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## Covid CP

#### Counterplan: High-income country governments, backed by the United States, should provide all necessary funding to purchase COVID-19 vaccines developed by drug companies at any reasonable cost and distribute them as requested world-wide.

Lindsay 6/11 - Brink Lindsay, Brookings, 6-11, 2021, Why intellectual property and pandemics don’t mix, https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/

Waiving patent protections is certainly no panacea. What is needed most urgently is a massive drive of technology transfer, capacity expansion, and supply line coordination to bring vaccine supply in line with global demand. Dispensing with patents in no way obviates the need for governments to fund and oversee this effort.¶ Although focusing on these immediate constraints is vital, we cannot confine our attention to the short term. First of all, the COVID-19 pandemic is far from over. Although Americans can now see the light at the end of the tunnel thanks to the rapid rollout of vaccines, most of the world isn’t so lucky. The virus is¶ currently raging in India and throughout South America, overwhelming health care systems and inflicting suffering and loss on a horrific scale. And consider the fact that Australia, which has been successful in suppressing the virus, recently announced it was sticking to plans to keep its borders closed until mid-2022. Criticisms of the TRIPS waiver that focus only on the next few months are therefore short-sighted: this pandemic could well drag on long enough for elimination of patent restrictions to enable new vaccine producers to make a positive difference.¶ Furthermore, and probably even more important, this is almost certainly not the last pandemic we will face. Urbanization, the spread of factory-farming methods, and globalization all combine to increase the odds that a new virus will make the jump from animals to humans and then spread rapidly around the world. Prior to the current pandemic, the 21st century already saw outbreaks of SARS, H1N1, MERS, and Ebola. Everything we do and learn in the current crisis should be viewed from the perspective of getting ready for next time.¶ The Nature of the Patent Bargain¶ When we take the longer view, we can see a fundamental mismatch between the policy design of intellectual property protection and the policy requirements of effective pandemic response. Although patent law, properly restrained, constitutes one important element of a well-designed national innovation system, the way it goes about encouraging technological progress is singularly ill-suited to the emergency conditions of a pandemic or other public health crisis. Securing a TRIPS waiver for COVID-19 vaccines and treatments would thus establish a salutary precedent that, in emergencies of this kind, governments should employ other, more direct means to incentivize the development of new drugs.¶ Here is the basic bargain offered by patent law: encourage the creation of useful new ideas for the long run by slowing the diffusion of useful new ideas in the short run. The second half of the bargain, the half that imposes costs on society, comes from the temporary exclusive rights, or monopoly privileges, that a patent holder enjoys. Under U.S. patent law, for a period of 20 years nobody else can manufacture or sell the patented product without the permission of the patent holder. This allows the patent holder to block competitors from the market, or extract licensing fees before allowing them to enter, and consequently charge above-market prices to its customers. Patent rights thus slow the diffusion of a new invention by restricting output and raising prices.¶ The imposition of these short-run costs, however, can bring net long-term benefits by sharpening the incentives to invent new products. In the absence of patent protection, the prospect of easy imitation by later market entrants can deter would-be innovators from incurring the up-front fixed costs of research and development. But with a guaranteed period of market exclusivity, inventors can proceed with greater confidence that they will be able to recoup their investment.¶ For the tradeoff between costs and benefits to come out positive on net, patent law must strike the right balance. Exclusive rights should be valuable enough to encourage greater innovation, but not so easily granted or extensive in scope or term that this encouragement is outweighed by output restrictions on the patented product and discouragement of downstream innovations dependent on access to the patented technology.¶ Unfortunately, the U.S. patent system at present is out of balance. Over the past few decades, the expansion of patentability to include software and business methods as well as a general relaxation of patenting requirements have led to wildly excessive growth in these temporary monopolies: the number of patents granted annually has¶ skyrocketed roughly fivefold since the early 1980s. One unfortunate result has been the rise of “non-practicing entities,” better known as patent trolls: firms that make nothing themselves but buy up patent portfolios and monetize them through aggressive litigation. As a result, a law that is supposed to encourage innovation has turned into a¶ legal minefield for many would-be innovators. In the pharmaceutical industry, firms have abused the law by piling up patents for trivial, therapeutically irrelevant “innovations” that allow them to¶ extend their monopolies and keep raising prices long beyond the statutorily contemplated 20 years.¶ Patent law is creating these unintended consequences because policymakers have been caught in an ideological fog that¶ conflates “intellectual property” with actual property rights over physical objects. Enveloped in that fog, they regard any attempts to put limits on patent monopolies as attacks on private property and view ongoing expansions of patent privileges as necessary to keep innovation from grinding to a halt. In fact, patent law is a tool of regulatory policy with the usual tradeoffs between costs and benefits; like all tools, it can be misused, and as with all tools there are some jobs for which other tools are better suited. A well-designed patent system, in which benefits are maximized and costs kept to a minimum, is just one of various policy options that governments can employ to stimulate technological advance—including tax credits for R&D, prizes for targeted inventions, and direct government support.¶ Public Health Emergencies and Direct Government Support¶ For pandemics and other public health emergencies, patents’ mix of costs and benefits is misaligned with what is needed for an effective policy response**. The basic patent bargain**, even when well struck, **is to pay for more innovation down the roa**d with slower diffusion of innovation today. In the context of a pandemic, that bargain is a bad one and should be rejected entirely. Here the imperative is to accelerate the diffusion of vaccines and other treatments, not slow it down. Giving drug companies the power to hold things up by blocking competitors and raising prices pushes in the completely wrong direction. What approach to encouraging innovation should we take instead? How do we incentivize drug makers to undertake the hefty R&D costs to develop new vaccines without giving them exclusive rights over their production and sale? **The most effective approach during a public health crisis is direct government support: public funding of R&D, advance purchase commitments** by the government **to buy large numbers of doses at set prices, and other, related payouts.** And when we pay drug makers, **we should not hesitate to pay generously**, even extravagantly**: we want to offer** drug companies **big profits so** that **they prioritize this work above everything else, and so that they are** ready and **eager to come to the rescue again the next time there’s a crisis.** It was direct support via Operation Warp Speed that made possible the astonishingly rapid development of COVID-19 vaccines and then facilitated a relatively rapid rollout of vaccine distribution (relative, that is, to most of the rest of the world). And it’s worth noting that a major reason for the faster rollout here and in the United Kingdom compared to the European Union was the latter’s misguided penny-pinching. The EU bargained hard with firms to keep vaccine prices low, and as a result their citizens ended up in the back of the queue as various supply line kinks were being ironed out. This is particularly ironic since the Pfizer-BioNTech vaccine was developed in Germany. As this fact underscores**, the chief advantage of direct support** isn’t to “get tough” with drug firms and keep a lid on their profits. Instead, it **is to accelerate the end of the public health emergency by making sure drug makers profit** handsomely **from doing the right thing.** Patent law and direct support should be seen not as either-or alternatives but as complements that apply different incentives to different circumstances and time horizons**. Patent law provides a decentralized system for encouraging innovation. The government doesn’t presume to tell the industry which new drugs are needed**; it simply incentivizes the development of whatever new drugs that pharmaceutical firms can come up with by offering them a temporary monopoly. It is important to note that patent law’s incentives offer no commercial guarantees. Yes, you can block other competitors for a number of years, but that still doesn’t ensure enough consumer demand for the new product to make it profitable. The situation is different in a pandemic. Here the government knows exactly what it wants to incentivize: the creation of vaccines to prevent the spread of a specific virus and other drugs to treat that virus. Under these circumstances, the decentralized approach isn’t good enough. There is no time to sit back and let drug makers take the initiative on their own timeline. Instead, the government needs to be more involved to incentivize specific innovations now. As recompense for letting it call the shots (pardon the pun), the government sweetens the deal for drug companies by insulating them from commercial risk. **If pharmaceutical firms develop effective vaccines and therapies, the government will buy large, predetermined quantities at prices set high enough to guarantee a healthy return.** For the pharmaceutical industry, it is useful to conceive of **patent law** as the default regime for innovation promotion. It **improves pharmaceutical companies’ incentives to develop new drugs while leaving them free to decide which new drugs to pursu**e – and also leaving them to bear all commercial risk. In a pandemic or other emergency, however, it is appropriate to shift to the direct support regime, in which the government focuses efforts on one disease. In this regime, it is important to note, the government provides qualitatively superior incentives to those offered under patent law. Not only does it offer public funding to cover the up-front costs of drug development, but it also provides advance purchase commitments that guarantee a healthy return. It should therefore be clear that the pharmaceutical industry has no legitimate basis for objecting to a TRIPS waiver. Since, because of the public health crisis, drug makers now qualify for the superior benefits of direct government support, they no longer need the default benefits of patent support. Arguments that a TRIPS waiver would deprive drug makers of the incentives they need to keep developing new drugs, when they are presently receiving the most favorable incentives available, can be dismissed as the worst sort of special pleading. That said, it is a serious mistake to try to cast the current crisis as a morality play in which drug makers wear the black hats and the choice at hand is between private profits and public health. We would have no chance of beating this virus without the formidable organizational capabilities of the pharmaceutical industry, and providing the appropriate incentives is essential to ensure that the industry plays its necessary and vital role. It is misguided to lament that private companies are profiting in the current crisis: those profits are a drop in the bucket compared to the staggering cost of this pandemic in lives and economic damage. What matters isn’t the existence or size of the profits, but how they are earned. We have good reason to want drug makers to profit from vaccinating the world: the comparative price is minuscule, and the incentive effects are a vital safeguard of public health in the event of future crises. What we want to avoid at all costs is putting drug makers in the position where drug companies can profit from standing in the way of rapid global vaccination. That is why intellectual property rights need to be taken out of the equation. Vaccinating the world in any kind of reasonable time frame will require large-scale technology transfer to drug firms in other countries and rapid expansion of their production capacity. And looking beyond the current pandemic to the longer term, we need ample, redundant global vaccine production capacity that is widely distributed around the planet. To achieve these goals as rapidly as possible will require the active cooperation of the U.S. pharmaceutical industry, which is why the direct support model now needs to be extended. What is needed now is an Operation Warp Speed for the world, in which we make it worth current vaccine producers’ while to share their know-how broadly and ramp up global capacity. Here again, we must recognize that the choice isn’t between people on the one hand and profits on the other. Rather, the key to good pandemic response policy is ensuring that incentives are structured so that drug company profit-seeking and global public health are well aligned. That means opting out of the default, decentralized patent bargain in favor of generous but well-focused direct government support.

## Innovation DA

#### The pharma industry is strong now but patents are key for continued economic growth. Batell and PhRMA 14:

Batell and PhRMA {Battelle is the world’s largest nonprofit independent research and development organization, providing innovative solutions to the world’s most pressing needs through its four global businesses: Laboratory Management, National Security, Energy, Environment and Material Sciences, and Health and Life Sciences. The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country’s leading pharmaceutical research and biotechnology companies, which are devoted to inventing medicines that allow patients to live longer, healthier, and more productive lives.}, 14 – “The U.S. Biopharmaceutical Industry: Perspectives on Future Growth and The Factors That Will Drive It,” http://phrma-docs.phrma.org/sites/default/files/pdf/2014-economic-futures-report.pdf//marlborough-wr//

Compared to other capital-intensive, advanced manufacturing industries in the U.S., the biopharmaceutical industry is a leader in R&D investment, IP generation, venture capital investment, and R&D employment. Policies and infrastructure that helped foster these innovative activities have allowed the U.S. to seize global leadership in biopharmaceutical R&D over the past 30 years. However, as this report details, other countries are seeking to compete with the U.S. by borrowing and building upon some of these pro-innovation policies to improve their own operating environment and become more favorable to biopharmaceutical companies making decisions about where to locate their R&D and manufacturing activities. A unique contribution of this report was the inclusion of the perspective of senior-level strategic planning executives of biopharmaceutical companies regarding what policy areas they see as most likely to impact the favorability of the U.S. business operating environment. The executives cited the following factors as having the most impact on the favorability of the operating environment and hence, potential growth of the innovative biopharmaceutical industry in the U.S.: • Coverage and payment policies that support and encourage medical innovation • A well-functioning, science-based regulatory system • Strong IP protection and enforcement in the U.S. and abroad The top sub-attribute identified as driving future biopharmaceutical industry growth in the U.S. cited by executives was a domestic IP system that provides adequate patent rights and data protection. Collectively, these factors underscore the need to reduce uncertainties and ensure adequate incentives for the lengthy, costly, and risky R&D investments necessary to develop new treatments needed by patients and society to address our most costly and challenging diseases. With more than 300,000 jobs at stake between the two scenarios, the continued growth and leadership of the U.S. innovative biopharmaceutical industry cannot be taken for granted. Continued innovation is fundamental to U.S. economic well-being and the nation’s ability to compete effectively in a globalized economy and to take advantage of the expected growth in demand for new medicines around the world. Just as other countries have drawn lessons from the growth of the U.S. biopharmaceutical sector, the U.S. needs to assess how it can improve the environment for innovation and continue to boost job creation by increasing R&D investment, fostering a robust talent pool, enhancing economic growth and sustainability, and continuing to bring new medicines to patients.

#### COVID has kept patents and innovation strong, but continued protection is key to innovation by incentivizing biomedical research – it’s also crucial to preventing counterfeit medicines, economic collapse, and fatal diseases, which independently turns case. Macdole and Ezell 4-29:

Jaci Mcdole and Stephen Ezell {Jaci McDole is a senior policy analyst covering intellectual property (IP) and innovation policy at the Information Technology and Innovation Foundation (ITIF). She focuses on IP and its correlations to global innovation and trade. McDole holds a double BA in Music Business and Radio-Television with a minor in Marketing, an MS in Education, and a JD with a specialization in intellectual property (Southern Illinois University Carbondale). McDole comes to ITIF from the Institute for Intellectual Property Research, an organization she co-founded to study and further robust global IP policies. Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF). He comes to ITIF from Peer Insight, an innovation research and consulting firm he cofounded in 2003 to study the practice of innovation in service industries. At Peer Insight, Ezell led the Global Service Innovation Consortium, published multiple research papers on service innovation, and researched national service innovation policies being implemented by governments worldwide. Prior to forming Peer Insight, Ezell worked in the New Service Development group at the NASDAQ Stock Market, where he spearheaded the creation of the NASDAQ Market Intelligence Desk and the NASDAQ Corporate Services Network, services for NASDAQ-listed corporations. Previously, Ezell cofounded two successful innovation ventures, the high-tech services firm Brivo Systems and Lynx Capital, a boutique investment bank. Ezell holds a B.S. from the School of Foreign Service at Georgetown University, with an honors certificate from Georgetown’s Landegger International Business Diplomacy program.}, 21 - ("Ten Ways Ip Has Enabled Innovations That Have Helped Sustain The World Through The Pandemic," Information Technology & Innovation Foundation, 4-29-2021, https://itif.org/publications/2021/04/29/ten-ways-ip-has-enabled-innovations-have-helped-sustain-world-through)//marlborough-wr/

To better understand the role of IP in enabling solutions related to COVID-19 challenges, this report relies on 10 case studies drawn from a variety of nations, technical fields, and firm sizes. This is but a handful of the thousands of IP-enabled innovations that have sprung forth over the past year in an effort to meet the tremendous challenges brought on by COVID-19 globally. From a paramedic in Mexico to a veteran vaccine manufacturing company in India and a tech start-up in Estonia to a U.S.-based company offering workplace Internet of Things (IoT) services, small and large organizations alike are working to combat the pandemic. Some have adapted existing innovations, while others have developed novel solutions. All are working to take the world out of the pandemic and into the future. The case studies are: Bharat Biotech: Covaxin Gilead: Remdesivir LumiraDX: SARS-COV-2 Antigen POC Test Teal Bio: Teal Bio Respirator XE Ingeniería Médica: CápsulaXE Surgical Theater: Precision VR Tombot: Jennie Starship Technologies: Autonomous Delivery Robots Triax Technologies: Proximity Trace Zoom: Video Conferencing As the case studies show, IP is critical to enabling innovation. Policymakers around the world need to ensure robust IP protections are—and remain—in place if they wish their citizens to have safe and innovative solutions to health care, workplace, and societal challenges in the future. THE ROLE OF INTELLECTUAL PROPERTY IN R&D-INTENSIVE INDUSTRIES Intangible assets, such as IP rights, comprised approximately 84 percent of the corporate value of S&P 500 companies in 2018.4 For start-ups, this means much of the capital needed to operate is directly related to IP (see Teal Bio case study for more on this). IP also plays an especially important role for R&D-intensive industries.5 To take the example of the biopharmaceutical industry, it is characterized by high-risk, time-consuming, and expensive processes including basic research, drug discovery, pre-clinical trials, three stages of human clinical trials, regulatory review, and post-approval research and safety monitoring. The drug development process spans an average of 11.5 to 15 years.6 For every 5,000 to 10,000 compounds screened on average during the basic research and drug discovery phases, approximately 250 molecular compounds, or 2.5 to 5 percent, make it to preclinical testing. Out of those 250 molecular compounds, approximately 5 make it to clinical testing. That is, 0.05 to 0.1 percent of drugs make it from basic research into clinical trials. Of those rare few which make it to clinical testing, less than 12 percent are ultimately approved for use by the U.S. Food and Drug Administration (FDA).7 In addition to high risks, drug development is costly, and the expenses associated with it are increasing. A 2019 report by the Deloitte Center for Health Solutions concluded that since 2010 the average cost of bringing a new drug to market increased by 67 percent.8 Numerous studies have examined the substantial cost of biopharmaceutical R&D, and most confirm investing in new drug development requires $1.7 billion to $3.2 billion up front on average.9 A 2018 study by the Coalition for Epidemic Preparedness found similar risks and figures for vaccines, stating, “In general, vaccine development from discovery to licensure can cost billions of dollars, can take over 10 years to complete, and has an average 94 percent chance of failure.”10 Yet, a 2010 study found that 80 percent of new drugs—that is, the less than 12 percent ultimately approved by the FDA—made less than their capitalized R&D costs.11 Another study found that only 1 percent (maybe three new drugs each year) of the most successful 10 percent of FDA approved drugs generate half of the profits of the entire drug industry.12 To say the least, biopharmaceutical R&D represents a high-stakes, long-term endeavor with precarious returns. Without IP protection, biopharmaceutical manufacturers have little incentive to take the risks necessary to engage in the R&D process because they would be unable to recoup even a fraction of the costs incurred. Diminished revenues also result in reduced investments in R&D which means less research into cancer drugs, Alzheimer cures, vaccines, and more. IP rights give life-sciences enterprises the confidence needed to undertake the difficult, risky, and expensive process of life-sciences innovation secure in the knowledge they can capture a share of the gains from their innovations, which is indispensable not only to recouping the up-front R&D costs of a given drug, but which can generate sufficient profits to enable investment in future generations of biomedical innovation and thus perpetuate the enterprises into the future.13 THE IMPORTANCE OF INTELLECTUAL PROPERTY TO INNOVATION Although anti-IP proponents have attacked biopharmaceutical manufacturers particularly hard, the reality is all IP-protected innovations are at risk if these rights are ignored, or vitiated. Certain arguments have shown a desire for the term “COVID-19 innovations” to include everything from vaccines, therapeutics, diagnostics, and PPE to biotechnology, AI-related data, and educational materials.14 This could potentially open the floodgates to invalidate IP protection on many of the innovations highlighted in this report. However, much of the current discussion concerning IP focuses almost entirely on litigation fears or R&D incentives. Although R&D is an important aspect of IP, as previously mentioned, these discussions ignore the fact that IP protection can be—and often is—used for other purposes, including generating initial capital to create a company and begin manufacturing and, more importantly, using licensing agreements and IP to track the supply chain and ensure quality control of products. This report highlights but a handful of the thousands of IP-enabled innovations that have sprung forth over the past year in an effort to meet the tremendous challenges brought on by COVID-19 globally. In 2018, Forbes identified counterfeiting as the largest criminal enterprise in the world.15 The global struggle against counterfeit and non-regulated products, which has hit Latin America particularly hard during the pandemic, proves the need for safety and quality assurance in supply chains.16 Some communities already ravaged by COVID-19 are seeing higher mortality rates related to counterfeit vaccines, therapeutics, PPE, and cleaning and sanitizing products.17 Polish authorities discovered vials of antiwrinkle treatment labeled as COVID-19 vaccines. 18 In Mexico, fake vaccines sold for approximately $1,000 per dose.19 Chinese and South African police seized thousands of counterfeit vaccine doses from warehouses and manufacturing plants.20 Meanwhile, dozens of websites worldwide claiming to sell vaccines or be affiliated with vaccine manufacturers have been taken down.21 But the problem is not limited to biopharmaceuticals. The National Intellectual Property Rights Coordination Center has recovered $48 million worth of counterfeit PPE and other products.22 Collaborative efforts between law enforcement and manufacturers have kept numerous counterfeits from reaching the population. In countries with strong IP protection, the chances of counterfeit products reaching the market are significantly lower. This is largely because counterfeiting tends to be an IP-related issue, and these countries generally provide superior means of tracking the supply chain through trademarks, trade secrets, and licensing agreements. This enables greater quality control and helps manufacturers maintain a level of public confidence in their products. By controlling the flow of knowledge associated with IP, voluntary licensing agreements provide innovators with opportunities to collaborate, while ensuring their partners are properly equipped and capable of producing quality products. Throughout this difficult time, the world has seen unexpected collaborations, especially between biopharmaceutical companies worldwide such as Gilead and Eva Pharma or Bharat Biotech and Ocugen, Inc. Throughout history, and most significantly in the nineteenth century through the widespread development of patent systems and the ensuing Industrial Revolution, IP has contributed toward greater economic growth.23 This is promising news as the world struggles for economic recovery. A 2021 joint study by the EU Intellectual Property Office (EUIPO) and European Patent Office (EPO) shows a strong, positive correlation between IP rights and economic performance.24 It states that “IP-owning firms represent a significantly larger proportion of economic activity and employment across Europe,” with IP-intensive industries contributing to 45 percent of gross domestic product (GDP) (€6.6 trillion; US$7.9 trillion).25 The study also shows 38.9 percent of employment is directly or indirectly attributed to IP-intensive industries, and IP generates higher wages and greater revenue per employee, especially for small-to-medium-sized enterprises.26 That concords with the United States, where the Department of Commerce estimated that IP-intensive industries support at least 45 million jobs and contribute more than $6 trillion dollars to, or 38.2 percent of, GDP.27 In 2020, global patent filings through the World Intellectual Property Organization’s (WIPO) Patent Cooperation Treaty (PCT) system reached a record 275,900 filings amidst the pandemic, growing 4 percent from 2019.28 The top-four nations, which accounted for 180,530 of the patent applications, were China, the United States, Japan, and Korea, respectively.29 While several countries saw an increase in patent filings, Saudi Arabia and Malaysia both saw significant increases in the number of annual applications, with the top two filing growths of 73 percent and 26 percent, respectively.30 The COVID-19 pandemic slowed a lot of things, but it certainly couldn’t stop innovation. There are at least five principal benefits strong IP rights can generate, for both developing and developed countries alike.31 First, stronger IP protection spurs the virtuous cycle of innovation by increasing the appropriability of returns, enabling economic gain and catalyzing economic growth. Second, through patents—which require innovators to disclose certain knowledge as a condition of protection—knowledge spillovers build a platform of knowledge that enables other innovators. For instance, studies have found that the rate of return to society from corporate R&D and innovation activities is at least twice the estimated returns that each company itself receives.32 Third, countries with robust IP can operate more efficiently and productively by using IP to determine product quality and reduce transaction costs. Fourth, trade and foreign direct investment enabled and encouraged by strong IP protection offered to enterprises from foreign countries facilitates an accumulation of knowledge capital within the destination economy. That matters when foreign sources of technology account for over 90 percent of productivity growth in most countries.33 There’s also evidence suggesting that developing nations with stronger IP protections enjoy the earlier introduction of innovative new medicines.34 And fifth, strong IP boosts exports, including in developing countries.35 Research shows a positive correlation between stronger IP protection and exports from developing countries as well as faster growth rates of certain industries.36 The following case studies illustrate these benefits of IP and how they’ve enabled innovative solutions to help global society navigate the COVID-19 pandemic.

#### This sets a precedent that spills over to all future diseases – Hopkins 21:

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The Biden administration’s unexpected support for [temporarily waiving Covid-19 vaccine patents](https://www.wsj.com/articles/u-s-backs-waiver-of-intellectual-property-protection-for-covid-19-vaccines-11620243518?mod=article_inline) won’t have an immediate financial impact on the companies making the shots, industry officials and analysts said. Yet the decision could mark a shift in Washington’s longstanding support of the industry’s valuable intellectual property, patent-law experts said. A waiver, if it does go into effect, may pose long-term risks to the vaccine makers, analysts said. [Moderna](https://www.wsj.com/market-data/quotes/MRNA) Inc., [MRNA -4.12%](https://www.wsj.com/market-data/quotes/MRNA?mod=chiclets) [Pfizer](https://www.wsj.com/market-data/quotes/PFE) Inc. [PFE -3.10%](https://www.wsj.com/market-data/quotes/PFE?mod=chiclets) and other vaccine makers weren’t counting on sales from the developing countries that would gain access to the vaccine technology, analysts said. If patents and other crucial product information behind the technology is made available, it would take at least several months before shots were produced, industry officials said. Yet long-term Covid-19 sales could take a hit if other companies and countries gained access to the technologies and figured out how to use it. Western drugmakers could also confront competition sooner for other medicines they are hoping to make using the technologies. A World Trade Organization waiver could also set a precedent for waiving patents for other medicines, a long-sought goal of some developing countries, patient groups and others to try to reduce the costs of prescription drugs. “It sets a tremendous precedent of waiving IP rights that’s likely going to come up in future pandemics or in other serious diseases,” said David Silverstein, a patent lawyer at Axinn, Veltrop & Harkrider LLP who advises drugmakers. “Other than that, this is largely symbolic.”

#### Pharmaceutical innovation is key to protecting against future pandemics, bioterrorism, and antibiotic resistance.

Marjanovic and Fejiao ‘20 Marjanovic, Sonja, and Carolina Feijao. Sonja Marjanovic, Ph.D., Judge Business School, University of Cambridge. Carolina Feijao, Ph.D. in biochemistry, University of Cambridge; M.Sc. in quantitive biology, Imperial College London; B.Sc. in biology, University of Lisbon. "Pharmaceutical Innovation for Infectious Disease Management: From Troubleshooting to Sustainable Models of Engagement." (2020). [Quality Control]

As key actors in the healthcare innovation landscape, pharmaceutical and life sci-ences companies have been called on to develop medicines, vaccines and diagnostics for pressing public health challenges. The COVID-19 crisis is one such challenge, but there are many others. For example, MERS, SARS, Ebola, Zika and avian and swine flu are also infectious diseases that represent public health threats. Infectious agents such as anthrax, smallpox and tularemia could present threats in a **bioterrorism con-text**.1 The general threat to public health that is posed by **antimicrobial resistance** is also **well-recognised** as an area **in need of pharmaceutical innovation**. Innovating in response to these challenges does not always align well with pharmaceutical industry commercial models, shareholder expectations and compe-tition within the industry. However, the expertise, networks and infrastructure that industry has within its reach, as well as public expectations and the moral imperative, make pharmaceutical companies and the wider life sciences sector an **indispensable** partner in the search for solutions that save lives. This perspective argues for the need to establish more sustainable and scalable ways of incentivising pharmaceu-tical innovation in response to infectious disease threats to public health. It considers both past and current examples of efforts to mobilise pharmaceutical innovation in high commercial risk areas, including in the context of current efforts to respond to the COVID-19 pandemic. In global pandemic crises like COVID-19, the urgency and scale of the crisis – as well as the spotlight placed on pharmaceutical companies – mean that contributing to the search for effective medicines, vaccines or diagnostics is **essential** for socially responsible companies in the sec-tor.2 It is therefore unsurprising that we are seeing indus-try-wide efforts unfold at unprecedented scale and pace. Whereas there is always scope for more activity, industry is currently contributing in a variety of ways. Examples include pharmaceutical companies donating existing com-pounds to assess their utility in the fight against COVID-19; screening existing compound libraries in-house or with partners to see if they can be repurposed; accelerating tri-als for potentially effective medicine or vaccine candidates; and in some cases rapidly accelerating in-house research and development to discover new treatments or vaccine agents and develop diagnostics tests.3,4 Pharmaceutical companies are collaborating with each other in some of these efforts and participating in global R&D partnerships (such as the Innovative Medicines Initiative effort to accel-erate the development of potential therapies for COVID-19) and supporting national efforts to expand diagnosis and testing capacity and ensure affordable and ready access to potential solutions.3,5,6 The primary purpose of such innovation is to **benefit patients** and wider **population health**. Although there are also reputational benefits from involvement that can be realised across the industry, there are likely to be rela-tively few companies that are ‘commercial’ winners. Those who might gain substantial revenues will be under pres-sure not to be seen as profiting from the pandemic. In the United Kingdom for example, GSK has stated that it does not expect to profit from its COVID-19 related activities and that any gains will be invested in supporting research and long-term pandemic preparedness, as well as in developing products that would be affordable in the world’s poorest countries.7 Similarly, in the United States AbbVie has waived intellectual property rights for an existing com-bination product that is being tested for therapeutic poten-tial against COVID-19, which would support affordability and allow for a supply of generics.8,9 Johnson & Johnson has stated that its potential vaccine – which is expected to begin trials – will be available on a not-for-profit basis during the pandemic.10 Pharma is mobilising substantial efforts to rise to the COVID-19 challenge at hand. However, we need to consider how pharmaceutical innovation for responding to emerging infectious diseases can best be enabled beyond the current crisis. Many public health threats (including those associated with other **infectious diseases**, **bioterror-ism** agents **and antimicrobial resistance**) are **urgently in need of pharmaceutical innovation**, **even if their impacts are not as visible** to society **as COVID**-19 is in the imme-diate term. The pharmaceutical industry has responded to previous public health emergencies associated with infec-tious disease in recent times – for example those associated with Ebola and Zika outbreaks.11 However, it has done so to a lesser scale than for COVID-19 and with contribu-tions from fewer companies. Similarly, levels of activity in response to the threat of antimicrobial resistance are still **low**.12 There are important policy questions as to whether – and how – industry could engage with such public health threats to an even greater extent under improved innova-tion conditions.

# Neg

**Turn: The plan saving the WTO is bad because it is key to international trade, which undermines the FW of this debate.**

#### The WTO is key to international trade.

WTO ’21 - World Trade Organization, “WTO in Brief,” (2021). <https://www.wto.org/english/thewto\_e/whatis\_e/inbrief\_e/inbr\_e.pdf> AT

In brief, the World Trade Organization (WTO) is the only international organization dealing with the global rules of trade. Its main function is to ensure that trade flows as smoothly, predictably and freely as possible.¶ Global trade rules¶ Global rules of trade provide assurance and stability. Consumers and producers know they can enjoy secure supplies and greater choice of the finished products, components, raw materials and services they use. Producers and exporters know foreign markets will remain open to them.¶ This leads to a more prosperous, peaceful and accountable economic world. Decisions in the WTO are typically taken by consensus among all members and they are ratified by members’ parliaments. Trade frictions are channelled into the WTO’s dispute settlement process, where the focus is on interpreting agreements and commitments and how to ensure that members’ trade policies conform with them. That way, the risk of disputes spilling over into political or military conflict is reduced.¶ By lowering trade barriers through negotiations among member governments, the WTO’s system also breaks down other barriers between peoples and trading economies.¶ At the heart of the system – known as the multilateral trading system – are the WTO’s agreements, negotiated and signed by a large majority of the world’s trading economies, and ratified in their parliaments.¶ These agreements are the legal foundations for global trade. Essentially, they are contracts, guaranteeing WTO members important trade rights. They also bind governments to keep their trade policies transparent and predictable which is to everybody’s benefit.¶ The agreements provide a stable and transparent framework to help producers of goods and services, exporters and importers conduct their business.¶ The goal is to improve the welfare of the peoples of the WTO’s members.

**Trade causes food insecurity, environmental destruction, racist and sexist violence, poverty, exploitation, and destroys investment in public wellbeing. Business hoards the gains.**

Paul & Gebrial ’21 - The Ecologist, August 25, 2021, Harpreet Kaur Paul and Dalia Gebrial are the curators and editors of Perspectives on a Global Green New Deal, where this article first appeared. <https://theecologist.org/2021/aug/25/agribusiness-devastates-our-environment>

The global food system is driving environmental injustice and increasing greenhouse gas emissions. The ability of communities around the world to live autonomously and harmoniously on the land to which they are tied is routinely and violently intercepted by multinational corporations in the name of conservation and food and energy provision. Yet, the same **communities in the Global South whose land is grabbed under** international **trade** and investment **agreements** for these purposes**, are the same communities systematically denied from the harvests exported from places that have been taken**. This series of articles has been published in partnership with Dalia Gebrial and Harpreet Kaur Paul and the Rosa Luxemburg Stiftung in London. It first appeared in a collection titled Perspectives on a Global Green New Deal. Toll The global food system is driving environmental injustice through extreme water use, the pollution of ecosystems by pesticides and agricultural run-off and producing roughly a quarter of the world’s greenhouse gas emissions. **In the last two decades,** it is estimated that **26.7 million hectares of land has been acquired by foreign investors** for use in the agriculture business. Yet, the global, multinational corporation driven agricultural industry - which we refer to as agribusiness - implicated in these acquisitions, has only become more inefficient, unequal, polluting and reliant on displacement.Much of this is rooted in the unevenness of land ownership, where **industrial commodity crop farms have taken land away from those who use it for** direct, **local food production,** and who often have spiritual, cultural and ancestral connections to the land. Many of these commodity crop farms use vast swathes of land for the production of just one crop, like palm oil or sugar, which places a huge toll on the health of the soil and its ability to support diverse plant growth later. Deprivations According to GRAIN, small farms make up 90 percent of all farms - and yet these small farmers have just 25 percent of the world’s farmland to work on.3 Indeed, small farmers - mainly women - feed most of the world on less than a quarter of all agricultural land. The large **agribusinesses** that own the majority of the land and **control trade in grain, biotech and industrial food production force out local food producers and impoverished people,** and drive environmental degradation **with** the highly **polluting activities and intensive water use** at the core of their practice. Workers in the industry also continue to rank among the world’s most insecure workforces. The International Labour Organization (ILO) estimates that at least **170,000 workers in the agricultural sector are killed each year** - whether **through lack of protections, higher risk of poverty or exposure to toxic pesticides. Indigenous peoples** are custodians of 80 percent of the world’s remaining biodiversity, but **are facing severe food insecurity** Meanwhile, indigenous peoples are custodians of 80 percent of the world’s remaining biodiversity, but are facing severe food insecurity, extreme poverty and other human rights deprivations. Trade **Agribusiness** fundamentally **fails** to adequately fulfil **the food needs of the worlds’** population - **one in three people face** some form of **malnourishment,** and one in nine face hunger issues. The ‘supermarketisation’ of food systems leads to an increase in reliance on processed, rather than fresh, food - con- tributing to this rise in malnutrition and obesity. Children remain the most vulnerable to malnutrition - according to the World Health Organization, malnutrition is the underlying contributing factor in approximately 45 percent of deaths of children under five. Today’s ***food systems are dominated by trade​​​​​​ agreements and economic policies that prioritise profits over the right to food.*** ***Power is concentrated in the hands of a few corporate actors that benefit from free trade rules and export-oriented agricultural policies.*** Such regimes privilege large-scale agribusinesses to the detriment of others, creating instability in the global food system. Pollution Yet, the food produced in this way represents a small part of global production - the UN estimates that 70-80 percent of the food consumed in most of the Global South is produced by smallholder farms. The 20-30 percent of food produced by large agri-businesses is having huge, destructive impacts across the system. Big commodity traders like Bunge Ltd, Cargill, Luis Dreyfus and Archer Daniels Midland, are the agricultural equivalents of fossil fuel companies like Shell and BP. They reap the rewards of a broken system and are subsidised by state handouts, while leaving the basic needs of millions unfulfilled and de- stroying the natural world. **Trade agreements encourage the planting of cash crops and the industrial meat industry, thereby incentivising deforestation, the redirection of water away from local communities and the pollution of ecosystems.** Grazing Indeed, the destruction of forests in order to grow animal feed is one of the biggest threats to biodiversity, which is vital to sustainable agriculture, resilient and sustainable food production, and carbon sequestration. This process also results in the marginalisation of women from agricultural decision-making, whose subsistence-based knowledge and practices are derided and made impossible. Women face a lack of voice in shaping work agendas, and increasingly depend on men for cash and access to the market to purchase the food they previously grew. This contributes to a growing dissonance between women’s roles as agriculturalists and the social recognition accorded to them, and has particularly troubling implications for household food security, since the main responsibility for this lies in women’s hands. It also prioritises business-led ways of knowing and doing over more sustainable methods, like traditional rotational systems, permanent pasture and conservation grazing. System Industrial agricultural practices also threaten food stability by reducing our resilience to intensifying ecological impacts - such as desertification - in the future. A 2015 report from the UN Food and Agriculture Organization found that, globally, 25 to 40 billion tonnes of topsoil are lost annually to erosion, thanks mainly to ploughing and intensive cropping. The IPCC’s August 2019 Special Report on Climate Change and Land found that to become fit for purpose in an era of climate change, agriculture must move away from intensive and industrialised approaches, and towards food systems based on agroecology and less and better meat. **Countries on the frontline** of the most extreme impacts **have** done very little to cause the crisis and instead **been required - through trade** and investment **agreements - to open** their **markets to foreign investment in a carbon intensive, displacing and polluting way of growing food.** A vicious and ironic cycle, where global agribusiness is behind some of the biggest threats to food sustainability and accessibility, is therefore coded in the DNA of our global food system. Agro-chemicals The Special Rapporteur on Extreme Poverty and Human Rights warns that **this is leading towards a “climate apartheid** scenario **in which the wealthy pay to escape overheating, hunger and conflict, while the rest of the world is left to suffer**”. In response to this crisis, the international peasant movement La Vía Cam- pesina developed the concept of ‘food sovereignty’ in the 1990s. Introduced at the World Food Summit in 1996, food sovereignty was framed as an explicit critique of the neoliberal global food system13, representing a radical break with the dominant agrarian system. The 2007 Nyeleni Declaration defines food sovereignty as “the right of peoples to healthy and culturally appropriate food produced through ecologically sound and sustainable methods, and their right to define their own food and agriculture systems.” Food sovereignty prioritises factors such as local production, direct commercialisation, the use of agroecological methods, opposition to genetically modified crops and agro-chemicals, and rights to land, water, seeds and biodiversity. Trade creates gender and social inequality Donatella Alessandrini, 8-23, 21, Trade and the Green New Deal, <https://theecologist.org/2021/aug/23/trade-and-green-new-deal>, Donatella Alessandrini is a Professor Of Law at University Of Kent in Canterbury, UK. Giant chickens opposing a US trade deal visit the North Somerset constituency surgery of Liam International **trade** and investment **treaties are built on the** problematic **assumption that countries trade** with one another **because** they have different **competitive advantages** which can be exchanged to everyone’s mutual benefit. The problem with this assumption is that it fails to articulate how various advantages came about.The ways in which **states and corporations** come to **gain** specific **competitive advantages** are **through processes permeated** by social inequalities, including **gender and racial inequalities.** This series of articles has been published in partnership with Dalia Gebrial and Harpreet Kaur Paul and the Rosa Luxemburg Stiftung in London. It first appeared in a collection titled Perspectives on a Global Green New Deal.Inequalities **Underpinning gender inequalities in the labour market,** as feminist economists have argued**, is the pursuit of competitive advantage by avoiding paying towards the full costs of the reproduction of the labour force and of our planet.** For example **firms** may **establish themselves in jurisdictions where they pay less tax, which has a negative impact on the revenue available to provide** local public **education, health services and,** crucially**, environmental standards.** Multinational corporations also create complex supply webs to push any costs of contributing in these ways to local contractors who then squeeze the labour force and exploit or neglect the environment in order to extract profits on small operating revenues, **while big brands take the bulk of the trade benefit.** CompetitivenessThe way in which workers and the environment are treated and regulated is constitutive of what we call competitive advantage, rather than being its consequence or ‘externality’.The pressure on firms and states to abide by the ‘commercial provisions’ of trade and investment treaties (to say nothing of the private contracts signed between firms) means that, unless the contribution workers and the environment make to production and trade is properly acknowledged, treated and remunerated, its invisibilization and/or devaluation will continue to provide a source of competitiveness in the global economy.

**Impact Turn: Free trade causes war**

**Awad 13** (Emiel Awad, From his Master Thesis in International Public Management and Public Policy from Erasmus University, “Economic Interdependence, Trade, and War: A Theoretical and Empirical Analysis” 2013, https://thesis.eur.nl/pub/15372/)

According to neorealists, trade and economic interdependence lead to war.15 The main thesis of the neorealists is portrayed by the following quote of Kenneth Waltz: “(...) close interdependence means closeness of contact and raises the prospect of occasional conflict. (...) Interdependent states whose relations remain unregulated must experience conflict and will occasionally fall into violence. If interdependence grows at a pace that exceeds the development of central control, then interdependence hastens the occasion for war.”16 States thus avoid becoming economically dependent, as such dependency results in great risks. Especially the last sentence of the quote above shows the central point of neorealism. If interdependence grows beyond a state’s control, then the likelihood of war increases, as when interdependence grows too swiftly, a state’s future is at stake. This is especially costly for states, as they ultimately care about their survival according to Waltz: Because states are in a self-help system, they try to avoid becoming dependent on others for vital goods and services.17 13Keohane and Nye, 1977, pp. 10-13 14Katzenstein et al., 1998, p. 684 15The classical realist position is that economic interdependence is part of low politics and therefore does not matter for a state’s decision-making. We will primarily focus on the neorealist position however. 16Waltz, 1979, p. 138 17Ibid., p. 155. Similarly, Waltz (p. 107) argues that states do not voluntarily put themselves in a dependent situation, and he argues that the issue of security subordinates economic (i.e. welfare maximizing) to political interest. 8 3.4 The Realist Thesis 3 THEORETICAL FRAMEWORK The goal of survival must precede any other goal. Economic welfare has no importance when the threat of extinction is present. Because of this, economic interdependence is not as important as military goals.18 When those vital goods and services are no longer secure, a state faces great difficulties in surviving, hence such a situation must be prevented. 3.4.1 The Desire for Autarky Neorealists thus point to the fact that economic interdependence brings great costs to a state. In an increasingly interdependent system, states increasingly lose autonomy over their territory. Additionally, they depend on access to foreign markets and on foreign sources of raw materials. Due to the fact that economic ties are closely knit, financial crises and other problems in other countries have a greater impact on the own country.19 In addition, economic interdependence means that a state depends on another state. This is very costly, because this means that at any point in time, the future of a state is in the hands of another state. Trade can then be used as a means to coerce a state when interdependence is high. As neorealists posit that the ultimate goal of states is survival, dependency should be avoided at all costs. For this reason, Waltz proposes that economic interdependence increases the likelihood of war. First, states wish to avoid dependency (in other words, they prefer autarky over dependency),20 therefore interdependent relationships are more likely to erupt into conflicts than independent relationships. Therefore, when a state has to decide which target he wishes to attack to obtain a given territory, he will choose a state which he depends on strongly. State A has less reason to attack state B if economic dependence is low, as even in the case that the war is won and the territory is captured, autarky is still not reached. It is therefore better to try to capture a territory that state A depends on strongly, as the capture of the territory would lead to an autarkic position. Only in that case is dependency avoided, and the desire for territorial expansion reduced.21 3.4.2 Relative Gains and the Negative Security Externality Although realists acknowledge that free trade brings benefits which may be lost after the cessation of trade, they point to the great importance of relative gains and losses in a state’s decision-making. Due to the importance of balancing in order to survive, it may be rational to decline cooperation, even if it brings absolute benefits.22 Relative power determines whether survival is secured. Survival and independence depend on a state’s efforts and thus its relative capabilities.23 If there are asymmetrical gains in trade, then this increases the likelihood of conflict. The economic benefits from trade are related to the amount of power of a state. The 18Ibid., 1979, p. 126; Grieco, 1990, p. 39 19Keohane and Nye, 1977 20See Waltz, 1979, p. 104: “In an anarchic realm, the units are functionally similar and tend to remain so. Like units work to maintain a measure of independence and may even strive for autarchy.” 21Waltz 1979 22See also Powell, 1991 for a discussion about absolute and relative gains theory in international relations. 23Grieco, 1990, p. 10. For liberals, a state’s utility function is not dependent on the pay-offs of another player, state egoism “means that their utility functions are independent of one another; they do not gain or lose utility simply because of the gains or losses of others” (Keohane, After Hegemony, p. 27, quoted in Grieco, 1990, pp. 34, 35). For realists, a state’s core interest is to survive, while for neoliberal institutionalism a state’s core interest is rather “to advance in utility defined individualistically.” See also Grieco, 1988, p. 503 for a comparison of the two theories. 9 3.4 The Realist Thesis 3 THEORETICAL FRAMEWORK more a state benefits by trading, the more resources can be used for aggression. When one party has a relative gain compared to the other party in the trade, then trade has a negative security externality. 24 Asymmetrical gains in trade lead to war via multiple paths. First, after trade has taken place, the party who gained relatively to the other party has more resources, which can be used for military aggression. Another reason could be that the one that loses relatively to the other party is more likely to start a war if he expects that the other party will start a war in the future with his superior military capabilities. A third way asymmetrical gains in trade can lead to war, is a scenario where trade will not take place at all. Even in cases when economic interdependence is high, and free trade generates enormous absolute benefits, the asymmetry in these benefits may lead parties to rationally choose to stop free trade.25 If trade is not available, war may be the only way to obtain highly needed resources. Economic interdependence increases the need for these resources, and therefore also increases the likelihood of war.

# Case

### Adv. 2

**1. IPR is key to stopping counterfeits.**

**Kilbride 2020** [Patrick, vice president of International Intellectual Property for the Global Intellectual Property Center at the U.S. Chamber of Commerce, IP Watchdog, "Calls for WTO to Suspend IP Rights for Vaccine Innovation Would Jeopardize Incredible Progress" December 9, https://www.ipwatchdog.com/2020/12/09/calls-wto-suspend-ip-rights-vaccine-innovation-jeopardize-incredible-progress/id=128085/

Finally: A safe, legitimate marketplace. Patents facilitate a market for innovative medicines, throughout the development stage, as well as in commercialization. Licensing arrangements facilitate the types of collaborations that have proven so successful in 2020; they also ensure that third-party manufacturers are making, using, and selling COVID-19 solutions safely and ethically. Without it, counterfeiters and other bad actors could put shoddy, unreliable, and downright dangerous dupes on the market, all the while marketing them as legitimate products. It’s literally a matter of life and death: Thousands, if not millions, of people die each year at the hands of counterfeit drugs.

**Turns case – increased vaccine hesitancy means you’ll never solve.**

**Baschuk 2021** [Bryce, reporter for Bloomberg News, "Covid-19 pandemic: WTO holiday from vaccine talks draws calls for action" July 26, https://www.business-standard.com/article/current-affairs/covid-19-pandemic-wto-holiday-from-vaccine-talks-draws-calls-for-action-121072601721\_1.html

Specifically, opponents to the waiver say it would create a chaotic patchwork of laws, unravel existing industry partnerships, lead to a supply crunch for scarce vaccine inputs and inject even more uncertainty into already complex arrangements.¶ There’s also the possibility that an IP waiver could result in the production of counterfeit and substandard medicines, which could increase vaccine hesitancy that’s already pervasive in even the world’s wealthiest nations.

#### 2. Turn: Reductions in IPR could result in unsafe or ineffective medicines. Turns solvency because too many people will be afraid of the vaccine to achieve herd immunity.

Crosby et al. 21Daniel Crosby, Evan Diamond, Isabel Fernandez De La Cuesta, Jamieson Greer, Jeffrey Telep, Brian White; Crosby specializes in international trade, investment and matters related to public international law. Diamond is a partner on our Intellectual Property, Patent, Trademark and Copyright Litigation team.; 3-5-2021; "Group of Nearly 60 WTO Members Seek Unprecedented Waiver from WTO Intellectual Property Protection for COVID-related Medical Products"; https://www.jdsupra.com/legalnews/group-of-nearly-60-wto-members-seek-2523821/, JD Supra, accessed 7-21-2021; JPark

Waiver risks uncontrolled use of patented technologies, without improving vaccine access. Pharmaceutical companies can provide, and have provided, licenses to distribute or scale-up production of COVID-19 vaccines and therapies at reduced cost. Such license agreements allow for expanded access in low- and middle-income countries, while also setting reasonable parameters so that patents and other IP rights are used to address the specific medical needs of the COVID-19 pandemic at hand, and not for other purposes. License agreements also allow for orderly technology transfer, including of unpatented “trade secret” information and other critical “know-how,” that may be essential to efficiently producing and scaling-up safe and effective versions of technologically complex vaccines and biologic drug products. Under the present TRIPS waiver proposal, however, member countries could try to exploit an extraordinarily broad scope of IP and copy patented technologies so long as they are “in relation to prevention, containment or treatment of COVID-19.” For example, under an expansive reading of the proposed waiver language, a member country could try to produce patented pharmaceutical compounds that have other indicated uses predating COVID-19, if such compounds had later been studied or experimentally used for potential symptomatic relief or antiviral activity in COVID-19 patients. The same risks may be faced by manufacturers of patented materials or devices that have multiple uses predating COVID-19, but also may be used as “personal protective equipment” or components thereof, or in other measures arguably relating to COVID-19 “prevention” or “containment.” At the same time, it is unclear how the proposed TRIPS waiver could provide the technology transfer and know-how critical for making the complex molecules and formulations constituting the various COVID-19 vaccines. Vaccine manufacture undertaken by an unauthorized party without the proper processes and controls could result in a different product that is potentially ineffective or results in unwanted health consequences. And even if an unauthorized manufacturer could overcome those substantial hurdles to reverse-engineer and scale up a safe and effective vaccine copy, it would likely take substantial time and a series of failures to do so. Notably, several of the original COVID-19 vaccine developers have recently faced low product yield and other manufacturing challenges during pre-commercial scale-up efforts and the initial months of commercial production.

#### 3. No solvency – There is no IP barrier in most countries. The fact that they are not manufacturing vaccine shows that they *can’t* without compulsory licensing.

**Mercurio 21**

Mercurio 2/12 - Bryan Mercurio; Chinese University of Hong Kong - Faculty of Law, ; 2-12-2021; "Wto Waiver From Intellectual Property Protection For Covid-19 Vaccines And Treatments: A Critical Review (February 12, 2021)”; Virginia Journal Of International Law Online (Forthcoming 2021), Available At Ssrn: Https://Ssrn.Com/Abstract=3789820 Or Http://Dx.Doi.Org/10.2139/Ssrn.3789820"; https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3789820, accessed 7-21-2021; JPark

Second, the proposed waiver will do nothing to address the problem of lack of capacity or the transfer of technology and goodwill. Pharmaceutical companies have not applied for patents in the majority of developing countries – in such countries, any manufacturer is free to produce and market the vaccine inside the territory of that country or to export the vaccine to other countries where patents have not been filed.33 Patents cannot be the problem in the countries where no patent applications have been filed, but the lack of production in such countries points to the real problem – these countries lack manufacturing capacity and capability. While advanced pharmaceutical companies will have the technology, know-how and readiness to manufacture, store and transport complex vaccine formulations, such factories and logistics exist in only a handful of countries.34 Regardless of whether an IP waiver is granted, the remaining countries will be left without enhanced vaccine access and still reliant on imported supplies. With prices for the vaccine already very low, it is doubtful that generic suppliers will be able to provide the vaccine at significantly lower prices. Under such a scenario, the benefit of the waiver would go not to the countries in need but to the generic supplier who would not need to pay the licence fee or royalty to the innovator. Thus, the waiver would simply serve to benefit advanced generic manufacturers, most of which are located in a handful of countries, including China and Brazil as well as (unsurprisingly) India and South Africa. Countries would perhaps be better off obtaining the vaccine from suppliers that have negotiated a voluntary licence from the patent holder, as such licences include provisions for the transfer of technology, know-how and ongoing quality assurance support.

#### They only access the climate change impact via covid access, and the evidence I just read undermines that.

#### Even if you don’t by that, the trade adv. Still turns case because free trade accelerates climate change- pollution havens and race to the bottom

**Forslid et al 15** (Rikard FORSLID, Stockholm University, OKUBO Toshihiro, Keio University, Mark SANCTUARY, Stockholm School of Economics, “Trade Liberalisation, Transboundary Pollution and Market Size” April 2015, http://www.rieti.go.jp/jp/publications/dp/15e041.pdf)

This paper uses a monopolistic competitive framework to study the impact of trade liberalization on local and global emissions. We focus on e§ects stemming from tax di§erences and di§erences in market size and exclude comparative advantage e§ects derived from di§erences in factor intensities; our model only has one factor of production. We start by deriving analytical results with exogenous taxes, and thereafter turn to simulations with endogenous taxes. With exogenously set emission taxes we examine the e§ect of market size and the e§ect of asymmetric emission taxes separately. We Önd that trade liberalization does not a§ect global emissions if taxes are identical in the two countries. In this setting, the HME induces Örms to locate to the larger market which, in turn, implies higher emissions in the larger market and lower emissions in the smaller market; however, global emissions remain constant. On the other hand, when countries are symmetric in size but emission taxes differ, trade liberalization **increases global emissions** as firms **relocate to the low tax econom**y. We then analyse the case with both the asymmetric market size and asymmetric taxes, relaxing the constraints on market size and emission taxes. Trade liberalization increases emissions when the HME and the PHH reinforce each other. This is the case when the larger country has a lower emission tax. As trade is liberalised, both the HME and the PHH draw Örms to the larger market which results in higher global emission. However, trade liberalization may not result in increased global emissions when the HME and the PHH work against each other. This happens when the larger country has a higher emission tax. If the HME dominates the PHH, then trade liberalization will result in a decrease in global emissions as Örms are drawn to the large, high-tax economy. We then allow for endogenous emission taxes. We start by numerically simulating a Nash game between the governments. We show that the PHH is always dominated by the HME in this case. The larger economy has the upper hand and will set a higher emission tax but not so high that is loses industry. Industry therefore always relocate to the larger high-tax economy as trade is liberalised. This would seem to imply lower emissions. However, trade liberalization will **intensify tax competition** between the countries leading to lower emission taxes in both countries. Global emission therefore increase despite the fact that Örms move to the high-tax economy. Welfare tend to be hump-shaped in openness: trade liberalisation initially increases welfare, but decreases welfare for deep liberalisation. We thereafter simulate a case where taxes are set cooperatively. The larger country has a lower cooperatively set tax than the smaller country. Firms therefore relocate to the larger 17 low-tax economy as trade is liberalised. However, the di§erence in tax rates is relatively small and, in contrast to the non-cooperative taxes, taxes may actually increase as trade is liberalised. Consequently, this case yields roughly constant emissions as trade is liberalised and a level of global emissions that is much lower compared to the Nash case. Also welfare (after redistribution) increases monotonically as trade is liberalised. These simulations demonstrate that there is still an strong need for international cooperation on environmental taxes, despite the potentially helpful role played by the HME in mitigating pollution havens. Our results also have implications for empirical studies seeking to identify **pollution havens**. In particular, they suggest that relative market size, trade costs, ease of abatement, and the degree of product di§erentiation may need to be considered in the design of the estimated equation. It is not uncommon that a large country liberalises trade with a smaller market with a laxer environmental standard. The fact that some studies fail to identify a pollution haven could be due to the fact that the larger market is large enough to attract Örms in spite of itís stricter environmental standards, e.g. in the case of U.S. and Mexico. Our results also suggest that trade liberalisation with a large economy with low environmental standards, such as China, may be **particularly troublesome for global emissions.**