# Round 5 – NC

### 1NC – OFF

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

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

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

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

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

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

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

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

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

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

Second, existential uses of the indefinite, such as “A cat is on the mat,” are upward- entailing.3 This means that if you replace the noun with a more general one, such as “An animal is on the mat,” the sentence will still be true. So let’s do that with “a democracy.” Does the resolution entail “In a society, voting ought to be compulsory”? Intuitively not, because you could think that voting ought to be compulsory in democracies but not in other sorts of societies. This suggests that “a democracy” in the resolution is not existential.

#### It applies to this topic – a] the noun “medicines” in the topic has no determiner preceding it to justify speccing a subset of medicines. that means medicines is an existential bare plural b] it fails the upward entailment test bc “member nations ought to reduce ip protections for medicines” does not entail that “member nations ought to reduce ip protections for pharmaceuticals” even though all medicines are pharmaceuticals.

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

#### Standards:

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

#### 2] Prep hazard – there are an infinite number of medicines they could possibly spec exploding neg prep – generics and functional limits don’t apply because each medicine has different effects, capabilities, and implications which makes there infinite arguments for each weapon being bad

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

#### Topicality should be a voting issue evaluated through competing interpretations—reasonability invites arbitrary judge intervention that takes the debate out of the hands of the debaters No RVIs – a) illogical – you shouldn’t win for being fair – it’s a litmus test for engaging in substance, b) norming – I can’t concede the counterinterp if I realize I’m wrong which forces me to argue for bad norms

### 1NC – OFF

#### Interpretation: reduce means to diminish

Idao State Court of Appeals 03

(State v. Knutsen, 71 P. 3d 1065 - Idaho: Court of Appeals 2003) EE

By its plain language, Rule 35 grants a district court the authority within a limited period of time to reduce or modify a defendant's sentence after relinquishing jurisdiction. To "reduce" means to diminish in size, amount, extent or number, or to make smaller, lessen or shrink. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1905 (1993). To "modify" means to make more temperate and less extreme, or to lessen the severity of something. Id. at 1452. Thus, under the plain meaning of its language, Rule 35 authorizes a district court to diminish, lessen the severity of, or make more temperate a defendant's sentence. An order placing a defendant on probation lessens the severity of a defendant's sentence and thus falls within the district court's authority granted by Rule 35. Other state jurisdictions have held likewise in interpreting similar rules for reduction of sentence. See [State v. Knapp, 739 P.2d 1229, 1231-32 (Wy.1987)](https://scholar.google.com/scholar_case?case=1318610396541051353&q=%22the+term+reduce%22+OR+%22the+word+reduce%22+OR+%22the+phrase+reduce%22+OR+%22reduce+means%22&hl=en&as_sdt=2006) (similar rule of criminal procedure authorizes reduction of a sentence of incarceration to probation); [People v. Santana, 961 P.2d 498, 499 (Co.Ct.App.1997)](https://scholar.google.com/scholar_case?case=17890892396701062585&q=%22the+term+reduce%22+OR+%22the+word+reduce%22+OR+%22the+phrase+reduce%22+OR+%22reduce+means%22&hl=en&as_sdt=2006) (grant of probation is a "reduction" under Colorado Cr. R. 35(b)).

#### It has to be permanent

New York Supreme Court 3rd Appellate Division

(MATTER OF MONTESANI v. Levitt, 9 AD 2d 51 - NY: Appellate Div., 3rd Dept. 1959) EE

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

#### Violation: their aff is temporary

#### Vote neg for limits and ground – nonpermanent affs open the floodgates to delay and conditions affs that could hypothetically result in future reductions. These affs don’t materially change the status quo which destroys neg link uniqueness and avoids core topic questions of medical IP good/bad in favor of burner condition-of-the-week affs that gain advantages from the most extreme of crises.

#### Cross apply paradigm issues from first shell.

### 1NC – OFF

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 1NC – OFF

#### Current WTO legislation on IP rights promotes innovation

Ezell et al 4/29 Jaci McDole, Stephen Ezell [Stephen Ezell is vice president, global innovation policy, at the Information Technology and Innovation Foundation (ITIF). He focuses on science and technology policy, international competitiveness, trade, manufacturing, and services issues.] 4/29/21, “Ten Ways IP Has Enabled Innovations That Have Helped Sustain the World Through the Pandemic” Information Technology and Innovation Foundation, <https://itif.org/publications/2021/04/29/ten-ways-ip-has-enabled-innovations-have-helped-sustain-world-through> DD AG

Although anti-IP proponents have attacked biopharmaceutical manufacturers particularly hard, the reality is all IP-protected innovations are at risk if these rights are ignored, or vitiated. Certain arguments have shown a desire for the term “COVID-19 innovations” to include everything from vaccines, therapeutics, diagnostics, and PPE to biotechnology, AI-related data, and educational materials.14 This could potentially open the floodgates to invalidate IP protection on many of the innovations highlighted in this report.

However, much of the current discussion concerning IP focuses almost entirely on litigation fears or R&D incentives. Although R&D is an important aspect of IP, as previously mentioned, these discussions ignore the fact that IP protection can be—and often is—used for other purposes, including generating initial capital to create a company and begin manufacturing and, more importantly, using licensing agreements and IP to track the supply chain and ensure quality control of products.

In 2018, Forbes identified counterfeiting as the largest criminal enterprise in the world.15 The global struggle against counterfeit and non-regulated products, which has hit Latin America particularly hard during the pandemic, proves the need for safety and quality assurance in supply chains.16 Some communities already ravaged by COVID-19 are seeing higher mortality rates related to counterfeit vaccines, therapeutics, PPE, and cleaning and sanitizing products.17

Polish authorities discovered vials of antiwrinkle treatment labeled as COVID-19 vaccines. 18 In Mexico, fake vaccines sold for approximately $1,000 per dose.19 Chinese and South African police seized thousands of counterfeit vaccine doses from warehouses and manufacturing plants.20 Meanwhile, dozens of websites worldwide claiming to sell vaccines or be affiliated with vaccine manufacturers have been taken down.21 But the problem is not limited to biopharmaceuticals. The National Intellectual Property Rights Coordination Center has recovered $48 million worth of counterfeit PPE and other products.22

Collaborative efforts between law enforcement and manufacturers have kept numerous counterfeits from reaching the population. In countries with strong IP protection, the chances of counterfeit products reaching the market are significantly lower. This is largely because counterfeiting tends to be an IP-related issue, and these countries generally provide superior means of tracking the supply chain through trademarks, trade secrets, and licensing agreements. This enables greater quality control and helps manufacturers maintain a level of public confidence in their products.

By controlling the flow of knowledge associated with IP, voluntary licensing agreements provide innovators with opportunities to collaborate, while ensuring their partners are properly equipped and capable of producing quality products. Throughout this difficult time, the world has seen unexpected collaborations, especially between biopharmaceutical companies worldwide such as Gilead and Eva Pharma or Bharat Biotech and Ocugen, Inc.

Throughout history, and most significantly in the nineteenth century through the widespread development of patent systems and the ensuing Industrial Revolution, IP has contributed toward greater economic growth.23 This is promising news as the world struggles for economic recovery. A 2021 joint study by the EU Intellectual Property Office (EUIPO) and European Patent Office (EPO) shows a strong, positive correlation between IP rights and economic performance.24 It states that “IP-owning firms represent a significantly larger proportion of economic activity and employment across Europe,” with IP-intensive industries contributing to 45 percent of gross domestic product (GDP) (€6.6 trillion; US$7.9 trillion).25 The study also shows 38.9 percent of employment is directly or indirectly attributed to IP-intensive industries, and IP generates higher wages and greater revenue per employee, especially for small-to-medium-sized enterprises.26 That concords with the United States, where the Department of Commerce estimated that IP-intensive industries support at least 45 million jobs and contribute more than $6 trillion dollars to, or 38.2 percent of, GDP.27

In 2020, global patent filings through the World Intellectual Property Organization’s (WIPO) Patent Cooperation Treaty (PCT) system reached a record 275,900 filings amidst the pandemic, growing 4 percent from 2019.28 The top-four nations, which accounted for 180,530 of the patent applications, were China, the United States, Japan, and Korea, respectively.29 While several countries saw an increase in patent filings, Saudi Arabia and Malaysia both saw significant increases in the number of annual applications, with the top two filing growths of 73 percent and 26 percent, respectively.30

#### Reductions in protections kill medical innovation, economic growth, and knowledge building for the future

McDole and Ezell 04/29 – Jaci McDole is a senior policy analyst covering intellectual property (IP) and innovation policy at ITIF. She focuses on IP and its correlations to global innovation and trade. Her work includes ITIF’s Innovate4Health Initiatives (2017–2019) and A Covid-19 TRIPS Waiver Makes No More Sense for Copyrights Than It Does for Patents (2021). McDole comes to ITIF from the Institute for Intellectual Property Research, an organization she cofounded to study and further robust global IP policies. Stephen J. Ezell is ITIF vice president for Global Innovation Policy. He focuses on science, technology, and innovation policy as well as international competitiveness and trade policy issues. He is the coauthor of Innovating in a Service Driven Economy: Insights Application, and Practice (Palgrave McMillan, 2015) and Innovation Economics: The Race for Global Advantage (Yale 2012). The Information Technology and Innovation Foundation (ITIF) is an independent, nonprofit, nonpartisan research and educational institute focusing on the intersection of technological innovation and public policy. Recognized by its peers in the think tank community as the global center of excellence for science and technology policy, ITIF’s mission is to formulate and promote policy solutions that accelerate innovation and boost productivity to spur growth, opportunity, and progress; April 29, 2021; “Ten Ways IP Has Enabled Innovations That Have Helped Sustain the World Through the Pandemic”; <https://itif.org/publications/2021/04/29/ten-ways-ip-has-enabled-innovations-have-helped-sustain-world-through> //advay

Innovation can—and does—happen anywhere and at any time. As society ground to a halt in 2020, innovators around the world worked tirelessly to develop treatments, vaccines, and solutions to COVID-19 pandemic-related challenges. From personal protective equipment (PPE) to treatments and vaccines to autonomous delivery robots to remote and social distancing solutions for the workplace, intellectual property (IP) played an indispensable role in enabling research, development, and commercialization of many of the innovations meeting the challenges of the pandemic. IP enables start-ups to gain access to much-needed capital. IP gives innovators the confidence to invest in research and development (R&D) and provides incentives for commercialization. Indeed, it is difficult to innovate without the protection of ideas.

Despite this, some—particularly anti-business IP opponents—have blamed IP rights for a host of problems, including limited access to therapeutics, vaccines, and biotechnology. They offer seemingly simple solutions—weaken or eliminate IP rights—and innovation will flow like manna from heaven. Eliminating IP rights might accelerate the diffusion of some pre-existing innovations, but it would absolutely limit future innovations. Innovators, a bit like Charlie Brown kicking the football held by Lucy, would be wary of trusting governments who might say, “Well, this time we won’t take away your IP rights, so go ahead and invest large amounts of time and money.” Given the nature of COVID-19, nations around the world cannot afford to take this risk. Future pandemics and other challenges for which we will need to rely on IP-protected innovations to overcome are near certain to arise.

Moreover, the blame game usually ignores the real, underlying problems. For access to innovations to fight COVID-19, especially biotechnology, vaccines, and therapeutics, the underlying problems are regulatory delays and a lack of adequate and appropriate manufacturing infrastructure.1 The lack of infrastructure has resulted in supply chain bottlenecks in places where few are currently equipped to handle the manufacturing requirements.2 Meanwhile, regulatory delays have prevented vaccines, therapeutics, and diagnostics from entering certain markets.3

To better understand the role of IP in enabling solutions related to COVID-19 challenges, this report relies on 10 case studies drawn from a variety of nations, technical fields, and firm sizes. This is but a handful of the thousands of IP-enabled innovations that have sprung forth over the past year in an effort to meet the tremendous challenges brought on by COVID-19 globally. From a paramedic in Mexico to a veteran vaccine manufacturing company in India and a tech start-up in Estonia to a U.S.-based company offering workplace Internet of Things (IoT) services, small and large organizations alike are working to combat the pandemic. Some have adapted existing innovations, while others have developed novel solutions. All are working to take the world out of the pandemic and into the future.

The case studies are:

Bharat Biotech: Covaxin

Gilead: Remdesivir

LumiraDX: SARS-COV-2 Antigen POC Test

Teal Bio: Teal Bio Respirator

XE Ingeniería Médica: CápsulaXE

Surgical Theater: Precision VR

Tombot: Jennie

Starship Technologies: Autonomous Delivery Robots

Triax Technologies: Proximity Trace

Zoom: Video Conferencing

As the case studies show, IP is critical to enabling innovation. Policymakers around the world need to ensure robust IP protections are—and remain—in place if they wish their citizens to have safe and innovative solutions to health care, workplace, and societal challenges in the future.

THE ROLE OF INTELLECTUAL PROPERTY IN R&D-INTENSIVE INDUSTRIES

Intangible assets, such as IP rights, comprised approximately 84 percent of the corporate value of S&P 500 companies in 2018.4 For start-ups, this means much of the capital needed to operate is directly related to IP (see Teal Bio case study for more on this). IP also plays an especially important role for R&D-intensive industries.5

To take the example of the biopharmaceutical industry, it is characterized by high-risk, time-consuming, and expensive processes including basic research, drug discovery, pre-clinical trials, three stages of human clinical trials, regulatory review, and post-approval research and safety monitoring. The drug development process spans an average of 11.5 to 15 years.6 For every 5,000 to 10,000 compounds screened on average during the basic research and drug discovery phases, approximately 250 molecular compounds, or 2.5 to 5 percent, make it to preclinical testing. Out of those 250 molecular compounds, approximately 5 make it to clinical testing. That is, 0.05 to 0.1 percent of drugs make it from basic research into clinical trials. Of those rare few which make it to clinical testing, less than 12 percent are ultimately approved for use by the U.S. Food and Drug Administration (FDA).7

In addition to high risks, drug development is costly, and the expenses associated with it are increasing. A 2019 report by the Deloitte Center for Health Solutions concluded that since 2010 the average cost of bringing a new drug to market increased by 67 percent.8 Numerous studies have examined the substantial cost of biopharmaceutical R&D, and most confirm investing in new drug development requires $1.7 billion to $3.2 billion up front on average.9 A 2018 study by the Coalition for Epidemic Preparedness found similar risks and figures for vaccines, stating, “In general, vaccine development from discovery to licensure can cost billions of dollars, can take over 10 years to complete, and has an average 94 percent chance of failure.”10 Yet, a 2010 study found that 80 percent of new drugs—that is, the less than 12 percent ultimately approved by the FDA—made less than their capitalized R&D costs.11 Another study found that only 1 percent (maybe three new drugs each year) of the most successful 10 percent of FDA approved drugs generate half of the profits of the entire drug industry.12

To say the least, biopharmaceutical R&D represents a high-stakes, long-term endeavor with precarious returns. Without IP protection, biopharmaceutical manufacturers have little incentive to take the risks necessary to engage in the R&D process because they would be unable to recoup even a fraction of the costs incurred. Diminished revenues also result in reduced investments in R&D which means less research into cancer drugs, Alzheimer cures, vaccines, and more. IP rights give life-sciences enterprises the confidence needed to undertake the difficult, risky, and expensive process of life-sciences innovation secure in the knowledge they can capture a share of the gains from their innovations, which is indispensable not only to recouping the up-front R&D costs of a given drug, but which can generate sufficient profits to enable investment in future generations of biomedical innovation and thus perpetuate the enterprises into the future.13

#### Anticipated economic results in nuclear war – especially for a post-pandemic world

Tønnesson 15 [Tønnesson is a research professor at the Peace Research Institute Oslo (PRIO) in Norway and the leader of the East Asia Peace program at Uppsala University in Sweden.] “Deterrence, interdependence and Sino–US peace.” International Area Studies Review, volume 18, number 3, pgs. 297-311. 2015 // recut advay

Several recent works on China and Sino–US relations have made substantial contributions to the current understanding of how and under what circumstances a combination of nuclear deterrence and economic interdependence may reduce the risk of war between major powers. At least four conclusions can be drawn from the review above: first, those who say that interdependence may both inhibit and drive conflict are right. Interdependence raises the cost of conflict for all sides but asymmetrical or unbalanced dependencies and negative trade expectations may generate tensions leading to trade wars among inter-dependent states that in turn increase the risk of military conflict (Copeland, 2015: 1, 14, 437; Roach, 2014). The risk may increase if one of the interdependent countries is governed by an inward-looking socio-economic coalition (Solingen, 2015); second, the risk of war between China and the US should not just be analysed bilaterally but include their allies and partners. Third party countries could drag China or the US into confrontation; third, in this context it is of some comfort that the three main economic powers in Northeast Asia (China, Japan and South Korea) are all deeply integrated economically through production networks within a global system of trade and finance (Ravenhill, 2014; Yoshimatsu, 2014: 576); and fourth, decisions for war and peace are taken by very few people, who act on the basis of their future expectations. International relations theory must be supplemented by foreign policy analysis in order to assess the value attributed by national decision-makers to economic development and their assessments of risks and opportunities. If leaders on either side of the Atlantic begin to seriously fear or anticipate their own nation’s decline then they may blame this on external dependence, appeal to anti-foreign sentiments, contemplate the use of force to gain respect or credibility, adopt protectionist policies, and ultimately refuse to be deterred by either nuclear arms or prospects of socioeconomic calamities. Such a dangerous shift could happen abruptly, i.e. under the instigation of actions by a third party – or against a third party. Yet as long as there is both nuclear deterrence and interdependence, the tensions in East Asia are unlikely to escalate to war. As Chan (2013) says, all states in the region are aware that they cannot count on support from either China or the US if they make provocative moves. The greatest risk is not that a territorial dispute leads to war under present circumstances but that changes in the world economy alter those circumstances in ways that render inter-state peace more precarious. If China and the US fail to rebalance their financial and trading relations (Roach, 2014) then a trade war could result, interrupting transnational production networks, provoking social distress, and exacerbating nationalist emotions. This could have unforeseen consequences in the field of security, with nuclear deterrence remaining the only factor to protect the world from Armageddon, and unreliably so. Deterrence could lose its credibility: one of the two great powers might gamble that the other yield in a cyber-war or conventional limited war, or third party countries might engage in conflict with each other, with a view to obliging Washington or Beijing to intervene.

### Case

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

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

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

#### The WTO privileges wealthy, Western nations --- flips their aff case

Al Jazeera 15 Al Jazeera, News Organization, “Has the World Trade Organisation failed poor countries?” Al Jazeera. December 20, 2015. https://www.aljazeera.com/programmes/countingthecost/2015/12/world-trade-organisation-failed-poor-countries-151219155155237.html

The World Trade Organisation (WTO) has come under renewed criticism for failing poor and developing countries in their 14-year-long battle to achieve a breakthrough in key agricultural trade talks.

Several countries, including Kenya, India and Pakistan, have been calling the WTO to force developed countries to phase out subsidies paid to farmers whose overproduction threatens the livelihoods of farmers in the developing world.

Many analysts argue that negotiations at the WTO have remained largely dominated by traditional economic powers, such as the US and EU, with discussions failing to deliver promised change.

Some point to the failure of western governments to conclude what's known as the "Doha Development Agenda" which has kept agricultural economies in Africa trapped in poverty.

The Doha Development Agenda, which began in Qatar in 2001, is a series of trade negotiations with the broad aim of reforming the international trading system through the introduction of lower trade barriers and revised trade rules.

But 14 years on, some of the biggest of these issues, including agriculture tariffs and farming subsidies, remain unresolved.

Ricardo Melendez-Ortiz, the CEO of the International Centre for Trade and Sustainable Development, joins Counting the Cost to discuss whether the Doha Round should be scrapped.

Global arms industry continues to boom

Worth more than $400bn a year, according to the Stockholm International Peace Research Institute (SIPRI), the international arms trade is currently at its highest level since the end of the Cold War.

Around 100 companies control the booming trade, with 64 of them based in either the US or western Europe.

While the US is the world's biggest exporter with 54.4 percent of the market, German and Swiss sales have grown by 9.4 percent and 11.2 percent respectively.

Increasing instability in the Middle East and Asia has prompted an arms race between Iran and the Gulf States, while a similar situation between Pakistan and India has prompted both countries to stock up on huge amounts of weapons.

#### Tons of thumpers, the aff makes vaccines more expensive, and current production is sufficient

McMurry-Heath 21 [Michelle McMurry-Heath assumed the leadership of the Biotechnology Innovation Organization (BIO) as President and CEO on June 1, 2020. A medical doctor and molecular immunologist by training, Dr. McMurry-Heath becomes just the third chief executive to steward the world’s largest biotechnology advocacy group since BIO’s founding in 1993.] “Waiving intellectual property rights would compromise global vaccination efforts,” August 18th, 2021, <https://www.statnews.com/2021/08/18/waiving-intellectual-property-rights-compromise-global-vaccination-efforts/>, STAT, VM

“Covid-19 vaccines are already remarkably cheap, and companies are offering them at low or no cost to low-income countries. Poor access to clinics and transportation are barriers in some countries, but the expense of the shot itself is not. In fact, if the World Trade Organization grants the IP waiver, it could make these vaccines more expensive. Here’s why. Before Covid-19 emerged, the world produced at most 5.5 billion doses of various vaccines every year. Now the world needs an additional 11 billion doses — including billions of doses of mRNA vaccines that no one had ever mass-manufactured before — to fully vaccinate every eligible person on the planet against the new disease. Even as Covid-19 vaccines were still being developed, pharmaceutical companies began retrofitting and upgrading existing facilities to produce Covid-19 vaccines, at a cost of $40 to $100 million each. Vaccine developers also licensed their technologies to well-established manufacturers, like the Serum Institute of India, to further increase production. As a result, almost every facility in the world that can quickly and safely make Covid-19 vaccines is already doing so, or will be in the next few months. The cutting-edge mRNA vaccines from Moderna and Pfizer-BioNTech face an even bigger capacity issue. Since the underlying technology is new, there are no mRNA manufacturing facilities sitting idle with operators just waiting for licensing agreements to turn on the machines. Nor are there trained personnel to run them or ensure safety and quality control. Embedding delicate mRNA vaccine molecules inside lipid nanoparticle shells at temperatures colder than Antarctica isn’t as easy as following a recipe from Bon Appetit. Another big barrier to producing more shots is a shortage of raw materials. Suspending intellectual property protections and allowing any manufacturer to try to produce these vaccines, regardless of preparedness or experience, would increase the demand for scarce raw materials, driving up prices and impeding production. Nor could all companies that suddenly get a green light due to suspended intellectual property rights produce vaccines as cheaply or quickly as existing manufacturers. Building a new vaccine manufacturing facility costs about $700 million, takes many months — if not years — to build and, once opened, requires another four to six months to start producing vaccine doses. And because negotiations surrounding the WTO waiver, which began this summer, could take until December before they are completed, it wouldn’t be until well into 2023 or later that any additional doses would become available. That’s slower than our current production rate. According to a report from Duke University’s Global Health Innovation Center, companies are on track to manufacture enough shots in 2021 to fully vaccinate at least 70% of the global population against Covid-19 — the level required to achieve herd immunity.”

#### No evidence for why a patent is key for increased vaccines– most factories can already make it

**Iancu, 21**, 4/13/21, Stat News, “No evidence that patents slow access to vaccines”, Andrei Iancu is a partner at Irell & Manella, a law firm based in Los Angeles, and a senior adviser to the Renewing American Innovation Project at the Center for Strategic and International Studies. He served as the undersecretary of commerce for intellectual property and director of the U.S. Patent and Trademark Office, a position to which he was confirmed unanimously by the Senate, URL: <https://www.statnews.com/2021/04/13/no-evidence-patents-slow-vaccine-access/>, KR

Gutting patent rights is a dangerous prospect. Drug invention is highly risky: Fewer than 12% of new molecular entities that make it to the clinical trial stage get to the marketplace. The endeavor depends on $100 billion in annual private-sector investment, on top of billions in taxpayer money. Kill the patents taken out on these advances and you kill the incentive to invest. That would mean even worse trouble when the next pandemic comes around, in five, 10, or 20 years.

So before governments take the risk of waiving patents, they should evaluate whether intellectual property rights are really standing in the way of vaccine manufacturing and distribution. To do that, they need to answer two questions:

Is there evidence that a broad range of Covid-19 vaccine developers have been asked for, and unreasonably refused, licenses to their IP?

Are there more facilities that could manufacture a vaccine in short order if they just had the intellectual property?

The answers are no and no.

The issues about making more vaccines and distributing them to every country are far more complex than those proposing to waive intellectual property rights on these vaccines would have us believe. Manufacturing and distributing these vaccines is extremely complicated, posing issues well beyond patents.

Almost every factory on the planet that can make these vaccines is already doing so. One of the biggest, the Serum Institute in India, has contracts with AstraZeneca and others to make millions of doses. Under deals like these, manufacturing plants in India will produce 3.6 billion doses of vaccine this year, second only to the United States.

Other companies have licensed their manufacturing process to subcontractors, and even to competitors. Johnson & Johnson and Merck are teaming up to expand manufacturing capacity of the J&J vaccine. Novartis and Sanofi are using their facilities to help increase the production of the Pfizer/BioNTech vaccine.

In short, there’s robust collaboration and cooperation within the industry to ensure that vaccines are made quickly and safely. And patents actually facilitate such cooperation, because each entity can rest assured that its proprietary technology is protected in the long run.

So before rushing to disrupt the world’s intellectual property systems, governments need to identify specific evidence that intellectual property protection is actually a problem. Adar Poonawalla, CEO of the Serum Institute of India, told The Guardian that insufficient license-granting by patent holders is not an impediment to speedy vaccine rollout and that “it just takes time to scale up,” pointing to the complexity of the manufacturing process.

And Bill Gates, the mega-philanthropist whose foundation spearheads many global vaccination efforts, recently told the “Sway” podcast, “Believe me, IP did not limit anything.”

On the contrary, intellectual property rights made it possible for research scientists to make the decades of investments required to develop and deliver safe and effective Covid-19 vaccines in record time. Companies would not share such critical technology with competitors if the law didn’t protect their investments.

Some of those advocating for patent waivers have their hearts in the right place: They want to end the pandemic.

But the evidence that setting aside patent protection will do anything to boost access or expand supply just isn’t there. Removing intellectual property protections on medicines will only ensure that we have fewer of them in the future. This is not a risk worth taking, especially when the evidence suggests we don’t need to.

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

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

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

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

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

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

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

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

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

#### The covid waiver is meant to be a Paper Tiger – it threatens vaccines innovators to ramp up production. Codifying it kills future emergency innovation and neglects the actual issue – constrained supply chains.

Mercurio 5/24 Bryan Mercurio [Simon F.S. Li Professor of Law, The Chinese University of Hong Kong, Shatin, Hong Kong], “The IP Waiver for COVID-19: Bad Policy, Bad Precedent”, 24 June 2021, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/> | MU

The chance for a swift negotiation diminished with the release of a revised proposal by India and South Africa on 22 May 2021. As mentioned above, the proposal contains no limit as to product coverage, scope, notification requirements or safeguards and proposes that the waiver will remain in effect for what could be an indefinite period. This was not a proposal designed to engender quick negotiations and a solution. Instead, the proposal perhaps reveals India’s and South Africa’s true intent to use the COVID-19 pandemic as an excuse to roll-back IPRs rather than a good-faith effort to rapidly increase access to lifesaving vaccines and treatments around the world.

It is not only the length of time which is an issue but also the ultimate impact of the waiver. A waiver simply means that a WTO Member would not be in violation of its WTO obligations if it does not protect and enforce the COVID-19-related IPRs for the duration of the waiver. The waiver would thus allow Members to deviate from their international obligations but not obligate Members to suspend protection and enforcement of the IPRs. Members like the US who support the waiver may not implement the necessary domestic legislation to waive IPRs within the jurisdiction. It is questionable whether the US could even legally implement the waiver given that IPRs are a matter of constitutional law.[17](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn17)

The US announcement remains meaningful, however, for two reasons. First, it signals a departure from the longstanding and bipartisan support for the pharmaceutical industry, which for decades has been instrumental in setting the IP and trade agenda.[18](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn18) Second, it sends a strong signal that the US does not oppose others from waiving patent protection for vaccines. This shift may also be part of a broader and alternative strategy to increase vaccine production and distribution, whereby the US is not viewing or supporting waiver negotiations as a legal tool but more so as a threat to encourage vaccine innovators to increase production. In essence, the desired reaction would be that the IP holders increase efforts to license, transfer technology and expand manufacturing – exactly what the world needs at this time.

Alan Beattie, writing in the Financial Times, believes that even the proponents of the waiver desire this outcome: “having talked to the proponents, [the original proposal] was always a tactical position designed to start a debate, identify possible support and flush out opponents rather than a likely outcome. To that end, it seems to have worked rather well.”[19](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn19) India’s negotiator to the TRIPS Agreement and longtime WTO staffer, Jayashree Watal, agrees, stating the proposal is an “indirect attempt to put pressure on the original manufacturers to cooperate [and license production to companies in their countries]”.[20](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn20) This view makes sense, as the proponents (and their supporters) have not even pointed to one credible instance where IPRs have blocked the production of a COVID-19 vaccine. Moreover, it is well known that the leading vaccines using mRNA are difficult to reproduce and having the “blueprints” does not guarantee safe and effective production. Simply stated, if a pastry chef provides instructions on how to bake a cake, the cake they bake is still going to be better than cakes baked by novices using the exact same recipe. The know-how and trade secrets are the key ingredient to the manufacture of quality, safe and effective pharmaceuticals or vaccines, and not only is it not transferred through compulsory licenses but it is hard to imagine how any government would force the transfer of such information even under a waiver. For this reason, instead of encouraging production everywhere – including in locations where safety and efficacy standards are virtually nonexistent – and accepting that there will be a flood of substandard vaccines coming onto the world market (with devastating effects) it is much more sensible to find out where potential manufacturing capabilities exist and find ways to exploit them and scale them up.

When asked if a waiver would improve vaccine availability and equity, Watal responded: “No. It won’t. That’s clear.”[21](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn21) I share Watal’s view and do not support a TRIPS waiver for IPRs or even a limited waiver for patents. With evidence mounting that “what the proposal … will definitely not achieve is speeding up the Covid-19 vaccination rate in India or other parts of the Global South”[22](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn22) I refuse to sacrifice academic integrity by supporting a proposal simply because it is gaining traction in some circles.[23](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn23) IPRs played a key role in delivering vaccines within a year of the discovery of a new pathogen; it seems inexplicable that the world would abandon the system without any evidence that IPRs are limiting during the current crisis.[24](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn24) Moreover, innovators have been generous in licensing technology transfer and production and one would be hard-pressed to find credible reports of qualified generic producers being refused a license. This is not surprising, since multiple competing vaccines are on the market it simply does not make economic sense for innovators to refuse a license – the generic manufacturer would simply obtain a license (and market share) and pay royalties to a competitor.

Instead, I support efforts to enable prompt and effective use of existing flexibilities in the TRIPS Agreement and concerted and coordinated efforts involving governments and the private sector to ensure all qualified generic producers willing and capable of manufacturing vaccines are doing so and to create supply by working to bring more facilities up to standard. Cooperation will not only lead us out of this pandemic but also put us in a better position to deal with the next one. Killing the goose that laid the golden egg may seem appealing to some in the short term but will only ensure that no eggs are delivered in the next pandemic.