## 1

#### The TRIPs Council should vote to reduce intellectual property protections for [PLAN], amending TRIPs to mandate the [PLAN]

#### The United States should:

#### --Publicly rescind support for the WTO waiver

#### -- Veto this motion and refuse to comply

#### The remaining member nations should initiate proceedings against the United States through the World Trade Organization Dispute Settlement Body which ought to find against the United States. The United States ought to comply with this ruling.

#### Counterplan competes ---

#### 1] The plan has the “member nations” act individually, while the counterplan is the WTO through the Council and eventually the DSB.

**Collins Dictionary n.d.** “member nations” RJP, DebateDrills https://www.collinsdictionary.com/us/dictionary/english/member-nations

member nations

The [United](https://www.collinsdictionary.com/us/dictionary/english/unite) [Nations](https://www.collinsdictionary.com/us/dictionary/english/nation) is an [international](https://www.collinsdictionary.com/us/dictionary/english/international) organization [comprised](https://www.collinsdictionary.com/us/dictionary/english/comprise) of about 180 member nations.

Sociology (1995)

At the Nato [summit](https://www.collinsdictionary.com/us/dictionary/english/summit), he called on all the member nations to [pledge](https://www.collinsdictionary.com/us/dictionary/english/pledge) to [spend](https://www.collinsdictionary.com/us/dictionary/english/spend) at least 2% of their [national](https://www.collinsdictionary.com/us/dictionary/english/national) [income](https://www.collinsdictionary.com/us/dictionary/english/income) on [defence](https://www.collinsdictionary.com/us/dictionary/english/defence" \o "Definition of defence).

Times, Sunday Times (2015)

The [beneficiaries](https://www.collinsdictionary.com/us/dictionary/english/beneficiary) will not be [limited](https://www.collinsdictionary.com/us/dictionary/english/limit) to EU member nations, but [worldwide](https://www.collinsdictionary.com/us/dictionary/english/worldwide).

Times, Sunday Times (2012)

Definition of 'nation'

nation

(neɪʃən)[Explore 'nation' in the dictionary](https://www.collinsdictionary.com/us/dictionary/english/nation)

COUNTABLE NOUN

A nation is an individual country considered together with its social and political structures.

#### 2] Immediacy

#### Ought and should are used interchangeably.

Anastasia **Koltai 18**. CEO of MyEnglishTeacher, “Difference Between Ought to and Should,” MyEnglishTeacher, September 25, 2018, <https://www.myenglishteacher.eu/blog/difference-between-ought-to-and-should/>, RJP, DebateDrills.

In most cases, SHOULD and OUGHT TO are used interchangeably today. Both SHOULD and OUGHT TO are used to express advice, obligation, or duty.

#### “Should” is immediate

Summers 94 (Justice – Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11-8, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13)

¶4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling *in praesenti*.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record.[16](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn16)

[CONTINUES – TO FOOTNOTE]

[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "*Should*" not only is used as a "present indicative" synonymous with *ought* but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an *obligation* *and to be more than advisory*); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an *obligation* to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) *In praesenti* means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is *presently* or *immediately effective*, as opposed to something that *will* or *would* become effective *in the future [in futurol*]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### The plan would require US companies to disclose information and waive IP protections---the counterplan has the US resist to avoid political backlash, but that violates WTO disclosure requirements.

Jorge Contreras 21. Presidential Scholar and Professor of Law at the University of Utah with an adjunct appointment in the Department of Human Genetics, JD @ Harvard, “US Support for a WTO Waiver of COVID-19 Intellectual Property – What Does it Mean?” Bill of Health Harvard Law, May 7, 2021, <https://blog.petrieflom.law.harvard.edu/2021/05/07/wto-waiver-intellectual-property-covid/>, RJP, DebateDrills

The proposed WTO IP waiver is significant because it includes trade secrets. Thus, under the waiver’s original language, a country that wished to suspend trade secret protection for COVID-19 technology could do so without violating the TRIPS Agreement. Such a country could also, presumably, mandate that foreign companies operating in the country disclose their proprietary manufacturing, storage, and testing information to local producers under a compulsory license.

The details of this disclosure requirement, and any compensation payable to the originator of the information, would need to be worked out in whatever waiver is eventually adopted by the WTO, but the prospect for a mandatory trade secret transfer — something that would be unprecedented in the international arena — is worth watching carefully. [As reported by Intellectual Asset Management on May 4, 2021](https://www.iam-media.com/coronavirus/brazilian-senate-passes-compulsory-covid-19-know-how-licensing-bill), the Brazilian Congress is currently considering legislation that would nullify the patents of any company that fails to disclose know-how and data related to a compulsory COVID-19 patent license. It will also be interesting to see whether the United States stands behind such a requirement, which goes far beyond the compulsory licensing of patents.

Will the U.S. require companies to share their know-how with others?

As noted above, under the waiver, a country could impose a trade secret disclosure requirement on companies operating within its jurisdiction. But that requirement would have little effect on U.S. vaccine producers who do not, themselves, have material operations overseas. Only the U.S. government could require a U.S.-based company to disclose its trade secrets. Would the U.S. impose such a requirement? This is not known, but I think it’s unlikely. It is one thing for the U.S. to agree not to challenge other countries’ compulsory licensing regimes as violations of TRIPS, but a very different thing for the U.S. to issue a compulsory licensing order of its own, particularly in the area of trade secrets, where it would be met with significant internal opposition.

#### DSB is underutilized currently but using it for major dispute settlement shores it up---that’s key to combat Chinese IP violations.

James **Bacchus 18**. Member of the [Herbert A. Stiefel Center for Trade Policy Studies](https://www.cato.org/herbert-stiefel-center-trade-policy-studies), the Distinguished University Professor of Global Affairs and director of the Center for Global Economic and Environmental Opportunity at the University of Central Florida. He was a founding judge and was twice the chairman—the chief judge—of the highest court of world trade, the Appellate Body of the World Trade Organization in Geneva, Switzerland. “How the World Trade Organization Can Curb China’s Intellectual Property Transgressions,” CATO, March 22, 2018, <https://www.cato.org/blog/how-world-trade-organization-can-curb-chinas-intellectual-property-transgressions>, RJP, DebateDrills.

Quite rightly, President Donald Trump and his Administration are targeting the transgressions of China against US intellectual property rights in their unfolding trade strategy. But why not use the WTO rules that offer a real remedy for the United States without resorting to illegal unilateral action outside the WTO?  
  
Seventeen years after China joined the WTO, China still falls considerably short of fulfilling its WTO obligations to protect intellectual property. About 70 percent of the software in use in China, valued at nearly $8.7 billion, is pirated. The annual cost to the US economy worldwide from pirated software, counterfeit goods, and the theft of trade secrets could be as high as $600 billion, with China at the top of the IP infringement list. China is the source of 87 percent of the counterfeit goods seized upon entry into the United States.  
  
One possible response by the United States is the one the Trump Administration seems to be taking: slapping billions of dollars of tariffs on imports of more than 100 Chinese products through unilateral trade action. Given its protectionist predilections, taking this approach is surely tempting to the Trump Administration. Doing so will, however, harm American workers, businesses, and consumers, and contribute to further turmoil in the global economy.

The results will likely include retaliation by China against the goods and services of American companies and workers; lawful economic sanctions imposed by China on American exports to China after the US lost to China in WTO cases; the hidden tax of higher prices for American consumers; less competitiveness in the US market and in other markets for American companies that depend on Chinese imports as intermediate goods in production; and doubtless still more American and global economic landmines from the downward spiral of tit-for-tat in international trade confrontations.  
  
These tariffs are not only self-defeating and counter-productive; they are also illegal under international law. Where an international dispute falls within the scope of coverage of the WTO treaty, taking unilateral action without first going to WTO dispute settlement for a legal ruling on whether there is a WTO violation is, in and of itself, a violation of the treaty. The WTO treaty establishes mandatory jurisdiction for the WTO dispute settlement system for all treaty-related disputes between and among WTO Members. The WTO Appellate Body has explained, “Article 23.1 of the (WTO Dispute Settlement Understanding) imposes a general obligation to redress a violation of obligations or other nullification or impairment of benefits under the covered agreements only by recourse to the rules and procedures of the DSU, and not through unilateral action.”  
  
Thus, the United States is not permitted by the international rules to which it has long since agreed to be the judge and the jury in its own case. Imposing tariffs on Chinese products without first obtaining a WTO ruling that Chinese actions are inconsistent with China’s WTO obligations is a clear violation by the United States of its WTO obligations to China – as WTO jurists will doubtless rule when China responds to the tariffs by challenging the tariffs in the WTO.  
  
Such a legal loss by the United States, with all its unforeseeable economic and geopolitical consequences, can be avoided while still confronting Chinese IP violations effectively. Before resorting to unilateral action outside the WTO and in violation of international law, the United States should take a closer look at the substantial rights it enjoys under the WTO treaty for protecting US intellectual property against abuse.  
  
Potential remedies in the WTO exist and should not be ignored. These remedies can be enforced through the pressure of WTO economic sanctions. WTO rules do not yet cover all the irritants that must be addressed in US-China trade relations. Even so, instead of just concluding that there are no adequate remedies under WTO rules to help stop IP infringement, the United States should first try to use the remedies in rules we have already negotiated that bind China along with all other WTO Members.  
  
A number of these rules have not yet been tested against China or any other country – which is not proof they will not work. Generally, when tried for the first time, WTO rules have been found to work, and, generally, when China has been found to be acting inconsistently with its WTO obligations, it has complied with WTO rulings. The actual extent of Chinese compliance with WTO judgments can be questioned; in some instances it is seen by some as only “paper compliance.” But whether any one WTO rule can in fact be enforced cannot be known if no WTO Member bothers to try to enforce it.  
  
The WTO rules in the WTO Agreement on the Trade-related Aspects of Intellectual Property Rights – the so-called TRIPS Agreement – are unique among WTO rules because they impose affirmative obligations. Yet, this affirmative aspect of WTO intellectual property rules has been largely unexplored in WTO dispute settlement. In particular, WTO Members have so far refrained from challenging other WTO Members for failing to enforce intellectual property rights.  
  
On enforcement, Article 41.1 of the TRIPS Agreement imposes an affirmative obligation on all WTO Members: “Members shall ensure that enforcement procedures… are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse.”  
  
Note that this “shall” be done by all WTO Members; it is mandatory for compliance with their WTO obligations. And yet what does this obligation mean by requiring that effective actions against infringements must be “available”? Is this obligation fulfilled by having sound laws on the books, as is generally the case with China? Or must those laws also be enforced effectively in practice, which is often not the case with China?  
  
The Appellate Body has said that “making something *available* means making it ‘obtainable,’ putting it ‘within one’s reach’ and ‘at one’s disposal’ in a way that has sufficient form or efficacy.” Thus, simply having a law on the books is not enough. That law must have real force in the real world of commerce. This ruling by the Appellate Body related to the use of the word “available” in Article 42 of the TRIPS Agreement and to a legal claim seeking fair and equitable access to civil judicial procedures. Yet the same reasoning applies equally to the enforcement of substantive rights under Article 41.  
  
In the past, the United States has challenged certain parts of the overall Chinese legal system for intellectual property protection – and successfully – in WTO dispute settlement. Despite its overall concerns about enforcement by China of US intellectual property rights, the United States has not, however, challenged the Chinese system as a whole in the WTO. Instead of indulging in the illegality of unilateral tariffs outside the legal framework of the WTO, the Trump Administration should initiate a comprehensive legal challenge in the WTO, not merely, as before, to the bits and pieces of particular Chinese IP enforcement, but rather *to the entirety of the Chinese IP enforcement system*.  
  
To be sure, a systemic challenge by the United States to the application of all China’s inadequate measures relating to intellectual property protection would put the WTO dispute settlement system to a test. It would, what’s more, put both China and the United States to the test of their commitment to the WTO and, especially, to a rules-based world trading system.  
  
As Trump’s trade lawyers will hasten to say, a systemic IP case against China in the WTO would also involve a perhaps unprecedented amount of fact-gathering. It would necessitate an outpouring of voluminous legal pleadings. It would, furthermore, force the WTO Members and the WTO jurists to face some fundamental questions about the rules-based trading system. Yet it could also provide the basis for fashioning a legal remedy that would in the end be mutually acceptable to both countries, and could therefore help prevent commercial conflict and reduce a significant obstacle to mutually beneficial US-China relations.

#### Stopping tech stealing is key to avoid war

Timothy R. **Heath 18**. RAND Senior Defense and International Analyst, “Avoiding “Avoiding U.S.-China Competition Is Futile: Why the Best Option Is to Manage Strategic Rivalry”; Asia Policy; Vol 13 No 2; April 2018, RJP, DebateDrills

This article argues that the structural drivers of U.S.-China competition are too deep to resolve through cooperative engagement and that policymakers must instead accept the reality of strategic rivalry and aim to manage it at a lower level of intensity. main argument Rising tensions between China and the U.S. have spurred fears that the two countries could end up in conflict or recreate the Cold War. To avoid these outcomes, analysts have proposed ways to defuse competition and promote cooperation. However, because these arguments do not address the structural drivers underpinning U.S.-China competition, such proposals are unlikely to end the rivalry. Conflict is not inevitable, however, and aggressive strategies that unnecessarily aggravate the sources of rivalry are likely to prove dangerously counterproductive. The best option at this point is, paradoxically, for the U.S. to accept the reality of the growing strategic rivalry and manage it at a lower level of intensity. policy implications • Maintaining a technological edge is critical for the U.S. to successfully manage the rivalry with China. Policies should be pursued to ensure that the U.S. continues to attract and nurture the best science and technology talent and retains its status as the global leader in technology. • To compete with China’s narrative about leading regional integration, the U.S. should both put forth a compelling vision for the region that encompasses widely held economic, security, and political values and continue to bolster its diplomatic and military positions in Asia. • To maintain the U.S.-China rivalry at a stable level, policymakers in both countries should prioritize measures that discourage the mobilization of popular sentiment against the other country and encourage cultural exchanges. • U.S.-China competition will likely become increasingly entwined with rivalries between China and U.S. allies and partners such as Japan and India. U.S. policymakers will need to take into account the independent dynamics of those separate rivalries when managing relations with China. The United States and China find themselves increasingly enmeshed in a strategic rivalry, the basic nature of which remains poorly understood in the United States. To be sure, disagreements between the two countries have gained widespread attention. Disputes involving Chinese confrontations with U.S. allies and partners such as Japan, the Philippines, and Taiwan have frequently grabbed the headlines. At other times, disagreements over Chinese trade practices and U.S. military activities in the South China Sea have occasioned discord. All these sources of conflict are genuine, but they mask the main drivers of rivalry, which are twofold. First, the United States and China are locked in a contest for primacy—most clearly in Asia and probably globally as well. The United States has been the dominant power, and China seeks to eventually supplant it. By definition, two different states cannot simultaneously share primacy at either the regional or global level. Second, economic, demographic, and military trajectories suggest that China has the potential to contend in a significant way for leadership at the global systemic level. At this level, the most decisive competition will be for technological leadership. Should China supplant the United States as the world’s premier country in terms of technology, its claim to regional and global supremacy will be difficult to deny. And once it has gained that supremacy, China will be well positioned to restructure institutional arrangements to privilege itself and disadvantage the United States. Although this competition is occurring simultaneously at both levels, observers have focused primarily on the struggle for primacy at the regional level and overlooked or downplayed the competition at the global systemic level.1 To counter China’s pursuit of regional primacy, the United States has bolstered its alliances in Asia (albeit inconsistently), expanded diplomatic outreach to China and rising powers in Southeast Asia, and revised its military posture—efforts captured by President Barack Obama’s “rebalance to Asia.” President Donald Trump may have abandoned the rebalance, but many of the related initiatives remain more or less in place.2 China’s challenge at the global systemic level, especially in the field of technology, has received less attention. Confidence in the proven U.S. ability to produce new technologies and facile assumptions about the difficulties China will face in promoting innovation in new industries have led many to dismiss the challenge posed by China. **But the contest for technological leadership is actually even more consequential than that for regional primacy.** Should China succeed in surpassing the United States as the world’s technological leader, U.S. diplomacy and military power will not suffice to hold the line either in Asia or around the globe**.** Under those conditions, countries throughout the world, including U.S. allies in Asia, will be forced to come to terms with the new leading economy. Military power projection could be far less relevant as China moves to consolidate its leading status at both the regional and global levels in such a scenario. Accordingly, although the United States cannot abandon its efforts to bolster its diplomatic and military position in Asia, the country must step up its efforts to strengthen its faltering lead in new technology development. While China clearly grasps the stakes, it is not clear that the United States does. For example, China’s government has promoted R&D into quantum computing. The investment appears to be paying off, as the country has leaped ahead of the United States in developing quantum communications.3 Similarly, the U.S. Congress has proposed to dispense with subsidies for the purchase of electric vehicles, even as China pushes ahead in its plan to become the lead producer of this technology.4 And while the U.S. government seeks to restrict immigration and discourage foreign students from attending U.S. universities (and staying after they receive their advanced training), China has revised its policies to welcome foreigners, prioritizing those with science and technology expertise. Moreover, Chinese investment in basic R&D is rapidly catching up to that of the United States.5 Studies have also noted a shrinking U.S. lead in science and technology as such investment is beginning to bear fruit.6 Similarly, the United States has lost its once-undisputed lead in the per capita number of engineers and scientists.7 Understanding the nature of the U.S.-China rivalry at the regional and global systemic levels, as well as how these two levels interact with one another, is essential if the United States is to successfully manage the challenge posed by China in a manner that avoids war. This study aims to contribute to that understanding. The article is organized into the following sections: u pp. 95–102 provide an overview of the growing rivalry between China and the United States, including a discussion of the meaning and role of strategic rivalry in interstate conflict and a comparison with the U.S.-China rivalry during the Cold War. u pp. 102–4 review the dynamics of the rivalry at the regional systemic level. u pp. 104–10 analyze the dynamics of the rivalry at the global systemic level. u pp. 110–15 examine why proposals to avoid rivalry through cooperation or aggressive competition are unlikely to succeed. u pp. 115–19 discuss the idea of strategic rivalry management and offer recommendations on ways to sustain the rivalry at a lower level of intensity the growing rivalry between the united states and china Strains between China and the United States have deepened in the past few years over a proliferating array of issues. President Trump has stepped up accusations against China of unfair trade practices and inadequate pressure on North Korea. He also provoked controversy early in his term when he floated the idea of increasing official contacts with Taiwan, which Beijing considers a renegade province.8 These disputes add to tensions that had expanded under President Obama, who moved to strengthen U.S. alliances in Asia, promote a regional trade pact, criticize Chinese behavior in the cyber and maritime domains, and shift more military assets to the Asia-Pacific as part of the rebalance to Asia strategy.9 China has in turn dismissed U.S. concerns about the construction of artificial islands in the South China Sea, intensified its criticism of U.S. security leadership in Asia, and tightened its grip on disputed maritime territories.10 The baleful state of bilateral relations has spurred plenty of finger-pointing. On the Chinese side, officials denounce the United States’ “Cold War mindset” and warn of conflict if Washington does not adjust its policies.11 A 2015 defense white paper described an “intensifying competition” between the great powers.12 Military officials and many Chinese analysts regard increasing tension between the two countries as unavoidable, although they do not regard war as likely. People’s Liberation Army (PLA) deputy chief of staff Qi Jianguo commented that “no conflict and no confrontation does not mean no struggle” between China and the United States.13 According to Chinese official media, polls in China suggest a large majority believes that the United States intends to pursue a containment policy.14 Reflecting this point of view, Niu Xinchun, a scholar at the China Institutes of Contemporary International Relations, argued that the “greatest obstacle to the further integration of emerging countries such as China into the international system comes from the United States.”15 Western officials and commentators tend to blame China for current strains. Senior U.S. leaders have criticized “assertive” Chinese behavior, while some analysts blame Xi Jinping for pushing a more confrontational set of policies.16 Other Western observers worry that a further souring of relations could lead to conflict.17 But even if war remains unlikely, the deepening tensions increase the risks of miscalculation, crises, and potential military clashes involving the world’s two largest powers. Echoing a view widely held among U.S. foreign policy experts and officials, former CIA director General Michael Hayden has warned that mishandling the U.S.-China relationship could be “catastrophic.”18 Rivalry at the Heart of the U.S.-China Relationship This widespread concern reflects a realistic appraisal of the dangers inherent in the U.S.-China relationship. But developing successful policies to manage an increasingly sensitive and complex situation requires an accurate assessment of the phenomenon of interstate rivalry that lies at the heart of that relationship. Rivalry is a concept that, while widely acknowledged, remains poorly understood. To be sure, most experts take for granted the idea that powerful nations compete for status and influence, and they acknowledge the danger posed by a rising power’s challenge to a status quo power. Yet investigation into the phenomenon of rivalry too often stops at these well-trodden findings. Less often discussed are the conclusions regarding the dynamics of rivalry that experts on conflict studies have arrived at within the past few years. Much of this scholarship draws from improvements to the analyses and data regarding interstate crisis and conflict.19 This research has generated useful and interesting insights regarding the start and conclusion of rivalries, crises, and war, although these remain largely unexplored outside academic circles. Analysts have established, for example, that rivalry is perhaps the most important driver of interstate conflict. As defined by political scientists, “rivals” are states that regard each other as “enemies,” sources of real or potential threat, and as competitors. At the root of rivalries thus lie disputes over incompatible goals and perceptions that countries possess both the ability (real or potential) and the intention to harm each other. Wars have historically tended to be fought by pairings of these states and their allies. Rivals have opposed each other in 77% of wars since 1816 and in over 90% of wars since 1945.20 Not only are rivals more likely to fight than non-rivals, but rivals also have a tendency to be recidivists because they are unable to resolve their political differences on the battlefield. Yet that does not always discourage them from trying to do so repeatedly. Rivals that cannot prevail due to parity frequently compete for advantage by building internal strength through arms racing or by leveraging external power through the strengthening of alliances and partnerships. Rivals are also prone to serial militarized crises**.** Mutual perceptions of each other as hostile enemies and the inconclusive outcome of previous militarized disputes typically fuel a pattern of recurrent crises characterized by deepening resentment, distrust, and growing willingness to risk escalation. Studies have also established that the risk of conflict increases sharply after three episodes of militarized crises.21 Rivalries do not progress in a linear direction, however. Their intensity can wax and wane in response to shocks and other important developments. Periods of relative stability can alternate with turbulent periods of tension and conflict. Similarly, cooperative activities can be interspersed with periods of acute tension and hostility. Nevertheless, the link between rivalry, crises, and interstate conflict is pervasive. Drawing from these sources, one can describe the Sino-U.S. relationship as a rivalry characterized as a competition between two major powers over incompatible goals regarding their status, leadership, and influence over a particular region—in this case principally the Asia-Pacific. The dynamics of this type of strategic rivalry differ in significant ways from the far more numerous rivalries over territory that have characterized conflict between so many countries, especially weaker and poorer ones. In contrast with rivalries over territories, strategic rivals do not necessarily share borders, although allies of one power may be engaged in a territorial dispute with the other major power. Strategic rivalries among major powers tend to be especially long-lived, with the average enduring for about 55 years.22 Strategic rivalries are incredibly complex phenomena that include overlapping and often reinforcing layers of disputes over leadership, status, and territory between the principal rivals and their allies. Such rivalries are almost always multilateral affairs that also involve allies and partners, some of which have their own rivalries with the other side. Competition in the economic, political, and military domains can serve as expressions as well as drivers of rivalry, as can sports and cultural competition. Strategic rivalries can be confined to one region, with the basic conflict reducible in some respects to which rival will occupy the top rung of the regional hierarchy. In other cases, however, a rivalry can span regional and global domains either sequentially or simultaneously. The U.S.-China rivalry, for instance, is already both a regional and, to a lesser extent, a global rivalry, but there is still considerable room for competition to expand. The complex and overlapping nature of the disputes makes strategic rivalries extremely crisis- and conflict-prone. Strategic rivalries come in a grim package deal that includes strained and hostile relations, serial crises, and in some cases wars. The comprehensive and multifaceted nature of the disputes also explains why such rivalries have proved so durable and why their wars have been so devastating. Conflict between strategic rivals has historically occasioned the most destructive wars, of which World Wars I and II are the most recent examples. The fact that experts at the time of each historic episode of systemic conflict consistently underestimated the duration or extent of war offers cold comfort to analysts today who seek to predict the trajectory of any conflict that might involve China and the United States. Comparisons of the Current Environment with the U.S.-China Rivalry during the Cold War How did the two countries arrive at this position? The most widely accepted narrative argues that China’s rapid economic growth has provided the resources with which it can press demands on long unresolved issues such as unification with Taiwan. China and the United States may have enjoyed stable relations in the 1980s when they cooperated on a limited basis against the Soviet Union, but that foundation of cooperation eroded considerably once the Soviet bloc dissolved in the early 1990s. Moreover, China’s rapid growth in economic power has given the country fresh resources to press its own demands on the United States and U.S. allies. By 2010, China’s economy had outpaced that of Japan to become the second-largest in the world.23 The persistence of long-standing sources of antagonism, such as the U.S. security partnership with Taiwan, has both reflected and aggravated a broader competition for leadership. For its own reasons, Washington has resisted Beijing’s demands, and the result has been growing fear and distrust.24 The intensifying rivalry between the rising power and the status quo leader is as old as antiquity itself. Indeed, Graham Allison coined the term “Thucydides trap” to describe such a situation, a term that he subsequently applied to the current U.S.-China situation.25 The popular narrative is not entirely incorrect, yet in some ways it remains incomplete. A closer look at history reminds us that antagonism between China and the United States is not unprecedented. In the 1950s and 1960s, the two countries engaged in an intense strategic competition for status and influence in Asia, one that occasionally burned hot, as it did when they clashed on the Korean Peninsula or more indirectly in Vietnam. This Cold War–era rivalry saw a complex network of competing alliances and partnerships, principally in Asia. The United States supported Taiwan and South Korea in bitter disputes with China and its allies, North Korea and the Soviet Union. This rivalry terminated in the 1970s primarily due to Beijing’s decision to counter a growing Soviet menace and the United States’ decision to pursue China as a potential partner for its own rivalry with the Soviet Union. But the existence of a period of intense U.S.-Chinese tension and competition provides a helpful baseline of comparison. What requires explanation is not the fact that the United States and China are engaged in a rivalry but the difference between today’s rivalry and that of the Cold War. What distinguishes the rivalry today from that of the earlier period is both the closer parity in relative power—albeit still more potential than real—between the two countries and the comprehensiveness, complexity, and systemic nature of the disputes between them. Paradoxically, these features make the current rivalry potentially far more threatening to the United States, despite the fact that so far U.S.-China relations have remained peaceful, and even though the U.S. and Chinese militaries fought each other in the Korean War. The dangerous potential of the current rivalry ultimately owes to the risk that China could rise to the position of global system leader and subordinate the United States accordingly. As has happened in previous power transitions, China as a system leader could exploit existing arrangements to its benefit and to the detriment of the outgoing leader, the United States. Due to the enormous rewards that accrue to a systemic leader and the high costs for the state that loses this position**,** struggles for global leadership have historically proved to be especially destructive. The possibility that China and the United States could find themselves in a similar struggle, while unlikely at this point, cannot be ruled out given the reality of the relative decline in U.S. power and the concomitant increase in Chinese comprehensive national power. At the most basic level, this fact may be measured superficially by the U.S. share of world GDP, which eroded from 40% in 1950 to 16% in 2014, adjusted for purchasing power parity. Over the same period, China’s share expanded from around 5% to 17%.26 An important consequence of the narrowing of the gap in comprehensive power has been an intensifying competition for leadership in the international economic and political order. In this way, the popular discussion of the Thucydides trap correctly recognizes the dangers of the U.S.-China competition. This feature contrasts sharply with the previous episode of rivalry. In the 1950s and 1960s, the asymmetry in power meant that the United States and China competed for influence and even clashed militarily in countries along China’s borders, but rarely elsewhere. As a largely rural, impoverished country, China had little stake in the system of global trade promoted by the industrialized West. Excluded from the United Nations, Maoist China also lacked the institutional ability to influence geopolitics and project power much beyond its immediate environs—and even that capability was sorely handicapped. Outside Asia, the United States faced minimal competition from China and generally regarded the Soviet Union as a more pressing threat. By contrast, the current competition features a China fully enmeshed in a political and economic order led by the United States. While generally supportive of this order, China is also seeking to revise aspects of the regional and international order that it regards as obstacles to the country’s revitalization as a great power. The main theater of this competition for influence and leadership is the Asia-Pacific, as it was in the Cold War, but U.S.-China rivalry increasingly is expanding globally. Moreover, unlike the largely military, regional, and ideological Cold War competition, the current contest is far more multifaceted and comprehensive in nature; it includes military, economic, technological, and political dimensions. The following two sections review the state of the competition at both the regional and the global systemic levels. the u.s.-china rivalry at the regional level At the regional level, U.S.-China competition spans the political, economic, and military realms. Politically, the two countries have feuded over the role of liberal values and ideals, a dispute that widened after the 1989 Tiananmen Square massacre. However, the 1996 Taiwan Strait crisis elevated the potential threat of conflict between the two countries and may therefore be regarded as the starting point of the current rivalry. Coinciding with impressive gains in China’s economic and military power following two decades of market reforms, the standoff saw Washington and Beijing deploy military assets to back up their respective positions regarding Taiwan’s right to hold a presidential election, elevating the risk of a clash. Since then, the competition for political influence and leadership has intensified. In 2011, the United States announced its rebalance to Asia, which was aimed in part at shoring up U.S. alliances, partnerships, and influence.27 Although on the surface Washington has abandoned the effort, the Trump administration has reintroduced a vision for Asia’s economic and security order premised on values favorable to U.S. interests.28 The 2017 National Security Strategy stated, for example, that the United States upholds a “free and open Indo-Pacific.”29 Beijing, by contrast, has increased its efforts to advance a vision for a regional order premised on Chinese leadership. In recent years, China has promoted major economic and geostrategic initiatives to deepen Asia’s economic integration through the Belt and Road Initiative, Asian Infrastructure Investment Bank (AIIB), and other initiatives.30 In 2017, China for the first time issued a white paper that outlined the government’s vision for Asia-Pacific security. The paper stated that China takes the advancement of regional prosperity and stability “as its own responsibility.”31 These policies build on directives issued by Xi Jinping in 2013, when he called for policies to bolster China’s attractiveness as a regional leader.32 Economically, the two countries are competing over the evolution of Asia’s economic future—a region anticipated to drive global growth in coming decades. Both countries are also competing to shape the terms of trade. President Trump may have abandoned the Trans-Pacific Partnership (TPP), but his advisers have advocated other measures to shape favorable trade terms.33 Meanwhile, China has stepped up advocacy of the Regional Comprehensive Economic Partnership, a proposed free trade agreement for the region that excludes the United States.34 China also has promoted the AIIB, while the United States and Japan continue to instead support the Asian Development Bank.35 Militarily, the growing arms race and the establishment of rival security institutions stand among the most obvious manifestations of an increasing competition in this domain. China and the United States have designed an array of military capabilities and doctrines partly aimed at each other. The PLA has developed weapons systems to counter potential U.S. intervention in any contingency along China’s periphery, which the United States has in turn sought to counter with its own innovations, such as the Joint Operational Access Concept.36 U.S. secretaries of defense Chuck Hagel and Ashton Carter outlined a “third offset” strategy to compete with China and Russia in military technology.37 To promote regional security, the United States has strengthened its military alliances and partnerships, while China has strengthened ties with Russia and argued that regional security is best protected through the Shanghai Cooperation Organisation, the Conference on Interaction and Confidence Building Measures in Asia, and other Chinese-led institutions. In 2014, Xi indirectly rebuked the United States for seeking to bolster its security leadership in the region, stating that “it is for the people of Asia to uphold the security of Asia.”38

## 2

#### US vaccine production and donation key to vaccine diplomacy – otherwise, Russia and Chinese spheres of influence are guaranteed.

Smith 21 [Alexander Smith is a senior reporter for NBC News Digital based in London.] “Russia and China are beating the U.S. at vaccine diplomacy, experts say”, NBC News, <https://www.nbcnews.com/news/world/russia-china-are-beating-u-s-vaccine-diplomacy-experts-say-n1262742> NBC News VM

“It didn't take long for the seeds of Russia's vaccine diplomacy in South America to show green shoots. Soon after Moscow sold 5.2 million doses of its Sputnik V vaccine, President Vladimir Putin was on the phone with his Bolivian counterpart, Luis Arce, in late January, discussing topics as varied as building a nuclear power plant to lithium mining and gas reserves. In North Africa, Algeria didn't pay a dime for the Chinese vaccines that arrived in March. What it did offer was to support Beijing's "core interests" and oppose interference in its "internal affairs" — language China has used to defend against criticism over Hong Kong's autonomy and allegations of human rights abuses in Xinjiang, which it denies. Although China and Russia deny it, experts say they are beginning to see how Beijing's and Moscow's strategy of selling or donating their vaccines abroad is greasing the wheels of their international relationships and allowing them to expand their influence throughout the world. It's a development that should cause grave concern for the United States and other democracies, according to former U.S. ambassadors and other ex-diplomats. What rankles these observers is not that China and Russia are winning at vaccine diplomacy, it's that the U.S. and others aren't even in the game yet. Washington and its allies have instead chosen to prioritize their domestic populations, keeping most doses at home and causing resentment abroad. "The United States, until recently, was the go-to country for any major health disaster," said Thomas Shannon, the former U.S. undersecretary of state for political affairs, the third-highest-ranking role in the State Department. "So to pull itself off the playing field is very disconcerting." Shannon, who served in the administrations of presidents George W. Bush, Barack Obama and Donald Trump and was ambassador to Brazil from 2010 to 2013, said Trump's decision to step back from the international Covid-19 response has sent a "chilling and worrisome message to many countries that find themselves at a very vulnerable moment." Unless that changes under President Joe Biden and into the future, "the world will realize we're not a reliable partner, and that would be dangerous for us," he said. "I believe it's something that will be remembered." 'Extremely narrow-minded' Few would argue that sending lifesaving vaccines around the world is a bad thing. "We're not talking arms sales here," said John Campbell, who was the U.S. ambassador to Nigeria from 2004 to 2007. "We're talking about something citizens around the world want and desperately need." Indeed both countries deny exporting vaccines for diplomatic gain. This idea is "extremely narrow-minded," Guo Weimin, spokesman for the Chinese People's Political Consultative Conference, said at its annual meeting last month. President Xi Jinping has vowed to make vaccines a "global public good." Similarly, Kremlin spokesman Dmitry Peskov has said that Russia merely believes "there should be as many doses of vaccines as possible" so "all countries, including the poorest, have the opportunity to stop the pandemic." After a cloud of skepticism, recent studies suggest that the state-made vaccines, China's Sinopharm and Russia's Sputnik V program, are as effective as others. They have been approved by dozens of regulators. Of the near 250 million vaccine doses it had produced so far, China has sent 118 million to 49 countries, according to Airfinity, a pharmaceuticals analytics company based in London. Russia has sent vaccines to 22 different countries, and India has exported or donated 64 million of the nearly 150 million shots it has produced, according to Airfinity, which some experts interpret as New Delhi's attempt to counterbalance the vaccine diplomacy overtures of its regional rival, Beijing. By contrast, the U.S. has delivered just over 200 million vaccine doses to is own population, according to the Centers for Disease Control and Prevention. It has agreed to share only a tiny number — around 4 million AstraZeneca-Oxford University shots that it wasn't using anyway — with Mexico and Canada. The West's own vaccine nationalism has created a vacuum in which lower-and middle-income countries have been unable to get access to shots. And Beijing and Moscow have been only too happy to step in. 'Political suicide' The majority of Chinese and Russian vaccine doses have gone "where Western powers and Russia and China have been competing for years for more influence," said Agathe Demarais the global forecasting director at the Economist Intelligence Unit, a research group based in London. One key battleground is Egypt, which gets $1.3 billion in U.S. aid every year but whose human rights situation has led to strained ties with the West. It ordered tens of millions of doses from Pfizer, AstraZeneca, Sinopharm and Russia's Sputnik V program. But the first to arrive in Cairo in January were from China. "For the man on the street" in African countries using the vaccines, "Russia and China become somewhat more attractive as possible models for going forward," said Campbell, the former ambassador to Nigeria. "Arguably, it will help increase the attractiveness of authoritarian forms of government at the expense of more democratic forms of government."

#### Reductions on IP protections immediately hampers US COVID vaccine development.

Pipes 3/5 Sally Pipes [Sally C. Pipes is President, CEO, and Thomas W. Smith Fellow in Health Care Policy at the Pacific Research Institute, a California-based think tank founded in 1979.], 3-5-2021, "Intellectual Property Rights Are Key To Fighting Covid-19 And Protecting Public Health," Forbes, <https://www.forbes.com/sites/sallypipes/2021/03/05/intellectual-property-rights-are-key-to-fighting-covid-19-and-protecting-public-health/> DD AG

* US can’t use vaccines for soft power/flip the switch in Latin America if aff occurs
* Removal of IP protections removes incentives for future diplomacy

The record-setting development of multiple Covid-19 vaccines will go down in history as some of medical science's greatest achievements. In less than a year, the competing vaccines went from the drawing board to saving lives around the world. Unfortunately, many liberal policymakers are attacking the system of strong intellectual property rights that underpinned the work of these heroic scientists. If their attacks are successful, then there could be many fewer medical miracles in our future. Later this month, the World Trade Organization is expected to rule on a petition championed by the governments of India and South Africa to suspend patents related to Covid-19 vaccines and treatments. Supporters of this scheme claim it would boost the availability of vaccines in poorer countries. They also argue that governments have helped fund the research that led to the Covid-19 vaccines—so the public has a claim on the fruits of that work. There's no evidence that suspending intellectual property rights will speed up the manufacturing or distribution of Covid vaccines. The process of making these vaccines is hard. The machines that make the particles that go into the shots are highly complex, and their supply is limited. As pharmaceutical researcher Derek Lowe has explained, "There are definitely not dozens of companies who can make enough RNA," the genetic material in the Moderna and Pfizer/BioNTech vaccines that instructs our cells in how to fight the coronavirus. Lowe continues: "And you can count on one hand the number of facilities who can make the critical lipid nanoparticles" that carry the mRNA to our cells. There's a wealth of evidence, on the other hand, that revoking patents will cause drugmakers to put their research and development efforts on hold. Pharmaceutical companies spend an average of 15 years and nearly $3 billion to bring a new medicine to market. Just one-tenth of one percent of potential pharmaceutical compounds ever enter clinical trials in humans. And just 0.02% of those compounds ends up garnering approval and being dispensed to patients. Clearly, developing life-saving medicines is a risky, expensive, and time-consuming endeavor. Few investors would ever consider funding drug research if there were a threat that governments could seize the fruits of that research and prevent them from having a chance to recoup their money. India and South Africa aren't the only countries looking to launch a broadside on the global intellectual property system. The idea has a following here in the United States, too. Last year, attorneys general from 31 states, as well as American Samoa, Guam, and the District of Columbia, called on the federal government to revoke the patent for remdesivir, the antiviral developed by Gilead Sciences that shortened stays in the hospital for patients with Covid-19. The attorneys general argued that the government had a claim on the intellectual property behind the drug, since it had funded early-stage research. Nevermind that the federal government's own experts determined that it didn't "qualify. . . as a joint inventor of the compound." The public's investment in research broadly related to remdesivir totaled about $70 million; Gilead, with no guarantee of any success, risked more than $1 billion developing the drug. Drugmakers have come up with the vaccines that will ultimately save millions of lives and allow the world to return to life as usual. They've also developed ways to get those vaccines to as many people quickly and cheaply—often to the detriment of their bottom line. AstraZeneca, for example, has volunteered not to take any profits during the pandemic and pledged to direct more than 64% of its vaccine doses to developing nations. Johnson & Johnson has promised to allocate up to half a billion vaccines to lower-income countries. All four major vaccine developers—Pfizer, Moderna, AstraZeneca, and Johnson & Johnson—are allowing manufacturers to license their patents for free in order to make more vaccines available as quickly as possible. Suspending patents won't increase the number of vaccines available. It will only prevent the development of new innovative and life-saving drugs—and leave us less prepared for future pandemics. It's an idea that tomorrow's patients will pay for.

#### Specifically, Latin America – greater Chinese soft power boosts trade and investment

Knipe 21 Lucie Kneip, [Lucie Kneip is a sophomore studying political science and global affairs. Her research interests include political legitimacy and instability in Latin America, transnational migration, and international jurisprudence]. [“China’s Vaccine Diplomacy in Latin America,”] <https://thediplomat.com/2021/08/chinas-vaccine-diplomacy-in-latin-america/> VM

“Chinese vaccine diplomacy in Latin America has skyrocketed in recent months. In preparation for the Copa America tournament, Sinovac donated 50,000 vaccines to the South American football governing body CONMEBOL. Beijing is investing in vaccine diplomacy to enhance its regional soft power. It’s time for the United States to pay more attention to a region that it often takes for granted. Latin America and the Caribbean have registered over a million deaths from COVID-19, and new variants continue to drive economic shutdowns in Colombia and Trinidad and Tobago. While the United States’ $4 billion commitment to the World Health Organization’s COVAX initiative outstrips every other international donor, logistical obstacles and Western pharmaceutical companies’ need to prioritize U.S. government contracts have slowed down vaccine distribution. Meanwhile, China has raced to fill the vaccine gap, and they’ve been successful. According to the Council of Americas, the majority of all vaccines administered in Latin America are sourced from Beijing. True, Uruguay, Costa Rica, and the Dominican Republic have questioned the efficacy of Chinese Sinovac inoculations, and a Chilean study found that Sinovac was only 54 percent effective in preventing contagion, while Pfizer and Moderna record much higher efficacy. Yet the speed and scale of Beijing’s vaccine campaign has forced governments to accept the less-effective Chinese vaccine; there are few alternatives on offer. President Xi Jinping is already using vaccine diplomacy to advance other Chinese interests. China has pressured Honduras and Paraguay to sever diplomatic ties with Taiwan in order to receive Chinese vaccines, and successfully pushed Brazil to reverse its ban on telecom giant Huawei’s 5G network project. Vaccine diplomacy is only the newest instance of increased Chinese trade and investment in Latin America. Meanwhile, Washington continues to entangle itself in exploits in distant regions rather than prioritizing ties in its own neighborhood. Latin American policymakers are growing increasingly disillusioned with Washington’s inattention to regional development and progress. Honduran chief cabinet coordinator Carlos Alberto Madero sums up the increasing frustration: “The Honduran people… see that China is helping its allies and we start to ask ourselves why ours are not helping us.” The pandemic is still raging in the region, and Washington has an opportunity to rebound by increasing the pace of vaccine donations. Attempting to block further Chinese penetration into Latin America is futile, but Washington can reaffirm its position as a stable power committed to regional development and prosperity, especially in the wake of the pandemic. As more U.S. vaccines become available, Washington should develop a coherent strategy to facilitate vaccine negotiations and prioritize a region that comprises just 5 percent of global population but accounts for a quarter of the global COVID-19 death toll.”

#### We’re falling behind but not out of the race yet – action by Biden is imminent

McCarthy 21 [Lauren McCarthy is a project manager for live coverage at The New York Times and a journalist based in New York. ] September 3, 2021, “Covid-19: Biden Pledges $2.7 Billion to Help Create ‘Arsenal of Vaccines For the World’” <https://www.nytimes.com/live/2021/09/02/world/covid-delta-variant-vaccine>, New York Times, VM

“The White House, under pressure to do more to address the global coronavirus pandemic, said Thursday that it will invest $2.7 billion to ramp up domestic production of critical vaccine components as part of President Biden’s push to make the United States the “arsenal of vaccines for the world.” The money will go to firms doing business in the United States that make supplies necessary for vaccine production, including lipids, bioreactor bags, tubing, needles and syringes, officials said. It will come from funds appropriated by Congress through the American Rescue Plan, the $1.9 trillion economic stimulus package Mr. Biden signed into law in March. “This new investment will further expand domestic vaccine manufacturing capacity, helping the U.S. deliver on its commitment to be the arsenal of vaccines for the world and preparing America for future vaccination efforts,” said Jeffrey D. Zients, Mr. Biden’s coronavirus response coordinator, who announced the effort during a briefing with reporters.”

#### Increasing Chinese trade in Latin America causes great power war – mere perceptual regionalism causes US first strike

Lake 18 – David Lake is a Professor of Social Sciences and Distinguished Professor of Political Science at the University of California, San Diego; "Economic Openness and Great Power Competition: Lessons for China and the United States”; April 30, 2018; <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3171196/> //advay

I develop two central arguments. First, historically, great power competition has been driven primarily by exclusion or fears of exclusion from each power’s international economic zone, including its domestic market. Great powers in the past have often used their international influence to build zones in which subordinate polities – whether these be colonies or simply states within a sphere of influence – are integrated into their economies. These economic zones, in turn, are typically biased in favor of the great power’s firms and investors, with the effect of excluding (in whole or part) the economic agents of other great powers. These other great powers, in response, are then compelled to develop or expand their own exclusive economic zones. The “race” for economic privilege can quickly divide the world up into economic blocs. Like the security dilemma, great powers need not actually exclude one another from their zones; the fear of exclusion alone is enough to ignite the process of division. The race for privilege then draws great powers into over-expanding into unprofitable regions and, more important, militarized competition. Economic and military competition are thus linked, with the former usually driving the latter. The most significant military crises have, historically, been over where to draw the boundaries between economic zones and subsequent challenges to those boundaries. Economic closure and fear of closure have been consistent sources of great power conflict in the past – and possibly will be in the future. The major exception to this trend was the peaceful transfer of dominance in Latin America from Britain to the United States in the late nineteenth century. This suggests that economic closure and great power competition is not inevitable, but a choice of the great powers themselves. Second, this international competition is driven, in turn, by domestic, rent-seeking groups and their economic interests. In all countries, scarce factors of production, import competing sectors, and domestically-oriented firms have concentrated and intense preferences for market restricting policies, including tariffs and the formation of exclusive economic zones. Consumers and free trade-oriented groups have diffuse preferences for market enhancing policies, and thus tend to lose at the ballot box and in the making of national policy. This inequality in preference intensity does not mean protectionists always win; after 1934, the United States insulated itself by shifting authority to the executive and negotiating reductions through broad, multi-product international agreements.8 Yet, as the recent return to economic nationalism of the Trump administration suggests, protectionism often wins out. Rent-seeking is a central tendency, not an inevitable success. Contemporary great power relations are at a critical juncture. As China’s influence expands, the role of special economic interests in China is especially worrisome. In pursuit of stability, political support, or private gains, the government will always be tempted to create economic zones that favor its nationals. In this way, China will be no different than the majority of great powers before it. But, given the expansive role of the state in the Chinese economy, especially its backing of outward foreign investments by its state-owned enterprises (SOEs), and the close ties between business elites and its authoritarian political leaders, however, it will be even harder for China to resist biasing any future economic zone to benefit its own firms. Although China has gained greatly from economic openness, its domestic political system will be prone to rent-seeking demands by important constituents in areas of future influence. Critically, the United States is also moving toward economic closure with the election of President Trump on a platform of economic nationalism. Demands for protection against Chinese goods have been growing over time.9 The “China shock” that followed Beijing’s joining the World Trade Organization was a huge disruption to the international division of labor, U.S. comparative advantage, and especially U.S. industry.10 The Trans-Pacific Partnership, though now defunct, was “marketed” by President Barak Obama as a means of “containing” China, both economically and militarily, but was opposed by virtually all of the candidates in the 2016 presidential election for its trade-enhancing potential. President Trump has already signaled a much more hostile and protectionist stance toward China – as well as calling for the repeal of NAFTA and even questioning the utility of the European Union. Not only has he imposed tariffs on washing machines, solar panels, steel and aluminum, dangerously declaring the latter two issues of national security, he is making exceptions on these tariffs for friends and allies. 11 Implicitly targeting China, these protectionist moves by the administration risk creating preferential trading blocs not seen since the 1930s. He has also now proposed punitive tariffs on over $60 billions of imports from China into the United States.12 Acknowledging his inconsistencies on many policy issues, Trump’s economic nationalism has remained the core of his political agenda. The threat to the liberal international economy is not only that China might seek an economic bloc in the future, but that the United States itself is turning more exclusionary. For each great power to fear that the other might seek to exclude it from its economic zone is not unreasonable. If so, great power competition could break out in the twenty-first century not because of bipolarity or any inevitable tendency toward conflict, but because neither great power can control its own protectionist forces nor signal to the other that it would not exclude it from its economic zone. The British-U.S. case, again, suggests that exclusion and competition are not inevitable, but the current danger of economic closure is real and increasing. This article is synthetic in its theory and merely suggestive in its use of historical evidence. The theory aims to integrate current work on political economy and national security, not to develop a completely original take on this relationship. In turn, rather than testing the theory in any rigorous sense or delving into particular cases to show the theoretical mechanisms at work, so to speak, it surveys selected historical episodes to illustrate central tendencies. It is the recurring pattern across multiple cases that suggests why we should worry today. The remainder of this essay is divided in three primary sections. Section I briefly outlines the analytics of economic openness and great power competition. Section II focuses on historical instances of great power competition, highlighting the role of economic openness as a central cleavage in international politics. Section III examines contemporary policies in and between China and the United States. The conclusion suggests ways that the potential for conflict may be mitigated. The Open Economy Politics of Great Power Competition All states have a tendency towards protectionism at home and exclusive economic zones abroad. A tendency, though, is not an inevitability. The pursuit of protection and economic zones by domestic interests is conditioned by the political coalition in power at any given time and institutions that aggregate and bias the articulation of social groups. 13 The tendency is also influenced, however, by the actions of other countries. Protectionism can sour great power relations, but it is the desire for exclusive economic zones that drives great power competition and, given the possibility of coercion, influences grand strategy. Thus, the theory sketched here integrates insights from international political economy (see below), the literature on domestic politics and grand strategy,14 and systemic theories of international relations.15

## 3

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#### nterpretation – the affirmative may not specify a subset of medicines

#### 1] Grammar – Medicines is a generic bare plural

Nebel 20 [Jake Nebel is an assistant professor of philosophy at the University of Southern California and executive director of Victory Briefs. He writes a lot of this stuff lol – duh.] “Indefinite Singular Generics in Debate” Victory Briefs, 19 August 2020. no url AG

I agree that if “a democracy” in the resolution just meant “one or more democracy,” then a country-specific affirmative could be topical. But, as I will explain in this topic analysis, that isn’t what “a democracy” means in the resolution. To see why, we first need to back up a bit and review (or learn) the idea of generic generalizations.

The most common way of expressing a generic in English is through a *bare plural*. A bare plural is a plural noun phrase, like “dogs” and “cats,” that lacks an overt determiner. (A determiner is a word that tells us which or how many: determiners include quantifier words like “all,” “some,” and “most,” demonstratives like “this” and “those,” posses- sives like “mine” and “its,” and so on.) LD resolutions often contain bare plurals, and that is the most common clue to their genericity.

We have already seen some examples of generics that are not bare plurals: “A whale is a mammal,” “A beaver builds dams,” and “The woolly mammoth is extinct.” The first two examples use indefinite singulars—singular nouns preceded by the indefinite article “a”—and the third is a definite singular since it is preceded by the definite article “the.” Generics can also be expressed with bare singulars (“Syrup is viscous”) and even verbs (as we’ll see later on). The resolution’s “a democracy” is an indefinite singular, and so it very well might be—and, as we’ll soon see, is—generic.

But it is also important to keep in mind that, just as not all generics are bare plurals, not all bare plurals are generic. “Dogs are barking” is true as long as some dogs are barking. Bare plurals can be used in particular ways to express existential statements. The key question for any given debate resolution that contains a bare plural is whether that occurrence of the bare plural is generic or existential.

The same is true of indefinite singulars. As debaters will be quick to point out, some uses of the indefinite singular really do mean “some” or “one or more”: “A cat is on the mat” is clearly not a generic generalization about cats; it’s true as long as some cat is on the mat. The question is whether the indefinite singular “a democracy” is existential or generic in the resolution.

Now, my own view is that, if we understand the difference between existential and generic statements, and if we approach the question impartially, without any invest- ment in one side of the debate, we can almost always just tell which reading is correct just by thinking about it. It is clear that “In a democracy, voting ought to be compul- sory” doesn’t mean “There is one or more democracy in which voting ought to be com- pulsory.” I don’t think a fancy argument should be required to show this any more than a fancy argument should be required to show that “A duck doesn’t lay eggs” is a generic—a false one because ducks do lay eggs, even though some ducks (namely males) don’t. And if a debater contests this by insisting that “a democracy” is existen- tial, the judge should be willing to resolve competing claims by, well, judging—that is, by using her judgment. Contesting a claim by insisting on its negation or demanding justification doesn’t put any obligation on the judge to be neutral about it. (Otherwise the negative could make every debate irresolvable by just insisting on the negation of every statement in the affirmative speeches.) Even if the insistence is backed by some sort of argument, we can reasonably reject an argument if we know its conclusion to be false, even if we are not in a position to know exactly where the argument goes wrong. Particularly in matters of logic and language, speakers have more direct knowledge of particular cases (e.g., that some specific inference is invalid or some specific sentence is infelicitious) than of the underlying explanations.

But that is just my view, and not every judge agrees with me, so it will be helpful to consider some arguments for the conclusion that we already know to be true: that, even if the United States is a democracy and ought to have compulsory voting, that doesn’t suffice to show that, in a democracy, voting ought to be compulsory—in other words, that “a democracy” in the resolution is generic, not existential.

#### It applies to this topic – a] the noun “medicines” in the topic has no determiner preceding it to justify speccing a subset of medicines. that means medicines is an existential bare plural b

#### Violation – they only defend the COVID vaccine

#### Standards:

#### 1] Limits: There’s an infinite number of medicines – hundreds of vaccines (Influenza, Coronavirus, Diptheria, Yellow Fever, etc.) and thousands of pharmaceutical drugs (Metformin, Lisinopril, Atorvastatin, and many more) – the negative could spec AND choose combinations – that’s supercharged by the fact that they can also spec countries. Kills neg burdens – it’s impossible for me to research every possible combination of medicines. Functional limits don’t check – each individual weapon has implications and articles as to why it is bad

#### 2] TVA Solves – just read your aff as an advantage to a whole rez aff. We aren’t stopping them from reading new FWs, mechanisms, or advantages. PICs don’t solve – it’s ridiculous to say that neg potential abuse justifies the aff making it impossible for me to win

#### Fairness and education are voters – debate’s a game that needs rules to evaluate it and education gives us portable skills for life like research and thinking.

#### 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.

#### Drop the debater – a) they have a 7-6 rebuttal advantage and the 2ar to make args I can’t respond to, b) it deters future abuse and sets a positive norm.

#### Use competing interps – a) reasonability invites arbitrary judge intervention since we don’t know your bs meter, b) collapses to competing interps – we justify 2 brightlines under an offense defense paradigm just like 2 interps.

#### No RVIs – a) illogical – you shouldn’t win for being fair – it’s a litmus test for engaging in substance, b) norming – I can’t concede the counterinterp if I realize I’m wrong which forces me to argue for bad norms, c) chilling effect – forces you to split your 2AR so you can’t collapse and misconstrue the 2NR, d) topic ed – prevents 1AR blipstorm scripts and allows us to get back to substance after resolving theory

#### Evaluate T 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

#### No impact turns to T—T is a procedural that determines case’s validity and every argument says the aff is bad

## Caser

#### Removing patents fails – knowledge is key but patents don’t force it, and manufacturing disparities exist which the plan DOESN’T SOLVE

**Rutschman, Barnes-Weise, 21,** Harvard Law: Bill of Health, “The COVID-19 Vaccine Patent Waiver: The Wrong Tool for the Right Goal”, Ana Santos Rutschman is an Assistant Professor of Law at Saint Louis University School of Law. Julia Barnes-Weise is Executive Director of the Global Healthcare Innovation Alliance Accelerator.URL: <https://blog.petrieflom.law.harvard.edu/2021/05/05/covid-vaccine-patent-waiver/>, KR

In order to understand the practical limitations of a waiver of intellectual property rights when a vaccine is involved, it may be useful to think of patents as informational mechanisms akin to the information and tools needed to turn a recipe into an edible product. One or more patents will provide a recipe for a process or a component needed to produce a vaccine. But, just as with a culinary recipe, the informational power of a patent does not cover any tips or instructions that have not been memorialized in writing, nor does it provide any access to the raw materials needed to put a vaccine together. Waivers, therefore, temporarily remove exclusionary rights, but do not address two fundamental sources of the current vaccine scarcity problem.

First, we are still left with a significant informational problem: as many commentators have remarked, knowledge disclosed through patents alone is often insufficient for a third party to actually be able to replicate a vaccine.

From a scientific perspective, vaccines are biological products, and, as such, their relative complexity makes them highly dependent on specific manufacturing processes and practices, many of which are not disclosed in a patent — think of it as the unwritten tips or instructions for a particular recipe. Some of this information may be kept secret by a company for competitive reasons; in these cases, lifting patent rights will not result in increased informational disclosure, unless the patent holders themselves are willing to collaborate. A waiver thus solves the exclusivity problem, but not the information problem that undergirds competition in vaccine manufacturing. To revisit the analogy introduced above, a waiver allows third parties to freely use the recipe. It does not, however, provide all the information that may be needed to manufacture the desired good, nor does it provide manufacturers with the tacit knowledge that only the original manufacturer possesses and is not disclosed elsewhere.

Second, even if all types of legal restrictions on the use of vaccine technology were lifted — or had never existed in the first place — there is simply not enough infrastructure (manufacturing facilities and equipment) nor raw materials (the components needed to manufacture and deliver vaccines) to produce and distribute COVID-19 vaccines as predicted under current waiver proposals. We have long faced a global vaccine manufacturing problem that will not be fully resolved during the current pandemic. In the case of vaccines that need to be kept at ultra-cold temperatures, these problems intensify.

One of us (Barnes-Weise) has been involved in the contractual negotiations for the development, manufacturing and transfer of technology related to COVID-19 vaccines. In addition to the informational gaps described above, COVID-19 vaccine manufacturers are most concerned about how well the recipients of the technology transfer will understand and be able to implement such knowledge in making vaccines of the necessary quality. Shortages do not merely affect materials necessary to manufacture vaccines and facilities adequate to manufacture the vaccines; they also affect the availability of personnel qualified to instruct the licensee and recipient of this information. Sending an employee of this caliber out of the original manufacturing site to a partner site risks reducing the capacity of the first site. And remote instruction, necessitated by the pandemic, has its own shortcomings.

In relation to the patents on the vaccines themselves, most of the concerns that the vaccine manufacturers express are around the protection of their vaccine platforms for the purposes of making future or non-COVID-19 vaccines. Moderna shared information about its patents in summer 2020. The manufacturers, as evidenced by the number of licenses to manufacture granted to date, are eager to find partners with the capabilities to expand production. It is not to their benefit to produce an inadequate supply of a highly sought-after vaccine. However, even willingness to transfer patented vaccine technology has faced numerous practical hurdles to date: 1) infrastructural limitations; 2) scarcity of raw materials; 3) concerns about licensees having the ability to actually manufacture effective vaccines in light of the infrastructural and product scarcity, even in situations in which there might be no informational gaps.

A patent waiver would not address any of the practical concerns currently at the root of tech transfer negotiations involving COVID-19 vaccine technology. Compounding these problems is the fact that, should a waiver be issued, there is no legal mechanism that can compel the transfer of certain types of know-how or trade secrets should a company be unwilling to license its intellectual property — which, again, at this point in the pandemic, is not a problem we have observed.

#### Companies need equipment and materials – the plan is one step of a process but they don’t get to fiat change

Rowland, 21, 5/6/21, Washington Post, “Drug companies dig in for global patent fight amid flow of billions in vaccine revenue”, Christopher Rowland, Education: University of Arizona, BS in Journalism, URL: <https://www.washingtonpost.com/business/2021/05/06/vaccine-patent-waiver-global-supply/>, KR

In agreeing with advocates and liberal Democrats to back global patent waivers, the president is trying to correct a worldwide imbalance in availability of coronavirus vaccine. Rich countries have snapped up the majority of supply, and poor countries are at the back of the line. The populations of some poor nations are not expected to be substantially vaccinated until 2023. Biden has been inhibited in sending larger direct shipments to disadvantaged populations because of concerns about a domestic political backlash.

But patent waivers will only work as part of a broader plan to transfer technology, say industry experts, patent scholars, and global health advocates.

“One way you could look at this is as a lever that can be used to strengthen the negotiating position of low- and middle-income countries to get to voluntary licensing agreements more effectively. They have a bigger stick,” said Krishna Udayakumar, director of the Duke Global Health Innovation Center.

“At the end of the day, the patents on their own are not going to be adequate. It’s still not clear to me how you force someone to take the knowledge in their head and share it involuntarily,” Udayakumar said.

Winning the right to make a vaccine without fear of legal repercussions is simply a starting point. A company that wants to make vaccines in the developing world also will need specialized training, costly and scarce equipment, and, above all, the transfer of technical know-how from existing patent holders including Pfizer, Moderna, AstraZeneca and Johnson & Johnson.

Vaccines are much more difficult to manufacture than a small-molecule pill, such as a generic anti-cholesterol tablet, for instance, which can be reverse-engineered from a single sample and made by combining chemicals.

Without the cooperation of big drug companies, patent waivers are unlikely to expand global supply of coronavirus vaccines, said Kristopher Howard, a pharmaceutical industry consultant and former operations manager for the drugmaker Merck’s vaccine business in the developing world.

“Information in the patent doesn’t teach you how to make the product,” he said. “A non-willing partner is no partner at all.”

Export bans on raw materials and specialized equipment, imposed by the United States and other countries, also would need to be relaxed. Already, a scarcity of bioreactor bags for fermenting vaccine and specialized lipids needed for mRNA vaccines have been cited as bottlenecks.

The member nations of the WTO will be negotiating terms of a potential agreement in coming weeks, and possibly months, with many opportunities for continued industry lobbying, specialists say. The original proposal for emergency patent waivers drafted by India and South Africa is likely to be considerably watered down, they said.

Foreign competition enabled by waivers, if new foreign manufacturers can overcome the numerous technical and supply hurdles, is unlikely to emerge until at least 2022. And when that production does come on line, supplies are likely to be aimed at developing nations that cannot afford the higher prices paid by wealthy countries, said Polk Wagner, a patent law expert and professor at the University of Pennsylvania Carey Law School.

In the meantime, billions of dollars in vaccine sales will continue to be logged by the big drug companies in the United States, Europe, Canada, Australia, Japan and other wealthy nations.

“My view is that it is extremely unlikely in the current set of circumstances that it will have a lot of impact on these vaccine companies. For one thing, they are already being paid enormous sums by most of the wealthy countries, anyway,” Wagner said.

Pfizer estimates that sales of the mRNA vaccine it developed in conjunction with the German firm BioNTech will be $26 billion in 2021, which would make it the highest-selling pharmaceutical product ever, and Pfizer predicts strong demand next year for boosters as immunity wanes and coronavirus variants proliferate. Moderna, the other company with a successful mRNA vaccine, raised its vaccine revenue estimates Thursday to $19.2 billion this year.

Even as the Biotechnology Innovation Organization (BIO) and PhRMA, the two main industry groups, warned that Biden’s move will have devastating impacts on the industry, the view from Moderna was rosy.

A possible patent waiver “doesn’t change anything for Moderna,” chief executive Stéphane Bancel said on a conference call with investors Thursday, according to Bloomberg News. “We saw the news last night, and I didn’t lose a minute of sleep.”

U.S. Trade Representative Katherine Tai set off an uproar in the industry Wednesday when she announced that the United States was going to drop its strict opposition to WTO intellectual property protection waivers. BIO and PhRMA did not respond to requests for interviews Thursday.

In their statements on Wednesday, they warned that giving developing nations the rights to make their own vaccines could create new competition for scarce equipment and raw materials, as well as create more opportunities for vaccine counterfeiters.

The industry also has argued that waivers would chill private investment in vaccine development to confront future pandemics.

In the coronavirus pandemic, billions of dollars in government subsidies have been crucial to jump-starting development for most vaccine manufacturers. Pfizer is the one company that shunned government assistance, although its vaccine, like others, does rely on a spike protein developed at the University of Texas with government grants.

BIO also laid out its lobbying agenda for the upcoming waiver negotiations before the WTO, including preventing the “expropriation” of vaccine and drug technology that could be used to compete against patent holders in the future. The statement reveals industry fears about the implications of a waiver precedent on new technologies.

The mRNA vaccines, which deliver an RNA payload that instructs human cells to create a coronavirus spike protein, are being manufactured on an industrial scale for the first time during the pandemic. The success has been stunning. Their 95 percent efficacy rate and speedy development have boosted intereshow t in their promise for future vaccines as well as drugs.

“They are going to want to make sure they have protection and maintain protection over these technologies to protect themselves as the industry changes,” Wagner said.

Pfizer is leading in the race to ramp up production capacity, projecting 2.5 billion coronavirus vaccine doses this year. It has achieved its success with a tightly controlled, in-house production regime for bulk vaccine centered on Pfizer factories in Belgium and Michigan. Moderna has said it will make 800 million to 1 billion doses in 2021; it has mostly relied on a single contract manufacturer, Lonza, for bulk vaccine.

AstraZeneca and Johnson & Johnson had made large-scale pledges for global manufacturing with networks of contract manufacturers around the world. But those companies, using a viral vector technology that is slower than mRNA vaccine production, have struggled.

AstraZeneca and Johnson & Johnson vaccine production has been suspended at the contract manufacturer Emergent’s Baltimore plant because of cross-contamination of the vaccines. AstraZeneca’s supply failures have been exacerbated by the coronavirus crisis in India. The Serum Institute of India, a key supplier of vaccine for much of Asia, Africa and South America, has been prohibited by the Indian government from exporting vaccine.

The huge gaps in global supply mean many people in the developing world are not expected to receive vaccine until 2023. The inequities have generated global outrage, putting greater pressure on Biden to endorse patent waivers. But observers say Biden’s waivers will do nothing to ease the vaccine gap in the short term. Advocates have called on the president to share surplus vaccine doses produced in the United States, either directly or through Covax, the program affiliated with the World Health Organization that is procuring shots for developing countries.

“It would be a shame if this takes the heat off the United States and other high-income countries to do everything else that is required urgently,” said Duke center director Udayakumar. “This didn’t add a single dollar of financing to Covax. This didn’t result in the sharing of a single dose from any high-income country.”

#### Waiving IP rights will not lower prices

Hilty et al. 21 [Dr. Reto M. Hilty is Director at the Max Planck Institute for Innovation and Competition in Munich and a professor at Univ. Zurich, with a PhD from Univ. Zurich; Pedro Henrique D. Batista is Doctoral Student and Junior Research Fellow, Legal Manager GRUR Int. in the department Intellectual Property and Competition Law; Dr. Suelen Carls is Senior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute for Innovation and Competition; Dr. Daria Kim is Senior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute; Dr. Matthias Lamping is Senior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute; Peter R. Slowinski, J.S.M. is Doctoral Student and Junior Research Fellow in the department Intellectual Property and Competition Law at the Max Planck Institute, “Covid-19 and the Role of Intellectual Property,” Max Planck Institute for Innovation and Competition, 5/7/21, <https://ipradiodigital.com.ng/wp-content/uploads/2021/05/2021_05_07_Position_statement_Covid_IP_waiver.pdf>) VM

“Concerns regarding vaccine prices are understandable, especially in view of inequalities among countries as far as access to healthcare is concerned. However, there are several reasons why a waiver of IP rights might not result in a substantially lower price for biosimilar versions compared to the currently supplied products. First of all, some current vaccine developers and manufacturers have publicly announced ‘not for-profit’ commitments. Even though there might be concerns that such commitments will eventually be lifted, prices are likely to stay at a competitive level, given that there is an increasing number of actual and potential substitutes and therewith competition.

Second, technological requirements for production of biosimilars result in higher costs of the development and manufacturing of biosimilars, compared to generic versions of small molecule drugs. Setting the production for the new vector and mRNA vaccines therefore requires substantial investments. Biosimilar and generic companies, just like originators, usually operate as for-profit entities. The market prices for such products therefore might not be significantly lower than the current prices for vaccines, but the waiver would benefit the commercial interests of the generic manufacturers first of all because they would be exempt from paying royalties. Even if generic manufacturers were prepared to limit prices to their own production costs, it is questionable whether such prices would be substantially lower than the current prices for vaccines supplied under the not-for-profit commitments. Unless the manufacturers of biosimilars commit themselves to sell at cost price, a waiver might benefit their commercial interest more than it would serve the public interest in affordable vaccines. Third, the cost of vaccine delivery alone – not including manufacturing – is considerable. In some cases, it can equal half of the vaccine market price. Every entity along the complex supply chain needs to be paid for products and services, irrespective of whether vaccines are IP-protected or not.In the abstract, there was certainly a risk of excessive prices when the vaccines were still under development. Such risk should have been addressed by governments in the framework of the contracts subsidising research on vaccines (see also below at 7), while affordability of vaccines should be approached as a matter of global solidarity (see also below at 10).”

CS

No wto legitmacy

* Thumps – fact unresponsive till now w/ covid

#### **WTO legitimacy enables multiple existential crises – climate change, rising debt, and economic crises**

Hilary 15 [John Hilary is the Executive Director of War on Want, an organization that works in the UK and with partners around the world to fight poverty and defend human rights, as part of the movement for global justice.] “Want to know how to really tackle climate change? Pull the plug on the World Trade Organisation” <http://www.independent.co.uk/voices/want-to-know-how-to-really-tackle-climate-change-pull-the-plug-on-the-world-trade-organisation-a6774391.html> VM

Yet this grandiose plan soon fell victim to its own ambition. The WTO’s first summit after the launch of the Doha Round collapsed in acrimonious failure. The next was marked by pitched battles in the streets of Hong Kong as riot police fought Asian farmers desperately trying to save their livelihoods from the WTO’s free trade agenda. The WTO slipped into a coma. Government ministers must decide this week whether to turn off its life support. The answer is surely yes. It was the WTO’s poisonous cocktail of trade expansion and market deregulation that led to the economic crisis of 2008. Years of export-led growth resulted in a crisis of overproduction that could only be sustained with mountains of debt. The parallel deregulation of financial services meant that this debt soon turned out to be toxic, and the world’s banking system went into freefall. Nor is the WTO fit for purpose on ecological grounds. If last week’s climate talks in Paris taught us anything, it is that we must rethink the model of ever-expanding production and consumption in order to avoid planetary meltdown. Global capitalism may need limitless expansion in order to survive, but the planet is already at the very limits of what it can take. The choice is ours. Worst of all, it is the WTO’s ideology of unrestricted trade and corporate domination that lies behind all the bilateral trade deals that are proliferating at the moment, including the infamous Transatlantic Trade and Investment Partnership (TTIP). We need a radically different model of regulated trade and controlled investment if we are to have any chance of breaking the cycle of economic and ecological crisis. For the planet to survive, the WTO must die.

#### CP Text: The member nations of the World Trade Organization ought to enforce compulsory licensing measures regarding the COVID-19 vaccine

#### Compulsory license continues innovation AND checks back manufacturing capacity and scarcity of materials which a waiver doesn’t solve

**Ezell, 21,** “TRIPS Waiver on COVID-19 IP Rights Wouldn’t Help Vaccine Access; It Would Just Harm Innovation”, ITIF, Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF), 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, URL; <https://itif.org/publications/2021/03/09/trips-waiver-covid-19-ip-rights-wouldnt-help-vaccine-access>, KR

And while petitioners made this call on the alleged grounds of ensuring sufficient access to needed vaccines and therapeutics, their call for the suspension of every facet of IP rights on every conceivable COVID-19 related technology—even such as for copyrights and industrial designs—betrays the reality that the petitioners’ core goal isn’t really about access, but about undermining the global intellectual property rights system.

To be sure, the developed world needs to be fully committed to ensuring that the world’s citizens receive the COVID-19 vaccines and therapeutics they need. But this can be accomplished through structures such as licensing and product development partnerships, without requiring an abrogation of intellectual property rights. For instance, in February 2021, the Biden administration announced it would contribute up to $4 billion to COVAX, a vaccine alliance seeking to distribute COVID-19 vaccines to 92 low- and middle-income countries. COVAX aims to deliver at least 2 billion vaccine doses by the end of 2021, covering at least 20 percent of the most vulnerable citizens in poor- and middle-income countries.

Innovative life-sciences companies have entered into a number of licensing agreements to facilitate dramatically expanded manufacturing of COVID-19 vaccines and therapeutics. For instance, Gilead Sciences has licensed its therapeutic remdesivir royalty-free to nine generic drug manufacturers, in Egypt, India, and Pakistan. AstraZeneca reached a licensing and technology transfer agreement enabling India’s Serum Institute to manufacture one billion vaccine doses for low- and middle-income countries. The Serum Institute has further entered into manufacturing licenses with a number of developers of yet to be approved COVID-19 vaccines, as have several other Indian vaccine manufacturers. Johnson and Johnson has announced plans to allocate up to 500 million vaccine doses to lower-income countries, with delivery starting by mid-2021. Companies like Johnson & Johnson are making the vast majority of these vaccine doses available on a not-for-profit basis.

Thus, the fundamental problem isn’t high prices due to IP rights; it’s dramatically scaling up manufacturing capacity. It takes 60 to 110 days to produce one batch of COVID-19 vaccine. When Serum Institute CEO Adam Poonawalla was asked if vaccine rollout was slowed because vaccine patentholders were licensing too few manufacturers to make them, he responded, “No. There are enough manufacturers, it just takes time to scale up. And by the way, I have been blown away by the cooperation between the public and private sectors in the last year, in developing these vaccines.” Poonawalla actually cited the lack of global regulatory harmonization as a far greater cause of delays in the vaccine rollout. Even Médecins Sans Frontières’ Rose Scourze acknowledged (in a January 20, 2021 BBC interview) that suspending patent rights “wouldn’t produce millions of more vaccines.”

Instead of forcing the disclosure of IP, policymakers should encourage the use of voluntary licensing agreements to expand production of the needed COVID-19 vaccines and therapeutics. One reason this critically matters is to ensure consistency and safety in the production of these treatments. The mRNA-based vaccines developed by Moderna and Pfizer are incredibly complex biologic products that require specialized experience, expertise, and equipment to manufacture. For example, mRNA vaccines require a complicated technique known as “bioprocess” that requires specialty bioreactors to first manufacture DNA that codes for the desired mRNA sequence, and then uses a second bioprocess to create billions of identical mRNA segments. These are then wrapped in a nanolipid wrapper using yet another very specialized fluidics and mixing process, and for which there are only three facilities in the world that can execute the step of creating the liquid capsule around the RNA.

Instead of simply being forced to divulge their IP or see it be compulsorily licensed to other manufacturers, in light of the extreme complexity of manufacturing COVID-19 vaccines and therapeutics, companies should have the right to evaluate potential license partners and ensure that they can meet the production standards required to safely and reliably produce COVID-19 vaccines or treatments before entering into license arrangements with them. Indeed, this is critical for it would be disastrous if defective vaccines or therapeutics were produced at facilities not properly equipped to produce such complex treatments. As Phil Stevens and Mark Schultz have written, there’s simply no evidence that invalidating IP rights would achieve more than the licensing agreements currently being forged between innovators and reputable vaccine manufacturers in countries such as India and Brazil.

Instead of rolling back intellectual property rights, policymakers in developed and developing nations alike should focus on mechanisms to scale up production of vaccines and make them affordably available to citizens in developing countries. But to achieve that, there is simply no compelling reason for a blanket suspension of the intellectual property rights associated with COVID-19 products and technologies. For this reason, the Biden administration should continue the previous administration’s stance of opposing the waiver at the WTO TRIPS council, where deliberations resume on March 10, and reject calls from some in Congress to endorse the proposed TRIPS waiver.

#### Companies will keep complex production steps secret if forced to forgo patents – that shuts down cooperation.

Silverman 3/21 Rachel Silverman -- a policy fellow at the Center for Global Development, “Waiving vaccine patents won’t help inoculate poorer nations”, 15 March 2021, <https://www.washingtonpost.com/outlook/2021/03/15/vaccine-coronavirus-patents-waive-global-equity/> | MU

According to some activists, the solution to this inequity is relatively simple: By suspending protections on covid-19 vaccine patents, the international community “could help break Big Pharma monopolies and increase supplies so there are enough doses for everyone, everywhere,” [claims](https://peoplesvaccine.org/take-action/)the People’s Vaccine Alliance. Indeed, 58 low- and middle-income countries have mobilized in support of a proposed World Trade Organization [waiver](https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True) that would temporarily exempt [coronavirus](https://www.washingtonpost.com/coronavirus/?itid=lk_inline_manual_4)-related intellectual property from normal international rules and protections. And while the effort to waive IP protections has been a global health hot topic for months, it gained a high-profile endorsement in the United States recently from Sen. Bernie Sanders (I-Vt.). In a March 10 video statement, Sanders [called upon President Biden](https://twitter.com/GlobalJusticeUK/status/1369734275818549252?s=20) to support the IP suspension while slamming “huge, multibillion-dollar pharmaceutical companies [that] continue to prioritize profits by protecting their monopolies.”

The logic of the argument seems clear and intuitive — at first. Without patents, which serve narrow commercial interests, companies all over the world could freely produce the vaccine. Sure, Big Pharma would lose money — but this is a pandemic, and human life comes before private profit, especially when vaccines receive substantial public financing to support research and development. As with HIV drugs in years past, widespread generic production would dramatically increase supply and drive down prices to levels affordable even in the developing world.

Reality is more complicated, however. Because of the technical complexity of manufacturing coronavirus vaccines, waiving intellectual-property rights, by itself, would have little effect. It could even backfire, with companies using the move as an excuse to disengage from global access efforts. There are more effective ways to entice — and to pressure — companies to license and share their intellectual property and the associated know-how, without broadly nullifying patents.

The Moderna vaccine illustrates the limits of freeing up intellectual property. Moderna [announced in October](https://investors.modernatx.com/news-releases/news-release-details/statement-moderna-intellectual-property-matters-during-covid-19) that it would not enforce IP rights on its coronavirus vaccine — and yet it has taken no steps to share information about the vaccine’s design or manufacture, citing commercial interests in the underlying technology. Five months later, production of the Moderna vaccine remains entirely under the company’s direct control within its owned and contracted facilities. Notably, Moderna is also the only manufacturer of a U.S.- or British-approved vaccine [not yet participating in Covax](https://www.washingtonpost.com/world/coronavirus-vaccine-access-poor-countries-moderna/2021/02/12/0586e532-6712-11eb-bf81-c618c88ed605_story.html?itid=lk_inline_manual_9), a global-aid-funded effort (including a [pledged $4 billion from the United States](https://www.npr.org/2021/02/18/969145224/biden-to-announce-4-billion-for-global-covid-19-vaccine-effort)) to purchase vaccines for use in low- and middle-income countries.

It is true, however, that activist pressure — including threats to infringe upon IP rights — can encourage originators to enter into voluntary licensing arrangements. So the global movement to liberate the vaccine patents may be useful, even if some advocates make exaggerated claims about the effects of waivers on their own.

[We focused on covid. Now our other patients are suffering.](https://www.washingtonpost.com/outlook/2021/03/08/covid-hospital-addiction-cancer/?itid=lk_interstitial_manual_11)

One reason patent waivers are unlikely to help much in this case is that vaccines are harder to make than ordinary drugs. Because most drugs are simple chemical compounds, and because the composition of the compounds is easily analyzable, competent chemists can usually reverse-engineer a production process with relative ease. When a drug patent expires, therefore — or is waived — generic companies can readily enter the market and produce competitive products, [lowering prices dramatically](https://www.fda.gov/about-fda/center-drug-evaluation-and-research-cder/generic-competition-and-drug-prices).

Vaccines, in contrast, are complex [biological](https://www.fda.gov/about-fda/center-biologics-evaluation-and-research-cber/what-are-biologics-questions-and-answers#:~:text=What%20is%20a%20biological%20product,tissues%2C%20and%20recombinant%20therapeutic%20proteins.) products. Observing their contents is insufficient to allow for imitation. Instead, to produce the vaccine, manufacturers need access to the developer’s “soft” IP — the proprietary recipe, cell lines, manufacturing processes and so forth. While some of this information is confidentially submitted to regulators and might theoretically be released in an extraordinary situation (though not without legal challenge), manufacturers are at an enormous disadvantage without the originator’s cooperation to help them set up their process and kick-start production. Even with the nonconsensual release of the soft IP held by the regulator, the process of trial and error would cause long delays in a best-case scenario. Most likely, the effort would end in expensive failure. Manufacturers also need certain raw ingredients and other materials, like glass vials and filtration equipment; overwhelming demand, paired with disruptive export restrictions, has constricted the global availability of some of these items.

#### Forcibly waiving patents and compulsory licenses fail – few countries have production ability for vaccines. Patents increase cooperation by shifting market forces to induce sharing of tech.

Hilty 21 Michaela Hutterer interviews Reto Hilty, the Director at the Max Planck Institute for Innovation and Competition. The expert on intellectual property law argues that patent rights on vaccines against Covid-19 should be upheld, even during the pandemic. Several countries have called for the patent protection to be suspended., "Interfering with patent protection means playing with fire", 15 March 2021, <https://www.mpg.de/16579491/patent-protection-vaccines-covid-10-reto-hilty> | MU

A good year after SARS-CoV-2 was first discovered, there are now five vaccines available against the virus, but they are in short supply; so much so that India and South Africa have called for a relaxation of patent protection rules. Their proposal to temporarily suspend intellectual property (IP) rules related to Covid-19 vaccines and treatments is currently being discussed at the World Trade Organization. But is this proposal the right approach? In an interview, Reto Hilty, Director at the Max Planck Institute for Innovation and Competition, explains why he thinks laying hands on patent protection is dangerous.

India and South Africa are shaking up international patent law with their request for a temporary suspension of patent protection for vaccines. More than 100 countries support the initiative in the World Trade Organization (WTO) Council, followed by human rights organizations and the Vatican. Professor Hilty, can worldwide patent protection simply be suspended?

Not really. The intention is to suspend only certain obligations of WTO member states arising from the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement). Specifically, patents for inventions related to Covid-19 vaccines would then no longer have to be respected. If the proposal were to be accepted, each individual member state would be able to decide for itself whether or not to suspend patent protection; those who cannot currently afford the vaccines would be most likely to make use of it. Indeed, without significantly cheaper access to vaccines, the situation will not change for them even if a sufficient number of doses do become available one day. The problem, however, is that suspending patent protection in one’s own country is of no use if no local company is technically capable of producing such vaccines.

Which patents are affected?

Ironically, it is not just patents relating to Covid-19 vaccines that are at issue. Although we may assume that such specific patents have been filed by now, we do not yet know what exactly was applied for, because a publication of the application only takes place after 18 months. The examination of whether or not the patent requirements are met takes significantly longer, which is why the first patents for those new vaccines are not expected to be granted for at least three years.

The crucial factor, however, is that the modern vaccines, especially those from BioNTech/Pfizer and Moderna and, if authorized, in the future from Curevac, which are all based on messenger RNA and can be readily adapted to mutations, are derived from technologies that are themselves protected by basic patents that have already been granted or are still to be granted. However, these technologies also have other, very promising areas of application, namely in cancer therapy. If the patent protection for vaccines were to be suspended, this would also have to be the case for such basic patents, because they play a role in production. It is unlikely that this would increase incentives for the pharmaceutical industry to continue investing in such future technologies. Those who challenge patent protection at this point are therefore playing with fire.

Granting of compulsory licences to manufacturers is also being discussed, as seen recently in the Bundestag on the initiative of the left-wing party Die Linke. How practicable is this?

Compulsory licences essentially are nothing new. The TRIPS Agreement allows them to be granted under certain conditions. In addition to an exceptional situation, which naturally exists in the case of a pandemic, the patent holder also needs to have refused to grant contractual licences. However, a compulsory licence has to be sued for. This can entail lengthy court proceedings. Alternatively and more quickly, a state can grant the right of use directly to suitable manufacturers on its own initiative. This makes sense if there is an undersupply that has to be remedied promptly. However, this is of no more use to countries without their own industries than is the suspension of patent protection.

But the word is, there are countries that have corresponding industries and would be interested. What about them?

The idea that there is simply one patent for every vaccine for which an order for exploitation could be issued hardly corresponds to reality. If there is a whole network of existing patents or even just filed applications, and potentially different holders are affected, complex assessments are required to ensure that such state intervention in the market is ultimately effective. If instead it can be achieved that the market players involved, who usually know the competitive situation better than government agencies, cooperate with each other and grant each other the necessary licences on a contractual basis, this is generally more efficient.

Isn't the shortage in vaccines due to overly cautious licensing practices?

In the meantime, a whole series of commissioned productions on the basis of licences has become known. Of course, this industry is often not very transparent. But I would not assume from the outset that the pharmaceutical companies that developed the vaccines are now refusing to grant licences to independent manufacturers. Already the development of the vaccines has been based on an unprecedented level of cooperation between competitors. Now it is a matter of exploiting market opportunities for those whose vaccines have been authorized. After all, with each new vaccine competition is becoming increasingly fierce. This creates the right incentives.

Such as?

No entrepreneur likes to leave the market to its competitors. Whoever lacks their own production capacity can secure market shares by involving licensees. The only problem is: There are not that many suitable manufacturers for modern vaccines at present. An illustrative example is the cooperation between BioNTech/Pfizer and Novartis or Sanofi – all global corporations. They are among the few that are even capable of filling of vaccines into vials. This transformation of one plant alone takes months for each partner. It is also worth mentioning in this context, moreover, that without patents such cooperation between the otherwise fiercest competitors would hardly occur. Patents are the very prerequisite for cooperation on technically complex products. They not only protect against imitation, but also provide the legal certainty that a licensee will use the company's proprietary technology in accordance with the contractual specifications.

#### In the age of globalization multilateral cooperation is necessary to prevent outbreaks.

Laxminarayan et al. 12 Ramanan Laxminarayan Ph.D., M.P.H is an economist and an epidemiologist. He is founder and director of the Center for Disease Dynamics, Economics & Policy in Washington, D.C. and senior research scholar at Princeton University, an affiliate professor at the University of Washington. “Cooperation is crucial to eliminate infectious disease”, June 2012, <https://www.scidev.net/global/opinions/cooperation-is-crucial-to-eliminate-infectious-disease/> | MU

Even non-neighbouring countries can experience huge gains from every country’s efforts. India’s smallpox eradication programme, which was supported by a global effort including the United States, failed initially because of an ineffective strategy, despite the long-term economic incentive. But the United States benefited by not having to carry out in-country vaccinations once smallpox was eradicated worldwide. [3]

When non-infected countries invest in vaccination efforts for infected countries, enhanced herd immunity in the long term benefits the global population. The Lubombo Spatial Development Initiative, which covered eastern Swaziland, southern Mozambique and the northeastern KwaZulu-Natal province in South Africa, is one example in which a richer country (South Africa) financed the elimination of malaria in poorer countries (Swaziland and Mozambique).

The first step in achieving global benefit is to achieve regional benefits. And since the world is increasingly connected, the benefits of regional control usually extend to non-neighbouring countries — for example, by avoiding introductions of malaria from endemic to disease-free regions.

To effectively target diseases that extend across borders, cooperation — among countries, external funders and international organisations — is essential. In practical terms, this begins with understanding the origins of the disease and is facilitated through coordinated logistical and administrative efforts, long-term funding and targeting disease in infected populations.

The importance of transboundary incentives suggests that malaria elimination, for instance, has as much to do with a neighbouring country’s stance against malaria — and its effect on the number of incoming cases — as the endemic country’s control efforts. International programmes should pay attention to these incentives and explicitly consider them in financing measures to control infectious diseases that span countries.