### 1NC – OFF

#### Interpretation: Reductions are permanent

Reynolds 59. Judge (In the Matter of Doris A. Montesani, Petitioner, v. Arthur Levitt, as Comptroller of the State of New York, et al., Respondents [NO NUMBER IN ORIGINAL] Supreme Court of New York, Appellate Division, Third Department 9 A.D.2d 51; 189 N.Y.S.2d 695; 1959 N.Y. App. Div. LEXIS 7391 August 13, 1959)

Section 83's counterpart with regard to nondisability pensioners, section 84, prescribes a reduction only if the pensioner should again take a public job. The disability pensioner is penalized if he takes any type of employment. The reason for the difference, of course, is that in one case the only reason pension benefits are available is because the pensioner is considered incapable of gainful employment, while in the other he has fully completed his "tour" and is considered as having earned his reward with almost no strings attached. It would be manifestly unfair to the ordinary retiree to accord the disability retiree the benefits of the System to which they both belong when the latter is otherwise capable of earning a living and had not fulfilled his service obligation. If it were to be held that withholdings under section 83 were payable whenever the pensioner died or stopped his other employment the whole purpose of the provision would be defeated, i.e., the System might just as well have continued payments during the other employment since it must later pay it anyway. The section says "reduced", does not say that monthly payments shall be temporarily suspended; it says that the pension itself shall be reduced. The plain dictionary meaning of the word is to diminish, lower or degrade. The word "reduce" seems adequately to indicate permanency. Aside from the practical aspect indicating permanency other indicia point to the same conclusion. From 1924 (L. 1924, ch. 619) to 1947 (L. 1947, ch. 841) a provision appeared in the Civil Service Law which read substantially as follows: "If the pension of a beneficiary is reduced for any reason, the amount of such reduction shall be transferred from the pension reserve fund to the pension accumulation fund during that period that such reduction is in effect." (See L. 1924, ch. 619, § 2 [Civil Service Law, § 58, subd. 4]; L. 1947, ch. 841 [Civil Service Law, § 66, subd. e].) This provision reappears in the 1955 Retirement and Social Security Law as subdivision f of section 24. This provision is useful for interpretative purposes. Since it prescribes that moneys not paid because of reduction should be transferred back to the accumulation fund the conclusion is inescapable that such reductions were meant to be permanent. If temporary suspensions were intended this bookkeeping device would result in a false picture of the funds, i.e., the reserve fund would be depleted when it would contain adequate funds to meet eventual payments 57\*57 to present pensioners. Likewise, the accumulation fund would be improperly inflated with respect to the present pensioners. Section 64 of the Retirement and Social Security Law (§ 85 under the 1947 act) provides that any disability pension must be reduced by the amount payable pursuant to the Workmen's Compensation Law if applicable. In Matter of Dalton v. City of Yonkers (262 App. Div. 321, 323 [1941]) this court interpreted "reduce" to mean "offset" in holding that under then section 67 (relating to Workmen's Compensation benefits as do its successors sections 85 and 64), pensions were to be offset by compensation benefits. This is merely another indication that "reduce" means a diminishing of the pension pursuant to a given formula rather than a mere recoverable, temporary suspension during the time other benefits or salaries are being received by the pensioner. (Also, cf., Retirement and Social Security Law, § 101 [§ 84 under the 1947 act].)

#### Violation: the enforcement cards talk about a temporary waivering

#### Vote negative for textuality – the actors in the resolution are members of the WTO and evidence from court operates within the WTO’s jurisdiction.

#### [1] Predictability – the resolution is the stasis point for contestation, anything else would be unpredictable and an unfair prep burden for the negative. Their counterinterp will justify jettisoning any possible aspect of the topic which explodes predictable limits for prep

#### [2] Topic education – only our interpretation allows for the most nuanced clash pertaining to what parameters in which the actors in the resolution act. Anything else doesn’t actually talk about the topic because it’s not what the actors are allowed to fiat.

#### Topicality is a voting issue that should be evaluated through competing interpretations—it tells the negative what they do and do not have to prepare for. Reasonability is arbitrary and unpredictable, inviting a race to the bottom and we’ll win it links to our offense.

#### Drop the debater to deter future abuse and because the 2N doesn’t get new disads to whole rez so it’s permanently skewed.

#### No RVIs—it’s your burden to be fair and T—same reason you don’t win for answering inherency or putting defense on a disad.

#### Precision o/w – anything else justifies the aff arbitrarily jettisoning words in the resolution at their whim which decks negative ground and preparation because the aff is no longer bounded by the resolution.

#### T comes before 1AR theory – a) norms – we only have a couple months to set T norms but can set 1AR theory norms anytime, b) magnitude – T affects a larger portion of the debate since the aff advocacy determines every speech after it

### 1NC – OFF

#### Topical affirmatives must enact the resolution through a three-tier process.

Reid-Brinkley 8 - PhD from UGA, professor of communications at the University of Pittsburgh (Shanara, “THE HARSH REALITIES OF “ACTING BLACK”: HOW AFRICAN-AMERICAN POLICY DEBATERS NEGOTIATE REPRESENTATION THROUGH RACIAL PERFORMANCE AND STYLE”) recut //Lex VM

The process of signifyin’ engaged in by the Louisville debaters is not simply designed to critique the use of traditional evidence. As Green argues, their goal is to “challenge the relationship between social power and knowledge.”57 In other words, those with social power within the debate community are able to produce and determine “legitimate” knowledge. These legitimating practices usually function to maintain the dominance of normative knowledge-making practices, while crowding out or directly excluding alternative knowledge-making 83 practices. The Louisville “framework looks to the people who are oppressed by current constructions of power.”58 Jones and Green offer an alternative framework for drawing claims in debate speeches, they refer to it as a three-tier process: A way in which you can validate our claims, is through the three-tier process. And we talk about personal experience, organic intellectuals, and academic intellectuals. Let me give you an analogy. If you place an elephant in the room and send in three blind folded people into the room, and each of them are touching a different part of the elephant. And they come back outside and you ask each different person they gone have a different idea about what they was talking about. But, if you let those people converse and bring those three different people together then you can achieve a greater truth.59 Jones argues that without the three tier process debate claims are based on singular perspectives that privilege those with institutional and economic power. The Louisville debaters do not reject traditional evidence per se, instead they seek to augment or supplement what counts as evidence with other forms of knowledge produced outside of academia. As Green notes in the double-octo-finals at CEDA Nationals, “Knowledge surrounds me in the streets, through my peers, through personal experiences, and everyday wars that I fight with my mind.”60 The thee-tier process: personal experience, organic intellectuals, and traditional evidence, provides a method of argumentation that taps into diverse forms of knowledge-making practices. With the Louisville method, personal experience and organic intellectuals are placed on par with traditional forms of evidence. While the Louisville debaters see the benefit of academic research, they are also critically aware of the normative practices that exclude racial and ethnic minorities from policy-oriented discussions because of their lack of training and expertise. Such exclusions prevent radical solutions to racism, classism, sexism, and homophobia from being more permanently addressed. According to Green: bell hooks talks about how when we rely solely on one perspective to make our claims, radical liberatory theory becomes rootless. That’s the reason why we use a three-tiered process. That’s why we use alternative forms of discourse such as hip hop. That’s also how we use traditional evidence and our personal narratives so you don’t get just one perspective claiming to be the right way. Because it becomes a more meaningful and educational view as far as how we achieve our education.61 The use of hip hop and personal experience function as a check against the homogenizing function of academic and expert discourse. Note the reference to bell hooks. Green argues that without alternative perspectives, “radical libratory theory becomes rootless.” The term rootless seems to refer to a lack of grounded-ness in the material circumstances that academics or experts study. In other words, academics and experts by definition represent an intellectual population with a level of objective distance from that which they study. For the Louisville debaters, this distance is problematic as it prevents the development of a social politic that is rooted in the community of those most greatly affected by the status of oppression.

#### They don’t

#### Vote Neg:

#### (1) Distancing DA – normative knowledge-making practices are steeped in expert vernaculars that crowd-out minority participation which’s a prereq to debate’s benefits – IPP policy analysis sans the three-tiers leads to distancing that demobilizes politics toward interpassivity and secures psychic violence

#### (2) Access – not only are privileged debaters forced to acknowledge the structural advantages of their social location in elite classroom settings and encouraged to mobilize as accomplices to minority debaters, but students confront how lived experience shapes knowledge – their model instills a view from nowhere that encourages passing privilege.

### 1NC –OFF

#### Counterplan text: Member nations of the WTO ought to join a Covid-19 Vaccine Investment and Trade Agreement as outlined in 5 steps below. Solves the aff better.

Brown 3/18 [Brown, Chad P. “Here's How to Get Billions of COVID-19 Vaccine Doses to the World.” *PIIE*, 26 Mar. 2021, www.piie.com/blogs/trade-and-investment-policy-watch/heres-how-get-billions-covid-19-vaccine-doses-world.]//Lex AKu

A COVID-19 Vaccine Investment and Trade Agreement (CVITA) is needed to create the incentives to ensure the timely and sizable scaling up of output and input investments to respond to this pandemic and future pandemic threats. Baby steps toward such an agreement are found in the Trade and Health Initiative that a small, but influential, group of World Trade Organization (WTO) members proposed in late 2020. But much more is required. First, CVITA should be aligned to leverage COVAX, the umbrella for the public and private international organizations that already have joined together for the purchase and distribution of vaccines. Linking the agreement to existing networks of regulators, such as the International Coalition of Medicines Regulatory Authorities, would also help ease concerns and create a more transparent pathway to the licensing of vaccines, instilling global confidence, reducing development costs, and expediting access in poorer markets. Second, the investment component of the agreement must create a framework to subsidize the full vaccine manufacturing supply chain and especially coordinate expansion of input production capacity, including for bioreactors, bags, cellular materials, vials, stoppers, syringes, and other ancillary supplies. Governments would pay into the investment fund on a subscription basis. Participation of the poorest countries should be heavily subsidized or free. Third, the agreement should include an enforceable commitment on the part of participating countries to not place export restrictions on supplies of vaccines and related materials destined for other countries participating in the agreement.[12] In effect, subsidized imported inputs would be exchanged for future doses of an exported vaccine. Countries should agree that imposing export restrictions on vaccine output will be swiftly met with trading partners jointly restricting their supply of inputs to the export-restricting country.[13] This potential mechanism for reciprocity, if made explicit, can be used to convince skeptical domestic audiences that hoarding—while politically tempting—will not work, because everyone will lose. Protections against export restrictions would also provide an incentive for nations to join the CVITA. Fourth, this type of international policy cooperation demands unprecedented levels of transparency. Trust can only be maintained—decreasing the likelihood of hoarding—if access to information on COVID-19 vaccines and inputs reduces uncertainty. In response to dozens of countries imposing export restrictions on staples during a perceived food crisis in 2008-2011, the G20 created the Agricultural Market Information System (AMIS) to improve transparency and coordinate policy in the event of sudden scarcity. That system generated information and trust that arguably reduced the use and duration of agricultural export bans in the early days of the COVID-19 pandemic. A similar informative monitoring system for vaccines and inputs is needed under CVITA. Fifth, CVITA needs an effective and transparent administrator who is one part general contractor and one part ombudsperson. When building a house, the general contractor is there to ensure the right inputs are available in enough supply at the right time. The electrician cannot install the wiring before the floors, beams, and rough construction are in place. On the other hand, if the sheet rock has already gone up, the plumber cannot install the pipes. Sometimes, the general contractor will move an extra plumber or electrician off one job so that a different job does not fall behind. At its best, Operation Warp Speed and the DPA were the general contractor the Americans used to help scale up investments in its entire domestic vaccine manufacturing supply chain. CVITA needs some of that facilitation at the global level. With access to information, it can help coordinate capacity investment subsidies. It can also help address the reallocation of scarce inputs when inevitable bottlenecks materialize, potentially by creating secondary markets. This is critical to ensuring the production process stays on track.[14] This facilitation mechanism can also recognize and prepare for inevitable frictions in scaling out global manufacturing. Shortages will occur. Tensions will rise. Because of scarcity problems, difficult choices will need to be made, and some may be asked to wait. Those challenges have to be resolved quickly, fairly, and transparently.

### 1NC—OFF

#### Despite resistance, the CCP regime is stable now – but challenges to legitimacy cause lashout

Ball, MA in IR, 20

(Joshua, University of St. Andrews, https://globalsecurityreview.com/degree-chinas-internal-stability-depend-economic-growth/, April 10) BW

For decades, Western academics, policymakers, and analysts assumed that China’s embrace of capitalist economic policies would set the stage for democratic reform. Almost three decades later, however, the Chinese Communist Party (CCP) remains firmly in power under the increasingly autocratic leadership of General Secretary Xi Jinping. While the CCP-controlled government faces a range of threats from groups within its borders, the idea of a downturn in the Chinese economy remains a very legitimate threat. The Chinese government has radically modernized its economic policies over the past three decades, completely reversing their initial Marxist or Maoist aversion to providing monetary compensation for labor. These reforms are responsible for the significant growth of the Chinese middle class, which has the potential to be the most influential group in China when looked at in regards to socio-economic status. As a result, the considerably large middle class has come to perceive the CCP as being responsible for their rising levels of prosperity. China has undoubtedly experienced the effects of the 2008-2009 global economic crisis; it indeed fared much better than the majority of the world. However, China still faces many hurdles to overcome. Rising Debt and Escalating Unemployment for Chinese College Graduates It is becoming increasingly difficult in China for college graduates to find jobs, the volume of China’s exports is dropping, and tens of millions of workers are out of work. The possibility of a financial crisis in China could challenge Beijing’s ability to hold up its side of the deal with the population. Since the inception of Jiang Zemin’s ‘Three Represents,’ meant to attract private entrepreneurs to party membership, the middle and upper classes have seen the party as being responsible for their economic well-being. The government provides an environment for a healthy, regulated economy, to encourage the creation of private wealth and property, and in return has its rule legitimized by its people. Arguably, while it is individuals are responsible for the creation of personal wealth, the party made it possible. If the government or party cannot guarantee jobs to the people, there remains the little reason for the people to tolerate the strict control that the party maintains over the state. If the CCP-controlled government cannot sustain economic growth, it could be perceived by members of the growing middle class as violating the social contract that has existed between China’s citizens and the country’s ruling party elite. The CCP could face a challenge to its legitimacy if and when the time comes that it is unable to guarantee a healthy economy, prompting potential discontent from the middle class. Beijing has a track record of effectively suppressing unrest The Chinese government has become particularly adept at maintaining or regaining control over its people via means of physical repression, censorship, and through the creation of an environment where fear of speaking out is a legitimate means of control. Indeed, the likelihood of an economic downturn eliminating the CCP’s influence is minimal. Rising social discontent isn’t likely to be enough to force the party itself from power, but it might be sufficient to tempt some members of the elite to take advantage of the situation to their political benefit, thus leading to internal instability within the party and damaging its credibility. While the CCP has an extraordinary ability to suppress dissent, many argue that it can only contain such dissent for so long. However, due to the rapid proliferation of advanced technologies including surveillance, censorship, and controlled access to information, the Chinese authorities are empowered as never before, to monitor, identify, and censor those whose activities are a perceived threat to the party. Nevertheless, a sustained economic downturn poses a threat to the CCP’s legitimacy. Continued civil unrest on the part of groups desiring independence from CCP rule as a result of religious suppression and ethnic inequality illustrate not-insignificant threats to the party’s ability to maintain total control over the Chinese state. Regardless, the most significant threat to the power monopoly held by the CCP is a pronounced economic downturn.

#### The plan erodes CCP legitimacy. Xi, CCP leadership and the people have prioritized protecting IP Rights – the plan is a major reversal.

Changyu 21 [Changyu, Shen, March April 2021“Developing a Uniquely Chinese System of Intellectual Property.” *Developing a Uniquely Chinese System of Intellectual Property*, en.qstheory.cn/2021-04/30/c\_617534.htm.]//Lex AKu

It is vital to grasp the strategic aspect of IP protection**.** President Xi pointed out that to build a modern socialist country in all respects, China must incorporate it into its national strategies and consider the requirements posed by the new development stage, comprehensively strengthen IP protection, construct a modern economic system, encourage innovation throughout society, and develop a new development dynamic. President Xi's instructions have provided insight into the goals and tasks of IP protection in the new era. China needs to further enhance its sense of responsibility, of mission, and of urgency regarding IP protection in the new era, understand the role of IP in building a modern economic system, and strengthen IP protection to encourage internal innovation and greater openness to the outside world. We need to promote a market system predicated on high standards, develop a more open economy, and support the construction of a new development dynamic with the domestic economy and international engagement providing mutual reinforcement, and the former as the mainstay. **It is vital to recognize the historical significance of IP protection.** President Xi has indicated that China is making the transition from a major importer of IP to a major creator of IP, and IP work is changing from being about pursuing quantity to improving quality. In his speech, President Xi has affirmed the achievements that have been made in IP work, emphasized the historical significance of this work, and encouraged further efforts in this regard. China must use its historical achievements in the development of IP to increase the enthusiasm of officials and ordinary workers toward entrepreneurship. It must understand the new circumstances, features, and tasks of developing IP rights, and continue to boost a uniquely Chinese system of IP. In particular, China needs to highlight the theme of the times, which is high-quality development; put in place even higher standards for the creation, use, protection, and management of IP rights as well as IP services; redouble its efforts in international cooperation on IP protection; and seek progress in IP protection amidst stability and high-quality development of IP from a higher starting point. **It is vital to understand the fundamental stance of IP protection.** The people's stance is the fundamental political stance of the CPC. President Xi has pointed out the need to uphold the principles of acting in our own best interests, prioritizing the people's interests, and providing fair and reasonable protection. China must not only stringently protect IP rights but also prevent the excessive expansion of individual and corporate rights, to both protect public interests and encourage innovation. In his speech, President Xi reflected this people-centered development concept and clearly expressed these values. The fundamental criterion for assessing the effectiveness of IP protection efforts should be whether people's legitimate IP rights and interests are protected, whether innovation is stimulated, and whether economic and social development is promoted. To adhere to the principle of acting in its own best interests, China must absorb and learn from others' achievements in IP system development around the world and then build its own system suited to its national conditions and development requirements. To provide fair and reasonable IP protection, China must balance the interests of rights holders with those of the general public. We must protect the legitimate rights and interests of rights holders but also promote the dissemination and utilization of knowledge, to ensure the benefits of innovation enrich the lives of ordinary people. **It is vital to comprehend the strategies involved in international IP cooperation and competition.** President Xi said in his speech that we must promote the concept of a global community with a shared future, adhere to the principles of openness, inclusiveness, and balance, participate meaningfully in global IP governance under the WIPO, promote improvements to rules and standards covering IP and related international trade and investment, and develop a more just and rational global IP governance system. China needs to deepen IP cooperation with countries along the Belt and Road and encourage knowledge sharing. President Xi also clarified the strategic necessity of international IP cooperation and competition and said that China needs to focus on its national reform and opening up while strengthening international IP cooperation. He particularly noted the need to engage with the WIPO, the Belt and Road countries, BRICS, as well as the US, Europe, Japan, and South Korea to promote improvements to international governance of IP rights. China also needs to balance domestic and overseas IP protection to both safeguard the legal IP rights of foreign-funded enterprises in China in accordance with the law and ensure foreign governments strengthen their protection of Chinese IP rights.

#### Threats to legitimacy cause the CCP to escalate tensions and lash out – uniquely threatens Taiwan.

Blumenthal and Urda 9/28 [09-28-20, Dan Blumenthal, Jakob Urda, The National Interest, “China’s aggressive tactics aim to bolster the Communist Party’s legitimacy”, https://www.aei.org/articles/chinas-aggressive-tactics-aim-to-bolster-the-communist-partys-legitimacy/, Jakob Urda is a Masters Student at Georgetown University and research specialist at a technology consultancy. He has previously worked at the Chicago Project on Security and Threats and studied in the Institute for the Study of War’s War Studies Program. Dan Blumenthal is the director of Asian Studies at the American Enterprise Institute and the author of the forthcoming book The China Nightmare: the Grand Ambitions of a Decaying State (AEI Press, November 17, 2020] //Lex AKu

Yet for the CCP, external aggression is a necessary tool to combat internal weakness. The CCP is obsessed with its fragilities, such as the threat of losing popular support and legitimacy and demands for more justice and freedoms. When Chinese people criticize their government, China must act more aggressively abroad. Beijing uses external aggression to fan Chinese nationalism and cast the CCP as the protector of the people and champion of a new era of Chinese glory. Coronavirus was a true moment of weakness for the CCP, as it exposed fissures in China’s overcentralized authoritarian political system to light. A now-infamous example of Chinese paranoia over potentially out-of-control domestic crises was the case of Dr. Li Wenliang. On February 7, Li, a doctor who warned of the coronavirus but was quickly censored by the Wuhan police, died from the virus himself. Li’s death quickly became the top trending topic on Chinese social media with hashtags such as “We want freedom of speech.” The CCP censored all mentions of Li or any coronavirus failings, fearing more organized protests. Simultaneously, the coronavirus battered China’s economic growth, which underpins the CCP’s claim to legitimacy, with an unprecedented 6.8 percent Q1 contraction. Far from the unified front which Beijing seeks to project, the coronavirus revealed the CCP’s dysfunction. For example, Dali, a midsize city, intercepted and distributed a shipment of surgical masks headed to the hard-hit municipality of Chongqing. Similarly, the City of Qingdao instructed customs officials to hold on to a shipment of masks and medical products headed to Shenyang. At the same time, Hong Kong dealt the CCP a major political embarrassment when it halted traffic coming in from the mainland. These reports demonstrate the government’s inability to enforce basic order among competing cities and provinces. In response to the tumult caused by the coronavirus crisis, the CCP mobilized popular support by reigniting conflicts with its neighbors. On April 2, during the peak of the coronavirus, a Chinese maritime security vessel sank a Vietnamese fishing boat near the Parcel islands. Just two weeks later on April 16, China escalated a month’s long standoff with Malaysia by deploying the coast guard to a disputed oil shelf. China also stepped up its military activities targeting Taiwan—who’s coronavirus response was strong and effective—with as many as three incursions in a single week in June. These episodes were widely condemned by the international community, but greeted with nationalist revelry at home. The need to project strength and unity domestically explains the timing of China’s border dispute with India. In May, violent brawls broke out between Chinese and Indian soldiers near Sikkim. On June 15, the Indian government reported that twenty Indian soldiers were killed by Chinese soldiers in the Galwan River Valley, a disputed border region controlled by India but claimed by China. The CCP has made full use of the crisis to rally nationalism. China’s foreign ministry issued statements blaming India for the clashes and state-propaganda popularized the slogan “China is not afraid.” The Global Times, a propaganda outlet, cast the clashes as an Indian invasion, saying “India has illegally constructed defense facilities across the border into Chinese territory in the Galwan Valley region.” Importantly, Chinese state-owned news outlets were also running news about India’s poor coronavirus response at the time, in contrast to its own “successes.” The recent border clashes mirror China’s 2017 standoff with India at Doklam, a strategic point near Bhutan. During the conflict, Foreign Minister Wang Yi made statements that cast the conflict as an Indian attack upon China, and state media circulated images from the 1962 Sino-Indian War, to remind the China populace that Beijing had defeated Delhi before. The India clashes coincided with another threat to CCP legitimacy: a fight to remove pro-democracy advocates from the Hong Kong Legislative Council. China ended up harshly cracking down on the supposedly autonomous city as well. Understanding China’s weaknesses is essential for policymakers attempting to make sense of its aggression. This dynamic is not only a Xi Jinping phenomenon: China’s modern history shows that domestic crises are often followed by belligerence. A study that pre-dated Xi’s rule, with a dataset of over three thousand interactions between the United States and China, found that the CCP was twice as likely to initiate disputes when the Shanghai Stock Exchange (SSE) experienced a substantial drop. The SSE is a barometer of elite sentiment in China because the government pledges to protect elite investments and uses SSE listings to reward party insiders. Insight into the CCP’s domestic political objectives helps determine the magnitude of the conflict and appropriate response. The editor of the Global Times wrote that a belligerent foreign policy was “necessary to satisfy the Chinese people.” Policymakers can use history to deduce what levels of aggression are “necessary” for the CCP’s goals. In India, it is unlikely that clashes will escalate into invasion because the current skirmishes satisfy the CCP’s purpose of bolstering legitimacy. However, Taiwan may be in particular danger from China’s reactionary aggression. This is because the ways in which conflict with Taiwan would bolster the CCP’s legitimacy align more closely with more violent coercion—reunification is a core element of the CCP’s platform and Taiwan’s clear success fighting the coronavirus is a major blow to Beijing’s legitimacy. Because Taiwan’s “threat” to the CCP stems from its mere existence, it is particularly vulnerable to reactionary aggression. Xi is a self-proclaimed follower of Mao. So, the 1958 Taiwan Strait Crisis is a powerful example; Mao needed to generate support for the great leap forward and deflect criticism from poor economic growth. To stir the nation, Mao seized islands controlled by Taiwan and threatened an invasion of the country until restrained by American nuclear brinksmanship. Over the last three months, China has faced another crisis in the form of historic floods. The Yangtze river basin has been inundated, affecting sixty-three million Chinese and inflicting over twenty-five billion dollars in direct damages. Many Chinese have raised concerns that the government’s massive infrastructure projects have worsened the crisis by draining wetlands and promoting development in flood-prone areas. Poor transparency has stirred more backlash as the CCP has been accused of hiding the extent of damages and censoring criticism. One political commentator in Beijing even predicted that the “Chinese public will question Beijing from this year’s continuous natural and man-made disasters, and even question China’s governance model and its effectiveness.” Instead of hoping that the crisis created by the current floods will give China’s neighbors breathing space, the United States should brace itself for the possibility of renewed aggression. The CCP must prove its worthiness to the tens of millions of displaced people across China, making it prone to lashing out. Taiwan may be an appealing target; it has been spared from flooding and has been visible in assisting neighboring countries like Japan with post-flood reconstruction. Already, China has begun live-fire sea-crossing drills near Taiwan.

c/a 1ac impact cards

## Case

#### TRIPS alone is too ambiguous to serve as a sufficient legal standard

Halaijan 13

Dina Halaijan (JD, Brooklyn Law School). “Inadequacy of TRIPS & the Compulsory License: Why Broad Compulsory Licensing is Not a Viable Solution to the Access Medicine Problem.” Brooklyn Journal of International Law. Volume 38, Issue 3, Article 7 (2013). JDN. <https://brooklynworks.brooklaw.edu/cgi/viewcontent.cgi?article=1050&context=bjil>

3. Definitional Ambiguities & Ambiguities in Scope

Ambiguities in the interpretation of TRIPS due to the lack of substantive guidelines or definitions also hinder its effective use by **increasing the risk of litigation.**111 The Doha Declaration merely stated that individual countries have “the right to determine what constitutes a national emergency or other circumstances of extreme urgency” in deciding to grant a compulsory license, and thus did little to ameliorate the different interpretive approaches of developed and developing countries.112 **The flexible scope** of compulsory licenses **lends to abuse which further instills resistance and suspicion** from pharmaceutical companies.113 For example, Egypt’s compulsory license for Pfizer’s Viagra tarnishes the reputation of compulsory licensing because erectile dysfunction is clearly a less dire situation and one likely not intended to be covered by the public health exception of TRIPS.114 Such excessive abuse and over-use of compulsory licensing likely encourages pharmaceutical companies to aggressively resist valid uses of compulsory licenses to prevent **over-expansion of scope.**115 In addition to ambiguity in the scope of intended diseases, conflicting interpretations exist in the type of pharmaceutical products intended for compulsory licensing.116 The scope of countries that should benefit from compulsory licensing remains another area of contention.117 Not limiting the scope of applicable nations may create a **chilling effect** on the types of drugs pharmaceutical companies choose to invest in and develop to avoid the potential for a compulsory license, **which hurts developing nations most in need of help.**118 Interpreting the morality exclusion in Article 27(2) also proves difficult, as **there is no universally accepted definition.**119 In addition to causing differing interpretations between countries, the lack of concrete definitions allows countries to alter their position to fit their self-interest and creates potential for abuse.120 For example, despite the United States’ narrow interpretation of TRIPS flexibilities, the United States contradicted itself during the 2001 anthrax scare by suggesting use of a compulsory license for Cipro, a drug that combats the effects of anthrax.121 On a related note, as India’s government and pharmaceutical industry’s capabilities grow, the future of India’s willingness to grant compulsory licenses and produce cheap generic drugs for export to other developing countries is questionable.122 Indian companies may opt to serve their selfinterest and become “innovator companies” to compete globally with other large pharmaceutical companies.123 The vagueness of Article 30, which allowed a narrow interpretation to be given by the WTO dispute resolution panel, is a further impediment to increasing access to medicines.124 Calculating adequate remuneration for payment to the patent holder when a compulsory license is issued is another obstacle to successful use of TRIPS flexibilities and is further complicated by the requirement to take the economic value of the authorization into account, as TRIPS does not provide guidance to determine what is ‘adequate’ and what is the authorization’s ‘value.’125 The WTO members’ inability to reach a decision regarding parallel importation created a “fundamental flaw” of ambiguity.126 In regard to compulsory licensing under the Paragraph 6 Decision, drugs made for export must be distinguishable by special labels, colors, or shapes to prevent trade diversion.127 However, lack of monitoring guidelines and repercussions makes the re-exportation issue troubling.128

#### TRIPS IP rights are key for innovation

James Bacchus 20, adjunct scholar at CATO, “An Unnecessary Proposal: A WTO Waiver of Intellectual Property Rights for COVID-19 Vaccines,” December 16th, 2020, <https://www.cato.org/free-trade-bulletin/unnecessary-proposal-wto-waiver-intellectual-property-rights-covid-19-vaccines#does-novel-virus-present-novel-issues>

Technically, IP rights are exceptions to free trade. A long‐​standing general discussion in the WTO has been about when these exceptions to free trade should be allowed and how far they should be extended. The continuing debate over IP rights in medicines is only the most emotional part of this overall conversation. Because developed countries have, historically, been the principal sources of IP rights, this lengthy WTO dispute has largely been between developed countries trying to uphold IP rights and developing countries trying to limit them. The debate over the discovery and the distribution of vaccines for COVID-19 is but the latest global occasion for this ongoing discussion. The primary justification for granting and protecting IP rights is that they are incentives for innovation, which is the main source for long‐​term economic growth and enhancements in the quality of human life. IP rights spark innovation by “enabling innovators to capture enough of the benefits of their own innovative activity to justify taking considerable risks.”18 The knowledge from innovations inspired by IP rights spills over to inspire other innovations. The protection of IP rights promotes the diffusion, domestically and internationally, of innovative technologies and new know‐​how. Historically, the principal factors of production have been land, labor, and capital. In the new pandemic world, perhaps an even more vital factor is the creation of knowledge, which adds enormously to “the wealth of nations.” Digital and other economic growth in the 21st century is increasingly ideas‐​based and knowledge intensive. Without IP rights as incentives, there would be less new knowledge and thus less innovation. In the short term, undermining private IP rights may accelerate distribution of goods and services—where the novel knowledge that went into making them already exists. But in the long term, undermining private IP rights would eliminate the incentives that inspire innovation, thus preventing the discovery and development of knowledge for new goods and services that the world needs. This widespread dismissal of the link between private IP rights and innovation is perhaps best reflected in the fact that although the United Nations Sustainable Development Goals for 2030 aspire to “foster innovation,” they make no mention of IP rights.19

#### Circumvention and they don’t solve – even if they say “durable fiat”, they have not defined the scope of the plan in the 1AC so you don’t know what the plan would materially look like

Mercurio 6/24 [Simon F.S. Li Professor of Law, The Chinese University of Hong Kong, Shatin, Hong Kong. June 24, 2021. “The IP Waiver for COVID-19: Bad Policy, Bad Precedent” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/> Accessed 8/25 //gord0]

The role of intellectual property rights (IPRs) and access to medicines is contentious. On the one hand, IPRs encourage investment, innovation and the advancement of health science. On the other hand, the limited-term monopoly rights can result in artificially high prices and become a barrier to access to medicines. While the wisdom of the IPRs system has at times been tested, it has proven its value in the current COVID-19 pandemic as IPRs played a large role in the rapid (and unprecedented) development and availability of multiple vaccines. Despite the success, India and South Africa proposed that the World Trade Organization (WTO) waive IPRs under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in order to increase access to vaccines and other COVID-19-related technologies.[1](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn1) The proposal, tabled at a meeting of the TRIPS Council in October 2020, calls on Members to waive IPRs relating to and having an impact on the “prevention, containment or treatment of COVID-19”.[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn2) The proposal attracted support from the majority of developing country Members,[3](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn3) but was opposed by a handful of Members including the United States (US).[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn4) Given that consensus could not be reached within the deadline of 90 days as set out in Art. IX:3 of the Agreement Establishing the WTO, Members agreed to keep the waiver proposal on the agenda of the TRIPS Council in 2021.[5](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn5) On 5 May 2021, the US reversed its position and announced that it would support a waiver for COVID-19 vaccines.[6](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn6) To be clear, this does not mean that the US supported the waiver as proposed by India and South Africa. Instead, the US has simply agreed to negotiate the perimeters of a waiver. Others, including the European Union (EU), Canada, Australia, Norway, Switzerland, the United Kingdom (UK) and even leading developing countries such as Brazil, Chile and Mexico remain opposed or lukewarm on the waiver.[7](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn7) The US dropping opposition does not mean the concerns of other Members will simply disappear – one would hope that these nations opposed the waiver for valid reasons and did not simply blindly follow the US. Indeed, many of the above-listed Members remain unconvinced that even such a draconian step as a waiver of IPRs would accomplish the goal of increased vaccine production.[8](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn8) For its part, the EU continues to favour an approach which makes better use of existing flexibilities available in the TRIPS Agreement.[9](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn9) Thus, those expecting quick agreement on the waiver will be disappointed. Negotiations at the WTO are always difficult and lengthy, and US Trade Representative Katherine Tai acknowledged that the “negotiations will take time given the consensus-based nature of the institution and the complexity of the issues involved”.[10](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn10) Issues of negotiation will include the scope of the waiver. Whereas the original proposal and its amended form extend the waiver beyond patents and vaccines to include nearly all forms of IP (i.e. copyright,[11](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn11) industrial designs and trade secrets) as well as to all “health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the prevention, treatment or containment of COVID-19”[12](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn12) (with no requirement on how or the extent to which they are related to or useful in combatting COVID-19), the US and others seem to support a waiver limited to patents and vaccines.[13](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn13) The length of the waiver will also be a contentious negotiating issue, with proponents seeking a virtual indefinite waiver lasting until the Membership agrees by consensus that it is no longer required – meaning even a single Member’s objection to ending the waiver would mean the waiver continues to remain in force[14](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn14) – as will the request that any action claimed to be taken under the waiver is outside the scope of the WTO’s dispute settlement mechanism.[15](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn15) These provisions will almost certainly be opposed by other Members, who would perhaps agree to a time-limited waiver which could be extended rather than an unchallengeable indefinite waiver which will be difficult to reverse. The proposal also fails to mention anything in relation to transparency and notification requirements and lacks safeguards against abuse or diversion. These points will likely also prove contentious in the negotiations. With so many initial divergences and as yet undiscussed issues, the negotiations at best could be completed by the time of the next WTO Ministerial Conference, scheduled to begin on 20 November 2021. There is precedent in this regard, as previous TRIPS negotiations involving IP and pharmaceuticals were not fully resolved until the days before the Ministerial Conferences (in 2003 and 2005).[16](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn16) There is also a chance that the negotiations will continue past the calendar year 2021. The chance for a swift negotiation diminished with the release of a revised proposal by India and South Africa on 22 May 2021. As mentioned above, the proposal contains no limit as to product coverage, scope, notification requirements or safeguards and proposes that the waiver will remain in effect for what could be an indefinite period. This was not a proposal designed to engender quick negotiations and a solution. Instead, the proposal perhaps reveals India’s and South Africa’s true intent to use the COVID-19 pandemic as an excuse to roll-back IPRs rather than a good-faith effort to rapidly increase access to lifesaving vaccines and treatments around the world. It is not only the length of time which is an issue but also the ultimate impact of the waiver. A waiver simply means that a WTO Member would not be in violation of its WTO obligations if it does not protect and enforce the COVID-19-related IPRs for the duration of the waiver. The waiver would thus allow Members to deviate from their international obligations but not obligate Members to suspend protection and enforcement of the IPRs. Members like the US who support the waiver may not implement the necessary domestic legislation to waive IPRs within the jurisdiction. It is questionable whether the US could even legally implement the waiver given that IPRs are a matter of constitutional law.[17](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn17) The US announcement remains meaningful, however, for two reasons. First, it signals a departure from the longstanding and bipartisan support for the pharmaceutical industry, which for decades has been instrumental in setting the IP and trade agenda.[18](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn18) Second, it sends a strong signal that the US does not oppose others from waiving patent protection for vaccines. This shift may also be part of a broader and alternative strategy to increase vaccine production and distribution, whereby the US is not viewing or supporting waiver negotiations as a legal tool but more so as a threat to encourage vaccine innovators to increase production. In essence, the desired reaction would be that the IP holders increase efforts to license, transfer technology and expand manufacturing – exactly what the world needs at this time. Alan Beattie, writing in the Financial Times, believes that even the proponents of the waiver desire this outcome: “having talked to the proponents, [the original proposal] was always a tactical position designed to start a debate, identify possible support and flush out opponents rather than a likely outcome. To that end, it seems to have worked rather well.”[19](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn19) India’s negotiator to the TRIPS Agreement and longtime WTO staffer, Jayashree Watal, agrees, stating the proposal is an “indirect attempt to put pressure on the original manufacturers to cooperate [and license production to companies in their countries]”.[20](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn20) This view makes sense, as the proponents (and their supporters) have not even pointed to one credible instance where IPRs have blocked the production of a COVID-19 vaccine. Moreover, it is well known that the leading vaccines using mRNA are difficult to reproduce and having the “blueprints” does not guarantee safe and effective production. Simply stated, if a pastry chef provides instructions on how to bake a cake, the cake they bake is still going to be better than cakes baked by novices using the exact same recipe. The know-how and trade secrets are the key ingredient to the manufacture of quality, safe and effective pharmaceuticals or vaccines, and not only is it not transferred through compulsory licenses but it is hard to imagine how any government would force the transfer of such information even under a waiver. For this reason, instead of encouraging production everywhere – including in locations where safety and efficacy standards are virtually nonexistent – and accepting that there will be a flood of substandard vaccines coming onto the world market (with devastating effects) it is much more sensible to find out where potential manufacturing capabilities exist and find ways to exploit them and scale them up. When asked if a waiver would improve vaccine availability and equity, Watal responded: “No. It won’t. That’s clear.”[21](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn21) I share Watal’s view and do not support a TRIPS waiver for IPRs or even a limited waiver for patents. With evidence mounting that “what the proposal … will definitely not achieve is speeding up the Covid-19 vaccination rate in India or other parts of the Global South”[22](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn22) I refuse to sacrifice academic integrity by supporting a proposal simply because it is gaining traction in some circles.[23](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn23) IPRs played a key role in delivering vaccines within a year of the discovery of a new pathogen; it seems inexplicable that the world would abandon the system without any evidence that IPRs are limiting during the current crisis.[24](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn24) Moreover, innovators have been generous in licensing technology transfer and production and one would be hard-pressed to find credible reports of qualified generic producers being refused a license. This is not surprising, since multiple competing vaccines are on the market it simply does not make economic sense for innovators to refuse a license – the generic manufacturer would simply obtain a license (and market share) and pay royalties to a competitor. Instead, I support efforts to enable prompt and effective use of existing flexibilities in the TRIPS Agreement and concerted and coordinated efforts involving governments and the private sector to ensure all qualified generic producers willing and capable of manufacturing vaccines are doing so and to create supply by working to bring more facilities up to standard. Cooperation will not only lead us out of this pandemic but also put us in a better position to deal with the next one. Killing the goose that laid the golden egg may seem appealing to some in the short term but will only ensure that no eggs are delivered in the next pandemic.

#### Waiver greenlights counterfeit medicine – turns case.

Conrad 5-18 John Conrad 5-18-2021 "Waiving intellectual property rights is not in the best interests of patients" <https://archive.is/vsNXv#selection-5353.0-5364.0> (president and CEO of the Illinois Biotechnology Innovation Organization in Chicago.)//Elmer

The Biden's administration's support for India and South Africa's proposal before the World Trade Organization to temporarily waive anti-COVID vaccine patents to boost its supply will fuel the **development of counterfeit vaccines and weaken the already strained global supply chain**. The proposal will not increase the effective number of COVID-19 vaccines in India and other countries. The manufacturing standards to produce COVID-19 vaccines are **exceptionally complicated**; it is unlike any other manufacturing process. To ensure patient safety and efficacy, only manufacturers with the **proper facilities and training should produce the vaccine, and they are**. Allowing a temporary waiver that permits compulsory licensing to allow a manufacturer to export counterfeit vaccines will **cause confusion and endanger public health**. For example, between 60,000 and 80,000 children in Niger with fatal falciparum malaria were treated with a counterfeit vaccine containing incorrect active pharmaceutical ingredients, resulting in more than **100 fatal infections.** Beyond the patients impacted, counterfeit drugs erode public confidence in health care systems and the pharmaceutical industry. Vaccine hesitancy is a rampant threat that feeds off of the distribution of misinformation. Allowing the production of vaccines from improper manufacturing facilities further opens the door for antivaccine hacks to stoke the fear fueling **vaccine hesitance**.

#### No solvency – a. Domestic laws b. Every country would have to agree

King & Spalding 21 (King & Spalding, Update on the Proposed TRIPS Waiver at the WTO: Where is it Headed, and What to Expect?, JDSUPRA, June 8th 2021, <https://www.jdsupra.com/legalnews/update-on-the-proposed-trips-waiver-at-8411942/)//ww> pbj

The most immediate hurdle to passage of a TRIPS waiver lies in the requirement that all 164 WTO member countries agree to a specific waiver text. As noted above, Germany (among others) presently objects to any waiver proposal; the U.S. has only stated support for a waiver of significantly narrower scope than the sponsors’ current proposal; and a “third way” proposal that sidesteps a TRIPS waiver remains on the table. And in the U.S., legislation has been proposed in Congress to limit the USTR’s authority to agree to a TRIPS waiver, e.g., by requiring Congressional approval of any waiver,17 or prohibiting the use of federal funds to support a waiver.18 One of the proposals in the Senate was narrowly voted down, but garnered some bipartisan support. We expect that Congressional interest will remain high on this topic, and there may be a pathway to bipartisan action that would constrain the Administration’s waiver of IP protections under TRIPS. Even if a TRIPS waiver of some scope were passed in the WTO after text-based negotiations, hurdles would remain to its effective implementation. A TRIPS waiver would not change the applicable IP protections in the WTO member states; and each member state would need to decide on their own (through their individual lawmaking procedures) whether and how to change their domestic laws within the scope permitted by the TRIPS waiver. It is unlikely that the resulting global patchwork of inconsistent IP protections would facilitate further expansion of vaccine production – particularly if voluntary technology transfer from existing manufacturers remains critical to making safe and effective vaccines at scale. To that end, some waiver proponents have called on the U.S. to compel technology transfer from the U.S.-based vaccine manufacturers.19 But current U.S. statutes largely prohibit the FDA and other regulatory agencies from publicly divulging trade secret information submitted for purposes of regulatory approval.20 And even if authorized by future legislation, the Taking Clause of the Fifth Amendment would likely prohibit the U.S. government from disclosing trade secret information submitted under the current statutory and regulatory protections, without just compensation (e.g., damages awarded against the U.S. under the Tucker Act by the Court of Federal Claims).21