the end-in-itself does not support the view that we may never force another to bear some cost in order to benefit others.

## Contention 1: Power Monopolies

The Trade-Related Aspects of Intellectual Property Rights [TRIPS] is the WTO treaty regarding intellectual property. It is a “base” for Intellectual Property Rights [IPRs]. TRIPS-plus are stricter provisions, not officially associated with TRIPS, that surpass the minimum provisions in TRIPS.

#### TRIPS-plus allows developed countries to have a power monopoly on the ability for poorer countries to obtain potentially lifesaving medicines and vaccines for COVID-19. Bacchus 20

Bacchus, James. “An Unnecessary Proposal: A WTO Waiver of Intellectual Property Rights for COVID-19 Vaccines.” *Cato.org*, Cato Institute, 16 Dec. 2020, www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#does-novel-virus-present-novel-issues.

In early October 2020, India and South Africa asked the members of the WTO to waive protections in WTO rules for patents, copyrights, industrial designs, and undisclosed information (trade secrets) in relation to the “prevention, containment or treatment of COVID-19 … until widespread vaccination is in place globally, and the majority of the world’s population has developed immunity.”[1](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#_ednref1) India and South Africa want to give all WTO members freedom to refuse to grant or enforce patents and other IP rights relating to COVID-19 vaccines, drugs, diagnostics, and other technologies for the duration of the pandemic.

In requesting the waiver, India and South Africa have argued that “an effective response to the COVID-19 pandemic requires rapid access to affordable medical products including diagnostic kits, medical masks, other personal protective equipment and ventilators, as well as vaccines and medicines for the prevention and treatment of patients in dire need.” They have said that “as new diagnostics, therapeutics and vaccines for COVID-19 are developed, there are significant concerns, how these will be made available promptly, in sufficient quantities and at affordable prices to meet global demand.”[2](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#_ednref2)

Later in October, the members of the WTO failed to muster the required consensus to move forward with the proposed waiver. The European Union, the United States, the United Kingdom, and other developed countries opposed the waiver request.[3](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#_ednref3) One WTO delegate, from the United Kingdom, described it as “an extreme measure to address an unproven problem.”[4](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#_ednref4) A spokesperson for the European Union explained, “There is no evidence that intellectual property rights are a genuine barrier for accessibility of COVID‐​19‐​related medicines and technologies.”[5](https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#_ednref5) In the absence of a consensus, WTO members have decided to postpone further discussion of the proposed waiver until early 2021.

#### Increased IP protections decrease accessibility and create monopolies, eliminating competition. This stops people from obtaining lifesaving medicines and vaccines and prevents economic stimulation. Islam et al 19

Islam, M.D., Kaplan, W.A., Trachtenberg, D. *et al.* Impacts of intellectual property provisions in trade treaties on access to medicine in low and middle income countries: a systematic review. *Global Health* **15,**88 (2019). https://doi.org/10.1186/s12992-019-0528-0

Our systematic literature review makes several contributions: First, the studies we have reviewed show that changes in IP policy due to the implementation of trade agreements are associated with changes in price, medicines expenditure and sales, consumer welfare, and ultimately the affordability, of medicines. The direction and magnitude of the effects differ between ex-ante and ex-post studies. Regarding prices and costs of medicines, ex-ante studies predict that prices and costs (primarily public expenditure) of medicines could increase several hundred percent due to the impact of various IP provisions such as increased patent enforcement, TRIP-plus and other provisions in various multilateral and bilateral agreements. These ex-ante studies confirm what the theory would say [35] i.e., that stronger IP monopoly rights would tend to eliminate competition and thus incur societal costs which are higher prices for IP products. On the other hand, empirical ex-post studies found at most a moderate increase in prices and costs of medicines due to the imposition of similarly heightened IP rules. There is, however, some consensus between ex-ante and ex-post studies that TRIPS-plus provisions relating to clinical data protection, rather than the imposition of more stringent patent rules, would cause a larger increase in prices and costs of medicines and lead to lower access to medicines. We note that extending the patent term may have an additionally important, but as-yet undifferentiated, impact since most data protection provisions are confined within the period of existing patent protection and are not additive to patent extensions. Second, the reported impacts of IP changes due to trade agreements on access to medicines seem clearly multifactorial. Duggan et al. [24] found an insignificant increase in medicine prices after patent law reform and argued that this might be because the existing generic producers are ‘grandfathered’ and continue to produce the generic medicines even after patent enforcement. This is because TRIPS does not require retroactive IP protection on pre-1994 medicines. Kyle and Qian [26] found that the existence of a patented molecule does not always block generic imitation, nor does the lack of patents always deter an originator from making a product available. They also pointed out that effects of IP may well be different depending on the size of the local generic sector, e.g., the impact in India with its large and robust generic medicine sector may be different as compared most other low and middle income countries. They asserted that the “... existence of IPs is neither necessary nor sufficient ...” for the launch of pharmaceutical innovations at the country level. This suggests substantial heterogeneity in the effects of IPs, both across countries and across medicines.

#### TRIPS-plus presupposes that lesser developed countries have access to healthcare infrastructure to produce their own drugs. Thus, limited IP protections in LDCs in the short term serve no risk to big pharma, as only little profit could be generated within a short time. Bonadio 21

Bonadio, Enrico. “World's Poorest Countries Allowed to Keep Copying Patent-Protected DrugsEn.” *The Conversation*, The Conversation, 23 Apr. 2021, theconversation.com/worlds-poorest-countries-allowed-to-keep-copying-patent-protected-drugs-50799.

It costs pharmaceuticals companies about [US$2.6 billioin](http://www.scientificamerican.com/article/cost-to-develop-new-pharmaceutical-drug-now-exceeds-2-5b/) to develop a new drug. If these companies were not allowed to protect their investment with patents, it is doubtful that any new drugs would be developed. So patents are an important incentive. But patent protection doesn’t work for poor countries. Intellectual property (IP) rights, like patents, aren’t an effective incentive in countries which have not reached an adequate level of economic development because they have no intellectual property to protect. IP rights might be effective over the long term, but only after a local and relatively strong pharmaceutical industry is developed. The exemption could be dropped once countries that have benefited from it have developed enough, and the industry reaches a self-sustaining size. Although building a home grown pharmaceuticals industry is not a requirement of the WTO waiver, a strong local industry would give poor countries direct access to much needed cheap medicines. The WTO’s transitional waiver makes sense. By temporarily allowing LDCs to ignore patents on drugs, it gives them time to develop their own pharmaceuticals industries. And we are already seeing evidence of this happening. According to the UN agencies, UNDP and UNAids, the proportion of people with HIV who are not receiving antiretrovirals reduced from [90% in 2006 to 63% in 2013](http://allafrica.com/stories/201511091872.html) thanks to the availability of drugs made by LDCs. Despite some criticisms, the WTO’s decision to extend the waiver should be praised. It seems fair and reasonable, and it doesn’t excessively jeopardise companies that make branded (non-generic) drugs. They don’t seem to lose much from missed royalties. Overall, the poorest countries account for less than 2% of the world’s gross domestic product and about 1% of global trade in goods. Not a big business opportunity for big pharma.

Overall, TRIPS-plus diminishes the competition that drives innovation and the economy and prevents people from obtaining lifesaving medicine. And, TRIPS + is not necessary for maintaining a profit for big pharma.

## Contention 2: Innovation

#### The WTO ought to reduce IP protections to TRIPS. All members of the WTO agreed to it, thus they should be willing to accept any results and lesser developed countries are given leeway time to adopt the policy. WTO

WTO. “World Trade Organization.” *WTO*, WTO, 15 Apr. 1994, www.wto.org/english/tratop\_e/trips\_e/tripfq\_e.htm.

All the WTO agreements (except for a couple of “[plurilateral](https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm10_e.htm)” agreements) apply to all WTO members. The members each accepted all the agreements as a single package with a single signature — making it, in the jargon, a “single undertaking”. The TRIPS Agreement is part of that package. Therefore it applies to all WTO members. ([More on the single undertaking.](https://www.wto.org/english/tratop_e/trips_e/tripfq_e.htm#SingleUndertaking)) But the [agreement allows](https://www.wto.org/english/docs_e/legal_e/27-trips_08_e.htm) countries different periods of time to delay applying its provisions. These delays define the transition from before the agreement came into force (before 1 January 1995) until it is applied in member countries. The main transition periods are: Developed countries were granted a transition period of one year following the entry into force of the WTO Agreement, i.e. until 1 January 1996. Developing countries were allowed a further period of four years (i.e. to 1 January 2000) to apply the provisions of the agreement other than [Articles 3, 4 and 5](https://www.wto.org/english/docs_e/legal_e/27-trips_03_e.htm#art3) which deal with general principles such as non-discrimination. Transition economies, i.e. members in the process of transformation from centrally-planned into market economies, could also benefit from the same delay (also until 1 January 2000) if they met certain additional conditions. Least-developed countries were granted a longer transition period of a total of eleven years (until 1 January 2006), with the possibility of an extension. The transition period has been extended three times, and now runs until 1 July 2034, or until a member ceases to be an LDC, whichever comes first.

#### TRIPS increases innovation, encourages creativity, and equalizes the playing field. Willis 13

Willis, Ben. “The Arguments for and against the Trips Agreement.” *E-International Relations*, E-International Relations, 23 Dec. 2013, www.e-ir.info/2013/12/23/the-arguments-for-and-against-the-trips-agreement/.

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 recognise 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.

Open to cross