## 1

#### **Interpretation: “medicines” treat or cure, whereas vaccines prevent.**

Vecchio 21 (Christopher Vecchio, [CFA, Senior Strategist,], 7-22-2021, “Delta Variant Concerns Won't Cripple Markets, US Economy“, DailyFX, accessed: 8-9-2021, https://www.dailyfx.com/forex/video/daily\_news\_report/2021/07/22/market-minutes-delta-variant-concerns-wont-cripple-markets-us-economy.html) ajs

Let’s stick to the facts. The COVID-19 vaccines are not medicines, which by definition “treat or cure diseases.” Vaccines “help prevent diseases,” an important distinction. Why does this matter? Because data coming out of some of the world’s developed economies with high adult vaccination rates suggest that the vaccines are working as intended: tail-risks have been reduced, with hospitalizations and deaths falling relative to the recent spike in infections (which have been occurring primarily among the unvaccinated at this point). Put another way, vaccines are like a Kevlar vest for the immune system; while they don’t make you bulletproof, they dramatically increase the odds of surviving an adverse event.

#### Violation:

#### Standards:

#### 1. Limits – expanding the topic to preventative treatment or medical interventions allows anything from surgery to medical devices to education strategies or mosquito repellent to prevent malaria. Destroys core generics like innovation which are exclusive to disease curing – core of the topic is about proprietary information.

#### Paradigm:

#### Fairness – Debate is a competitive activity governed by rules. You can’t evaluate who did better debating if the round is structurally skewed, so fairness is a gateway to substantive debate.

#### DTD – Time spent on theory cant be compensated for, the 1nc was already skewed, and its key to deterring abuse.

#### Prefer Competing interps -

#### 1. reasonability is arbitrary and invites judge intervention.

#### 2. it Causes a race to the bottom where debaters push the limit as to how reasonably abusive, they can be.

#### No RVI’s -

#### 1. Chills some debaters from reading theory against abusive postions.

#### 2. incentivizes theory baiting where you can just bait theory to win.

## 2

#### CP Text: Member states of the World Trade Organization should enter into a prior and binding consultation with the World Health Organization on whether or not to reduce intellectual property protections for women’s health. The World Health Organization ought to publicly declare that their decision on the plan will represent their future decisions on all intellectual property protections on medicines.

#### WHO says yes – it supports increasing the availability of generics and limiting TRIPS

Hoen 03 [(Ellen T., researcher at the University Medical Centre at the University of Groningen, The Netherlands who has been listed as one of the 50 most influential people in intellectual property by the journal Managing Intellectual Property, PhD from the University of Groningen) “TRIPS, Pharmaceutical Patents and Access to Essential Medicines: Seattle, Doha and Beyond,” Chicago Journal of International Law, 2003] JL

However, subsequent resolutions of the World Health Assembly have strengthened the WHO’s mandate in the trade arena. In 2001, the World Health Assembly adopted two resolutions in particular that had a bearing on the debate over TRIPS [30]. The resolutions addressed:

– the need to strengthen policies to increase the availability of generic drugs;

– and the need to evaluate the impact of TRIPS on access to drugs, local manufacturing capacity, and the development of new drugs.

#### The plan’s unilateral action by the WTO on medical IP undermines WHO legitimacy – forcing a perception of WHO action against patents is key to re-assert it – they say yes.

Rimmer 04, Matthew. "The race to patent the SARS virus: the TRIPS agreement and access to essential medicines." Melbourne Journal of International Law 5.2 (2004): 335-374. <https://law.unimelb.edu.au/__data/assets/pdf_file/0007/1681117/Rimmer.pdf> (BA (Hons), LLB (Hons) (Australian National University), PhD (New South Wales); Lecturer at ACIPA, the Faculty of Law, The Australian National University)//SidK + Elmer

The WHO has been instrumental in coordinating the international network of research on the SARS virus. It has emphasised the need for collaboration between the network participants. The WHO presented the containment of the SARS virus as ‘one of the biggest success stories in public health in recent years’.206 However, it **was less active in the debate over patent law** and public health epidemics. The 56th World Health Assembly considered the relationship between intellectual property, innovation and public health. It stressed that in order to tackle new public health problems with international impact, such as the emergence of severe acute respiratory syndrome (SARS), access to new medicines with potential therapeutic effect, and health innovations and discoveries should be universally available without discrimination.207 However, there was much disagreement amongst the member states as to what measures would be appropriate. The WHO has made a number of aspirational statements about patent law and access to essential medicines. Arguably, though, the organisation could be a much more informed and vocal advocate. Initially, the WHO did not view the patent issues related to SARS as being within its field of activities. The agency didnoteven seem aware of the patent proceedings, leaving individual research institutions without guidance. Spokesman Dick Thompson said: ‘What we care about is [that] the international collaboration continues to function. Patents, they don’t really concern us’.208 The director of WHO’s Global Influenza project, Klaus Stöhr, expressed his opinion that the patent filings would not interfere with the international cooperation on the SARS research: ‘I don’t think this will undermine the collaborative spirit of the network of labs’.209 However, he believed that, after the international network of researchers had identified the coronavirus, it was necessary to rely upon companies to commercialise such research. Klaus Stöhr conceded: ‘At a certain point of time you have to give way for competitive pharmaceutical companies’.210 On a policy front, the WHO remained deferential to the WTO over the debate over patent law and access to essential medicines, observing: Owing to the inconclusive nature of the studies conducted to date, and because of the effect that potentially significant price increases could have on access to drugs in poor countries, WHO is currently monitoring and evaluating the effects of TRIPS on the prices of medicines. It is also monitoring the TRIPS impact on other important issues such as transfer of technology, levels of research and development for drugs for neglected diseases, and the evolution of generic drug markets.211 In such a statement, the WHO appears diffident, unwilling to take on more than a spectator role. Such a position is arguably too timid, given the gravity of national emergencies, such as the SARS virus. The organisation could take a much stronger stance on the impact of the **TRIPS** Agreement on public health concerns. The WHO has since enunciated a position statement on the patenting of the SARS virus. A number of high ranking officials from the organisation have commented on the need to ensure that international research into the SARS virus is not impeded by competition over patents. Arguably though, the WHO **should not be limited to a mere spectator role in such policy discussions. It** needstoplay an active advocacy role in the debate over patent law and access to essential medicines. The WHO released a position statement on ‘Patent Applications for the SARS Virus and Genes’ on 29 May 2003.212 The organisation stressed that it had no per se objection to the patenting of the SARS virus: Some people have objected to the SARS patent applications on the ground that the virus and its genes should not be patentable because they are mere discoveries, not inventions. This distinction no longer prevents the granting of patents; the novel claim rests not with the virus itself but with its isolation, and likewise with the identification of the genetic sequence not its mere occurrence. Many patents have been issued on viruses and genetic sequences, though the appropriate policies to follow in such cases — particularly as genomic sequencing becomes more routine and less ‘inventive’ — remain matters of dispute.213 Furthermore, it recognised that public institutions could legitimately use patents as a defensive means to prevent undue commercial exploitation of the research: The “defensive” use of patents can be a legitimate part of researchers’ efforts to make their discoveries (and further discoveries derived therefrom) widely available to other researchers, in the best collaborative traditions of biomedical science.214 The WHO affirmed the need for further cooperation between research organisations in respect of the SARS virus: ‘For continued progress against SARS, it is essential that we nurture the spirit of the unprecedented, global collaboration that rapidly discovered the novel virus and sequenced its genome’.215 The WHO announced its intention to monitor the effects of patents (and patent applications) on the speed with which SARS diagnostic tests, treatments, and vaccines are developed and made available for use, and on the manner in which prices are set for these technologies. It observed: In the longer term, the manner in which SARS patent rights are pursued could have a profound effect on the willingness of researchers and public health officials to collaborate regarding future outbreaks of new infectious diseases. WHO will therefore examine whether the terms of reference for such collaborations need to be modified to ensure that the credit for any intellectual property developed is appropriately attributed, that revenues derived from licensing such property are devoted to suitable uses, and that legitimate rewards for innovative efforts do not impose undue burdens on efforts to make tests, therapies, and preventive measure available to all.216 It maintained that in order to tackle new public health problems with international impact, such as the emergence of severe acute respiratory syndrome (SARS), access to new medicines with potential therapeutic effect, and health innovations and discoveries should be universally available without discrimination.219 The Assembly requested that the Director-General continue to support Member States in the exchange and transfer of technology and research findings, according high priority to access to antiretroviral drugs to combat HIV/AIDS and medicines to control tuberculosis, malaria and other major health problems, in the context of paragraph 7 of the Doha Declaration which promotes and encourages technology transfer.220 The WHO also considered a report on the emergence of the SARS virus and the international response to the infectious disease.221 It was ‘deeply concerned that SARS ... poses a serious threat to global health security, the livelihood of populations, the functioning of health systems, and the stability and growth of economies’.222 The Committee on Infectious Diseases requested that the Director-General ‘mobilize global scientific research to improve understanding of the disease and to develop control tools such as diagnostic tests, drugs and vaccines that are accessible to and affordable by Member States’.223 The Director-General of the WHO, Dr Gro Harlem Brundtland, **told the World Health** Assembly that there was a need to build trust and forge solidarity in the face of public health epidemics: ‘**Ensuring that patent regimes stimulate research and do not hinder international scientific cooperation** is a critical challenge — whether the target is SARS or any other threat to human health’.224 Similarly, Dr Marie-Paule Kieny, Director of the WHO Initiative for Vaccine Research, said: If we are to develop a SARS vaccine more quickly than usual, we have to continue to work together on many fronts at once, on scientific research, intellectual property and patents issues, and accessibility. It is a very complicated process, involving an unprecedented level of international cooperation, which is changing the way we work.225 She emphasised that patents and intellectual property issues and their safeguards can help rather than hinder the rapid development of SARS vaccines and ensure that, once developed, they are available in both industrialised and developing countries.226 C Summary The WHO should play a much more active role in the policy debate over patent law and access to essential medicines. James Love, the director of the Consumer Project on Technology, run by Ralph Nader, is critical of the WHO statement on ‘Intellectual Property Rights, Innovation, and Public Health’.227 He maintains that the Assembly could have addressed ‘practical examples, like SARS’ and cites the report in The Washington Post that notes that a number of commercial companies are investing in SARS research.228 The non-government organisation Médecins Sans Frontières has been critical in the past of the passive role played by the WHO in the debate over access to essential medicines: ‘As the world’s leading health agency, and armed with the clear mandate of recent World Health Assembly resolutions, the WHO can and should **do much more’**.229 The WHO should become a vocal advocate for public health concerns at the WTO and its TRIPS Council — especially in relation to patent law and the SARS virus. It must staunchly defend the rights of member states to incorporate measures in their legislation that protect access to medicines — such as compulsory licensing, parallel imports, and measures to accelerate the introduction of generic pharmaceutical drugs. It needs to develop a clearer vision on global equity pricing for essential medicines. The race to patent the SARS virus seems to be an inefficient means of allocating resources. A number of public research organisations — including the BCCA, the CDC and HKU — were compelled to file patents in respect of the genetic coding of the SARS virus. Such measures were promoted as ‘defensive patenting’ — a means to ensure that public research and communication were not jeopardised by commercial parties seeking exclusive private control. However, there are important drawbacks to such a strategy. The filing of patents by public research organisations may be prohibitively expensive. It will also be difficult to resolve the competing claims between the various parties — especially given that they were involved in an international research network together. Seth Shulman argues that there is a need for international cooperation and communication in dealing with public health emergencies such as the SARS virus: The success of a global research network in identifying the pathogen is an example of the huge payoff that can result when researchers put aside visions of patents and glory for their individual laboratories and let their work behave more like, well, a virus. After all, the hallmark of an opportunistic virus like the one that causes SARS is its ability to spread quickly. Those mounting a response need to disseminate their information and innovation just as rapidly.230 There is a danger that such competition for patent rights may undermine trust and cooperation within the research network. Hopefully, however, such concerns could be resolved through patent pooling or joint ownership of patents. Furthermore, a number of commercial companies have filed patent applications in respect of research and development into the SARS virus. There will be a need for cooperation between the public and private sectors in developing genetic tests, vaccines, and pharmaceutical drugs that deal with the SARS virus. There is also a need to reform the patent system to deal with international collaborative research networks — such as that created to combat the SARS virus. Several proposals have been put forward. There has been a renewed debate over whether patents should be granted in respect of genes and gene sequences. Some commentators have maintained that the SARS virus should fall within the scope of patentable subject matter — to promote research and development in the field. However, a number of critics of genetic technology have argued that the SARS virus should not be patentable because it is a discovery of nature, and a commercialisation of life. There has been a discussion over the lack of harmonisation over the criteria of novelty and inventive step between patent regimes. As Peter Yu comments, ‘[w]hile [the] US system awards patents to those who are the first to invent, the European system awards patents to those who are the first to file an application’.231 There have been calls for the requirement of utility to be raised. There have also been concerns about prior art, secret use and public disclosure. Representative Lamar Smith of Texas has put forward the CREATE Act, which recognises the collaborative nature of research across multiple institutions. Such reforms are intended to ensure that the patent system is better adapted to deal with the global nature of scientific inquiry. The race to patent the SARS virus also raises important questions about international treaties dealing with access to essential medicines. The public health epidemic raises similar issues to other infectious diseases — such as AIDS, malaria, tuberculosis, influenza, and so forth. The WHO made a public statement about its position on the patenting of the SARS virus. It has stated that it will continue to monitor developments in this field. Arguably, there is a need for the WHO to play a larger role in the debate over patent law and access to essential medicines. Not only could it mediate legal disputes over patents in respect of essential medicines, it could be a vocal advocate in policy discussions. The WTO has also played an important role in the debate over patent law and access to essential medicines. A number of public interest measures could be utilised to secure access to patents relating to the SARS virus including compulsory licensing, parallel importation and research exceptions. The appearance of the SARS virus shows that there should be an open-ended interpretation of the scope of diseases covered by the Doha Declaration on the TRIPS Agreement and Public Health. Important lessons should be learned from the emergence of the SARS virus, and the threat posed to global health. As the World Health Report 2003 notes: SARS will not be the last new disease to take advantage of modern global conditions. In the last two decades of the 20th century, new diseases emerged at the rate of one per year, and this trend is certain to continue. Not all of these emerging infections will transmit easily from person to person as does SARS. Some will emerge, cause illness in humans and then disappear, perhaps to recur at some time in the future. Others will emerge, cause human illness and transmit for a few generations, become attenuated, and likewise disappear. And still others will emerge, become endemic, and remain important parts of our human infectious disease ecology.232 Already, in 2004, there have been worries that pharmaceutical drug companies and patent rights are impeding efforts to prevent an outbreak of bird flu — avian influenza.233 There is a need to ensure that the patent system is sufficiently flexible and adaptable to cope with the appearance of new infectious diseases.234

#### Consultation displays strong leadership, authority, and cohesion among member states which are key to WHO legitimacy

Gostin et al 15 [(Lawrence O., Linda D. & Timothy J. O’Neill Professor of Global Health Law at Georgetown University, Faculty Director of the O’Neill Institute for National & Global Health Law, Director of the World Health Organization Collaborating Center on Public Health Law & Human Rights, JD from Duke University) “The Normative Authority of the World Health Organization,” Georgetown University Law Center, 5/2/2015] JL

Members want the WHO to exert leadership, harmonize disparate activities, and set priorities. Yet they resist intrusions into their sovereignty, and want to exert control. In other words, ‘everyone desires coordination, but no one wants to be coordinated.’ States often ardently defend their geostrategic interests. As the Indonesian virus-sharing episode illustrates, the WHO is pulled between power blocs, with North America and Europe (the primary funders) on one side and emerging economies such as Brazil, China, and India on the other. An inherent tension exists between richer ‘net contributor’ states and poorer ‘net recipient’ states, with the former seeking smaller WHO budgets and the latter larger budgets. Overall, national politics drive self-interest, with states resisting externally imposed obligations for funding and action. Some political leaders express antipathy to, even distrust of, UN institutions, viewing them as bureaucratic and inefficient. In this political environment, it is unsurprising that members fail to act as shareholders. Ebola placed into stark relief the failure of the international community to increase capacities as required by the IHR. Guinea, Liberia and Sierra Leone had some of the world's weakest health systems, with little capacity to either monitor or respond to the Ebola epidemic.20 This caused enormous suffering in West Africa and placed countries throughout the region e and the world e at risk. Member states should recognize that the health of their citizens depends on strengthening others' capacity. The WHO has a central role in creating systems to facilitate and encourage such cooperation.

The WHO cannot succeed unless members act as shareholders, foregoing a measure of sovereignty for the global common good. It is in all states' interests to have a strong global health leader, safeguarding health security, building health systems, and reducing health inequalities. But that will not happen unless members fund the Organization generously, grant it authority and flexibility, and hold it accountable.

#### WHO is critical to disease prevention – it is the only international institution that can disperse information, standardize global public health, and facilitate public-private cooperation.

Murtugudde 20 [(Raghu, professor of atmospheric and oceanic science at the University of Maryland, PhD in mechanical engineering from Columbia University) “Why We Need the World Health Organization Now More Than Ever,” Science, 4/19/2020] JL

WHO continues to play an indispensable role during the current COVID-19 outbreak itself. In November 2018, the US National Academies of Sciences, Engineering and Medicine organised a workshop to explore lessons from past influenza outbreaks and so develop recommendations for pandemic preparedness for 2030. The salient findings serve well to underscore the critical role of WHO for humankind. The world’s influenza burden has only increased in the last two decades, a period in which there have also been 30 new zoonotic diseases. A warming world with increasing humidity, lost habitats and industrial livestock/poultry farming has many opportunities for pathogens to move from animals and birds to humans. Increasing global connectivity simply catalyses this process, as much as it catalyses economic growth. WHO coordinates health research, clinical trials, drug safety, vaccine development, surveillance, virus sharing, etc. The importance of WHO’s work on immunisation across the globe, especially with HIV, can hardly be overstated. It has a rich track record of collaborating with private-sector organisations to advance research and development of health solutions and improving their access in the global south. It discharges its duties while maintaining a dynamic equilibrium between such diverse and powerful forces as national securities, economic interests, human rights and ethics. COVID-19 has highlighted how political calculations can hamper data-sharing and mitigation efforts within and across national borders, and WHO often simply becomes a convenient political scapegoat in such situations. International Health Regulations, a 2005 agreement between 196 countries to work together for global health security, focuses on detection, assessment and reporting of public health events, and also includes non-pharmaceutical interventions such as travel and trade restrictions. WHO coordinates and helps build capacity to implement IHR.

#### Extinction – defense is wrong.

Piers Millett 17, Consultant for the World Health Organization, PhD in International Relations and Affairs, University of Bradford, Andrew Snyder-Beattie, “Existential Risk and Cost-Effective Biosecurity”, Health Security, Vol 15(4), http://online.liebertpub.com/doi/pdfplus/10.1089/hs.2017.0028

Historically, disease events have been responsible for the greatest death tolls on humanity. The 1918 flu was responsible for more than 50 million deaths,1 while smallpox killed perhaps 10 times that many in the 20th century alone.2 The Black Death was responsible for killing over 25% of the European population,3 while other pandemics, such as the plague of Justinian, are thought to have killed 25 million in the 6th century—constituting over 10% of the world’s population at the time.4 It is an open question whether a future pandemic could result in outright human extinction or the irreversible collapse of civilization. A skeptic would have many good reasons to think that existential risk from disease is unlikely. Such a disease would need to spread worldwide to remote populations, overcome rare genetic resistances, and evade detection, cures, and countermeasures. Even evolution itself may work in humanity’s favor: Virulence and transmission is often a trade-off, and so evolutionary pressures could push against maximally lethal wild-type pathogens.5,6 While these arguments point to a very small risk of human extinction, they do not rule the possibility out entirely. Although rare, there are recorded instances of species going extinct due to disease—primarily in amphibians, but also in 1 mammalian species of rat on Christmas Island.7,8 There are also historical examples of large human populations being almost entirely wiped out by disease, especially when multiple diseases were simultaneously introduced into a population without immunity. The most striking examples of total population collapse include native American tribes exposed to European diseases, such as the Massachusett (86% loss of population), Quiripi-Unquachog (95% loss of population), and theWestern Abenaki (which suffered a staggering 98% loss of population). In the modern context, no single disease currently exists that combines the worst-case levels of transmissibility, lethality, resistance to countermeasures, and global reach. But many diseases are proof of principle that each worst-case attribute can be realized independently. For example, some diseases exhibit nearly a 100% case fatality ratio in the absence of treatment, such as rabies or septicemic plague. Other diseases have a track record of spreading to virtually every human community worldwide, such as the 1918 flu,10 and seroprevalence studies indicate that other pathogens, such as chickenpox and HSV-1, can successfully reach over 95% of a population.11,12 Under optimal virulence theory, natural evolution would be an unlikely source for pathogens with the highest possible levels of transmissibility, virulence, and global reach. But advances in biotechnology might allow the creation of diseases that combine such traits. Recent controversy has already emerged over a number of scientific experiments that resulted in viruses with enhanced transmissibility, lethality, and/or the ability to overcome therapeutics.13-17 Other experiments demonstrated that mousepox could be modified to have a 100% case fatality rate and render a vaccine ineffective.18 In addition to transmissibility and lethality, studies have shown that other disease traits, such as incubation time, environmental survival, and available vectors, could be modified as well.19-2

#### Ought means should

Merriam Webster n.d. – Merriam Webster’s Learner’s Dictionary, “ought”, <http://www.learnersdictionary.com/definition/ought>  
ought /ˈɑːt/ verb  
Learner's definition of OUGHT [modal verb] 1 ◊ Ought is almost always followed by to and the infinitive form of a verb. The phrase ought to has the same meaning as should and is used in the same ways, but it is less common and somewhat more formal. The negative forms ought not and oughtn't are often used without a following to. — used to indicate what is expected They ought to be here by now. You ought to be able to read this book. There ought to be a gas station on the way. 2 — used to say or suggest what should be done You ought to get some rest. That leak ought to be fixed. You ought to do your homework.

#### Should means must and 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).

## 3

#### Counterplan: the member nations of the World Trade Organization should organize an international effort to purchase women’s health medicines and distribute it equitably at no cost on a needs basis by declaring it a human right.

#### Solves the aff – their solvency advocate is super vague and just says access needs to increase.

**1AC Mike 2**: Mike, Jennifer H. [School of Law, American University of Nigeria, Yola, Nigeria, Nigeria] “Access to essential medicines to guarantee women's rights to health: The pharmaceutical patents connection” *Wiley Online Library,* 2020. <https://onlinelibrary.wiley.com/doi/full/10.1111/jwip.12161> JP

The sum total of the arguments and analysis indicates that human rights relate to health and that access to medicines is germane to the enjoyment of the right to health as well as the right to life. **In this manner, human rights provide the basis to argue for the alleviation of problems inhibiting women's access to healthcare**. This rights approach to the issue of accessing medicine is relevant because it provides a guiding standard for national policies, laws and programmes to achieve the goal of fulfilling, protecting, respecting and generally securing their right to health. **To secure women's right to health and ensure that they can fully enjoy their human rights, it is submitted that there is a need to promote their access to affordable medicines. The article highlighted the concern that the patent protection of pharmaceuticals could result in high prices or stifle incremental innovation which could have the effect of impeding the availability of and women's access to affordable drugs for serious medical needs. In this event, one of the ways in which the state can meet its obligation, as to the right to health is to make sure that pharmaceutical patents do not constitute an obstruction to the enjoyment of the rights of women to adequate healthcare.** The foregoing discussion also argued that pharmaceutical companies and patent owners can have a human right to health responsibility within the sphere of their business operations. This responsibility would pertain to the pricing of their drugs, testing and clinical trials, R&D, provision of safe and good quality medicines and the duty to ensure that their practices do not constitute an obstacle, especially to women's enjoyment of human rights and their right to medicines. Notwithstanding the obligations of pharmaceutical companies to the right to access medicines, states are ultimately the duty bearers accountable for the guarantees, and prevention of the violations of the rights to access medicines. It is their duty to monitor and also ensure that pharmaceutical firms do not impede the enjoyment of the right to health. In closing, the argument based on human rights principles is a consideration of women's health needs in regulations and policies to fulfil their demands of healthcare. **Ultimately, if women's access to medicines is to be enhanced, the state must provide medicines and also guarantee the sustainable availability and accessibility of drugs through every avenue.**

## 4

#### Despite growing rivalry, US-China economic interdependence strong now. Exchange of tech know-how, collaboration science research, and massive US-China STEM pipeline improving relations – but it can easily collapse.

Hass 21[Ryan Hass (Senior Fellow - Foreign Policy, Center for East Asia Policy Studies, John L. Thornton China Center The Michael H. Armacost Chair Chen-Fu and Cecilia Yen Koo Chair in Taiwan Studies Nonresident Fellow, Paul Tsai China Center, Yale Law School), 8-12-2021, "The “new normal” in US-China relations: Hardening competition and deep interdependence," Brookings, <https://www.brookings.edu/blog/order-from-chaos/2021/08/12/the-new-normal-in-us-china-relations-hardening-competition-and-deep-interdependence/> // belle]

The intensification of U.S.-China competition has captured significant attention in recent years. American attitudes toward China have become more negative during this period, as anger has built over disruptions resulting from the COVID-19 pandemic, Beijing’s trampling of Hong Kong’s autonomy, human rights violations in Xinjiang, and job losses to China. Amidst this focus on great power competition, two broader trends in the U.S.-China relationship have commanded relatively less attention. The first has been the widening gap in America’s and China’s overall national power relative to every other country in the world. The second has been the continuing thick interdependence between the United States and China, even amidst their growing rivalry. Even on economic issues, where rhetoric and actions around decoupling command the most attention, trade and investment data continue to point stubbornly in the direction of deep interdependence. These trends will impact how competition is conducted between the U.S. and China in the coming years. SEPARATING FROM THE PACK As America’s unipolarity in the international system has waned, there has been renewed focus on the role of major powers in the international system, including the European Union, Russia, India, and Japan. Each of these powers has a major population and substantial economic weight or military heft, but as my Brookings colleague Bruce Jones has observed, none have all. Only the United States and China possess all these attributes. The U.S. and China are likely to continue amassing disproportionate weight in the international system going forward. Their growing role in the global economy is fueled largely by both countries’ technology sectors. These two countries have unique traits. These include world-class research expertise, deep capital pools, data abundance, and highly competitive innovation ecosystems. Both are benefitting disproportionately from a clustering effect around technology hubs. For example, of the roughly 4,500 artificial intelligence-involved companies in the world, about half operate in the U.S. and one-third operate in China. According to a widely cited study by PricewaterhouseCoopers, the U.S. and China are set to capture 70% of the $15.7 trillion windfall that AI is expected to add to the global economy by 2030. The United States and China have been reinvesting their economic gains to varying degrees into research and development for new and emerging technologies that will continue to propel them forward. While it is not foregone that the U.S. and China will remain at the frontier of innovation indefinitely, it also is not clear which other countries might displace them or on what timeline. Overall, China’s economy likely will cool in the coming years relative to its blistering pace of growth in recent decades, but it is not likely to collapse. DEEP INTERDEPENDENCE At the same time, bilateral competition between the United States and China also is intensifying. Even so, rising bilateral friction has not – at least not yet – undone the deep interdependencies that have built up between the two powers over decades. In the economic realm, trade and investment ties remain significant, even as both countries continue to take steps to limit vulnerabilities from the other. For example, Chinese regulators have been asserting greater control over when and where Chinese companies raise capital; Beijing’s recent probe of ride-hailing app Didi Chuxing provides but the latest example. China’s top leaders have been emphasizing the need for greater technology “self-sufficiency” and have been pouring billions of dollars of state capital into this drive. Meanwhile, U.S. officials have been seeking to limit American investments from going to Chinese companies linked to the military or surveillance sectors. The Security and Exchange Commission’s scrutiny of initial public offerings for Chinese companies and its focus on ensuring Chinese companies meet American accounting standards could result in some currently listed Chinese companies being removed from U.S. exchanges. Both countries have sought to disentangle supply chains around sensitive technologies with national security, and in the American case, human rights dimensions. U.S. officials have sought to raise awareness of the risks for American firms of doing business in Hong Kong and Xinjiang. Even so, U.S.-China trade and investment ties remain robust. In 2020, China was America’s largest goods trading partner, third largest export market, and largest source of imports. Exports to China supported an estimated 1.2 million jobs in the United States in 2019. Most U.S. companies operating in China report being committed to the China market for the long term. U.S. investment firms have been increasing their positions in China, following a global trend. BlackRock, J.P. Morgan Chase, Goldman Sachs, and Morgan Stanley have all increased their exposure in China, matching similar efforts by UBS, Nomura Holdings, Credit Suisse, and AXA. The Rhodium Group estimates that U.S. investors held $1.1 trillion in equities issued by Chinese companies, and that there was as much as $3.3 trillion in U.S.-China two-way equity and bond holdings at the end of 2020. One leg of the U.S.-China economic relationship that has atrophied in recent years has been China’s flow of investment into the United States. This has largely been a product of tightened capital controls in China, growing Chinese government scrutiny of its companies’ offshore investments, and enhanced U.S. screening of Chinese investments for national security concerns. Another area of U.S.-China interdependence has been knowledge production. As U.S.-China technology expert Matt Sheehan has observed, “With the rise of Chinese talent and capital, the exchange of technological know-how between the United States and China now takes place among private businesses and between individuals.” Leading technology companies in both countries have been building research centers in the other. Alibaba, Baidu, and Tencent have all opened research centers in the United States, just as Apple, Microsoft, Tesla, and other major American technology companies rely upon engineering talent in China. In science collaboration, The Nature Index ranks the joint research between the two countries as the world’s most academically fertile. U.S.-China scientific collaboration grew by more than 10% each year on average between 2015 and 2019. Even following the global spread of COVID-19, American and Chinese experts collaborated more during the past year than over the previous five years combined. This has led to over 100 co-authored articles in leading scientific journals and frequent joint appearances in science-focused workshops and webinars. China also is the largest source of international students in the United States. In the 2019-20 year, there were over 370,000 Chinese students in the U.S., representing 34% of international students in colleges and universities. Up until now, many of the top Chinese students have stayed in the United States following graduation and contributed to America’s scientific, technological, and economic development. It remains to be seen whether this trend will continue.

#### Plan hurts US-China relations – means China goes back on it’s promise to regulate IP violations and draws in U.S. crackdown.

Shape 21 [Steven M. Shape; registered patent attorney and electrical engineer who has represented preeminent technology companies in complex, high-stakes Intellectual Property litigation; 2-19-2021, "IP Law Looms Large Over U.S.-China Relations," No Publication, [https://www.mondaq.com/trademark/1038030/ip-law-looms-large-over-us-china-relations //](https://www.mondaq.com/trademark/1038030/ip-law-looms-large-over-us-china-relations%20//) belle]

The U.S. and China were indisputably the two largest parties in the global trade war that consumed much of the last several years. Particularly between early 2018 and late 2019, it seemed as if one could hardly go a week, if that, without hearing something about tariffs, exports, imports, steel, soybeans, then-President Donald Trump, President Xi Jinping and the like. Accusations regarding violations of Intellectual Property law were among the biggest flashpoints, and ultimately, China announced new regulations concerning IP protection in November 2019 as a conciliatory move. Nearly 14 months later, newly inaugurated President Joe Biden has yet to fully clarify his administration's stance toward China. However, it is inevitable that IP rights and their preservation will factor into negotiations between the two economic giants. A look back at the proposed reforms (and their effects) Reports from CNN at the time claimed that China's prospective IP law reforms focused on making the penalties for IP infringement more strict. It would also put the government's increasingly modernized tech infrastructure to use in the discovery and prosecution of such crimes. Beyond that, the proposal carried few specifics. Although it is unclear whether Beijing's gambit worked as the deciding factor for Washington, it certainly did not fail. The two nations agreed in principle on "Phase One" of a new trade agreement December 12, 2019, per The Washington Post, and formalized the deal about a month later. The U.S. pledged not to impose further tariffs and roll back existing import taxes in return for China's IP reforms and agreement to buy American goods. In the 14 months that followed, so much changed. COVID-19's devastating impact on human life and the global economy made it difficult to gauge the positive effects of the tariff relief or IP reform. A report by the South China Morning Post found that China did not meet its import goal for 2020, with some analysts concluding the Phase One target was unrealistic. On the IP front, a Hong Kong news provider noted that Beijing had drafted some specific guidance to protect pharmaceutical patents, trade secrets and copyrights, but it was unclear how well they were being implemented. Additionally, a January 2021 report by the U.S. Patent and Trademark Office (USPTO) found that Chinese policies which offered subsidies for certain trademark and patent applications helped motivate a glut of fraudulent and bad-faith filings in the last few years. The bigger picture of China's IP law A casual observer or someone just learning of this issue might assume that until recently, China had little or no IP laws on the books. Of course, that is not true. However, there are many factors at play complicating the matter of Chinese IP protection policies. As noted in Harvard Business Review, China is quite strict in certain aspects of IP protection: Beijing allows (and encourages) all businesses to impose non-compete agreements to help protect trade secrets and other IP assets. In addition, according to the National Law Review, two new measures were passed in 2020 specifically to combat bad-faith trademark applications, in addition to the other new guidelines being imposed by the China National Intellectual Property Administration (CNIPA) in accordance with the Phase One agreement. All that said, it would be inaccurate to describe Chinese IP law as thoroughly protective for either domestic or foreign innovators. Along with the aforementioned trademark and patent subsidies, considerable controversy stems from "forced technology transfer" policies. According to the University of Oxford's Business Law Blog, foreign companies looking to do business in China must turn over their technology to local firms or be denied the right to operate within China. This effectively means turning over the blueprints (literal or otherwise) to such technology - which is all but equivalent to surrendering the IP. It creates considerable opportunities for infringement, fraud and corruption. Also, in disputes with foreign firms, some local IP courts still markedly favor domestic organizations. Chinese government representatives often resent such accusations of bias or corruption. In their view, the deals represent friendly agreements between businesses, and courts' decisions are not politically motivated. While Oxford noted that FTT guidelines are not as pervasive now as they were a few years ago, they have yet to disappear altogether. The Biden approach: Not dissimilar, but multilateral If the new U.S. Secretary of the Treasury, Janet Yellen, is to be believed, the Biden administration will not tolerate any signs of lapses in China's IP protections. "We need to take on China's abusive, unfair and illegal practices," Yellen said to the Senate Finance Committee at her confirmation hearings. As reported by Bloomberg, she added, "[China has] been stealing intellectual property and engaging practices that give it an unfair technological advantage, including forced technology transfers. And these . are practices that we're prepared to use the full array of tools to address." Biden had expressed similar sentiments during a December interview with The New York Times. However, he also said that they would work with ally nations to "develop a coherent strategy" for addressing cases of IP infringement and other issues - a stance Yellen echoed before the Senate - instead of taking China on in a unilateral and bellicose manner. This more nuanced approach could yield greater cooperation from Beijing and help repair U.S.-China trade relations, but we will likely not know one way or the other for some time. As we saw with the trade war, conflicts between the U.S. and China can quickly escalate and have ripple effects throughout the world. It would thus be wise for all organizations doing business in China to keep themselves abreast of the country's evolving IP regulations and work with a reliable IP services provider to help establish strong protection for their intangible assets.

#### US-China war leads to extinction.

Graham T. Allison 17. Professor and director of the Harvard Kennedy School’s Belfer Center. “How America and China Could Stumble to War.” The National Interest. 4/12/2017. <https://nationalinterest.org/feature/how-america-china-could-stumble-war-20150?page=0%2C6>

In the years ahead, could a collision between American and Chinese warships in the South China Sea, a drive toward national independence in Taiwan or jockeying between China and Japan over islands on which no one wants to live spark a war between China and the United States that neither wants? It may seem hard to imagine—the consequences would be so obviously disproportionate to any gains either side could hope to achieve. Even a non-nuclear war conducted mostly at sea and in the air could kill thousands of combatants on both sides. Moreover, the economic impact of such a war would be massive. A 2016 RAND study found that, after just one year, American GDP could decline by up to 10 percent and Chinese GDP by as much as 35 percent—setbacks on par with the Great Depression. And if a war did go nuclear, both nations would be utterly destroyed. Chinese and American leaders know they cannot let that happen.¶ Unwise or undesirable, however, does not mean impossible. Wars occur even when leaders are determined to avoid them. Events or actions of others narrow their options, forcing them to make choices that risk war rather than acquiesce to unacceptable alternatives. Athens did not want war with Sparta. Kaiser Wilhelm did not seek war with Britain. Mao initially opposed Kim Il-sung’s attack on South Korea in 1950 for fear of blowback. But events often require leaders to choose between bad and worse risks. And once the military machines are in motion, misunderstandings, miscalculations and entanglements can escalate to a conflict far beyond anyone’s original intent.¶ To better understand these dangers, Washington and Beijing have developed scenarios, simulations and war games. These often begin with an unexpected incident or accident. Individuals assigned to play the hand of China or the United States take it from there. Participants in these exercises are repeatedly surprised to find how often and easily small sparks lead to large wars. Today, there are at least three plausible paths to war between the world’s two greatest powers.¶ IN WAR scenarios, analysts use basic concepts made familiar by the U.S. Forest Service. Arsonists cause only a small fraction of fires. Discarded cigarettes, smoldering campfires, industrial accidents and bolts of lightning are much more common sources. Fortunately, in the forest as well as in relations among nations, most sparks do not ignite a blaze.¶ Background conditions often determine which sparks become fires. While Smokey the Bear’s warning that “only you can prevent forest fires” teaches campers and hikers about sparks, the Forest Service posts additional warnings after long dry spells or periods of extreme heat, occasionally closing high-risk areas. Moreover, it regulates the storage of flammable chemicals, propane tanks and gas depots, becoming increasingly stringent as conditions worsen.¶ In relations between China and the United States today, relevant background conditions include geography, culture and history. “History,” Henry Kissinger observed in his first book, “is the memory of states.” China’s memory is longer than most, with the century of humiliation forming a core part of the country’s identity. Recent military engagements are also part of each state’s living memory. The Korean War and Sino-Soviet border conflict taught Chinese strategists not to back down from more powerful adversaries. Moreover, both the American and Chinese militaries acknowledge that the United States has lost, or at least failed to win, four of the five major wars it has entered since World War II.¶ The most pertinent background conditions, however, are Thucydides’s Trap and the syndromes of rising and ruling powers that China and the United States display in full. Thucydides’s Trap is the severe structural stress caused when a rising power threatens to displace a ruling one. Most contests that fit this pattern have ended badly. Over the past five hundred years, a major rising power has threatened to displace a ruling power sixteen times. In twelve of those, the result was war.¶ The rising power syndrome highlights the upstart’s enhanced sense of itself, its interests, and its entitlement to recognition and respect. The ruling power syndrome is essentially the mirror image: the established power exhibiting an enlarged sense of fear and insecurity as it faces intimations of “decline.” As in sibling rivalries, so too in diplomacy one finds a predictable progression reflected both at the dinner table and at the international conference table. A growing sense of self-importance (“my voice counts”) leads to an expectation of recognition and respect (“listen to what I have to say”) and a demand for increased impact (“I insist”). Understandably, the established power views the rising country’s assertiveness as disrespectful, ungrateful and even provocative or dangerous. Exaggerated self-importance becomes hubris; unreasonable fear, paranoia.¶ ¶ LIKE GASOLINE to a match, accelerants can turn an accidental collision or third-party provocation into war. One cluster of accelerants is captured by what Carl von Clausewitz called the “fog of war.” Extending Thucydides’s insight about war as “an affair of chances,” Clausewitz observed that “war is the realm of uncertainty. Three quarters of the factors on which action in war is based are wrapped in a fog of greater or lesser uncertainty.” This profound uncertainty can lead a commander or policymaker to act aggressively when a fuller set of facts would advise caution, and vice versa.¶ The advent of disruptive weapons that promise “shock and awe” makes the fog and uncertainty even worse. With attacks on command-and-control systems, enemies can paralyze a nation’s military command. In Desert Storm, U.S. forces demonstrated version 1.0 of this option. They destroyed Saddam Hussein’s intelligence and cut communication links to his commanders in the field. Isolated, his forces hunkered down; it was like “shooting fish in a barrel,” U.S. pilots remarked.¶ Antisatellite weapons are one accelerant that military planners expect to play a big role in any U.S.-China conflict. Long a subject of science fiction, such weapons are today a fact of life, running the gamut from kinetic ones that physically destroy their targets to quieter systems that use lasers to jam or “dazzle” satellites, rendering them inoperable. In 2007, China successfully destroyed a weather satellite, and it regularly tests its antisatellite capabilities in less dramatic fashion. Satellites provide a crucial link in almost every U.S. military endeavor, from early warning of ballistic-missile launches and providing imagery and weather forecasts to planning operations. Global positioning satellites put the “precision” in almost all the military’s precision-guided munitions and allow ships, planes and ground units to know where they are on the battlefield. The United States depends on this technology more than any of its competitors, making it a perfect target for Chinese military planners.¶ ¶ Cyberspace provides even more opportunities for disruptive technological transformations that could provide a decisive advantage, on the one hand, but might also risk uncontrolled escalation, on the other. The details of offensive cyberweapons remain heavily classified and are constantly evolving. But the public has seen glimpses of them in some cases, such as America’s cyberattack against Iran’s nuclear program or its “left-of-launch” attacks on North Korea’s missile tests. America’s primary cyberspace organizations, the National Security Agency and U.S. Cyber Command, as well as their Chinese counterparts, can now use cyberweapons to silently shut down military networks and critical civilian infrastructure like power grids. Moreover, by employing proxies and assembling an international web of compromised computers, they can disguise the origins of a cyber-operation, slowing the victim’s ability to identify the attacker.¶ Like antisatellite measures, cyberweapons could create a decisive advantage in battle by disrupting the command-and-control and targeting information on which modern militaries depend—and without bloodshed. This presents a dangerous paradox: the very action that attackers believe will tamp down conflict can appear reckless and provocative to the victims. Similarly, cyberattacks that disrupt communication would intensify the fog of war, creating confusion that multiplies the chances of miscalculation.¶ While both the United States and China now have nuclear arsenals that could survive the other’s first strike and still allow for retaliation, neither can be sure its cyber arsenals could withstand a serious cyber assault. For example, a large-scale Chinese cyberattack against the U.S. military’s networks could temporarily cripple Washington’s ability to respond in kind, or even to operate some of its critical command-and-control and surveillance systems. This creates a dangerous use-it-or-lose-it dynamic in which each side has an incentive to attack key links in the other’s computer networks before their capabilities are disabled.¶ Compared with the bluntest instruments of war, especially nuclear bombs, cyberweapons seem to offer the promise of subtlety and precision. But this promise is illusory. Increased connectivity among systems and devices creates a domino effect. Unable to determine how the hacking of one system may affect others, attackers would find it difficult to narrowly tailor the effects of their operation and avoid unintended escalation. In 2016, 180,000 Internet-connected industrial control systems were operating around the world. Along with the proliferation of the “Internet of Things,” which encompasses some ten billion devices worldwide, the number of enticing targets is growing rapidly.¶ Another accelerant might involve compromising the confidentiality of sensitive networks. Some are obvious, such as those that operate nuclear command and control. Each side, however, may perceive other actions quite differently. Take China’s “Great Firewall,” a collection of hardware and software that enables Beijing to monitor and block vast segments of online content. Washington could disable a system essential to the Great Firewall, intending it as a modest, private warning. But for Chinese leaders who regard the ability to control citizens’ access to information as vital, the operation could be misconstrued as the tip of a spear aimed at regime change.¶ Given these background conditions, potential sparks can be frighteningly mundane. Escalation can occur rapidly. The following three scenarios show just how easily the United States and China can stumble into a war that each side hopes to avoid.¶ ¶ CURRENTLY, AMERICAN and allied warships and aircraft are operating in greater proximity to their Chinese counterparts than ever before. U.S. Navy guided-missile destroyers periodically conduct freedom-of-navigation operations near Chinese-controlled islands in the disputed waters of the South China Sea.¶ Suppose that during routine operations an American destroyer passes near Mischief Reef, one of the newly constructed islands where China has built runways for aircraft and installed air and missile defenses. As the ship nears the contested site, Chinese coast guard vessels harass the destroyer, just as they did during the USS Cowpens incident in 2013. Unlike that encounter, however, the U.S. destroyer is unable to swerve in time. It collides with a Chinese ship and sinks it, killing all on board.¶ ¶ The Chinese government now has three options. The dovish course would be to avoid escalation by allowing the American destroyer to leave the area and to protest its actions through diplomatic channels. At the other end of the spectrum, it could adopt an eye-for-an-eye approach and sink the destroyer using aircraft or missiles stationed on Mischief Reef. By refusing to be the “chicken,” while also not wanting to escalate, Beijing could opt for what it believes is a middle course. As the U.S. destroyer attempts to leave the area, a PLA Navy cruiser blocks its way, insisting that the destroyer entered Chinese territorial waters and demanding that its crew surrender and face justice for the deaths of the coast-guard personnel.¶ China believes it is deescalating the situation by allowing for a diplomatic solution, akin to the deal that permitted an American crew to go free after a crash landing near Hainan Island sixteen years ago. The background conditions have changed since that incident. From a U.S. perspective, China’s reckless harassment of the destroyer caused the collision in the first place. China’s attempt to arrest American sailors in international waters would undermine the principles of the law of the sea. Surrendering would have far-reaching repercussions: if the U.S. military will not stand up to China to defend operations conducted by its own navy, what message does that send to America’s allies, including Japan and the Philippines?¶ Not willing to undermine its credibility by surrendering, the destroyer could simply sink the Chinese cruiser blocking its path. Alternatively, to avoid further bloodshed and to show a degree of sensitivity to the nationalistic pressures Chinese leaders face at home, the United States could use a show of force to get the cruiser to back down peacefully. U.S. Pacific Command in Hawaii, in consultation with leaders in Washington, could order nearby aircraft to fly to the area, send an aircraft carrier stationed in Japan toward the South China Sea, and forward-deploy B-2 bombers to Guam. American officials believe these actions will signal their seriousness without risking any further escalation.¶ Events look different to Beijing, especially amid the fog of war. As China sees it, the United States has already sunk a Chinese vessel. Now scores of American aircraft are aloft, threatening attacks on the Chinese cruiser, other naval vessels, or military installations on nearby islands. Mindful of public opinion, Chinese leaders are especially conscious that any further bloodshed inflicted by the United States would force them to retaliate aggressively.¶ But events are running beyond Beijing’s control. As U.S. fighter jets rush to the scene to assist the stranded destroyer, a Chinese antiaircraft battery panics and fires on the oncoming aircraft. The U.S. aircraft take desperate evasive action, and the destroyer begins firing on Chinese antiaircraft sites on the island. Under attack, the Chinese commander on the island bombards the destroyer with antiship missiles. The missiles hit their intended target, killing hundreds of American sailors and sinking the ship. Those who escape are now stranded in small lifeboats.¶ Chinese leaders are desperate to avoid a full-scale war with the United States, but also cannot admit that their chain of command broke down. They claim their actions were a proportionate and defensive response because the American destroyer was the aggressor. Officials in Washington are stunned that China has sunk a $3 billion vessel and killed hundreds of American sailors. Though wary of going to war with China, those in the Situation Room cannot back down: video of the ship’s wreckage and stranded U.S. sailors on cable news and social media has made that impossible. Many in Congress are calling on the administration to authorize war plans based on the doctrine formerly named Air-Sea Battle, which calls for massive air strikes against missile and radar systems on the Chinese mainland. Realizing that attacks on China’s mainland would trigger war, the president authorizes Pacific Command to instead destroy China’s military bases on disputed islands in the South China Sea. The president reasons that this is a proportionate response, since these islands were directly responsible for the sinking of the destroyer. Furthermore, eliminating these military bases will allow U.S. ships to rescue the sailors stranded nearby. Most important, such an action would target only China’s artificial islands, leaving its mainland untouched.¶ President Xi Jinping and other Chinese officials do not make this distinction. For years they have told the public that China has undisputed sovereignty over these islands. They are an integral part of China proper, and America has just attacked them. (Americans who scoff should recall that the Japanese attack on Pearl Harbor struck neither the mainland nor even a U.S. state, yet still rallied a nation to war.) Many in China are demanding that Xi order the PLA to destroy U.S. military bases in Guam, Japan and elsewhere in the Pacific. Some want China to attack the United States itself. No one is calling for China to exercise restraint. As millions of its citizens’ social-media postings are reminding the government, after its century of humiliation at the hands of sovereign powers, the ruling Communist Party has promised: “never again.”¶ Still, President Xi clings to the hope that war can be avoided, an impossibility if China begins attacking U.S. military bases in Guam or Japan, killing soldiers and civilians and triggering retaliatory attacks on the Chinese mainland. Seeking a proportionate response to the U.S. attack on China’s island bases, Xi instead approves an alternative plan: using lasers, electronic and kinetic weapons to destroy or disable all U.S. military satellites in orbit above the crisis area, and using cyberattacks to cripple American command-and-control systems throughout the Asia-Pacific. The goal is to deescalate: Xi hopes that the United States will be shocked into backing down.¶ But from the American perspective, these “blinding” attacks are indistinguishable from the first stage of a coordinated attack on the U.S. aircraft carrier and its strike group sailing from Japan—an event for which the PLA has spent decades developing its “carrier-killer” antiship ballistic missiles. The ninety-thousand-ton carrier, a floating city of 5,500 sailors that the United States describes as sovereign American territory, is simply too big to lose. The president is not willing to take the risk. On the advice of the Joint Chiefs of Staff, the president reluctantly approves the only plan ready on short notice that has a chance of saving the carrier: a war plan based on Air-Sea Battle.¶ Using those assets still operational after the Chinese attack, the United States military begins destroying China’s “kill chains,” the various satellite and surveillance systems that allow Beijing to accurately target American carriers with its antiship missiles. It also launches massive cruise missile and stealth bomber attacks on PLA missile sites and air bases on the Chinese mainland, which could at any moment be used to sink U.S. vessels anywhere within the first island chain.¶ The attacks provoke exactly what they intended to avoid. Its mainland now under attack, and the targeting systems needed to operate China’s antiship weapons about to be lost, China must use them or lose them. Xi authorizes attacks on all U.S. warships within range, including the carrier group. American aircraft and naval escorts intercept Chinese bombers and fighter jets flying to the carrier, but a swarm of DF-21D ballistic missiles—the so-called carrier killers—prove too much to handle. Enough reach their target to sink the carrier, killing most of the 5,500 sailors on board—far more than died during Pearl Harbor. The dynamics of playing chicken with cyber and space weapons over the South China Sea has transformed a tiny spark into a roaring fire.¶ ¶ IF TAIWAN were an independent nation, it would be among the most successful countries in the world. Its hardworking population of twenty-three million has developed a market economy twice the size of the Philippines, Thailand or Vietnam. Although many in Taiwan want independence, China views it as a province. Beijing is prepared to do whatever it takes to keep Taipei from asserting its sovereignty. No other country has been prepared to fight China over the matter.¶ Suppose, however, that the Chinese government were to substantially increase repression at home, including in Hong Kong, where China promised to maintain considerable autonomy and freedom when Britain returned control of the city in 1997. Enraged that the Chinese government is backtracking on its promises, residents of Hong Kong take to the streets to demand that Beijing uphold its commitment to “One Country, Two Systems.” As the protests drag on for weeks with no resolution in sight, Xi orders the military to do what it did in Tiananmen Square in 1989: crush the protests.¶ The ensuing violence shocks the Taiwanese, particularly the younger generation. Pro-independence and anti-Beijing sentiment soars. In this atmosphere, the Taiwanese president is emboldened to ramp up rhetoric emphasizing her people’s hard-won rights and democracy. Her political allies go further, insisting that what has occurred in Hong Kong proves that Taiwan can never guarantee its citizens’ freedom without becoming a sovereign, independent country. To signal disapproval of Chinese regression in Hong Kong, the American president pointedly announces his respect for the Taiwanese president’s strong stance and declares that the 1979 Taiwan Relations Act fully commits the United States to defend Taiwan against a Chinese invasion.¶ This is a major break from the long-standing U.S. policy of “strategic ambiguity” on the issue, and the Taiwanese president interprets it as tacit endorsement of a move toward independence. In an interview with the New York Times , she announces that Taiwan will apply for full membership to the UN (a move that China has long opposed) and rejects the so-called 1992 Consensus, under which both parties had agreed to the One-China concept while allowing for differing interpretations of what it actually meant. To punish Taiwan’s insubordination and scare it into backing down, China conducts an enhanced version of the Third Taiwan Strait Crisis by barraging Taiwanese waters with “tests” of ballistic and cruise missiles, severely interrupting the commercial shipping that constitutes the island’s lifeline to the world. When Taipei still refuses to withdraw its membership application, China uses other weapons, including mine-laying drones, to further disrupt shipping into and out of Taiwan.¶ As a small island nation, Taiwan imports 70 percent of its food and most of its natural resources, including energy. A sustained blockade would grind its economy to a halt and cause large-scale food shortages. Despite opposition to Taiwan’s application to join the United Nations, the United States feels obliged to prevent its strangulation. Many pro-Taiwan members of Congress are demanding that the White House send aircraft carriers to Taiwan’s aid, just as Bill Clinton did during the 1995–96 crisis. But the administration knows that China’s antiship ballistic missiles would now pose a serious threat to any U.S. carriers moving into the area, and the American public has little stomach for another war.¶ Instead, U.S. Pacific Command offers to escort commercial shipping through the affected seas, a gesture of support but not of willingness to fight. The escort campaign puts U.S. warships at risk of being sunk by the Chinese missile barrage, either deliberately or accidentally—an event that could instantly kill more than one thousand Americans and spark calls for retaliation. In this scenario, a Chinese antiship missile—ostensibly fired as part of ongoing test barrages—sinks the USS John P. Murtha , an amphibious transport dock ship acting as an escort to civilian shipping. All of the nearly eight hundred sailors and marines aboard are killed—more than the United States lost in the first year of the Iraq War.¶ China insists that the sinking was accidental; the Murtha merely got in the way of a missile fired at a random patch of ocean. It reminds Washington that America accidently bombed China’s embassy in Belgrade in 1999. But in Washington, the secretary of defense and the chairman of the joint chiefs urge the president not to be deceived by this explanation. Instead they urge him to authorize the Air-Sea Battle plan to strike PLA antiship missile-launch sites on the mainland.¶ Confronted with the sinking of the Murtha, the president accedes to pressure from military and political advisers, and agrees to preemptively strike antiship and other ballistic-missile systems on the Chinese mainland. Because China’s conventional and nuclear missiles are kept in the same locations, and their command-and-control systems are intertwined, Beijing mistakenly believes the United States is trying to eliminate its nuclear arsenal in a surprise first strike. In a desperate attempt to “deescalate by escalating”—an Orwellian doctrine that is nevertheless a pillar of Russian military strategy—China fires one of its land-based, nuclear-tipped ballistic missiles into an empty tract of ocean south of Okinawa. The nuclear threshold has been crossed. And while no lives have been lost in the strike, it is but a short step from here to all-out nuclear war.¶ ¶ THE SPARK to a Sino-American clash need not initially involve American or Chinese military forces. Instead, it might result from a confrontation with or between third-party allies. Such a scenario nearly became reality in 2010, when North Korea sank the South Korean warship Cheonan, killing forty-six South Korean sailors. China supported North Korea’s denial of involvement. Seoul, meanwhile, insisted that Pyongyang be held accountable. Ultimately, the two Koreas and their allies stepped back from the brink. But with a new set of background conditions and accelerants today, it is not clear that it would be so easy to avoid war, especially if the third parties involved were less inured to the sort of slow, grinding tensions that the Korean Peninsula has endured for decades.¶ Besides South Korea, the other major U.S. ally in China’s immediate vicinity is Japan, a country with a post–World War II history of pacifism, but whose politics have become increasingly militaristic in recent years. Conservative Japanese politicians have spoken ever more stridently about revising the pacifist constitution imposed on their country by the United States. They have also been chafing against Chinese claims of sovereignty in the East and South China Seas. In a crisis involving its historical rival Beijing, any steps Tokyo takes would certainly be shaped by these memories, and by the Japanese government’s shifting attitude toward military force.¶ A likely flashpoint is the Senkaku Islands (known in China as the Diaoyu Islands), located near valuable fishing grounds, trade routes and potential oil reserves in the East China Sea. The United States controlled the islands after World War II, before returning them to Japan in the early 1970s. That same decade, China began claiming sovereignty over the islands. Chinese ships regularly pass through these waters, raising tensions between Beijing and Tokyo and risking a collision that could set off a chain reaction.¶ Consider a scenario that provided the story line for a recent war game designed by the RAND Corporation. A group of Japanese ultranationalists set sail for the Senkakus in small civilian watercraft. On social media, they explain that they are headed for Kuba Jima, one of the smaller islands, which they intend to claim and occupy on behalf of Japan. They land and begin building unidentified structures. Taking a page out of the Chinese playbook, they live stream their activities for the world to see. China reacts swiftly, its coast guard arriving within hours with officers who arrest the Japanese dissidents and take them back to the Chinese mainland for trial. Does Japan allow them to face justice in a Chinese court? It could. Instead, rather than lose face, Japan dispatches some of its own coast-guard vessels to intercept the ship carrying the ultranationalists and prevent them from being taken to China.¶ A pileup ensues as both the PLA Navy and the Japan Maritime Self-Defense Force deploy warships and fighter planes to the area. Neither side backs down. To make matters worse, some of the Japanese vessels land amphibious troops to occupy Kuba Jima, doubling down on the nationalists’ actions. A skirmish has become a military confrontation. In an urgent call, the Japanese prime minister reminds the U.S. president that Tokyo expects Washington to uphold the seven-decade-old mutual defense treaty, noting that senior officials have repeatedly confirmed that America’s commitment applies to the Senkakus.¶ As the standoff enters its third day, the president and his National Security Council must decide: Does the United States wholeheartedly respond to Japan’s appeal, putting air power over the disputed island to protect the Japanese troops now on the ground there? Or is there a more restrained course that will satisfy the Japanese without antagonizing China and further escalating the tense naval standoff? The president opts for the latter, directing the Japan-based carrier strike group to patrol outside the range of the PLA’s land-based carrier-killer missiles, but keeping aircraft and submarines close enough to aid Japanese vessels and territory if things get ugly.¶ They do. The next morning, a Chinese destroyer collides with a Japanese fishing boat in the crowded waters off the Senkakus, and soon fighter jets from both sides are provocatively buzzing their opponent’s warships. The standoff erupts into a brief, bloody naval battle as a Japanese captain, fearing for his ship’s safety, downs one of the low-flying Chinese fighters, and the PLA Navy warships, in return, sink his vessel.¶ ¶ Both sides are at the edge of war at this point, and so is the United States, which is in a position to sink Chinese vessels with its hidden attack submarines or to send its carrier’s air wing into action. At this juncture, however, before the next decision has been made, something unexpected happens. All communications between Japanese forces on and around the Senkakus and their headquarters go dark.¶ A cyberattack has severely disrupted one of the Japanese military’s command-and-control systems. The United States and Japan immediately blame China. The attacker has even left the telltale signs of the PLA’s offensive hacking unit. There is little hesitation in Washington or at U.S. Pacific Command about what to do next. To prevent the Japanese naval force from being annihilated while it is incommunicado, U.S. submarines sink three PLA Navy warships off the Senkakus with torpedoes. China, Japan and the United States have now fired their opening shots in a three-nation war.¶ But what if it was not the PLA that launched the cyberattack after all? What if it was a carefully timed false-flag operation by Russia, seeking to draw the United States and China into a conflict in order to distract Washington from its wrestling match with Moscow over Ukraine? By the time intelligence agencies around the world learn the truth, it will be too late. The Kremlin has played its hand brilliantly.¶ From the Senkakus, the war zone spreads as China attacks more Japanese vessels elsewhere in the East China Sea. Tokyo is desperate for the United States to commit its carrier strike group to the fight. If Washington makes that call, the same point of no return may well be crossed as in the collision-at-sea scenario: the destruction of one of the crown jewels of the U.S. Navy and the loss of life of all aboard could be the tragedy that the U.S. administration is forced to avenge with widening attacks on Chinese forces in a full-scale Pacific war.¶ WAR BETWEEN the United States and China is not inevitable, but it is certainly possible. Indeed, as these scenarios illustrate, the underlying stress created by China’s disruptive rise creates conditions in which accidental, otherwise inconsequential events could trigger a large-scale conflict. That outcome is not preordained: out of the sixteen cases of Thucydides’s Trap over the last five hundred years, war was averted four times. But avoiding war will require statecraft as subtle as that of the British in dealing with a rising America a century ago, or the wise men that crafted a Cold War strategy to meet the Soviet Union’s surge without bombs or bullets. Whether Chinese and American leaders can rise to this challenge is an open question. What is certain is that the fate of the world rests upon the answer.

#### Extinction – nuke war fallout creates Ice Age and mass starvation.

Steven **Starr 15**. “Nuclear War: An Unrecognized Mass Extinction Event Waiting To Happen.” Ratical. March 2015. <https://ratical.org/radiation/NuclearExtinction/StevenStarr022815.html> TG

A war fought with 21st century strategic nuclear weapons would be more than just a great catastrophe in human history. If we allow it to happen, such a war would be a mass extinction event that [ends human history](https://ratical.org/radiation/NuclearExtinction/StarrNuclearWinterOct09.pdf). There is a profound difference between extinction and “an unprecedented disaster,” or even “the end of civilization,” because even after such an immense catastrophe, human life would go on. But extinction, by definition, is an event of utter finality, and a nuclear war that could cause human extinction should really be considered as the ultimate criminal act. It certainly would be the crime to end all crimes. The world’s leading climatologists now tell us that nuclear war threatens our continued existence as a species. Their studies predict that a large nuclear war, especially one fought with strategic nuclear weapons, would create a post-war environment in which for many years it would be too cold and dark to even grow food. Their findings make it clear that not only humans, but most large animals and many other forms of complex life would likely vanish forever in a nuclear darkness of our own making. The environmental consequences of nuclear war would attack the ecological support systems of life at every level. Radioactive fallout produced not only by nuclear bombs, but also by the destruction of nuclear power plants and their spent fuel pools, would poison the biosphere. Millions of tons of smoke would act to [destroy Earth’s protective ozone layer](https://www2.ucar.edu/atmosnews/just-published/3995/nuclear-war-and-ultraviolet-radiation) and block most sunlight from reaching Earth’s surface, creating Ice Age weather conditions that would last for decades. Yet the political and military leaders who control nuclear weapons strictly avoid any direct public discussion of the consequences of nuclear war. They do so by arguing that nuclear weapons are not intended to be used, but only to deter. Remarkably, the leaders of the Nuclear Weapon States have chosen to ignore the authoritative, long-standing scientific research done by the climatologists, research that predicts virtually any nuclear war, fought with even a fraction of the operational and deployed nuclear arsenals, will leave the Earth essentially uninhabitable.