### 1

#### 1] Interpretation - Reduce means permanent reduction – it’s distinct from “waive” or “suspend.”

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

Section 83's counterpart with regard to nondisability pensioners, section 84, prescribes a reduction only if the pensioner should again take a public job. The disability pensioner is penalized if he takes any type of employment. The reason for the difference, of course, is that in one case the only reason pension benefits are available is because the pensioner is considered incapable of gainful employment, while in the other he has fully completed his "tour" and is considered as having earned his reward with almost no strings attached. It would be manifestly unfair to the ordinary retiree to accord the disability retiree the benefits of the System to which they both belong when the latter is otherwise capable of earning a living and had not fulfilled his service obligation. If it were to be held that withholdings under section 83 were payable whenever the pensioner died or stopped his other employment the whole purpose of the provision would be defeated, i.e., the System might just as well have continued payments during the other employment since it must later pay it anyway.  [\*\*\*13] The section says "reduced", does not say that monthly payments shall be temporarily suspended; it says that the pension itself shall be reduced. The plain dictionary meaning of the word is to diminish, lower or degrade. The word "reduce" seems adequately to indicate permanency.

#### 2] Violation – the plan waives intellectual property protections temporarily, which is an indefinite suspension. That’s 1AC [WTO Recommendation] “a waiver from the implementation, application and enforcement”.

#### [Pre-empting the We Meet] – Plan Text in a Vacuum is a useless guideline since words are contextually defined based on function – the only basis for determining Topicality should be if the implementation of the Plan as per their 1AC solvency evidence follows the directional meaning of the Topic’s intent – anything else allows the 1AR to re-contextualize what the Plan says forcing the 1NC to predict infinite 1AR spin since they’re not tied to their evidence.

#### 3] Vote neg for limits and neg ground – re-instatement under any infinite number of conditions doubles aff ground – every plan becomes either temporary or permanent – you cherry-pick the best criteria and I must prep every aff while they avoid core topic discussions like reduction-based DAs which decks generics like Pharma Innovation and Bio-Tech.

#### 4] Paradigm Issues –

#### a] Topicality is Drop the Debater – it’s a fundamental baseline for debate-ability.

#### b] Use Competing Interps – 1] Topicality is a yes/no question, you can’t be reasonably topical and 2] Reasonability invites arbitrary judge intervention and a race to the bottom of questionable argumentation.

#### c] No RVI’s - 1] Forces the 1NC to go all-in on Theory which kills substance education, 2] Encourages Baiting since the 1AC will purposely be abusive, and 3] Illogical – you shouldn’t win for not being abusive.

### 2

#### Counterplan Text – Member states of the World Trade Organization ought to consult the World Health Organization on whether or not to [Member nations of the World Trade Organization ought to reduce intellectual property protections for medicines for COVID-19.]. 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.

#### 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 4, 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

#### WHO Cred key to Global Right to Health – medicine access is critical.

* Note the Bottom Paragraph is at the bottom of the PDF – I put a paragraph break to indicate it as such – no words are missing.

Bluestone 3, Ken. "Strengthening WHO's position should be a priority for the new Director-General." The Lancet 361.9351 (2003): 2. (Senior Policy Adviser, Voluntary Service Overseas (VSO))//Elmer

To meet these challenges, WHO must strengthen its resolve to maintain its **independence and lead its member states**, **even at the risk of causing controversy**. A meaningful example is the role that WHO can have in **ensuring access to medicines** for the world’s poorest people. WHO is the only global institution that has the **remit to drive this agenda forward**, yet has failed to do so convincingly. The new Director-General must support and reinvigorate the advocacy efforts of the organisation and provide a proper counterbalance to the interests of the pharmaceutical industry and wealthy member states. As the new Director-General takes office, they will face the dual challenge of **seeing that** the broadest possible public health interpretation of the World Trade Organization’s Doha Agreement on Trade Related Aspects on Intellectual Property Rights (TRIPS) **is not lost, and** of seizing an opportunity to bring about an international framework for sustainable and predictable tiered pricing of medicines. Without the active intervention of a public health advocate at the level of WHO, there is a risk that both of these initiatives **could founder.** Some people in positions of power still do not have high expectations of WHO or its new Director-General. But for the world’s poorest people, the overwhelming majority of whom live in developing countries, this person’s legacy could literally make the difference between life and death. Ken Bluestone Senior Policy Adviser, Voluntary Service Overseas (VSO)

New leader should re-establish WHO’s credibility The credibility of WHO’s advocacy of the right to health for all has been eroded in recent years. A large reason is WHO’s **failure to challenge the pharmaceutical** industry on access to medicines for people with HIV/AIDS and other diseases. WHO’s collaboration with the industry in the “Accelerated Access” programme on antiretroviral medicines sounds good. In fact, the programme has served as a cover for the organisation’s frequent acceptance of industry arguments for restricting treatment access. To re-establish WHO’s credibility, the new Director-General must lead the organisation to stand consistently with those most deprived of health services. Kenneth Roth, Executive Director, Human Rights Watch.

#### Right to Health solves Nationalist Populism.

Friedman 17 Eric Friedman March 2017 “New WHO Leader Will Need Human Rights to Counter Nationalistic Populism” <https://www.hhrjournal.org/2017/03/new-who-leader-will-need-human-rights-to-counter-populism/> (JD, Project Leader of the Platform for a Framework Convention on Global Health at the O’Neill Institute for National and Global Health Law at the Georgetown University Law Center in Washington, DC)//Elmer

The need for WHO leadership on human rights—and for global leadership on health and human rights beyond WHO—has always been present, yet has become ever more pressing. A reactionary, nationalist populism has been gaining momentum, particularly in the United States and parts of Europe, and some of its most disturbing features, such as xenophobia and disregard for international law and institutions, are surfacing elsewhere. Persisting health challenges—such as immense national and global health inequities, with universal health coverage and the Sustainable Development Goals offering some hope of lessening them—and growing threats such as outbreaks of infectious disease, worsening antimicrobial resistance, and climate change demand the type of leadership that the right to health entails. In this immensely challenging environment, WHO needs to become a 21st century institution that has the gravitas and credibility to carve a path through these obstacles towards global health justice. The next WHO Director-General, to be elected in May, must lead the organization there. The right to health can light the way ahead, with reforms to, and driven by, WHO. These reforms must develop an internal governance that is far more welcoming of civil society, with WHO member states significantly increasing contributions so work on the social determinants of health can expand, and with enhanced transparency and accountability. Furthermore, reforms are needed so that WHO leads on global health equity and human rights, including through national health equity strategies and, above all, the Framework Convention on Global Health (FCGH). The FCGH could help bring the right to health to the next level by capturing core aspects of the right to health, such as: 1) participation and accountability, setting clear standards for people’s participation in health policy-making at all levels, and establishing multi-layered health accountability frameworks with standards to which all nations would be held; 2) equity, including by catalyzing national health equity strategies—which must be developed through broad participation, itself a potentially empowering process—and advancing data disaggregation and more equitable financing; 3) financial resources, with global norms on national and international health financing responsibilities; and 4) respecting and promoting the right to health in all policies, from setting standards on health impact assessments—including participatory processes in developing them, human rights standards, an equity focus, and follow-up processes—to firmly ensuring the primacy of the right to health in other legal regimes that may undermine. From an earlier WHO treaty, the Framework Convention on Tobacco Control, we know the power of international law to significantly advance health, with the transformative power of legally binding global health norms. As a treaty, the FCGH would increase political accountability and accountability through the courts, while helping protect health other treaty-based international regimes, such as trade. It would also be a bold assertion of global solidarity for global justice, as so urgently needed, “demonstrating that the community of nations are indeed stronger together.” One candidate for the WHO Director-General election, David Nabarro, has recognized the value and civil society support that FCGH has already received, and the need to further explore the treaty (mentioned at 1:46:38 mark). A good first step would be establishing a WHO working group on the FCGH, with broad participation, particularly from states, civil society, and representatives of communities most affected by health inequities, along with relevant international agencies. We see signs of resistance of the dangerous nationalist populism, from protests that persist and judicial checks on one of the administration’s vilest acts (an immigration and refugee travel ban, with its effects falling heaviest on Muslims) in the United States to the rejection of the far-right candidate in the elections in the Netherland. Such resistance can prevent some of the worst impacts on the right to health, from discrimination against migrants to cuts to programs vital for health. Meanwhile, let’s construct an edifice for the future of health and human rights, even as we stand against its destruction. WHO, right to health, and FCGH leadership ought to be a core part of that endeavor.

#### Populism is an existential threat.

de Waal 16 Alex de Waal 12-5-2016 “Garrison America and the Threat of Global War” <http://bostonreview.net/war-security-politics-global-justice/alex-de-waal-garrison-america-and-threat-global-war> (Executive Director of the World Peace Foundation at the Fletcher School at Tufts University)//Elmer

Polanyi recounts how economic and financial crisis led to global calamity. Something similar could happen today. In fact we are already in a steady unpicking of the liberal peace that glowed at the turn of the millennium. Since approximately 2008, the historic decline in the number and lethality of wars appears to have been reversed. Today’s wars are not like World War I, with formal declarations of war, clear war zones, rules of engagement, and definite endings. But they are wars nonetheless. What does a world in global, generalized war look like? We have an unwinnable “war on terror” that is metastasizing with every escalation, and which has blurred the boundaries between war and everything else. We have deep states—built on a new oligarchy of generals, spies, and private-sector suppliers—that are strangling liberalism. We have emboldened middle powers (such as Saudi Arabia) and revanchist powers (such as Russia) rearming and taking unilateral military action across borders (Ukraine and Syria). We have massive profiteering from conflicts by the arms industry, as well as through the corruption and organized crime that follow in their wake (Afghanistan). We have impoverishment and starvation through economic warfare, the worst case being Yemen. We have “peacekeeping” forces fighting wars (Somalia). We have regional rivals threatening one another, some with nuclear weapons (India and Pakistan) and others with possibilities of acquiring them (Saudi Arabia and Iran). Above all, today’s generalized war is a conflict of destabilization, with big powers intervening in the domestic politics of others, buying influence in their security establishments, bribing their way to big commercial contracts and thereby corroding respect for government, and manipulating public opinion through the media. Washington, D.C., and Moscow each does this in its own way. Put the pieces together and a global political market of rival plutocracies comes into view. Add virulent reactionary populism to the mix and it resembles a war on democracy. What more might we see? Economic liberalism is a creed of optimism and abundance; reactionary protectionism feeds on pessimistic scarcity. If we see punitive trade wars and national leaders taking preemptive action to secure strategic resources within the walls of their garrison states, then old-fashioned territorial disputes along with accelerated state-commercial grabbing of land and minerals are in prospect. We could see mobilization against immigrants and minorities as a way of enflaming and rewarding a constituency that can police borders, enforce the new political rightness, and even become electoral vigilantes. Liberal multilateralism is a system of seeking common wins through peaceful negotiation; case-by-case power dealing is a zero-sum calculus. We may see regional arms races, nuclear proliferation, and opportunistic power coalitions to exploit the weak. In such a global political marketplace, we would see middle-ranking and junior states rewarded for the toughness of their bargaining, and foreign policy and security strategy delegated to the CEOs of oil companies, defense contractors, bankers, and real estate magnates. The United Nations system appeals to leaders to live up to the highest standards. The fact that they so often conceal their transgressions is the tribute that vice pays to virtue. A cabal of plutocratic populists would revel in the opposite: applauding one another’s readiness to tear up cosmopolitan liberalism and pursue a latter-day mercantilist naked self-interest. Garrison America could opportunistically collude with similarly constituted political-military business regimes in Russia, China, Turkey, and elsewhere for a new realpolitik global concert, redolent of the early nineteenth-century era of the Congress of Vienna, bringing a façade of stability for as long as they collude—and war when they fall out. And there is a danger that, in response to a terrorist outrage or an international political crisis, President Trump will do something stupid, just as Europe’s leaders so unthinkingly strolled into World War I. The multilateral security system is in poor health and may not be able to cope. Underpinning this is a simple truth: the plutocratic populist order is a future that does not work. If illustration were needed of the logic of hiding under the blanket rather than facing difficult realities, look no further than Trump’s readiness to deny climate change. We have been here before, more or less, and from history we can gather important lessons about what we must do now. The importance of defending civility with democratic deliberation, respecting human rights and values, and maintaining a commitment to public goods and the global commons—including the future of the planet—remain evergreen. We need to find our way to a new 1945—and the global political settlement for a tamed and humane capitalism—without having to suffer the catastrophic traumas of trying everything else first.

### 3

#### Climate Patents and Innovation high now and solving Warming but COVID waiver sets a dangerous precedent for appropriations - the mere threat is sufficient is enough to kill investment.

Brand 5-26, Melissa. “Trips Ip Waiver Could Establish Dangerous Precedent for Climate Change and Other Biotech Sectors.” IPWatchdog.com | Patents & Patent Law, 26 May 2021, www.ipwatchdog.com/2021/05/26/trips-ip-waiver-establish-dangerous-precedent-climate-change-biotech-sectors/id=133964/. //sid

The **biotech** industry is making remarkable **advances towards climate change solutions**, and it is precisely for this reason that it can expect to be in the crosshairs of potential IP waiver discussions. President Biden is correct to refer to climate change as an existential crisis. Yet it does not take too much effort to connect the dots between President Biden’s focus on climate change and his Administration’s recent commitment to waive global IP rights for Covid vaccines (TRIPS IP Waiver). “This is a global health crisis, and the extraordinary circumstances of the COVID-19 pandemic call for extraordinary measures.” If an IP waiver is purportedly necessary to solve the COVID-19 global health crisis (and of course [we dispute this notion](https://www.ipwatchdog.com/2021/04/19/waiving-ip-rights-during-times-of-covid-a-false-good-idea/id=132399/)), can we really feel confident that this or some future Administration will not **apply** the **same logic to** the **climate crisis**? And, without the confidence in the underlying IP for such solutions, what does this mean for U.S. innovation and economic growth? United States Trade Representative (USTR) [Katherine Tai](https://www.ipwatchdog.com/2021/05/05/tai-says-united-states-will-back-india-southafrica-proposal-waive-ip-rights-trips/id=133224/) was subject to questioning along this very line during a recent Senate Finance Committee hearing. And while Ambassador Tai did not affirmatively state that an IP waiver would be in the future for climate change technology, she surely did not assuage the concerns of interested parties. The United States has historically supported robust IP protection. This support is one reason the United States is the center of biotechnology innovation and leading the fight against COVID-19. However, a brief review of the domestic legislation arguably most relevant to this discussion shows just how far the international campaign against IP rights has eroded our **normative position**. The Clean Air Act, for example, contains a provision allowing for the mandatory licensing of patents covering certain devices for reducing air pollution. Importantly, however, the patent owner is accorded due process and the statute lays out a detailed process regulating the manner in which any such license can be issued, including findings of necessity and that no reasonable alternative method to accomplish the legislated goal exists. Also of critical importance is that the statute requires compensation to the patent holder. Similarly, the Atomic Energy Act contemplates mandatory licensing of patents covering inventions of primary importance in producing or utilizing atomic energy. This statute, too, requires due process, findings of importance to the statutory goals and compensation to the rights holder. A TRIPS IP waiver would operate outside of these types of frameworks. There would be no **due process**, no particularized findings, no **compensation and** no **recourse**. Indeed, the fact that the World Trade Organization (WTO) already has a process under the TRIPS agreement to address public health crises, including the compulsory licensing provisions, with necessary guardrails and compensation, makes quite clear that the waiver would operate as a free for all. Forced Tech Transfer Could Be on The Table When being questioned about the scope of a potential TRIPS IP waiver, Ambassador Tai invoked the proverb “Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime.” While this answer suggests primarily that, in times of famine, the Administration would rather give away other people’s fishing rods than share its own plentiful supply of fish (here: actual COVID-19 vaccine stocks), it is apparent that in Ambassador Tai’s view waiving patent rights alone would not help lower- and middle-income countries produce their own vaccines. Rather, they would need to be taught how to make the vaccines and given the biotech industry’s manufacturing know-how, sensitive cell lines, and proprietary cell culture media in order to do so. In other words, Ambassador Tai acknowledged that the scope of the current TRIPS IP waiver discussions includes the concept of forced tech transfer. In the context of climate change, the idea would be that companies who develop successful methods for producing new **seed technologies and sustainable biomass, reducing greenhouse gases** in manufacturing **and** transportation, **capturing** and sequestering **carbon** in soil and products, and more, **would be required to turn over their proprietary know-how** to global competitors. While it is unclear how this concept would work in practice and under the constitutions of certain countries, the suggestion alone could be devastating **to voluntary international collaborations**. Even if one could assume that the United States could not implement forced tech transfer on its own soil, what about the governments of our international development partners? It is not hard to understand that a U.S.-based company developing climate change technologies would be unenthusiastic about partnering with a company abroad knowing that the foreign country’s government is on track – with the assent of the U.S. government – to change its laws and seize proprietary materials and know-how that had been voluntarily transferred to the local company. Necessary Investment Could Diminish Developing climate change solutions is not an easy endeavor and bad policy positions threaten the likelihood that they will materialize. These products have long lead times from research and development to market introduction, owing not only to a high rate of failure but also rigorous regulatory oversight. Significant investment is required to sustain and drive these challenging and long-enduring endeavors. For example, synthetic biology companies critical to this area of innovation [raised over $1 billion in investment in the second quarter of 2019 alone](https://www.bio.org/sites/default/files/2021-04/Climate%20Report_FINAL.pdf). If investors cannot be confident that IP will be in **place to protect important climate change technologies** after their long road from bench to market, **it is unlikely they will** continue to **invest at** the current and **required levels.**

#### Private sector innovation is key to solve climate change – short term politicking and priority shifts means government can’t solve alone.

Henry 17, Simon. “Climate Change Cannot Be Solved by Governments Alone. How Can the Private Sector Help?” World Economic Forum, 21 Nov. 2017, www.weforum.org/agenda/2017/11/governments-alone-cannot-halt-climate-change-what-can-private-sector-do/.  Programme Director, International Carbon Reduction & Offset Alliance (ICROA) //sid

Climate leadership is also an opportunity for many organizations, and this was the most popular reason for purchasing carbon credits in Ecosystem Marketplace’s [2016 survey of buyers](http://www.forest-trends.org/documents/files/doc_5677.pdf%5Bforest-trends.org%5D). Companies are looking to differentiate from their competitors, and build their brand, by taking a leadership role on climate. Offsetting plays an integral role in delivering this climate leadership status, alongside direct emissions reductions. The survey indicated that companies that included offsetting in their carbon management strategy typically spend about 10 times more on emissions reductions activities than the typical company that doesn’t offset.

Beyond these direct commercial reasons for companies to take voluntary action, there are many broader, societal motivations at play. Climate change is a global, multidecade challenge that needs solutions and input from all stakeholders. It transcends the short-term nature of politics, which will inevitably experience changes in priorities, personnel and knowledge. Because of this, climate change cannot be solved by governments alone. Instead, it needs significant and long-term investment from the private sector. Companies that take a longer-term outlook recognise this and want to contribute to the solution to help secure the viability of their businesses.

#### Warming causes Extinction

Kareiva 18, Peter, and Valerie Carranza. "Existential risk due to ecosystem collapse: Nature strikes back." Futures 102 (2018): 39-50. (Ph.D. in ecology and applied mathematics from Cornell University, director of the Institute of the Environment and Sustainability at UCLA, Pritzker Distinguished Professor in Environment & Sustainability at UCLA)//Re-cut by Elmer

In summary, six of the nine proposed planetary boundaries (phosphorous, nitrogen, biodiversity, land use, atmospheric aerosol loading, and chemical pollution) are unlikely to be associated with existential risks. They all correspond to a degraded environment, but in our assessment do not represent existential risks. However, the three remaining boundaries (**climate change**, global **freshwater** cycle, **and** ocean **acidification**) do **pose existential risks**. This is **because of** intrinsic **positive feedback loops**, substantial lag times between system change and experiencing the consequences of that change, and the fact these different boundaries interact with one another in ways that yield surprises. In addition, climate, freshwater, and ocean acidification are all **directly connected to** the provision of **food and water**, and **shortages** of food and water can **create conflict** and social unrest. Climate change has a long history of disrupting civilizations and sometimes precipitating the collapse of cultures or mass emigrations (McMichael, 2017). For example, the 12th century drought in the North American Southwest is held responsible for the collapse of the Anasazi pueblo culture. More recently, the infamous potato famine of 1846–1849 and the large migration of Irish to the U.S. can be traced to a combination of factors, one of which was climate. Specifically, 1846 was an unusually warm and moist year in Ireland, providing the climatic conditions favorable to the fungus that caused the potato blight. As is so often the case, poor government had a role as well—as the British government forbade the import of grains from outside Britain (imports that could have helped to redress the ravaged potato yields). Climate change intersects with freshwater resources because it is expected to exacerbate drought and water scarcity, as well as flooding. Climate change can even impair water quality because it is associated with heavy rains that overwhelm sewage treatment facilities, or because it results in higher concentrations of pollutants in groundwater as a result of enhanced evaporation and reduced groundwater recharge. **Ample clean water** is not a luxury—it **is essential for human survival**. Consequently, cities, regions and nations that lack clean freshwater are vulnerable to social disruption and disease. Finally, ocean acidification is linked to climate change because it is driven by CO2 emissions just as global warming is. With close to 20% of the world’s protein coming from oceans (FAO, 2016), the potential for severe impacts due to acidification is obvious. Less obvious, but perhaps more insidious, is the interaction between climate change and the loss of oyster and coral reefs due to acidification. Acidification is known to interfere with oyster reef building and coral reefs. Climate change also increases storm frequency and severity. Coral reefs and oyster reefs provide protection from storm surge because they reduce wave energy (Spalding et al., 2014). If these reefs are lost due to acidification at the same time as storms become more severe and sea level rises, coastal communities will be exposed to unprecedented storm surge—and may be ravaged by recurrent storms. A key feature of the risk associated with climate change is that mean annual temperature and mean annual rainfall are not the variables of interest. Rather it is extreme episodic events that place nations and entire regions of the world at risk. These extreme events are by definition “rare” (once every hundred years), and changes in their likelihood are challenging to detect because of their rarity, but are exactly the manifestations of climate change that we must get better at anticipating (Diffenbaugh et al., 2017). Society will have a hard time responding to shorter intervals between rare extreme events because in the lifespan of an individual human, a person might experience as few as two or three extreme events. How likely is it that you would notice a change in the interval between events that are separated by decades, especially given that the interval is not regular but varies stochastically? A concrete example of this dilemma can be found in the past and expected future changes in storm-related flooding of New York City. The highly disruptive flooding of New York City associated with Hurricane Sandy represented a flood height that occurred once every 500 years in the 18th century, and that occurs now once every 25 years, but is expected to occur once every 5 years by 2050 (Garner et al., 2017). This change in frequency of extreme floods has profound implications for the measures New York City should take to protect its infrastructure and its population, yet because of the stochastic nature of such events, this shift in flood frequency is an elevated risk that will go unnoticed by most people. 4. The combination of positive feedback loops and societal inertia is fertile ground for global environmental catastrophes **Humans** are remarkably ingenious, and **have adapted** to crises **throughout** their **history**. Our doom has been repeatedly predicted, only to be averted by innovation (Ridley, 2011). **However**, the many **stories** **of** human ingenuity **successfully** **addressing** **existential risks** such as global famine or extreme air pollution **represent** environmental c**hallenges that are** largely **linear**, have immediate consequences, **and operate without positive feedbacks**. For example, the fact that food is in short supply does not increase the rate at which humans consume food—thereby increasing the shortage. Similarly, massive air pollution episodes such as the London fog of 1952 that killed 12,000 people did not make future air pollution events more likely. In fact it was just the opposite—the London fog sent such a clear message that Britain quickly enacted pollution control measures (Stradling, 2016). Food shortages, air pollution, water pollution, etc. send immediate signals to society of harm, which then trigger a negative feedback of society seeking to reduce the harm. In contrast, today’s great environmental crisis of climate change may cause some harm but there are generally long time delays between rising CO2 concentrations and damage to humans. The consequence of these delays are an absence of urgency; thus although 70% of Americans believe global warming is happening, only 40% think it will harm them (http://climatecommunication.yale.edu/visualizations-data/ycom-us-2016/). Secondly, unlike past environmental challenges, **the Earth’s climate system is rife with positive feedback loops**. In particular, as CO2 increases and the climate warms, that **very warming can cause more CO2 release** which further increases global warming, and then more CO2, and so on. Table 2 summarizes the best documented positive feedback loops for the Earth’s climate system. These feedbacks can be neatly categorized into carbon cycle, biogeochemical, biogeophysical, cloud, ice-albedo, and water vapor feedbacks. As important as it is to understand these feedbacks individually, it is even more essential to study the interactive nature of these feedbacks. Modeling studies show that when interactions among feedback loops are included, uncertainty increases dramatically and there is a heightened potential for perturbations to be magnified (e.g., Cox, Betts, Jones, Spall, & Totterdell, 2000; Hajima, Tachiiri, Ito, & Kawamiya, 2014; Knutti & Rugenstein, 2015; Rosenfeld, Sherwood, Wood, & Donner, 2014). This produces a wide range of future scenarios. Positive feedbacks in the carbon cycle involves the enhancement of future carbon contributions to the atmosphere due to some initial increase in atmospheric CO2. This happens because as CO2 accumulates, it reduces the efficiency in which oceans and terrestrial ecosystems sequester carbon, which in return feeds back to exacerbate climate change (Friedlingstein et al., 2001). Warming can also increase the rate at which organic matter decays and carbon is released into the atmosphere, thereby causing more warming (Melillo et al., 2017). Increases in food shortages and lack of water is also of major concern when biogeophysical feedback mechanisms perpetuate drought conditions. The underlying mechanism here is that losses in vegetation increases the surface albedo, which suppresses rainfall, and thus enhances future vegetation loss and more suppression of rainfall—thereby initiating or prolonging a drought (Chamey, Stone, & Quirk, 1975). To top it off, overgrazing depletes the soil, leading to augmented vegetation loss (Anderies, Janssen, & Walker, 2002). Climate change often also increases the risk of forest fires, as a result of higher temperatures and persistent drought conditions. The expectation is that **forest fires will become more frequent** and severe with climate warming and drought (Scholze, Knorr, Arnell, & Prentice, 2006), a trend for which we have already seen evidence (Allen et al., 2010). Tragically, the increased severity and risk of Southern California wildfires recently predicted by climate scientists (Jin et al., 2015), was realized in December 2017, with the largest fire in the history of California (the “Thomas fire” that burned 282,000 acres, https://www.vox.com/2017/12/27/16822180/thomas-fire-california-largest-wildfire). This **catastrophic fire** embodies the sorts of positive feedbacks and interacting factors that **could catch humanity off-guard and produce a** true **apocalyptic event.** Record-breaking rains produced an extraordinary flush of new vegetation, that then dried out as record heat waves and dry conditions took hold, coupled with stronger than normal winds, and ignition. Of course the record-fire released CO2 into the atmosphere, thereby contributing to future warming. Out of all types of feedbacks, water vapor and the ice-albedo feedbacks are the most clearly understood mechanisms. Losses in reflective snow and ice cover drive up surface temperatures, leading to even more melting of snow and ice cover—this is known as the ice-albedo feedback (Curry, Schramm, & Ebert, 1995). As snow and ice continue to melt at a more rapid pace, millions of people may be displaced by flooding risks as a consequence of sea level rise near coastal communities (Biermann & Boas, 2010; Myers, 2002; Nicholls et al., 2011). The water vapor feedback operates when warmer atmospheric conditions strengthen the saturation vapor pressure, which creates a warming effect given water vapor’s strong greenhouse gas properties (Manabe & Wetherald, 1967). Global warming tends to increase cloud formation because warmer temperatures lead to more evaporation of water into the atmosphere, and warmer temperature also allows the atmosphere to hold more water. The key question is whether this increase in clouds associated with global warming will result in a positive feedback loop (more warming) or a negative feedback loop (less warming). For decades, scientists have sought to answer this question and understand the net role clouds play in future climate projections (Schneider et al., 2017). Clouds are complex because they both have a cooling (reflecting incoming solar radiation) and warming (absorbing incoming solar radiation) effect (Lashof, DeAngelo, Saleska, & Harte, 1997). The type of cloud, altitude, and optical properties combine to determine how these countervailing effects balance out. Although still under debate, it appears that in most circumstances the cloud feedback is likely positive (Boucher et al., 2013). For example, models and observations show that increasing greenhouse gas concentrations reduces the low-level cloud fraction in the Northeast Pacific at decadal time scales. This then has a positive feedback effect and enhances climate warming since less solar radiation is reflected by the atmosphere (Clement, Burgman, & Norris, 2009). The key lesson from the long list of potentially positive feedbacks and their interactions is that **runaway climate change,** and runaway perturbations have to be taken as a serious possibility. Table 2 is just a snapshot of the type of feedbacks that have been identified (see Supplementary material for a more thorough explanation of positive feedback loops). However, this list is not exhaustive and the possibility of undiscovered positive feedbacks **portends** even greater **existential risks**. The many environmental crises humankind has previously averted (famine, ozone depletion, London fog, water pollution, etc.) were averted because of political will based on solid scientific understanding. We cannot count on complete scientific understanding when it comes to positive feedback loops and climate change.

### Case

### UV

### Covid IL

#### 1] Lack of access is not a result of IP – rather IP is key to ensure high quality vaccines that pass regulatory hurdles, which means the plan actually reduces access

Stevens, Philip, and Mark Schultz 1/14. “Why Intellectual Property Rights Matter for COVID-19 - Geneva Network - Intellectual Property Rights and Covid-19.” Geneva Network, 14 Jan. 2021, geneva-network.com/research/why-intellectual-property-rights-matter-for-covid-19/. Philip Stevens in the Founder and Executive Director of Geneva Network. He is also a Senior Fellow at the Institute for Democracy and Economic Affairs, Malaysia.; Professor Mark F. Schultz is the Goodyear Tire & Rubber Company Endowed Chair in Intellectual Property Law, the Director of the Intellectual Property and Technology Law Program at the University of Akron School of Law. He was a professor at Southern Illinois University School of Law for 16 years and was co-founder and a leader of the Center for Protection of Intellectual Property (CPIP) at George Mason University in Washington, D.C., where he remains a non-resident Senior Scholar. He also serves as a Senior Fellow of the Geneva Network. //sid

IP has underpinned the research and development that has led to the arrival of several game-changing vaccines. But the challenge does not end there. Perhaps the biggest hurdle is manufacturing billions of doses or new antibody treatments while maintaining the highest quality standards.

There’s more to it than starting a global manufacturing free for all by overriding or ignoring patents. A spokesperson for Regeneron, a manufacturer of a novel COVID-19 antibody treatment explained to [The Lancet](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)32581-2/fulltext): “Manufacturing antibody medicines is incredibly complex and transferring the technology takes many months, as well as significant resources and skill. Unfortunately, it is not as simple as putting a recipe on the internet and committing to not sue other companies during the pandemic”.

[John-Arne Røttingen](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(20)32581-2/fulltext), chair of the WHO COVID-19 Solidarity trial, explains that technology transfer will be crucial to scaling up production, but voluntary mechanisms are better: “If you want to establish a biological production line, you need a lot of additional information, expertise, processes, and biological samples, cell lines, or bacteria” to be able to document to regulatory agencies that you have an identical product, he explains.

#### 2] A vaccine waiver greenlights counterfeit medicine – independently turns Case.

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

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

#### 3] Can’t make enough vaccines vital components are too scarce

Tepper 4-10 James Tepper, 4/10 [James Tepper, (James M. Tepper is an American neuroscientist currently a Board of Governors Professor of Molecular and Behavioral Neuroscience and Distinguished Professor at Rutgers University and an Elected Fellow of the American Association for the Advancement of Science.)]. "Global Covid vaccine rollout threatened by shortage of vital components." Guardian, 4-1-2021, Accessed 8-8-2021. https://www.theguardian.com/world/2021/apr/10/global-covid-vaccine-rollout-threatened-by-shortage-of-vital-components // duongie

Vaccine-makers around the world face shortages of vital components including large plastic growbags, according to the head of the firm that is manufacturing a quarter of the UK’s jab supply. Stan Erck, the chief executive of Novavax – which makes the second vaccine to be grown and bottled entirely in Britain – told the Observer that the shortage of 2,000-litre bags in which the vaccine cells were grown was a significant hurdle for global supply. His warning came as bag manufacturers revealed that some pharmaceutical firms were waiting up to 12 months for the sterile single-use disposable plastic containers, which are used to make medicines of all kinds, including the Pfizer, Moderna and Novavax Covid-19 vaccines. But Erck and his British partners said they were confident they had enough suppliers to avoid disruption to the supply of Novavax. The vaccine is waiting for approval from the Medicines and Healthcare products Regulatory Agency (MHRA) but the first of 60 million doses ordered by the government are already in production in Teesside. The Fujifilm Diosynth Biotechnologies factory began growing the first cells for the Novavax vaccine in Billingham, County Durham this month and in a few weeks they will fill the bioreactor bag, ready to be transported to GlaxoSmithKline’s plant at Barnard Castle to be put into vials for distribution. “The first hurdle is showing it works and we don’t have that hurdle any more,” Erck said. But he added there were others still to overcome. “There’s the media that the cells have to grow in,” Erck said. “You grow them in these 2,000-litre bags, which are in short supply. Then you pour it out and you have to filter it, and the filters are in short supply. The little things count.” Novavax almost ran out of bags at one of its 20 factories earlier this year, but there had been no delays for the UK operation, according to Martin Meeson, global chief executive of Fujifilm Diosynth. “We started working on our part of the supply chain in summer last year,” he said. “We had to accelerate some of the investment here, but the commitment we made last summer to start manufacturing in February has been fulfilled.” Production of coronavirus vaccines is being ramped up. Production of coronavirus vaccines is being ramped up. Photograph: Christophe Archambault/AP Both Meeson and Erck said the UK’s vaccine taskforce had been helpful in sorting out supply issues so far, but other countries and other medical supplies might be affected. ABEC makes bioreactor bags at two plants in the US and two in Fermoy and Kells in Ireland, and delivered six 4,000-litre bags to the Serum Institute in India last year for its Covid vaccines. Brady Cole, vice-president of equipment solutions at ABEC, said: “We are hearing from our customer base of lead times that are pushing out to nine, 10, even 12 months to get bioreactor bags. We typically run out at 16 weeks to get a custom bioreactor bag out to a customer.” He said ABEC was still managing to fulfil orders at roughly that rate. “The bag manufacturing capacity can’t meet demand right now,” he added. “And on the component side, the tubes and the instruments and so forth that also go into the bag assembly – those lead times are also starting to get stretched as well. But the biggest problem we see is it really is just the ability to get bags in a reasonable amount of time.” ABEC expanded its factories last year and has now started making 6,000-litre bags, which are roughly the size of a minibus. Other firms including MilliporeSigma, part of German company Merck, have also been expanding their manufacturing facilities. American firm Thermo Fisher Scientific expects it will finish doubling its capacity this year. The US government has also blocked exports of bags, filters and other components so it can supply more Pfizer vaccines for Americans. Adar Poonawalla, the chief executive of the Serum Institute of India, said the restrictions were likely to cause serious bottlenecks. Novavax is hoping to avoid delays and “vaccine nationalism” by operating on four continents, with 20 facilities in nine countries. “One year ago, we had exactly zero manufacturing capacity,” Erck said. “We’re self-sufficient. The two main things we need to do are done in the UK. And in the EU we have plants in Spain and the Czech Republic and fill-and-finish in Germany and the Netherlands.” There was no need for vaccines to cross borders to fulfil contracts, he said. The Oxford/AstraZeneca vaccine was hit by a delay to a delivery of 5 million doses from India and a problem with a batch made in Britain, and the company has been dragged into a lengthy row between the UK and the EU over vaccine exports.

#### 4] The plan only hurts manufacturing moving bottlenecks to less efficient manufacturers

Alex **Knapp, 5/7** [Alex Knapp, (senior editor at Forbes covering healthcare, science, and cutting edge technology.)]. "Patent Waivers Won’t Impact Big Pharma’s Bottom Line—But Could Slow Covid Vaccine Rollouts." Forbes, 5-7-2021, Accessed 8-5-2021. https://www.forbes.com/sites/alexknapp/2021/05/07/patent-waivers-wont-impact-big-pharmas-bottom-line-but-could-slow-covid-vaccine-rollouts/?sh=78866f727862 // duongie

On Wednesday, the Biden Administration stated that it would support a proposal to temporarily waive protection of intellectual property (IP) rights for Covid vaccines during the pandemic, in a bid to boost production and accelerate vaccine distribution throughout the world. Industry trade groups immediately criticized the move, and investors reacted simultaneously—share prices plummeted, though they’ve been slowly recovering Thursday and Friday. Wall Street analysts at Morgan Stanley, Jefferies and Brookline Capital Markets, however, said in reports this week that waiving vaccine IP was unlikely to impact the financials of major vaccine makers, noting that current bottlenecks in vaccine production are related to supply chain, technical knowledge and difficulty in scaling up production. However, they caution that for the same reason, waivers could slow down current production by disrupting the market for raw materials. “Manufacturing supplies, raw materials, vials, stoppers and other key materials are in limited supply for 2021, and certainly for the 2021 calendar year,” wrote analysts from Jeffries, meaning that waivers can’t solve immediate vaccination needs in India and South Africa, where Covid-19 cases are surging. That report also notes that the mRNA vaccines from Pfizer and Moderna have yet to be authorized for use in India, as regulators desired local clinical trial data, which is another hurdle to overcome. Morgan Stanley commented that U.S. support alone doesn’t necessarily mean that a World Trade Organization agreement on the waiver would happen, especially since Germany has expressed opposition. The firm additionally notes that “manufacturing vaccines is a much more complicated process than making chemical drugs, and a patent waiver by itself would not enable other entities to manufacture their own copies of complex vaccines.” Jefferies analysts also remarked that another barrier to increased vaccine production is “ensuring the quality of the product, which is also not trivial.” Contractors for vaccine makers Pfizer, AstraZeneca and Johnson & Johnson have all run into quality-control issues that have led to millions of vaccine doses being discarded. On a company earnings call yesterday, Moderna CEO Stéphane Bancel said he doubted that waiving IP rights would impact his company much, because it would take months or even years for other companies to scale up manufacturing. Meanwhile, the biotech company has recently committed to expanding its own manufacturing capacity and expects to be able to make up to 3 billion doses of vaccine in 2022. Morgan Stanley analysts noted that in October 2020, Moderna “stated it would not enforce its patents during the pandemic, but to our knowledge, no one else has started manufacturing a vaccine that would violate Moderna’s patents.” The team at Brookline Capital markets noted that if a company did begin manufacturing vaccines based on Moderna’s patents, the upside would be an additional licensing revenue stream for the company. On Friday, vaccine manufacturer Novavax, which has reached an agreement with the private-public global health partnership Gavi to provide 1.1 billion vaccine doses to low income countries, stated its opposition to the WTO waiving patents, arguing that it “could further constrain resources by diverting them to entities incapable of manufacturing safe and effective vaccines in the near term.” Jeffries analysts note that a waiver wouldn’t put Novavax at immediate risk, as a key component of the company’s vaccine “is in limited supply and a majority of the raw material has already been locked up” by the company. That said, Morgan Stanley struck a similar point to Novavax about the risk involved in waiving patents. The analysts point out waivers could be counterproductive and actually slow down vaccine manufacturing. “An IP waiver now may exacerbate supply issues,” they write, “if some countries start to try to secure raw materials ahead of being able to produce a vaccine and cause shortages and disruptions in the supply chain.”

#### 5] Hesitancy high worldwide

Andrea **Taylor, 2/6** [Andrea Taylor, (Andrea leads a portfolio of global innovation programs focused on evaluation, scaling, and adaptation of healthcare innovations to address critical access and quality challenges. Her work with the Duke Global Health Innovation Center and Innovations in Healthcare drive evidence-based recommendations for scaling transformative models of care, adapting models into new contexts, and facilitating system change. She is the research lead for the Launch and Scale project’s COVID-19 workstream, analyzing global data on vaccines, partnerships, and therapeutics to combat the pandemic. She led design and research for the USAID-funded Social Entrepreneurship Accelerator at Duke (SEAD) and the development of several publications for the recent evaluation of the Saving Lives at Birth program, with USAID and GCC.)]. "VACCINE HESITANCY WILL SOON BECOME THE PRIMARY OBSTACLE TO GLOBAL IMMUNITY – Global Health Innovation Center." 2-16-2021, Accessed 8-5-2021. https://dukeghic.org/2021/02/16/vaccine-hesitancy-will-soon-become-the-primary-obstacle-to-global-immunity/ // duongie

Vaccine hesitancy will soon become the primary obstacle to global immunity Global manufacturing capacity has been the primary rate limiter for Covid-19 vaccinations. Our vaccine manufacturing infrastructure was not designed to produce enough doses to cover 70% of the world’s population within a year (in addition to regular and routine vaccines) and, as expected, demand is outstripping supply. There has been good news on the manufacturing front, however, with several large pharma companies recently joining with rivals to ramp up production. At the same time, data on vaccine hesitancy suggest that it may soon overtake manufacturing capacity as the primary obstacle to global coverage and reaching herd immunity. If this is the case, we will soon find that producing enough vaccines does not translate to enough vaccinations. Covid-19 vaccine hesitancy is growing around the world. A survey of 15 countries found that willingness to get a Covid-19 vaccine dropped in nearly all of the countries between October and December 2020. France and Russia had the lowest rates of vaccine intent in the survey, below 50%. Another survey of 32 countries found that fewer than half of the population in Lebanon, France, Croatia, and Serbia intend to get vaccinated. In Peru, vaccine hesitancy grew by 26 percentage points (from 22% to 48%) between August and December and the population is now evenly split between those willing and those not willing to receive the vaccine. Other data indicate some countries fall much lower: in the Philippines, fewer than a third are willing to have a Covid-19 vaccine. Even in China, a country with historically high rates of vaccine take-up, intent to get a Covid-19 vaccine dropped in late 2020 (though at 80% China was still at the top of the chart). Negative coverage of western-developed vaccines in Chinese state media appears to be fueling mistrust of even Chinese-developed Covid-19 vaccines and slowing vaccination rates. In both the US and UK, recent studies found that hesitancy rates are highest among younger adults, racial minorities, and people with lower education and income. A similar trend was noted this week in Israel, where vaccine take-up has slowed and is particularly low among minority communities and younger populations. There was improvement in vaccine intent among Black and LatinX populations in the US between December and January; however, these groups are still most likely to say that they will “wait and see” rather than get the vaccine as soon as possible. Experts suggest that supply may outstrip demand in the US as early as April. Public health leaders in countries around the world have pulled every lever they can to secure vaccine doses to protect their populations. Each dose is the result of unprecedented scientific and industry cooperation, complex negotiations, and a flat-out global effort. But the race to develop, manufacture, and distribute vaccines must result in vaccinations. We need to get ahead of vaccine hesitancy now, with strong outreach campaigns, before it becomes the rate limiter.

#### 6] Covid mutates too fast South Africa and UK variants prove

David **Ho 3/8** [David Ho, (David Da-i Ho is a Taiwanese-American AIDS researcher, physician, and virologist who has made a number of scientific contributions to the understanding and treatment of HIV infection.)]. "New Study of Coronavirus Variants Predicts Virus Evolving to Escape Current Vaccines, Treatments." Columbia University Irving Medical Center, 3-8-2021, Accessed 8-5-2021. https://www.cuimc.columbia.edu/news/new-study-coronavirus-variants-predicts-virus-evolving-escape-current-vaccines-treatments // duongie

A new study of the U.K. and South Africa variants of SARS-CoV-2 predicts that current vaccines and certain monoclonal antibodies may be less effective at neutralizing these variants and that the new variants raise the specter that reinfections could be more likely. The study was published in Nature(link is external and opens in a new window) on March 8, 2021. A preprint of the study was first posted to BioRxiv(link is external and opens in a new window) on January 26, 2021. The study’s predictions are now being borne out with the first reported results of the Novavax vaccine, says the study's lead author David Ho, MD. The company reported(link is external and opens in a new window) on Jan. 28 that the vaccine was nearly 90% effective in the company’s U.K. trial, but only 49.4% effective in its South Africa trial, where most cases of COVID-19 are caused by the B.1.351 variant. "Our study and the new clinical trial data show that the virus is traveling in a direction that is causing it to escape from our current vaccines and therapies that are directed against the viral spike,” says Ho, the director of the Aaron Diamond AIDS Research Center and the Clyde’56 and Helen Wu Professor of Medicine at Columbia University Vagelos College of Physicians and Surgeons. “If the rampant spread of the virus continues and more critical mutations accumulate, then we may be condemned to chasing after the evolving SARS-CoV-2 continually, as we have long done for influenza virus,” Ho says. “Such considerations require that we stop virus transmission as quickly as is feasible, by redoubling our mitigation measures and by expediting vaccine rollout.” After vaccination, the immune system responds and makes antibodies that can neutralize the virus. Ho and his team found that antibodies in blood samples taken from people inoculated with the Moderna or Pfizer vaccine were less effective at neutralizing the two variants,

#### 8] The impact evidence is terrible – it assumes shutdown where factories aren’t able to produce things – that is not at all the case right now and not be granted the impact.

#### 9] Covid has not caused great power war and it would have already if it were. Global interconnectedness and alliances have resulted due to the pandemic so the link flips the other way.

### WHO Internal

### 1NC – WTO Bad [Regionalism Good]

#### Low WTO causes regional trade – yes trade-off

Isfeld 14 Gordon Isfeld 3-17-2014 business.financialpost.com/2014/03/17/with-rise-of-shot-gun-trade-agreements-is-the-wto-even-relevant-anymore/ “With the rise of 'shot-gun' trade agreements, is the WTO even relevant anymore” //Elmer

OTTAWA — It’s getting awfully crowded out there in the free-trading world. The seemingly endless hunt for new global partners is redefining the traditional and hard-fought rules of engagement between nations. So much so, observers say, the old world order — remember the WTO, and GATT before it — has increasingly become a sideshow to the proliferation of bilateral, **trilateral** **and**, often, **multi-lateral** agreements. Even the term “free trade” no longer accurately describes the “new world” of negotiations — one that encompasses far more than what and how products are permitted to slide under domestic tariff radars. For Canada, we can now add South Korea and the European Union — deals long in the making but only weeks in the signing — after a string of minor agreements since the landmark free trade act 25 years ago with the United States, and later to include Mexico. Now, as the growing mass of country-to-country, region-to-region agreements has made apparent, it’s open season on anything that moves between borders — not only products, investments and intellectual property, but also new rules on competition, and the inclusion of labour laws and environmental guidelines. These are just some of the areas of possible disputes that the World Trade Organization “does not deal with,” said Debra Steger, a professor of law at University of Ottawa, specializing in international trade and development. “These are new models. These are not traditional trade agreements, per se.” Ms. Steger, who worked for the federal government on the Uruguay Round of negotiations that led to formation of the WTO, said the framework of recent deals goes “way beyond subjects that NAFTA dealt with.” “Trade, even in the WTO, isn’t only about tariffs. It’s not just about customs and border measures,” she said. “But it’s not about behind-the-border regulatory matters, like environmental regulation and labour standards, competition policy and human rights, corruption, and on and on it goes.” Free trade, between where ever, has become the go-to issue for politicians, business leaders, public-policy makers and private interest groups. Note, this month’s sudden but long-rumoured announcement by the Harper government of a free-trade deal with South Korea, nearly 10 years after talks began and stumbled, and resumed again. Arguably, the deal was finally done as a result of the resolution to Canada’s drawn-out dispute with Seoul over our beef exports — the so-called “mad cow” disease leading to a ban in that county and others. Of course, the United States, the European Union and Australia, among others, already had agreements in hand with South Korea. A few months earlier, Ottawa inked its EU deal — the Comprehensive Economic and Trade Agreement — which was again the outcome of a seemingly endless circle of negotiations that still left Canada trailing similar pacts by the U.S. and others. Even so, these pacts “affect the WTO and WTO negotiations for a number of reasons. That’s a major problem,” said Ms. Steger. “The major developed countries have gone off and started these efforts to negotiate these big FTAs [free trade agreements] as a response to the declining situation in the Doha Round. The WTO — reborn in 1995 out of the General Agreement and Tariffs and Trade, the original body created in 1948 — has been struggling to maintain its relevance as the global arbiter of trade agreements and dispute resolution. The cachet of the 159-member body, however, has been diminished in recent years as countries moved to seal their own free-trade deals with major partners in the absence, some would argue, of any significant movement by the WTO on its own 2001 trade liberalization initiative, launched in Doha, Qatar. Late last year, members managed to agree to only limited movement on trade under the Doha Round of talks. Even now, details remain to be worked out. “One of the reasons why we’re seeing this sort of shot-gun approach [to trade agreements outside of the WTO] is because a number of countries are concerned that the big global deals are probably next to impossible at this stage, given how the Doha Round went and what we ended up with there, which was next to nothing,” said Douglas Porter, chief economist at BMO Capital Markets in Toronto. “They did manage to reach a tiny deal when all was said and done, but it was very modest in terms of its scope.” The move toward bilateral or multi-lateral agreements “is a symptom of the problems that we were running into at the WTO,” Mr. Porter said. “Important players are probably quietly questioning the future for the WTO…. Is it that death knell for the WTO? I don’t think so. [But] it just means we might not be able to accomplish grand, global deals in the future.” However, “there’s really no other way to approach trade disputes with, say, a country like China, then through that body at this point.” “Even 10 years ago, I think it was more straightforward to come to global trade rules. You had two major players, Europe and the U.S., and a few next tier players, including Japan,” Mr. Porter said. “Now, though, you have all kinds of important big players that have a huge chunk of global trade, and have very different goals and aims, and it might be the nature of the global economy now — the reality that we have many different groups in many different regions. “It might be impossible to square that circle.” Over the course of 25 years, Canada has piled on more than a dozen free trade agreements. The first — taking effect on Jan. 1, 1989 — was with the United States. A heated political issue in the 1988 federal election, which Brian Mulroney’s Conservatives won, the FTA was expanded in 1994 to include Mexico and rebranded as NAFTA. Other free trade deals, though much smaller, were signed in subsequent years, some yet to take effect: Israel, Jordan and Chile, followed later by Costa Rica, Peru, Panama, Honduras and Colombia, leading up to the pacts with EU and South Korea. Negotiations are ongoing for at least another dozen agreements. For countries such as Colombia, which has had an agreement in effect with Canada since 2011, the goal is “to insert our economy into the world economy,” said Alvaro Concha, trade commissioner of Proexport Colombia, based in Toronto. “At the beginning of this decade, we had only our preferential access to over 500 million consumers,” Mr. Concha said. “With all the potential FTAs we’ve been signing with potential markets and with potential partners, we believe that not just the potential buyers of our products, but also the potential investors in our country, we have opened our preferential access to over 1.5 billion consumers.” Likely to push the WTO further into the shadows of global trade will be the Trans Pacific Partnership. “In many ways, the Trans Pacific Partnership will be, if it is successful, an updating of the NAFTA, because the U.S. and Mexico are involved, as well as some [trading] partners we already have within Latin America, like Peru,” said Ms. Steger, at the University of Ottawa. “But [there are] also some key countries in Asia that we don’t have agreements with yet. And some other developed countries in that regional, New Zealand and Australia, that we don’t have agreements with,” she adds. “So that [TPP] agreement is very, very important. It’s also the first major plur-lateral agreement that the world has seen.”

#### Regionalism promotes trade and stops war – avoids their impact because our regionalism is different than protectionist blocs.

Brkić 13, Snježana, and Adnan Efendic. "Regional Trading Arrangements–Stumbling Blocks or Building Blocks in the Process of Global Trade Liberalization?." 5th International Conference «Economic Integration, competition and cooperation», Croatia, Opatija. 2013. papers.ssrn.com/sol3/papers.cfm?abstract\_id=2239275 (Economics Prof at U of Sarajevo) //Elmer

Besides those advocating the optimistic or pessimistic view on regionalism effect on global trade liberalization, some economists, such as Frankel and Wei, hold a neutral position, in a way. Frankel and Wei believe that forms and achievements of international economic integrations can vary and that, for this reason, regionalism can be – depending on circumstances – linked to greater or smaller global trade liberalization. In the years-long period of regional integration development, four periods have been identified during which the integration processes were becoming particularly intensive and which have therefore been named "waves of regionalism". The first wave was taking place during the capitalism development in the second half of the 19th century, in the course of British sovereign domination over the world market. Economic integrations of the time primarily had the form of bilateral customs unions; however, owing to the comparative openness of international trading system based on the golden standard automatism, this period is called the "era of progressive bilateralism". The next two waves of **regionalism** occurred in the years following the world wars. Since the disintegration processes caused by the wars usually spawned economic nationalisms and autarchic tendencies, it is not surprising that post-war regionalisms were marked by discriminatory international economic integrations, primarily at the level of so-called negative integration, with expressedly “beggar-thy-neighbor” policies that resulted in considerable trade deviations. This particularly refers to the regionalism momentum after the First World War, which was additionally burdened by the consequences of Big Economic Crisis. The current wave of regionalism started in late 1980s and spread around the world to a far greater extent than any previous one did: it has covered almost all the continents and almost all the countries, even those which have mis to join all earlier regional initiatives, such as the USA, Canada, Japan and China. Integration processes, however, do not show any signs of flagging. Up till now, over 200 RTAs have been registered with GATT/WTO, more than 150 of them being still in force, and most of these valid arrangement have been made in the past ten years. Specific in many ways, this wave was dubbed "new regionalism". The most specific **characteristics** of new regionalism **include: geographic spread** **of RTAs** **in** terms of **encompassing entire continents;** **greater speed**; integration forms success; deepening of integration processes; **and**, the most important for this theoretical discussion, generally **non-negative impact on outsiders, world economy as a whole, and** the **multilateral liberalization** process. Some theorists (Gilpin) actually distinguish **between** the "**benign**" **and** "**malign**" **regionalism**. On the one hand, **regionalism can advance** the **international economic stability**, multilateral liberalization **and world peace**. On the other, it can have mercantilist features leading to economic well-being degradation and increasing international tensions and conflicts. Analyses of trends within the contemporary integration processes show that they mainly have features of "benign" regionalism. Reasons for this are numerous. **Forces driving** the **contemporary** **regionalism**

development **differ from** those that used to drive **earlier** regionalism periods in the 20th century. The **present regionalism emerged in** the period characterized by the **increasing economic inter-dependence** between different world economy subjects, countries attempts to resolve trade disputes and multilateral framework of trade relations. As opposed to the 1930s episode, contemporary regional initiatives represent **attempts to make** the members' **participation in the world economy easier**, rather than make them more distant from it. As opposed to 1950s and 1960s episode, new **initiatives** are **less frequently motivated** **exclusively by political interests**, and are **less frequently** being used **for mercantilist purposes**. After the Second World War, more powerful countries kept using the economic integration as a means to strengthen their political influence on their weaker partners and outsiders. The examples include CMEA and European Community arrangements with its members' former colonies. As opposed to this practice, the new regionalism, mostly driven by common economic interests, yielded less trade diversion than previous one, and has also **contributed to** the **prevention of military conflicts of greater proportions**. Various analyses have shown that many regional integrations in earlier periods resulted in trade deviations, particularly those formed between less developed countries and between socialist countries. In recent years, however, the newly formed or revised regional **integrations** primarily seem to **lead to trade creation**. Contrary to the “beggar thy- neighbor” model of former international economic integrations, the integrations now offer certain advantages to outsiders as well, by stimulating growth and spurring the role of market forces. The analyses of contemporary trends in world economy also speak in favor of the "optimistic" proposition. The structural analysis shows that the world trade is growing and that this growth results both from the increase in intra-regional and from the increase in extra-regional trade value (Anderson i Snape 1994.)28. Actually, the intraregional trade has been growing faster, both by total value and by its share in world GDP. The extra-regional trade share in GDP was increasing in some regions – in North America, Asia-Pacific and Asian developing countries. However, the question arises as to whether the extra-regional trade would be greater without regional integrations or not? The answer would primarily depend both on the estimate of degree of some countries' trade policy restrictedness in such circumstances, and on factors such as geographic distance, transport communications, political relations among states. One should also take into account certain contemporary integration features – the primarily economic, rather than strategic motivation, and continuous expansion, which mostly includes countries that are significant economic partners. With respect to NAFTA, many believe that the negative effects on outsiders will be negligible, since the USA and Canada have actually been highly integrated economies for a long time already, while the Mexican economy is relatively small. The same view was pointed out by the EU, with respect to its expansion. It particularly refers to the inclusion of the remaining EFTA countries, because this will actually only complete, in institutional terms, the EU strong economic ties with these countries. Most EFTA countries have been part of the European economic area (EEA), i.e. the original EC-EFTA agreement, for a few years already, and conduct some 70% of their total international exchange with the Union countries. EU countries are also the most significant foreign-trade partners of Central and East Europe countries, and the recent joining the Union of several of them is not expected to cause a significant trade diversion. Besides, according to some earlier studies, during the previous wave of regionalism, in the 1967-70 period, the creation of trade in EEC was far greater than trade diversion: trade creation ranged from 13 to 23% of total imports, while trade diversion ranged from 1 to 6%. In Latin America, the new regionalism resulted in the faster growth of intra-regional trade, while the extra-regional exports and imports also continued to grow. Since early 1990s, the value of intra-regional imports registered the average annual growth of 18%. In the same time, the extra-regional exports were also growing, although at a lower rate of 9% average a year; its share in the total Latin America exports at the end of decade amounted to 18% as compared to 12% in 1990. In the 1990-1996 period, the intraregional imports grew by some 18% a year. The extra-regional imports were also growing very fast, reaching the 14% rate. These data reflect a great unbalance in the trade with extra-regional markets, since the imports from countries outside the region grew much faster the exports.30 Since the described trends point to the continued growth of extra-regional imports and exports, they also show that regional integration in Latin America has had the open regionalism character. Besides, the pending establishment of FTAA – Free Trade Area of Americas will gather, in the same group, the so-called "natural" trade partners – countries that have had an extremely extensive mutual exchange for years already, and the outsiders are therefore unlikely to be affected by strengthening of regionalism in this part of the world. Contemporary research shows that intra-regional trade is growing, however, same as interdependence between North America and East Asia and between the EU and East Asia. It can also be seen that the biggest and the **most powerful** countries, i.e. **blocs**, **are extremely dependent** **on the rest of the world in terms of trade.** For the EU, besides the intra-European trade, which is ranked first, foreign trade has the vital importance since it accounts for 10% of European GDP. In early 1990s, EU exchanged 40% of its foreign trade with non-members, 16% out of which with North America and East Asia together. EU therefore must keep in mind the rest of the world as well. The growing EU interest in outsiders is confirmed by establishing "The Euro-Med Partnership", which proclaimed a new form of cooperation between the EU and the countries at its South periphery32. Besides, the past few years witnessed a series of inter-regional agreements between the EU on the one hand, and certain groups from other regions on the other (MERCOSUR, CARICOM, ASEAN and GCC). In case of North America the ratio between intra-regional and inter-regional trade is 40:60, and in East Asia, it is 45:55. Any attempt to move towards significantly closed blocs ("fortresses") would require overcoming the significant inter-dependence between major trading blocs. Besides the analysis of contemporary trends in extra- and intra-regional trade, other research was conducted that was supposed to point to the reasons why the **new regionalism has** mainly a **non-negative impact on** outsiders and **global liberalization**. The distinctive features of new regionalism were also affected to characteristics of international economic and political environment it sprouted in. In the 1980s, economic nationalisms were not so expressed as in the interventionism years following the Second World War; however, the neo-liberalism represented by GATT activities did not find the "fertile ground” in all parts of the world. Regionalism growth in the circumstances of multilateral system existence is, among other things, the consequence of distrust in multilateralism. „The revival of the forces of regionalism stemmed from frustration with the slow pace of multilateral trade liberalization... If the world trade regime could not be moved ahead, then perhaps it was time for deeper liberalization within more limited groups of like-minded nations... Such efforts would at least liberalize some trade... and might even prod the other nations to go along with multilateral liberalization.“33 Kennedy's round and Tokyo round of trade negotiations under GATT auspices brought a certain progress in the global trade liberalization. However, the 1980s witnessed significant changes in the world economy that the GATT trade system was not up to. Besides. GATT had not yet managed to cover the entire trade in goods, since there were still exceptions in the trade in agricultural and textile products that particularly affected the USA and developing countries. GATT system of conflict resolutions, and its organizational and administrative mechanism in general also required revision. In this vacuum that was created in promoting trade and investment multilateralism from the point when GATT inadequacy became obvious until the start of the Uruguay round and the establishment of World Trade Organization, the wave of regionalism started spreading across the world again. Prodded by the Single European Act and the success of European integration, many countries turned to an alternative solution – establishment of new or expansion and deepening of the existing economic integrations. Even the USA, the multilateralism bastion until then, made a radical turn in their foreign-trade policy and started working on designing a North American integration.

#### The US China Impact:

#### 1] No Brink Scenario – no explanations of conflicts/tensions that are escalating now.

#### 2] China thumps Compliance – your “no Alt Causes” card is about alt causes to credibility, not compliance which is the I/L to Hamaan – China is not listening because they don’t believe the WTO but because they simply don’t care.

Webster 14, Timothy. "Paper compliance: How China implements WTO decisions." Mich. J. Int'l L. 35 (2014): 525. (Director of East Asian Legal Studies & Assistant Professor of Law, Case Western Reserve University)//Elmer

Since the number of WTO cases involving China is small, certitude about China's future conduct in the DSB would be inapt. But certain patterns are clear. First, in the majority of cases, China has revised its legal and regulatory systems to comply with the DSB rulings. It has done so typically within the reasonable period of time in which it agreed to do so and has accumulated a strong record in terms of the quality of its implementation. Moreover, as of July 2013, no Chi-nese case has gone into compliance proceedings, wherein an arbitration panel determines the costs of one country's non-compliance to other WTO members. This is a significant difference from other major trading partners, such as the United States, E.U., and Japan, all of which have been respondents in compliance proceedings. n256 Some of these cases have dragged on for more than a decade, indicating a resistance to WTO rulings far and above anything that China has exhibited. Second, **China has found ways to resist WTO rulings** and norms. Inconsistent regulations remain in effect. In the three cases discussed above - DS 362 (intellectual property enforcement), DS 363 (trading rights for publications) DS 373 (financial information services) - inconsistent regulations either continue in effect or were revised so as not to ef-fectuate [\*573] the purpose of the ruling. This lacuna could be a function of institutional capacity. China's capa-cious bureaucratic institutions produce reams of regulations; it is unclear whether many of them keep close tabs on the various regulations they produce, and quite definite that some of them have not repealed regulations found to be in-consistent. Or there may be a more sinister explanation: **China wants to keep the inconsistent regulations** in place, and understands that its regulatory maze may be **too labyrinthine for** other **WTO** members **to navigate**. Whether by design or neglect, a number of inconsistent regulations continue to plague China's compliance record. Moreover, local and provincial-level regulations often amplify the effects of inconsistent national regulations. In cases such as DS 363 and DS 373, lower-level government agencies have promulgated policies that reference regulations that were either revoked or found inconsistent. This means that WTO-inconsistent regulations will cast a regulatory afterglow at various levels of the Chinese legal system. The most striking case of non-compliance, so far, has been the trading rights case (DS 363). The revisions suggest-ed by the DSB challenged China's censorship regime and long-held monopoly on cultural information. Not only did China not comply within a reasonable period of time, but it also left in place several regulations that the DSB deemed inconsistent with WTO disciplines. This suggests that, in particularly sensitive areas, China will not fulfill its implemen-tation obligations. **As China continues to gain experience with WTO litigation**, **instances of non-implementation are likely to increase**. China has, in essence, learned that it can "get away" without fully complying with DSB rulings and recommendations. Indeed, as noted above, two recent rulings show just how far China is willing to push the implemen-tation envelope. Third, reforming laws in China means less than it would in Western liberal democracies with robust legal institu-tions. One-party rule, coupled with a unitary governance structure, allow the party-state to control the passage of laws and regulations, dictate revisions to the domestic legal environment, and coordinate changes with a maximum of speed and minimum of institutional friction. **China** has tinkered with the literal letter of its law, but it **continues** to produce **a whole range of programs that violate WTO** principles. **It is** perhaps **unrealistic to think the DSB can induce compliance** more broadly, that is, outside of the regulation challenged. But it is doubtful that China's domestication of DSB rulings has meaningfully influenced the development of its political economy. Many basic norms - market capitalism, dereg-ulation, strong protection of intellectual property, limits on subsidies - remain alien to China. Fourth, many WTO violations take place in the interstices of law, areas where government officials exercise discre-tion: whether or not to register a foreign company, to issue it a business license, or to prosecute someone for IP theft. Likewise, **China distributes trade regulations to** governmental **agencies as "internal guidance"** (neibu cankao) that should be published under China's WTO transparency obligations, but in fact [\*574] never are. n257 The dispute set-tlement system provides a very rough tool by which to reshape a member's domestic legal system and to monitor its implementation of WTO commitments. A range of violations takes place, either below the radar or without meaningful recourse for investors or manufacturers outside of China. Finally, China deploys the tactical features of the dispute settlement system to buffer the ruling's impact. China settles "easy" cases early and prolongs decisions that seriously disrupt its political system, harm core economic interests, or require significant internal reform to implement. Like any other national actor, China seeks to maximize its interests and minimize disruptions that international law and institutions may inflict upon its domestic legal and regulatory sys-tems.

#### Hamaan concedes it thumps.

1AC Hamann 09 GEORGIA L. Hamann is an associate in Lewis, Roca, Rothberger’s Litigation Practice Group, J.D. from Vanderbilt University Law School, May 2009, “Replacing Slingshots with Swords: Implications of the Antigua-Gambling 22.6 Panel Report for Developing Countries and the World Trading System”, <http://www.vanderbilt.edu/jotl/manage/wp-content/uploads/hamann-cr_final_final.pdf> //Re-cut by Elmer

Voluntary compliance with WTO rules and procedures is of the utmost importance to the international trading system.100 Given the increasingly globalized market, the coming years will see an increase in the importance of the WTO as a cohesive force and arbiter of disputes that likely will become more frequent and injurious.101 The work of the WTO cannot be overstated in a nuclear-armed world, as the body continues to promote respect and even amity among nations with opposing philosophical goals or modes of governance.102 Demagogues in the Unites States may decry the rise of China as a geopolitical threat,103 and extremists in Russia may play dangerous games of brinksmanship with other great powers, but trade keeps politicians’ fingers off “the button.”104 The WTO offers an astounding rate of compliance for an organization with no standing army and no real power to enforce its decisions, suggesting that governments recognize the value of maintaining the international construct of the WTO.105 In order to promote voluntary compliance, the WTO must maintain a high level of credibility.106 Nations must perceive the WTO as the most reasonable option for dispute resolution or fear that the WTO wields enough influence to enforce sanctions.107 The arbitrators charged with performing the substantive work of the WTO by negotiating, compromising, and issuing judgments are keenly aware of the responsibility they have to uphold the organization’s credibility.108 [Footnote 106 begins here] 106. See Rufus Yerxa, supra note 100, at 4 (“The WTO System works only to the extent Members want it to work, and only if they decide that compliance is in their overall economic interest. It therefore rests on the credibility of the rules, and also on the credibility of the dispute settlement decisions.”); see also DEBRA P. STEGER, PEACE THROUGH TRADE: BUILDING THE WTO 290–91 (2004) (linking issues of the WTO’s “external legitimacy” to the effectiveness of the institutional decision). 107. The goal of the WTO is to prevent unilateral decisions as to the justifiability of trade retaliation, a goal which can only be upheld by global adherence to the WTO and condemnation of unilateral retaliation outside it. See Gabrielle Marceau, Consultations and the Panel Process in the WTO, in KEY ISSUES IN WTO DISPUTE SETTLEMENT: THE FIRST TEN YEARS, supra note 17, at 29, 30–31; see also Marcelo de Paiva Abreu, Trade in Manufactures: The Outcome of the Uruguay Round and Developing Country Interests, in THE URUGUAY ROUND AND THE DEVELOPING COUNTRIES, supra note 12, at 59, 69 (discussing the importance of “the WTO’s capacity to create a level playing field among contracting parties of different sizes and heterogeneous bargaining power”). [Footnote 107 ends here] Credibility is lost where a supranational organization appears irredeemably partisan or where nations lack a sense of obligation **to give effect to the organization’s judgments**.109 GATT, the precursor to the WTO, could not approach the level of effectiveness of the WTO due to the system’s close ties to the interests of the developed nations.110 Developing nations saw no advantage associated with participation in GATT.111 Thus, a secondary organizational goal of the WTO was to create a system to accurately reflect the changing nature of economic development.112 To some extent, developed economies may feel a sense of responsibility to help developing and less-developed nations who desire material prosperity;113 however, WTO compliance and participation need not rest on humanitarian considerations alone— the rise of previously imperiled economies such as India demonstrates the continual flux of the global economy and the correlating incentives.114 Although developed nations frequently feel a sense of responsibility to nations whose people live in poverty, developed nations also recognize the advantages of incorporating developing economies into the global trade system and encouraging peaceful trade within and among such economies.115 [Footnote 115 begins here] 115. Ruggiero, supra note 101, at 17 (noting that, absent inclusion in the trading system, rising nations such as India and China will develop preferential trading agreements along potentially questionable lines). [Footnote 115 ends here] Accordingly, the interests of developing nations have garnered a considerable amount of attention within the organization116 and the critical literature surrounding the undertakings of the WTO.117 The participation of developing nations has increased, but not sufficiently.118 The global trading system (both the WTO as an institution and the countries with an economic stake in a smoothly-functioning global economy) must work to encourage these nations to utilize the availability of WTO proceedings as a means of resolving economic disputes.119 The decision in Antigua-Gambling has an impact analogous to a marketing campaign—promoting incentives for developing countries to join the WTO.120 If Antigua can successfully challenge the U.S. refusal to comply with WTO arbitration,121 and if there are mechanisms in place to enable Antigua to effect meaningful change in U.S. economic,122 then the WTO truly is a forum where each member nation can expect a fair remedy.

### 1NC – AT: China War

#### No China war – fears are overblown

Shifrinson 2/8/19 [Joshua Shifrinson is an assistant professor of international relations at Boston University. The ‘new Cold War’ with China is way overblown. Here’s why. February 8, 2019. https://www.washingtonpost.com/news/monkey-cage/wp/2019/02/08/there-isnt-a-new-cold-war-with-china-for-these-4-reasons/?noredirect=on&utm\_term=.f8ca8195c4e4]

Is a new Cold War looming — or already present — between the United States and China? Many analysts argue that a combination of geopolitics, ideology and competing visions of “global order” are driving the two countries toward emulating the Soviet-U.S. rivalry that dominated world politics from 1947 through 1990.

But such concerns are overblown. Here are four big reasons why.

1. The historical backdrops of the two relationships are very different

When the Cold War began, the U.S.-Soviet relationship was fragile and tenuous. Bilateral diplomatic relations were barely a decade old, U.S. intervention in the Russian Revolution was a recent memory, and the Soviet Union had called for the overthrow of capitalist governments into the 1940s. Despite their Grand Alliance against Nazi Germany, the two countries shared few meaningful diplomatic, economic or institutional links.

In 2019, the situation between the United States and China is very different. Since the 1970s, diplomatic interactions, institutional ties and economic flows have all exploded. Although each side has criticized the other for domestic interference (such as U.S. demands for journalist access to Tibet and China’s espionage against U.S. corporations), these issues did not prevent cooperation on a host of other issues. Yes, there were tensions over the past decade, but these occurred against a generally cooperative backdrop.

2. Geography and powers’ nuclear postures suggest East Asia is more stable than Cold War-era Europe

The Cold War was shaped by an intense arms race, nuclear posturing and crises, especially in continental Europe. Given Europe’s political geography, the United States feared a “bolt from the blue” attack would allow the Soviet Union to conquer the continent. Accordingly, the United States prepared to defend Europe with conventional forces, and to deter Soviet aggrandizement using nuclear weapons.

Unsurprisingly, the Soviet Union also feared that the United States might attack and wanted to deter U.S. adventurism. Concerns that the other superpower might use force and that crises could quickly escalate colored Cold War politics.

Today, the United States and China spend proportionally far less on their militaries than the United States and the Soviet Union did. Though an arms race may be emerging, U.S. and Chinese nuclear postures are not nearly as large or threatening