### 1

#### CP: The TRIPs Council should vote to reduce intellectual property protections for COVID-19 medicines, amending TRIPs to mandate the plan. The TRIPs Council should begin developing new vaccine production facilities

#### The United States should:

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

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

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

#### Counterplan competes ---

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

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

member nations

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

Sociology (1995)

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

Times, Sunday Times (2015)

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

Times, Sunday Times (2012)

Definition of 'nation'

nation

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

COUNTABLE NOUN

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

#### 2] Immediacy

#### Ought and should are used interchangeably.

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

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

#### “Should” is immediate

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

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

[CONTINUES – TO FOOTNOTE]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### 2

#### Current COVID vaccine I.P. provide the perfect climate for innovation – IP is the lynchpin of innovation

Wilbur 21 – Tom Wilbur is Director of Public Affairs at PhRMA focusing on message development and opinion research. Prior to joining PhRMA in 2019, Tom worked on Capitol Hill and on political campaigns for nearly a decade, most recently responsible for communications, campaigns and strategy for U.S. Rep. Fred Upton and the House Energy and Commerce Committee. Tom is a proud Michigander and outside of the virtual office enjoys reading, running, hiking, golfing, and spending time with friends and family; February 12, 2021; “The latest: What they are saying: Intellectual property protections vital to COVID-19 research, development and manufacturing”; <https://catalyst.phrma.org/the-latest-what-they-are-saying-intellectual-property-protections-vital-to-covid-19-research-development-and-manufacturing> //advay

Strong and reliable IP protections – including patents – have supported America’s robust innovation ecosystem by promoting discovery, development, affordability and access to new treatments and cures. As our industry continues to expand vaccine production and deliver medicines to patients in need, reliable IP protections have been critical in supporting multiple research and development and manufacturing ramp-ups on COVID-19 vaccines and therapeutics. Innovators need strong and reliable IP protections to research, develop and manufacture new therapeutics and vaccines that will improve patients’ lives during the current pandemic and beyond.

Experts continue to highlight the importance of strong IP protections that encourage innovators to develop and produce COVID-19 solutions. Here are some of their thoughts:

“Consider…the multiple COVID-19 vaccines that were developed in less than a year, but are based on decades of research and countless inventions in dozens of scientific and technology disciplines. The importance of our nation’s consistent support of such creativity over time is more evident now than ever…Our intellectual property system — born from our Constitution and steeped in our history — is strong and it supports our nation’s innovators who are more creative and more capable than they have ever been.” – Andrei Iancu, then-Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

#### Lack of I.P. protections wreck the U.S. economy and R.O.I. because no one wants to innovate anymore

Wilbur 21 – Tom Wilbur is Director of Public Affairs at PhRMA focusing on message development and opinion research. Prior to joining PhRMA in 2019, Tom worked on Capitol Hill and on political campaigns for nearly a decade, most recently responsible for communications, campaigns and strategy for U.S. Rep. Fred Upton and the House Energy and Commerce Committee. Tom is a proud Michigander and outside of the virtual office enjoys reading, running, hiking, golfing, and spending time with friends and family; February 12, 2021; “The latest: What they are saying: Intellectual property protections vital to COVID-19 research, development and manufacturing”; <https://catalyst.phrma.org/the-latest-what-they-are-saying-intellectual-property-protections-vital-to-covid-19-research-development-and-manufacturing> //advay

“Of all of the ways to improve access to critical medication or vaccines, elimination of intellectual property rights is one of the worst. Our intellectual property system is designed to reward research and development innovation. Tampering with that sends a chilling signal about the rewards of corporate funding of the development and manufacture of new drugs, and tears down a system that has allowed the U.S. government to realize an enormous *return on its investment* into biomedical research.” – Jim Sailer, executive director of the Population Council’s Center for Biomedical Research, in The New York Times

“The role and importance of intellectual property standards have never been more apparent than during this global pandemic. The ecosystem for innovation spans basic scientific research, applied science, product development and testing, and commercialization… The role of intellectual property laws in this ecosystem is to enable those investments by transparently and predictably assigning rights to the breakthroughs that result at each respective phase of the innovation ecosystem. Those legal rights allow stakeholders to come to terms on contractual arrangements that enable collaboration by ensuring each party agrees on the value the others are bringing to the project. By doing so, intellectual property rights provide a vehicle to transform new technologies from useful knowledge into finished products that can serve an end-user, such as a treatment or vaccine for COVID-19.” – Patrick Kilbride, Senior Vice President at the Global Innovation Policy Center, US Chamber of Commerce, in Express Pharma

“At every step of drug development, intellectual property rights (IPRs) play a crucial role, supporting early research, bringing treatments through clinical trials, and getting them to patients…IP is the bedrock upon which today’s COVID-19 vaccines have been built… The IP system encouraged the rapid establishment of dozens of partnerships around COVID-19, with even commercial rivals prepared to cooperate and share capital and proprietary intellectual resources such as compound libraries…”– Philip Stevens, Executive Director of Geneva Network, and Mark Schultz, Goodyear Endowed Chair in Intellectual Property Law at the University of Akron School of Law, in Geneva Network

America’s biopharmaceutical companies remain committed to ensuring that treatments and vaccines developed for COVID-19 are availables to all who need them. For more information on the importance of IP rights, visit our IP page and stay tuned for our next IP Explained post.

#### Reductions are detrimental to medical innovation and disease prevention – spillover turns the aff

ABC 20 – America’s Biopharmaceutical Companies are a consortium of companies dedicated to driving innovation and collaborating to prevent disease. America's Biopharmaceutical Companies go boldly into the search for new treatments and cures, everyday. They are pioneers in innovation, ushering in a new era of treaments for patients; “How Intellectual Property Protections Spur Innovation”; 2020; <https://innovation.org/en/about-us/commitment/innovation-fragility/world-ip-day-intellectual-property-protections-spur-innovation> //advay

\*\*this ev also turns their soft left args – it indicates protections reduce healthcare spending which provides an external N.B. to the squo

As America’s biopharmaceutical companies work around the clock to develop solutions to help diagnose and treat those with COVID-19, a disease caused by a novel strain of coronavirus, the importance of a robust innovation ecosystem is at the forefront of our minds. Intellectual property (IP) protections help lay the foundation for this ecosystem, both in the U.S. and across the globe.

IP and the New Era of Medicine: Our intellectual property system in the United States promotes competition and is the foundation for breakthrough treatments and cures for patients. Government organizations like the National Institutes of Health (NIH) perform limited research; however, most of the research and development spending comes from biopharmaceutical manufacturers, which are unique in the substantial risk they take on. Because of a competitive U.S. patent system, biopharmaceutical innovators are willing to invest more than any other industry in R&D and bring forward medical advances critical to addressing some of our most challenging diseases.

Our intellectual property system in the United States promotes competition and is the foundation for breakthrough treatments and cures for patients.

The Importance of IP Protections: IP protections give innovators certainty that their proprietary inventions or products are protected from copycats, encouraging them to pursue that one idea that may work despite hundreds of others that may fail. At the same time, innovators publish the specifics of their invention in exchange for these protections so others can learn from their research and use it as a building block for future, competing discoveries.

Developing new medicines is a lengthy and complex process, and the work that goes into the initial discovery and patent application is just the beginning. A biopharmaceutical manufacturer must then demonstrate the safety and efficacy of a new treatment through rigorous testing that involves clinical trial data before a medicine can be made available to patients. By the time a medicine is ready for the market, it has typically taken on average $2.6 billion and 10 years—about half of the life of a patent.

The Value of IP Protections in the United States: In the U.S., IP protections help support more treatment options and generic alternatives, lower long-term health care costs, and Americans living longer, healthier lives. In fact, our IP system strikes a balance between promoting innovation and meeting the needs of patients who rely on breakthrough treatments and cures. In the last three years alone, 150 new treatments and cures have been approved, and over 3,000 generic alternatives have been approved or are on the road to approval. Today, more than 90% of drug prescriptions are filled with generics—up from 19% 35 years ago.

Additionally, America’s biopharmaceutical industry is a major contributor to the nation’s R&D economy and helps keep America at the forefront of advanced technology development. The industry ranks first among all U.S. manufacturing industries in terms of R&D dollars invested per employee and is responsible for about one out of every six dollars spent on R&D by U.S. businesses.

Today, 90% of new treatments and cures in the world come from the U.S., which is one of only a few countries where medicines are developed. Without reliable patent protections for inventions, patients would have access to fewer treatments and cures

Because of a competitive U.S. patent system, biopharmaceutical innovators are willing to invest more than any other industry in R&D.

The Role of IP Protections Around the World: IP is important on the international scale as well, as intellectual property systems differ from country to country. Many countries around the world are lifting IP standards to benefit their patients and consumers, to empower local inventors and to encourage more investment in innovation.

As people everywhere face the deadly COVID-19 pandemic and researchers race to develop and test potential solutions, we need innovation more than ever. Patents and other intellectual property have enabled a rapid response to this disease. They are facilitating the collaboration and partnerships needed to defeat the virus and to quickly scale up manufacturing and distribution of approved treatments and vaccines. To win this fight, countries around the world must continue to protect new inventions.

#### Anticipated economic results in nuclear war – especially for the U.S. and COVID

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.

### 3

#### Counterplan text: Member nations of the WTO should establish a government-financed Pharmaceutical Innovation Fund, which will financially reward companies for therapeutic drugs, cost-reducing innovations, and reward those who prove patents to be invalid.

#### Drug prices will drop significantly

Hollis 04

Aidan Hollis [Dr. Aidan Hollis is Professor in Economics at the University of Calgary, and President of Incentives for Global Health, a US-based NGO focused on the development of the Health Impact Fund proposal], 10 June 2004, “An Efficient Reward System for Pharmaceutical Innovation”, [https://www.who.int/intellectualproperty/news/Submission-Hollis6-Oct.pdf //](https://www.who.int/intellectualproperty/news/Submission-Hollis6-Oct.pdf%20//) AK

Prices of medicines under this proposal would fall to approximately the average cost of production. Based on experience with drugs facing generic competition today, this implies that patented drug prices would decrease by on average 50% to 80%. This would obviously be beneficial for consumers and insurers, with total savings in the US of on the order of $100bn annually. Globally, savings might be on the order of $200bn.25 Aside from the reduction in total expense to consumers, there would be a welfare gain from increased consumption of lower-priced medicines. The deadweight loss (DWL) from the current patent system is certainly immense in pharmaceutical markets. The gains from pricing drugs at approximately the average cost of production could easily be valued at $100bn, and gains in terms of saved lives would likely be very large.

### 4

#### Dems win the Senate now, but it’s close---it determines the Biden presidency.

Shane **Goldmacher 7/17**. Reporter, New York Times, “Democrats See Edge in Early Senate Map as Trump Casts Big Shadow,” The New York Times, July 17, 2021, <https://www.nytimes.com/2021/07/17/us/politics/midterm-elections.html>, RJP, DebateDrills.

Six months into the Biden administration, Senate Democrats are expressing a cautious optimism that the party can keep control of the chamber in the 2022 midterm elections, enjoying large fund-raising hauls in marquee races as they plot to exploit Republican retirements in key battlegrounds and a divisive series of unsettled G.O.P. primaries.

Swing-state Democratic incumbents, like Senators Raphael Warnock of Georgia and Mark Kelly of Arizona, restocked their war chests with multimillion-dollar sums ($7.2 million and $6 million, respectively), according to new financial filings this week. That gives them an early financial head start in two key states where Republicans’ disagreements over former President Donald J. Trump’s refusal to accept his loss in 2020 are threatening to distract and fracture the party.

But Democratic officials are all too aware of the foreboding political history they confront: that in a president’s first midterms, the party occupying the White House typically loses seats — often in bunches. For now, Democrats hold power by only the narrowest of margins in a 50-50 split Senate, with Vice President Kamala Harris serving as the tiebreaker to push through President Biden’s expansive agenda on the economy, the pandemic and infrastructure.

#### The plan is unpopular---it’s seen as soft on China.

Cynthia Hicks 21. Director of Public Affairs at PhRMA focusing on polling and opinion research that supports advocacy communications and strategy. “New polling shows Americans are sounding the alarm on the TRIPS IP waiver,” PhRMA, May 14, 2021, <https://catalyst.phrma.org/new-polling-shows-americans-are-sounding-the-alarm-on-the-trips-ip-waiver>, RJP, DebateDrills

\*\*\*NOTE – the stuff after “include the following” is a picture that couldn’t be pasted. Go to the URL if you want to see it.

2. Americans are concerned that the TRIPS waiver could risk patient safety, sow public confusion, and cede America’s global innovation leadership to China.

Americans worry that waiving intellectual property introduces unnecessary and dangerous risks to safety and vaccine manufacturing. The top concerns – expressed by more than six in ten voters – include the following:

#### China is the key for the midterms---Senate control hinges on it.

Sarah Mucha 21. Politics reporter at Axios, covering the Biden administration and Congress. “Parties pounce on China as midterm issue,” Axios, June 23, 2021, <https://www.axios.com/democrat-republicans-china-2022-midterms-6c242c54-b51b-444e-b9b2-65ff0afb906a.html>, RJP, DebateDrills

Democrats and Republicans in purple states are already leaning into U.S. competition with China as a key issue in the fight to control the Senate in 2022.

Why it matters: American voters hold [increasingly negative feelings](https://www.pewresearch.org/fact-tank/2021/04/12/americans-views-of-asia-pacific-nations-have-not-changed-since-2018-with-the-exception-of-china/) toward the Chinese government, particularly around bilateral economic relations and following the nation’s handling of the COVID-19 outbreak.

President Biden also has made it clear that confronting China remains a foreign policy priority.

[Possibly vulnerable Democratic senators](https://www.axios.com/senate-seats-2022-midterm-elections-aa166e09-65e9-49be-a1f4-428c36a8dad0.html) are capitalizing on the passage of the U.S. Innovation and Competition Act, a sweeping global competition bill focused on China that [recently passed by a rare bipartisan vote](https://www.axios.com/senate-china-competition-bipartisan-e2fa3f88-16d4-4d79-bab0-1b9c6a4f2774.html).

Sen. Raphael Warnock (D-Ga.) visited Kia’s West Point factory in Georgia to address how the bill could address the recent semiconductor shortage and avoid future plant shutdowns, like one the factory experienced.

Sens. Maggie Hassan (D-N.H.) and Mark Kelly (D-Ariz.) wrote op-eds in their local news outlets highlighting the bill's benefits.

The Democratic Senatorial Campaign Committee and state Democratic parties are calling out Republicans like Sens. Ron Johnson (R-Wis.) and Marco Rubio (R-Fla.), both of whom voted against the bill.

They’ve also targeted Republicans running in open Senate seats who have expressed opposition to the bill.

Meanwhile, Rubio has been making a play for China hawks in Florida, Axios’ Lachlan Markay [reported last week](https://www.axios.com/rubios-anti-china-voters-senate-race-florida-7f6539ab-86b8-4d08-a423-0a26598863ea.html).

Rubio, who is up for re-election next year, has been sending campaign emails with subject lines such as, "Dems <3 China," and, "Is it time to stand up to Communist China?" to a list maintained by a nonprofit group called Stand Up to China.

In Arizona, Republicans latched onto [Kelly's ties to a Chinese tech firm](https://www.azcentral.com/story/news/politics/elections/2020/05/14/senate-elections-2020-mark-kelly-business-ties-chinese-tech-firm-under-fire/5187587002/) last year, and it's likely they'll continue to use that strategy.

The senator's team has argued he isn't beholden to Chinese authorities.

Republicans have long branded Democrats as "weak" on China as a line of attack. Expect that to continue through the campaign cycle, as Democratic candidates tout the passage of the U.S. Innovation Act and reframe the narrative.

They plan to focus on increasing the United States' competitive edge with China as a policy priority.

What they’re saying: David Bergstein, a spokesman for the DSCC, said the campaign committee will be “reminding voters that any Republican who refused to back this critical bill was too weak to stand up to China in order to protect and grow good-paying jobs.”

Chris Hartline, spokesman for the NRSC, said in a statement that "no one believes that Joe Biden and Senate Democrats will do what it takes to confront the geopolitical and economic threat posed by (President) Xi (Jinping) and the Chinese Communist Party.

#### GOP control of the Senate will be used to usher in a new wave of Trumpism, crushing democracy.

Morton **Kondracke 21**. Retired executive editor of Roll Call, a former "McLaughlin Group" and Fox News commentator and co-author, with Fred Barnes, of Jack Kemp: The Bleeding Heart Conservative Who Changed America. “Why Democrats Must Retain Control of Congress in 2022,” RealClearPolitics, August 4, 2021, <https://www.realclearpolitics.com/articles/2021/08/04/why_democrats_must_retain_control_of_congress_in_2022_146189.html>, RJP, DebateDrills

The 2020 election demonstrated how fragile our democracy is. As Donald Trump tried, [by means both legal and illegal](https://en.wikipedia.org/wiki/Attempts_to_overturn_the_2020_United_States_presidential_election), to overturn the results of a free and fair election, only the [courts and a thin line of courageous Republican election officials](https://www.brennancenter.org/our-work/research-reports/its-official-election-was-secure) guaranteed that the peoples’ choice prevailed.

But the safeguards are weaker. Although the Supreme Court [upheld](https://www.nbcnews.com/politics/supreme-court/supreme-court-rejects-final-trump-election-challenge-n1260023) the last lower-court dismissal of multiple Trump-inspired lawsuits charging election fraud, in July the court [upheld new voting restrictions](https://www.reuters.com/world/us/voting-rights-breyers-future-spotlight-us-supreme-court-2021-07-01/https:/www.reuters.com/world/us/voting-rights-breyers-future-spotlight-us-supreme-court-2021-07-01/) enacted in Arizona.

And many of the [Republican election officials](https://thehill.com/homenews/state-watch/565657-new-spotlight-on-secretaries-of-state-as-electoral-battlegrounds) who refused to back up Trump’s bogus fraud charges have been [threatened](https://www.brennancenter.org/our-work/policy-solutions/election-officials-under-attack),  [fired, or are being challenged for reelection by Trump followers](https://www.economist.com/united-states/2021/07/03/state-level-republicans-are-reforming-how-elections-are-administered). Meanwhile, [17 Republican-controlled state legislatures](https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021) have  joined Arizona in making voting more difficult: In several of them,  legislators are trying to [seize control of election management](https://www.politifact.com/article/2021/jul/14/are-state-legislators-really-seeking-power-overrul/), including power to replace county election officials or even decide how a state’s election results should be certified, regardless of the popular vote.

Republicans claim they are acting restore faith in elections, but—with fraud repeatedly shown to be rare and of no effect in in 2020—Trump and his followers are really [undermining faith](https://www.politico.com/news/2021/05/24/2020-election-republican-official-races-490458) in American elections.

The result of this frenzy of activity in furtherance of Trump’s “Big Lie”—that he won the 2020 election (and that he won in a “landslide,” no less) —is that the preservation of American-style self-government depends on Democrats retaining control of Congress in 2022.

Republicans have shown that they simply can’t be trusted to safeguard democracy. Donald Trump now [owns the Republican Party](https://www.washingtonpost.com/politics/2021/06/11/how-republican-party-became-party-trump/) as GOP politicians up and down the line do his bidding, out of fear or belief.

Even after a mob of Trump supporters invaded the U.S. Capitol on Jan. 6, Republicans in Congress voted overwhelmingly against [impeaching](https://www.politico.com/interactives/2021/trump-second-impeachment-vote-count-house-results-list/) and [convicting](https://www.politico.com/interactives/2021/trump-second-impeachment-senate-vote/) him for his actions and inaction. Eight GOP senators and 147 representatives [voted not to certify](https://www.nytimes.com/2021/01/07/us/politics/republicans-against-certification.htmlhttps:/www.nytimes.com/2021/01/07/us/politics/republicans-against-certification.htmlhttps:/www.nytimes.com/2021/01/07/us/politics/republicans-against-certification.html) Electoral College counts submitted by two states (had they prevailed, there would have more). Then only six GOP senators voted in favor of forming a truly bipartisan 9/11-style commission to investigate the insurrection, [killing the proposal by filibuster](https://www.washingtonpost.com/national-security/january-6-commission-senate/2021/05/28/54e9f692-bf27-11eb-b26e-53663e6be6ff_story.htmlhttps:/www.washingtonpost.com/national-security/january-6-commission-senate/2021/05/28/54e9f692-bf27-11eb-b26e-53663e6be6ff_story.html).  After Democratic House Speaker Nancy Pelosi established a select committee to conduct an investigation, Republican leaders attacked her as responsible for the riot,  [falsely claiming](https://www.nytimes.com/2021/07/27/us/insurrection-pelosi-claims-fact-check.html) she is in charge of security at the Capitol.

Republicans who voted against Trump on any issue relating to Jan. 6 now face [primary opponents](https://www.usatoday.com/story/news/politics/2021/02/28/cpac-donald-trump-expected-claim-leadership-republican-party/6843815002/https:/www.usatoday.com/story/news/politics/2021/02/28/cpac-donald-trump-expected-claim-leadership-republican-party/6843815002/) backed by him and [censure](https://www.voanews.com/usa/us-politics/republican-groups-censure-party-lawmakers-who-voted-impeach-convict-trump) by their state parties. Rep. Liz Cheney, the most vocal Trump critic in the GOP, lost her House leadership post. Trump has even [attacked Senate Minority Leader Mitch McConnell](https://www.politico.com/news/2021/02/16/trump-attacks-mcconnell-in-fiery-statement-469150https:/www.politico.com/news/2021/02/16/trump-attacks-mcconnell-in-fiery-statement-469150), who criticized him after Jan. 6 but also blocked creation of the 9/11 commission. It’s classic authoritarian behavior—demanding [total loyalty](https://www.nytimes.com/2020/02/22/us/politics/trump-disloyalty-turnover.html) from his followers and total control of his faction, and assailing any rivals in power.

Lately, Trump [reportedly](https://www.forbes.com/sites/markjoyella/2021/06/01/maggie-haberman-trump-telling-people-he-expects-to-be-reinstated-as-president-by-august/) has encouraged his followers to believe he can somehow be reinstated as president later this month, and the Department of Homeland Security is [concerned](https://www.cnn.com/2021/06/30/politics/dhs-summer-violence-warnings-conspiracy/index.html) that the violent acts of Jan. 6 may be repeated when he’s not.

The sad, but inevitable conclusion is that if Republicans take control of either chamber in Congress, they will not try to do what’s best for America as a whole. They will do what Trump tells them to do, probably starting with trying to undo everything President Biden and the Democrats in Congress have done during the previous two years.

For starters, if Democrats are to prevail next November, Biden must be seen as a successful moderate-progressive president—one who can defy the historical pattern that presidential parties [almost invariably](https://www.brookings.edu/wp-content/uploads/2017/01/vitalstats_ch2_tbl4.pdf) lose seats in their first midterm election.

The last two Democratic presidents s who launched major initiatives without GOP support, Bill Clinton (tax increases and health care reform) and Barack Obama (Obamacare and anti-recession stimulus spending), suffered historic shellackings in the ensuing midterms—54 House seats and eight Senate seats in 1994, and 63 House and six Senate seats in 2010. Biden, who has multiple big programs in his policy agenda, has smaller Democratic margins in Congress than Clinton and Obama.  In other words, the Democrats must hang on to almost all of their contested districts and states.

McConnell, who earned the moniker [“grim reaper”](https://thehill.com/homenews/senate/555877-mcconnell-returns-as-senate-grim-reaperhttps:/thehill.com/homenews/senate/555877-mcconnell-returns-as-senate-grim-reaperhttps:/thehill.com/homenews/senate/555877-mcconnell-returns-as-senate-grim-reaper) for blocking Obama, was supposed to be a willing negotiating partner for Biden. Instead, the Senate Republican leader has pronounced himself  [“100% focused”](https://www.nbcnews.com/politics/joe-biden/mcconnell-says-he-s-100-percent-focused-stopping-biden-s-n1266443) on defeating Biden’s legislative agenda. So far, Biden has succeeded in passing a $1.9 trillion COVID relief package (with no Republican votes). He is trying to work out a bipartisan $1 trillion [“physical infrastructure”](https://www.cnn.com/2021/07/28/politics/infrastructure-bill-explained/index.html) package. McConnell isn’t the obstruction with this legislation, as Senate negotiators and the White House [sound optimistic](https://www.reuters.com/world/us/us-senators-move-forward-with-infrastructure-bill-sunday-2021-08-01/). But with Rep. Kevin McCarthy openly angling for Pelosi’s job, nothing is certain in the House.

Trump is actively trying to scuttle infrastructure spending. He’s telling Republicans to oppose it, saying passage means letting “the Radical Left play you for weak fools and losers,” and he has [threatened primary challenges](https://www.forbes.com/sites/andrewsolender/2021/07/28/trump-threatens-lots-of-primaries-for-gop-senators-over-infrastructure-deal/?sh=4be66d98276b) against GOP legislators who support it. This, despite his promising to pass a [$2 trillion bill](https://www.politico.com/news/2021/07/28/infrastructure-deal-trump-501287) while president (then never delivering). Republicans who support it obviously want money for roads, bridges and broadband for their constituents.

But they don’t like the contents of Biden’s follow-up proposal—a $3.5 trillion “human infrastructure” program, which would expand Medicare, caregiving for the disabled and elderly, and child care, while funding universal pre-kindergarten, free community college, national paid family leave, and extended child tax credits. And they don’t like the corporate and capital gains tax increases Democrats propose to pay for it all. So the Democratic plan is to pass it as a “budget reconciliation” measure requiring only Democratic votes.

If, next November, the GOP captures one chamber—most likely, the [House](https://centerforpolitics.org/crystalball/articles/forecasting-the-2022-midterm-election-with-the-generic-ballot/)—whatever Biden can get done in his first two years can’t be easily undone, but he will get nothing more passed. If the GOP gets control of both chambers, Republicans will try to reverse anything he has accomplished. He’ll have only his veto pen as protection.  Stalemate from 2023 through 2024—and an unsuccessful-seeming Biden presidency—could reelect Trump (or someone backed by him), in which case constitutional norms and respect for election results and the rule of law would again be in peril.

**Extinction**

**Kasparov 17**

Garry Kasparov, Chairman of the Human Rights Foundation, former World Chess Champion, “Democracy and Human Rights: The Case for U.S. Leadership,” Testimony Before The Subcommittee on Western Hemisphere, Transnational Crime, Civilian Security, Democracy, Human Rights, and Global Women's Issues of the U.S. Senate Committee on Foreign Relations, February 16th, <https://www.foreign.senate.gov/imo/media/doc/021617_Kasparov_%20Testimony.pdf>

As one of the countless millions of people who were freed or protected from totalitarianism by the United States of America, it is easy for me to talk about the past. To talk about the belief of the American people and their leaders that this country was exceptional, and had special responsibilities to match its tremendous power. That a nation founded on freedom was bound to defend freedom everywhere. I could talk about the bipartisan legacy of this most American principle, from the Founding Fathers, to Democrats like Harry Truman, to Republicans like Ronald Reagan. I could talk about how the American people used to care deeply about human rights and dissidents in far-off places, and how this is what made America a beacon of hope, a shining city on a hill. America led by example and set a high standard, a standard that exposed the hypocrisy and cruelty of dictatorships around the world. But there is no time for nostalgia. Since the fall of the Berlin Wall, the collapse of the Soviet Union, and the end of the Cold War, Americans, and America, have retreated from those principles, and **the world has become much worse off as a result**. American skepticism about America’s role in the world deepened in the long, painful wars in Afghanistan and Iraq, and their aftermaths. Instead of applying the lessons learned about how to do better, lessons about faulty intelligence and working with native populations, the main outcome was to stop trying. This result has been a tragedy for the billions of people still living under authoritarian regimes around the world, and it is based on faulty analysis. You can never guarantee a positive outcome— not in chess, not in war, and certainly not in politics. The best you can do is to do what you know is right and to try your best. I speak from experience when I say that the citizens of unfree states do not expect guarantees. They want a reason to hope and a fighting chance. People living under dictatorships want the opportunity for freedom, the opportunity to live in peace and to follow their dreams. From the Iraq War to the Arab Spring to the current battles for liberty from Venezuela to Eastern Ukraine, people are fighting for that opportunity, giving up their lives for freedom. The United States must not abandon them. The United States and the rest of the free world has an unprecedented advantage in economic and military strength today. What is lacking is the will. The will to make the case to the American people, the will to take risks and invest in the long-term security of the country, and the world. This will require investments in aid, in education, in security that allow countries to attain the stability their people so badly need. Such investment is far more moral and far cheaper than the cycle of **terror, war**, refugees, and **military intervention** that results when America leaves a vacuum of power. The best way to help refugees is to prevent them from becoming refugees in the first place. The Soviet Union was an existential threat, and this focused the attention of the world, and the American people. There **existential threat** today is not found on a map, but it **is very real**. The forces of the past are making steady progress against the modern world order. **Terrorist** movements in the Middle East, extremist parties across Europe, a paranoid tyrant in **North Korea threatening nuclear blackmail,** and, at the center of the web, an **aggressive KGB dictator in Russia**. They all want to turn the world back to a dark past because their survival is threatened by the values of the free world, epitomized by the United States. And **they are thriving as the U.S. has retreated**. The global freedom index has declined for ten consecutive years. No one like to talk about the United States as a global policeman, but **this is what happens when there is no cop on the beat. American leadership begins at home**, right here. America cannot lead the world on democracy and human rights if there is no unity on the meaning and importance of these things. **Leadership is required to make that case clearly and powerfully**. Right now, Americans are engaged in politics at a level not seen in decades. It is an opportunity for them to rediscover that making America great begins with believing America can be great. The Cold War was won on American values that were shared by both parties and nearly every American. Institutions that were created by a Democrat, Truman, were triumphant forty years later thanks to the courage of a Republican, Reagan. This bipartisan consistency created the decades of strategic stability that is the great strength of democracies. Strong institutions that outlast politicians allow for long-range planning. In contrast, dictators can operate only tactically, not strategically, because they are not constrained by the balance of powers, but cannot afford to think beyond their own survival. This is why a dictator like Putin has an advantage in chaos, the ability to move quickly. This can only be met by strategy, by long-term goals that are based on shared values, not on polls and cable news. The fear of making things worse has paralyzed the United States from trying to make things better. There will always be setbacks, but the United States cannot quit. The spread of **democracy is the only** proven **remedy for** nearly **every crisis that plagues the world today. War, famine, poverty, terrorism**–all are generated and exacerbated by authoritarian regimes. A policy of America First inevitably puts American security last. American leadership is required because there is no one else, and because it is good for America. There is no weapon or wall that is more powerful for security than America being envied, imitated, and admired around the world. Admired not for being perfect, but for having the exceptional courage to always try to be better. Thank you.

### 5

#### CP Text – the member nations of the World Trade Organization ought to implement a patent pool for COVID-19 vaccines

#### That solves access and boosts WTO legitimacy-

Burrone et al 19 Esteban Burrone [Member of Medicine Patent Pool], corresponding authors Dzintars Gotham, Andy Gray, Kees de Joncheere, Nicola Magrini, Yehoda M Martei, Charles Gore, and Marie Paule Kienya, Jun 11 2019, “Patent pooling to increase access to essential medicines”, NCBI, Bull World Health Organ 97(8) pp. 575-577, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6653814/ DD AG

One way to achieve better access to new medicines is patent pools, which allow third parties to acquire non-exclusive licences for the intellectual property needed to develop products. While patent pools have existed for several decades in other fields of technology, such as in digital technologies, they are a relatively new concept in public health, where they have been applied to address some of the access challenges in low- and middle-income countries.3

To improve access to antiretroviral treatment in low- and middle-income countries, Unitaid established the Medicines Patent Pool in 2010 as the first public health patent pool. Later, the patent pool’s mandate was expanded to treatments for tuberculosis and hepatitis C. The patent pool has negotiated most of the licensing agreements with pharmaceutical companies that have enabled competitive generic manufacture of antiretrovirals in low- and middle-income countries before patent expiry. These licences have also facilitated the development of new formulations that are particularly needed in resource-constrained settings, such as certain fixed-dose combinations and paediatric formulations. To date, the patent pool’s generic partners have distributed 22 million patient-years of treatment, allowing global savings of 1.06 billion United States dollars (US$), according to a biannual analysis undertaken by a leading auditing company.4

The patent pool’s model contributes to accelerating affordable access to new, improved treatments in low- and middle-income countries in partnership with the pharmaceutical industry. To achieve this goal in HIV, licensing arrangements for new medicines considered promising by WHO has sometimes been necessary before their inclusion in WHO’s model list, as in the case of dolutegravir. The patent pool signed a licensing agreement with a pharmaceutical company for dolutegravir in 2014. By the time the medicine was added to WHO’s model list in 2017, several patent pool sub-licensees had filed for approval of generic versions, including a new fixed-dose combination, with the WHO prequalification programme.

### 6

#### CP Text - The member nations of the World Trade Organization, with the exception of the United States of America ought to reduce intellectual property protections for medicines related to the prevention, containment, and treatment of COVID-19.

#### Solves the aff – no reason isolated by the aff that the US is key.

## Case

### COVID

#### No solvency – vaccine development is too complex and goals are impossible to be met within a few months.

Sauer 21 [Hans Sauer is Deputy General Counsel and Vice President for Intellectual Property for the Biotechnology Innovation Organization (BIO), a major trade association representing more than 1,000 biotechnology companies from the medical, agricultural, environmental, and industrial sectors. Mr. Sauer holds a M.S. degree in biology from the University of Ulm in his native Germany, a Ph.D. in neuroscience from the University of Lund, Sweden, and a J.D. degree from Georgetown University Law Center, where he serves as adjunct professor.] April 19, 2021, “Waiving IP Rights During Times of COVID: A ‘False Good Idea’,” IPWatchdog, <https://www.ipwatchdog.com/2021/04/19/waiving-ip-rights-during-times-of-covid-a-false-good-idea/id=132399/>, VM

“To begin with, one would think, the burden of establishing the need for such an extreme and disruptive measure should be on its proponents. Yet, in the face of unprecedented progress towards COVID vaccines, tests and treatments in record time, the waiver proponents can point to no credible instances in which IP has in fact hindered the development or production of COVID-19 countermeasures. Readers should judge for themselves by perusing the joint South African/Indian TRIPS Council submission purporting to demonstrate such IP barriers. Even cursory inspection shows that this proof consists of a number of pending patent applications, a handful of patents that haven’t been asserted, a few statements by politicians, and historical narratives having nothing to do with COVID-19. There have been a few instances of patent litigation, but none to block or delay COVID products. Interestingly, royalty-free licenses by drug originators to dozens of manufacturers in developing countries are counted as IP barriers to access. Perhaps recognizing the lack of affirmative proof supporting the need for a COVID IP waiver, proponents are increasingly trying to shift the burden to those who oppose the waiver, maybe best exemplified by World Health Organization Director General Tedros Ghebreyesus’ stance: “if not now, then when would a WTO waiver ever be justified?” Yet this is a poor substitute for an actual rationale, especially when the TRIPS Agreement and its addenda are already replete with IP flexibilities that have been justified for both national and multilateral use on the ground that they will be necessary in a public health emergency. The same proponents who have for decades with significant traction argued for an ever-growing expansion of these flexibilities now say that it is not worth even trying to use them; only the effective abrogation of all IP rights in relation to COVID-19 would be a quick enough measure to deal with the present crisis while it lasts. However, the proposed blanket suspension of IP rights is no quick fix for the pandemic, as it is unlikely to accelerate the delivery of COVID-19 vaccines. Waiver proponents have been unable to document the existence of idle global COVID vaccine manufacturing capacity that could be unleashed by suspending IP rights. Existing capacity to produce traditional vaccines with conventional manufacturing technology simply cannot quickly or easily be converted to produce the advanced COVID-19 vaccines currently deployed. Thus, developing country manufacturers that currently make e.g. diphtheria, yellow fever, or tetanus vaccines, cannot simply be re-tooled to make the high-end mRNA or vectored COVID vaccines we are eagerly waiting for. Very different facilities will be needed, and getting these built, certified, and operational will take time, money, and precious expertise. Waiver proponents also seem to forget that someone must keep making the whooping cough, polio, MMR, and other childhood vaccines against diseases that kill more children in the developing world than COVID ever will. Current global need for non-COVID vaccines is estimated at 3.5-5.5 billion doses per year, and those who talk about using existing capacity must realize that we cannot convert current manufacturing away from these critically-important products. On top of that, an estimated 14 billion doses of COVID vaccines will be needed globally. As GAVI – The Vaccine Alliance explains, it was always clear that demand for COVID vaccines would be high, immediate, and impossible to meet in the short term. This is no fault of the IP system. Vaccine manufacturing processes are complex, require specific know-how and equipment, and just cannot happen overnight. Some COVID-19 vaccines involve new technologies, such as mRNA and lipid nanoparticle encapsulation, for which no large-scale manufacturing facilities or copious raw materials existed at the outset of the pandemic. The worldwide capacity to build or convert new plants is likewise limited, specialized manufacturing equipment is difficult or impossible to source, and none of this is or was ever going to be achievable within a few months as the proponents of the TRIPS waiver assert. Not even counting the time it takes to construct and equip a new plant, just the regulatory certification of a completed new facility takes several months before it can begin commercial production, and the manufacture and quality control of a single batch of COVID-19 vaccine takes 3-4 months before it can be released. Anywhere between 100 and 1,000 quality controls are done at each step of the manufacturing process. Those who argue that an IP waiver would enable the free flow of COVID vaccines within months are raising impossible expectations.

#### **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.”

#### Waivers don’t improve vaccine supply or distribution, but do allow for poorly made vaccines that undermine vaccine confidence

Delgado 5/25 [(Carla, health & culture journalist who’s written for Insider, Architectural Digest, Elemental, Observer, and Mental Floss) “Experts Say Patent Waivers Aren't Enough To Increase Global Vaccination,” Verywell Health, 5/25/2021] JL

“Waiving intellectual property rights for COVID-19 vaccines is likely to only have a modest impact on global vaccine supply,” William Moss, MD, executive director of the International Vaccine Access Center at the Johns Hopkins Bloomberg School of Public Health, tells Verywell. “A vaccine IP waiver is not in itself likely to lead to increased vaccine production in less developed countries because much more needs to be in place to increase the global vaccine supply.”

For several countries outside of the U.S. that have the necessary equipment to produce mRNA vaccines effectively and safely, the IP waiver can be of great help. However, many more countries lack this capacity, and this move still leaves them behind.

“The majority of the world’s countries lack the capacity to produce and distribute COVID-19 vaccines, and especially at the scale required to get this pandemic under control,” Richard Marlink, MD, director of the Rutgers Global Health Institute, tells Verywell. “They need funding, manufacturing facilities, raw materials, and laboratory staff with the technological expertise required.”

We've already seen what can go wrong with substandard vaccine manufacturing. In April, the Food and Drug Administration (FDA) inspected the Emergent BioSolutions factory in Baltimore and consequently shut down their production after concerning observations, which include:3

The factory was not maintained in a clean and sanitary condition.

Waste handling was found to be inadequate because generated waste was transported through the warehouse before disposal, which can potentially contaminate other areas.

Employees were seen dragging unsealed bags of medical waste from the manufacturing area across the warehouse.

Peeling paint, paint flecks, loose particles/debris were observed. There were also damaged floors and rough surfaces that cannot be properly cleaned and sanitized.

Employees were seen removing their protective garments where raw materials were staged for manufacturing.

They reportedly spoiled about 15 million doses of the Johnson and Johnson COVID-19 vaccine, and more than 100 million doses are on hold as regulators inspect them for possible contamination.4

“Vaccines are complex biological products, much more complex than drugs, and need to be produced by manufacturers and in facilities with the highest quality control standards,” Moss says. “Adverse events associated with a poorly made or contaminated batch of vaccines would have a devastating impact on vaccine confidence.”

In a statement last October, Moderna announced that they will not enforce their COVID-19-related patents against those who will make vaccines during this pandemic.5 While waiving some vaccine patents may allow third-party manufacturers to make and sell COVID-19 vaccines, the transfer of skills and technology that will allow them to manage production isn't very simple.

For instance, a spokesperson for Pfizer said that the Pfizer-BioNTech vaccine required 280 different components sourced from 86 suppliers across various countries. Manufacturing the vaccine would require highly specialized equipment and complex technology transfers.6

“Technology transfer also would need to be a critical component to expand vaccine manufacturing by other companies as an IP waiver is insufficient to provide the ‘know how’ needed to manufacture mRNA or adenovirus-vectored COVID-19 vaccines,” Moss says. “And supply chains for the reagents, supplies, and equipment would be needed.”

Interested manufacturers would need to have the proper equipment to test the quality and consistency of their manufacturing. At present, the World Health Organization (WHO) has plans to facilitate the establishment of technology hubs to transfer "a comprehensive technology package and provide appropriate training" to manufacturers from lower- and middle-income countries.7

While waiving vaccine patents is necessary, it's likely not enough. Additionally, negotiations about it are still ongoing. Even though the U.S. supports the waiver of COVID-19 vaccine patents, other countries like the United Kingdom, Japan, and Germany oppose it.8

It's also important to remember that manufacturing vaccines is only one step of the process of vaccinating the global population—distributing it is yet another hurdle.

“Many countries are counting on COVAX, a global collaboration to distribute COVID-19 vaccines more equitably around the world,” Marlink says. “The single largest supplier to COVAX is in India, where exports have been suspended since March due to the country’s COVID-19 crisis.”

### WTO Legitimacy

#### The US has structurally undermined WTO legitimacy – every WTO ruling gets vetoed – only the CPs can solve

Baschuk 2/22 [(Bryce, reporter for Bloomberg Economics based in Geneva, Switzerland, has been published in Bloomberg, the Washington Times, United Press International and National Public Radio) “Biden Picks Up Where Trump Left Off in Hard-Line Stances at WTO,” Bloomberg, 2/22/2021] TDI

President Joe Biden’s administration dashed hopes for a softer approach to the World Trade Organization by pursuing a pair of his predecessor’s strategies that critics say risk undermining the international trading system.

The U.S. delegation to the WTO, in a statement Monday obtained by Bloomberg, backed the Trump administration’s decision to label Hong Kong exports as “Made in China” and said the WTO had no right to mediate the matter because the organization’s rules permit countries to take any action to protect their “essential security interests.”

“The situation with respect to Hong Kong, China, constitutes a threat to the national security of the United States,” the U.S. delegation said. “Issues of national security are not matters appropriate for adjudication in the WTO dispute-settlement system.”

Prior to 2016, WTO members generally steered clear of defending their trade actions on the basis of national security because doing so could encourage other nations to pursue protectionist policies that have little or nothing to do with hostile threats.

That changed in 2018, when the Trump administration triggered a cold war-era law to justify tariffs on foreign imports of steel and aluminum. In response, a handful of U.S. trade partners, including Canada, the EU, and China filed disputes at the WTO and a ruling in those cases is expected later this year.

Since then, more nations -- including Saudi Arabia, India, Russia and others -- have cited the WTO’s national-security exemption in regional trade fights, leading trade experts to warn that such cases could erode the organization’s ability to mediate disputes.

The Biden administration on Monday said the U.S. has consistently argued that national-security disputes are not subject to WTO review because it would infringe on a member’s right to determine what is in its own security interests.

In spite of the U.S. objection, the WTO granted Hong Kong’s dispute inquiry and will establish a panel of experts to deliberate the matter and render a decision, which could take two to three years.

At the same meeting, the Biden administration said it would not agree to appoint new members to the WTO’s appellate body,

a seven-member panel of experts who until 2019 had the final say on trade disputes involving billions of dollars worth of international commerce.

The Biden administration said it could not do so because the U.S. “continues to have systemic concerns” with the functioning of the appellate body as have all previous administrations over the past 16 years.

Though the statement was not entirely unexpected, it confirms America’s bipartisan frustration with the functioning of the WTO appellate body and the new administration’s willingness to block new panelists until changes can be agreed.

Once Katherine Tai is confirmed as the U.S. Trade Representative, her office “looks forward to working with” WTO Director-General Ngozi Okonjo-Iweala to tackle the problems with WTO dispute settlement, including the unresolved issues over appellate-body overreach, USTR spokesman Adam Hodge said in an email. “These are long-standing, bipartisan concerns that we hope our trading partners will work with us to address,” he said.

The Trump administration broke precedent when it refused to consider any nominees to fill vacancies on the panel until there weren’t enough to sign off on new rulings. As a result, the WTO’s dispute-settlement system has been critically damaged because WTO members are now free to veto any adverse dispute rulings by appealing them into a legal void created by the appellate body’s paralysis.

### Solvency

#### Removing patents fails – knowledge is key but patents don’t force it, and manufacturing disparities exist which the plan DOESN’T SOLVE – turns their perception stuff on WTO legitimacy

**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.