#### I affirm: World Trade Organization member countries should remove and reject “TRIPS-plus provisions” in free trade agreements

#### 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 counry-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.

to **calculate the utility** payoffs from **[of]**adopting each alternative possible **general rule**.

#### Thus, the standard is maximizing expected well-being. Independently prefer:

#### [1] Actor specificity A] governments must aggregate because their policies benefit some and harm others so the only non-arbitrary way to prioritize is by helping the most amount of people B] No act-omission distinction – governments have to yes/no policies which means that choosing to omit is an act itself so side constraints freeze action C] Actor specificity comes first because different agents have different obligations. Takes out calc indicts because they’re empirically denied.

#### [2] 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 which other theories presuppose.

#### [3] theory:

#### [A] Topic lit – most articles are written through the lens of util since they’re crafted for policymakers and the general public to understand who take consequences to be important, not philosophy majors. Fairness and education since it’s a lens through which we engage the res.

#### [4] Only pleasure and pain are intrinsically valuable – all other values can be explained with reference to pleasure.

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

I think several things should be said in response to Moore’s challenge to hedonists. First, I do not think the burden of proof lies on hedonists to explain why the additional values are not intrinsic values. If someone claims that X is intrinsically valuable, this is a substantive, positive claim, and it lies on him or her to explain why we should believe that X is in fact intrinsically valuable. Possibly, this could be done through thought experiments analogous to those employed in the previous section. Second, there is something peculiar about the list of **additional intrinsic values** that counts in hedonism’s favor: the listed values have a strong **tend**ency **to be** well **explained as things that** help **promote pleasure and avert pain.** To go through Frankena’s list, **life** and **consciousness** are necessary presuppositions for pleasure; **activity**, health, and strength **bring about pleasure;** and happiness, beatitude, and contentment are regarded by Frankena himself as “pleasures and satisfactions.” The same is arguably true of beauty, harmony, and “proportion in objects contemplated,” and also of affection, friendship, harmony, and proportion in life, experiences of achievement, adventure and novelty, self-expression, good reputation, honor and esteem. Other things on Frankena’s list, such as understanding, wisdom, freedom, peace, and security, although they are perhaps not themselves pleasurable, are important means to achieve a happy life, and as such, they are things that hedonists would value highly. Morally good dispositions and virtues, cooperation, and just distribution of goods and evils, moreover, are things that, on a collective level, contribute a happy society, and thus the traits that would be promoted and cultivated if this were something sought after. To a very large extent, the intrinsic values suggested by pluralists tend to be hedonic instrumental values. Indeed, pluralists’ suggested intrinsic values all point toward pleasure, for while the other values are reasonably explainable as a means toward pleasure, pleasure itself is not reasonably explainable as a means toward the other values. Some have noticed this. Moore himself, for example, writes that though his pluralistic theory of intrinsic value is opposed to hedonism, its application would, in practice, look very much like hedonism’s: “Hedonists,” he writes “do, in general, recommend a course of conduct which is very similar to that which I should recommend.”24 Ross writes that “[i]t is quite certain that by promoting virtue and knowledge we shall inevitably produce much more pleasant consciousness. These are, by general agreement, among the surest sources of happiness for their possessors.”25 Roger Crisp observes that “those goods cited by non-hedonists are goods we often, indeed usually, enjoy.”26 What Moore and Ross do not seem to notice is that their observations give rise to two reasons to reject pluralism and endorse hedonism. The first reason is that if the suggested non-hedonic intrinsic values are potentially explainable by appeal to just pleasure and pain (which, following my argument in the previous chapter, we should accept as intrinsically valuable and disvaluable), then—by appeal to Occam’s razor—we have at least a pro tanto reason to resist the introduction of any further intrinsic values and disvalues. **It is ontologically** more **costly to posit a plurality of intrinsic values and disvalues, so in case all values admit** of explanation by reference to a single **intrinsic value and** a single intrinsic **disvalue, we have reason to reject more complicated accounts.** The fact that suggested non-hedonic intrinsic values tend to be hedonistic instrumental values does not, however, count in favor of hedonism solely in virtue of being most elegantly explained by hedonism; it also does so in virtue of creating an explanatory challenge for pluralists. The challenge can be phrased as the following question: If the non-hedonic values suggested by pluralists are truly intrinsic values in their own right, then why do they tend to point toward pleasure and away from pain?27

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

## Plan

#### Plan Text -- Resolved: The member nations of the WTO ought to reduce intellectual property protections for medicines to TRIPS.

#### 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.

## Advantage: Access <4 minutes

#### 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.

#### TRIPS-plus kills access to medicines through removal of generic competition. This disproportionally effects developing countries:

**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.

#### 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.

#### Killing access to medicines puts millions of lives who are dealing with HIV in developing countries 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.

#### Limited IP protections in LDCs in the short term serve no risk to big pharma, as infrastructure to develop medicines isn’t existing. 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.

#### TRIPS-plus provisions aren’t even effective in a vacuum, which means removing them would not hurt the economy – U.S. report proves

<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.