# 1nc

## OFF

### 1-T-Reduce

#### Interpretation: “reduce” indicates permanency. The aff may not defend suspensions on intellectual property rights

#### Reduce indicates permanency – it’s distinct from “suspend” Prefer our evidence – legal and should o/w all other definitions. This is the only legal interpretation of reduce in the court system which means that it applies to all legal implementations of the plan

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

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

#### Violation –they violate because the India South Africa Plan is temporary – hold the line – don’t let them shift out by saying that they defend permanency, they should’ve specced that in the 1ac and their advantages say nothing about the permanent benefits of having waivers – they agreed in CX too

#### Melimopoulos, 21 (Elizabeth Melimopoulos, 6-29-2021, accessed on 8-15-2021, Al Jazeera, "Explainer: What are patent waivers for COVID vaccines?", https://www.aljazeera.com/news/2021/6/29/explainer-what-are-covid-vaccine-patent-waivers)

What does an IP waiver do? A waiver temporarily “removes” the intellectual protections provided by the WTO

#### Vote neg –

#### 1 – Limits – they can cherrypick from multiple timeframes which means that a) they shift out of multiple DAs by saying the patents will be gone by then which moots neg offence and b) non-permanency kills NCs and Ks because they can just delink in the 1ar and forces us to start over

#### 2 – Probabilistic ground – target-country compliance means arms sales may not decrease – means they “no ≈” out of all core topic DAs.

#### Voters

#### Fairness because its constitutive of debate

#### DTD – a) norms b) prevents abuse

#### CI- a) judge intervention b) arbitrary brightline

#### No RVI- a) time skew b) chilling effect

#### No 1AR theory- creates 7-6 time skew

### 2-Must Spec IPRs

#### Interp – The affirmative debater must specify which Intellectual property rights they reduce in a delineated text in the 1AC

#### Violation – They don’t

#### There are different entities within “intellectual property rights”

**Stallman 15** [Did you say "intellectual property"? It's a seductive mirage - gnu project - free software foundation. &nbsp;[A GNU head]&nbsp;. (n.d.). <https://www.gnu.org/philosophy/not-ipr.en.html>.] CB DM

**It has become fashionable to toss copyright, patents, and trademarks**—three separate and different entities involving three separate and different sets of laws—**plus a dozen other laws into one pot and call it “intellectual property”.** The distorting and confusing term did not become common by accident. Companies that gain from the confusion promoted it. The clearest way out of the confusion is to reject the term entirely.

#### Prefer-

#### 1. Shiftiness—Lacking of definition, the aff is vague. Leads to ability to shift advocacies. CX doesn't check because a. they can be sketchy and b. it kills pre-round prep

#### 2. Ground- Hurts my strategy since I’ll err on the side of caution, especially hurts CPs and DAs that may apply to one type of test but not others. Fairness-restricts the choices that the neg has.

#### 3. Clash—Not defining means I don’t know what to run in-round which kills high-quality engagement—absent clash debate becomes two ships passing in the night which is irresolvable—also means vote neg on presumption b/c the aff gets circumvented. Clash key to fairness- if aff gets circumvented, then the aff gets additional route to ballot. Education- allows for critical thinking skills and argument generation.

#### 4. Good Norms- the other side would justify an infinite number of affirmatives because the definition is vague. Fairness- leads to unpredictability which forces underplaying and shallower debates.

#### CX Doesn’t Check

#### [a] topic ed: asking a million questions about the advocacy means that we don’t get to discuss the central issues of the case or the warrants, that’s what makes the case true

#### [b] They can shift out in CX as I ask disad questions, which is the abuse of my shell.

#### [c] Infinitely regressive – this justifies the aff just saying “if you don’t understand the Plan – ask me about it in cross-x”

#### [d] Not verifiable. We can’t know if they would have actually specified. People are trained in CX to be shady as possible- no way I could get an actual concession.

#### [e] Prep skew –I don’t know what they will be willing to clarify until CX which means I could go 6 minutes planning to read a disad and then get screwed over in CX when they spec something else – means CX can’t check.

### 3-Innovation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The case studies are:

Bharat Biotech: Covaxin

Gilead: Remdesivir

LumiraDX: SARS-COV-2 Antigen POC Test

Teal Bio: Teal Bio Respirator

XE Ingeniería Médica: CápsulaXE

Surgical Theater: Precision VR

Tombot: Jennie

Starship Technologies: Autonomous Delivery Robots

Triax Technologies: Proximity Trace

Zoom: Video Conferencing

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

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

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

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

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

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

#### 1] Turns their disease impact – future pandemics are more likely and more deadly which makes innovation key to stop destruction

Ceballos 5/27 Gerardo Ceballos [PhD, Dr Gerardo Ceballos is an ecologist and conservationist at the Universidad Nacional Autonoma de Mexico. He is particularly recognized for his influential work on global patterns of distribution of diversity, endemism, and extinction risk in vertebrates. He is also well-known for his contribution to understanding the magnitude and impacts of the sixth mass extinction.], 5/27/21, “THE SIXTH MASS EXTINCTION AND THE FUTURE OF HUMANITY”, Population Matters, <https://populationmatters.org/news/2021/05/sixth-mass-extinction-and-future-humanity> DD AG

Somewhere, sometime in late 2019, a coronavirus from a wild species, perhaps a bat or a pangolin, infected a human in China. This could have been an obscure event, lost without trace in the annals of history, as it is very likely this has occurred many times in the last centuries. But this particular event was somehow different. The coronavirus became an epidemic first and a pandemic later. Covid-19 became the worst pandemic since the Spanish flu in 1918. The horrific human suffering it has caused, and its economic, social and political impacts, are still unraveling.

The reason Covid-19 and more than forty other very dangerous viruses, such as Lassa fever, HIV and Ebola, have jumped from wild animals to humans in the last four decades is the destruction of natural environments and the trafficking and consumption of wild animals.

The wildlife trade is to satisfy the insatiable and extravagant demand for these species in the Asian market, in countries such as China, Vietnam and Indonesia. The illegal wildlife trade is a gigantic business. It is as lucrative as the drug trade, but without the legal implications. The immense appetite of China and other Asian societies for exotic animals has promoted exponential growth in trade and profits. Wild and domestic animals sold in “wet markets” are kept in unsanitary and unethical conditions. There, feces, urine and food waste from cages at the top spill into cages at the bottom, creating the perfect conditions for viruses to leap from wild animals to domestic animals and humans. Thousands of wildlife species or their products are traded annually.

Wildlife trade is one of several human impacts, including habitat loss and fragmentation, pollution, toxification and invasive species, that have caused the extinction of thousands of species and threaten many more. Indeed, most people are unaware that the current extinction crisis is unprecedented in human history. Extinction occurs when the last individual of a species dies. The UN recently estimated that one million species, such as the panda, the orangutan and the Sumatran rhino, are at risk of extinction.

The second finding is that population extinctions, which are the prelude to species extinctions, are occurring at very fast rates (Ceballos et al., 2017). Around 32 percent of a sample of 27,000 species have declining populations and have experienced massive geographic range contractions. Population extinctions are a very severe and widespread environmental problem which we have called “Biological Annihilation”. Finally, our third finding indicates that the magnitude of the extinction crisis is underestimated because there are thousands of species on the brink of extinction (Ceballos et al., 2020). Those species will likely become extinct in the near future unless a massive conservation effort is launched soon.

Many times, people have asked me why we should care about the loss of a species. There are ethical, moral, philosophical, religious and other reasons to be concerned. But perhaps the one that is most tangible for most people is the loss of ecosystem services, which are the benefits that humans derive from the proper function of nature. Ecosystem services include the proper mix of gases in the atmosphere that support life on Earth, the quantity and quality of water, pollination of wild crops and plants, fertilization of the soil, and protection against emerging pests and diseases, among many others. Every time a species is lost, ecosystem services are likely to erode and human well-being is reduced.

The loss of so many ecosystems and species is pushing us towards the point of collapse of civilization. The good news is that there is still time to reduce the current extinction crisis. The species and ecosystems that we manage to save in the next 10 – 15 years will define the future of biodiversity and civilization. What it is at stake is the future of mankind.

### 4 – Midterms DA

#### 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" \t "_self) 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.

## Case

#### Extinction

### LIO Uniqueness/Unsustainable

#### Liberal International Order is structurally unsustainable – long term, LIO produces and creates anti-liberalism

Khan, 8/7/2021 – Integral University, Lucknow, Uttar Pradesh Assistant Professor

(Guest Author, Suhail Ahmad Khan, Dr. Suhail Ahmad Khan is working as Assistant Professor at Integral University, Lucknow, Uttar Pradesh, India. Mr. Khan academic and research interest lies in Marketing, IT, Agribusiness and Food Policy. “Pitfalls of the Liberal International Order”, Kashmir Observer, August 7, 2021, <https://kashmirobserver.net/2021/08/07/pitfalls-of-the-liberal-international-order/>, accessed 8/15/21, twc)

WHEN the Soviet Union was on the brink of disintegration, political scientist Francis Fukuyama declared the end of history and victory of liberalism.  In his famous essay, The End of History?, he argued, “ what we may be witnessing is not just the end of the Cold war or the passing of a particular period of postwar history, but the end of history as such: that is, the endpoint of mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government.” It was an expansive claim to make as the interwar period (1919-1939) had already revealed the shortcomings of liberal internationalism. During that period, liberal internationalism had led to the rise of Germany and subsequently to the Second World War. Three decades have passed since Fukuyama declared the victory of liberalism, and it is safe to say that he was wrong. Today, the liberal international order is in retreat due to the results it has produced.

Several core liberal values inform the liberal international order, and prominent among them are (1) individual rights, (2) free trade, and (3) institutionalism. These three values are contingent on each other since individual rights are essential for free trade, and institutions or rules are necessary to safeguard both individual rights and liberal markets. Under the liberal international order, it is expected that more and more countries will comply with standard international rules, and in the long run, will adopt twin political concepts of liberalism and democracy. Thus, the aim is to increase the number of liberal democracies in the international sphere. Liberal democracy, according to American journalist Fareed Zakaria is “a political system marked not only by free and fair elections, but also by the rule of law, a separation of powers, and the protection of basic liberties of speech, assembly, religion and property.” For decades, many have considered the US the leading liberal democracy and the protector and promulgator of the liberal international order, but this may not be entirely true.

The US, it is argued, renewed the liberal international order after the end of the Second World War. Liberal theorist of international relations, John Ikenberry, in his essay The End of liberal international order? argues that “ for seven decades the world has been dominated by a western liberal order.” It suggests that liberal values informed the US-led order during the bipolarity of the Cold war (Ikenberry uses Atlantic Liberal order for the same). However, if the international order led by the US had liberal undertones then it is difficult to explain why the US fostered good ties with Communist China during that era, toppled several democratically elected governments, improved relations with dictatorial regimes, such as the Shah of Iran, and armed the so-called fundamentalist groups like the Taliban. In essence, only under a realist framework can these acts be explained. In his essay Bound to Fail: The Rise and Fall of Liberal International Order, John Mearsheimer—a realist scholar of international relations, argues that the order led by the US during the Cold war was “neither international nor liberal. It was a bounded order that was limited to the West and was a realist in its all-key dimensions.” Essentially, it means that via this bounded order, the US and its allies wanted to pursue their ends by any means possible, liberal or illiberal alike. Moreover, it underscores that the liberal international order cannot emerge under a bipolar or multipolar political system, as under such circumstances, strategic competition undermines almost every liberal value. Thus, as realist scholars of IR argue, the liberal international order can only sprawl when the political system is unipolar, and the hegemonic power is a liberal democracy.

Indeed, when the international system was unipolar, and the hegemonic power was a liberal democracy (the US), the liberal international order sprawled. The years between the disintegration of the USSR and the global financial crisis of 2008 were the “golden years” of the liberal international order. The US, both passively and aggressively, spread liberal values, the liberal ethic attracted large masses around the world, and liberal economics progressed. As Ikenberry writes, “at the end of the Twentieth century, liberal democracies dominated the world—commanding 80% of the global GNP.” However, this “golden period” also led to the rise of China, and Russia regained its geopolitical status. With this, the US lost its hegemonic position, the international system became multipolar, and eventually, the liberal international order faced a crisis. As such, the current challenges to the order is due to the results it has produced.

During the golden years of the liberal international order, one of the ideas that emerged among the liberal circles was liberal interventionism. By virtue of liberal interventionism, liberal states would intervene in the internal affairs of other nation-states to promote liberal principles. Liberal interventionism was put to effect by the US and its allies in the Iraq war. On the pretext of ensuring world peace, the US invaded Iraq, toppled Saddam Hussein’s regime and caused the death of hundreds of thousands of Iraqi civilians. The US invasion also gave birth to terrorist factions, such as the Islamic State of Iraq and the Levant (ISIL), which have caused much destruction to Iraq. Not only has ISIL left Iraq devastated, but the group which was a result of the US’s actions has led to anti-Muslim bigotry in the West. Other than Iraq, the US also intervened in Libya to promote democracy, which resulted in a decade long crisis in the country. Undoubtedly, the results that liberal interventionism has produced has led many people to adopt anti-liberal views and staunch support for their own cultural/national values. However, the adoption of specific national values is also a result of another liberal phenomenon, interconnectedness.

The interconnectedness between different nation-states is essential to ensure free trade, and the phenomenon operates through the flow of capital and people between these states. For many years, almost every individual enjoyed equal rights in most liberal states. However, more recently, the clash of values among different groups has led to a sudden surge of right-wing groups in liberal states, which has further led to xenophobia and the undermining of liberal values.   France provides the best example of this phenomenon as there is an evident clash of values between French Muslims and French Secularists. The French government has adopted several measures to force the former to comply with French ideals and principles. Thus, national values have been given precedence over liberal ones. Conclusively, interconnectedness has fueled parochial nationalism and disregard for individual rights.

The clash of values has also proved detrimental to the growth of liberal democracies in non-western societies. Non-western societies view liberal values as a European product and the result of its certain socio-historical realities. According to Hamza Tzortzis, a Muslim researcher, “ the claim by some liberal ideologues is that Liberalism is universal; however, there are some philosophical issues with this line of thought. Firstly it is a logical fallacy to take something specific and make it general.” As such, there is a  rejection of western liberal values in many non-western societies. And any superimposition of liberal values backfires as people tend to adopt more anti-liberal attitudes. With rising illiberal attitudes, the liberal international order cannot survive for long.

The liberal international order underpinned by liberal principles is not as extraordinary as the West often puts it. The order’s quest to remake the world with the help of liberal democracies may bear desirable outcomes for a short period, but in the long run, it produces self-defeating results. The assumption made by many liberal proponents that liberal values will hold centre stage in most societies has fallen flat during the current crisis. In essence, liberal political ideology is as strong as any other ideology. Only during a crisis can any ideology’s weak theoretical and philosophical underpinnings be identified, and nowadays, liberalism is revealing its own weaknesses.

### US-Led LIO Bad

#### US led LIO shouldn’t be the model

Walt, 7/15/2021 – Harvard University International Relations Professor

(Stephen M. Walt is a columnist at Foreign Policy and the Robert and Renée Belfer professor of international relations at Harvard University. “Could the United States Still Lead the World if It Wanted to?”, <https://foreignpolicy.com/2021/07/15/could-the-united-states-still-lead-the-world-if-it-wanted-to/>, accessed 8/15/21, twc)

So the first question we need to answer is whether the United States is a good model for other liberal states. The second question is whether its policy judgments are ones that others should trust and follow, especially with respect to foreign policy. **On balance, the answer to both questions is “no**.”

Let’s start with question one: Is the United States an attractive model that other free societies should emulate? The right-of-center Economist certainly doesn’t think so, insofar as its annual Democracy Index downgraded the United States from the category of “full democracy” to “flawed democracy” back in 2017 and has kept it there ever since.

It’s easy to see why: Voter turnout in the United States ranks only 26th in the world, and public trust in government is at historically low levels. Twenty-five percent of all Americans and 53 percent of Republicans believe Trump won the 2020 election and that he is the “true president,” and nearly half of all Republicans say it was appropriate for state legislators to try to shift electoral votes to Trump in states Biden won. Republicans who reject the lie of a stolen election, such as Rep. Liz Cheney, have been removed from leadership positions in the GOP.

Republican senators also blocked the creation of an independent commission to investigate the violent assault on Capitol Hill on Jan. 6, and some members of the party have even described the attack as “peaceful patriots” acting “in an orderly fashion” like a “normal tourist visit.” Not surprisingly, Trump now describes the attackers as “peaceful people” and “patriots.” Someone might want to show him this video.

Since November, 17 Republican-controlled state legislatures have imposed new restrictions on voting, and last month, the three justices Trump appointed to the Supreme Court joined with other conservatives to further weaken the 1965 Voting Rights Act.

And it’s not just politics. Americans like to call their country the “land of the free,” but the United States still has the highest incarceration rate in the world, nearly double that of Russia. As New York Times columnist Nicholas Kristof pointed out last month, the country also ranks only 28th on the nonpartisan Social Progress Index.

Need more? The U.S. tax system is compromised by widespread fraud and evasion, reinforcing one of the developed world’s highest levels of economic inequality.And let’s not forget the 2008 global financial crisis began in the United States with the collapse of the U.S. mortgage market. The resulting panic wasn’t some sort of natural disaster: It was the product of hubris, inadequate regulation, and corruption no one was ever held accountable for.

Similarly, the United States’ national security establishment is addicted to secrecy and equally allergic to accountability. Senior officials can authorize the use of torture, undertake illegal surveillance of U.S. citizens, give classified information to their paramours, and then lie to the FBI about it while remaining respected figures within the establishment. So can military commanders, who neither win the wars they have been ordered to fight nor can explain why these wars could not be won and should never have been fought.

At the same time, both Republican and Democratic presidents have intensified efforts to prosecute journalists and whistleblowers seeking to inform the public about government malfeasance. As a result, the country now ranks only 44th on the World Press Freedom Index. Such problems are much worse in dictatorships, of course, but the United States is hardly setting a good example for the rest of the free world.

To make matters worse, freedom of thought and expression are now being threatened by extremists on the right and the left who seek to silence or marginalize views they disagree with. This trend includes official efforts to ban the teaching of critical perspectives in history at public schools and universities and to impose a single sanitized narrative. Whatever one thinks about the historic accuracy and intellectual merits of some of these perspectives, censorship of this sort is sharply at odds with the principles of a free society. Meanwhile, an epidemic of unreason has broken out in this country, with substantial minorities wrongly convinced that life-saving vaccines are more dangerous than COVID-19 or the country is run by a secret cabal of pedophiles.

**Given all this and more, how could anyone hold up the U.S. political system as a model for others to emulate**

#### The WTO is a central factor in increasing carbon emissions – causes warming

Bello 08Walden, senior analyst at the Bangkok-based research and advocacy institute Focus on the Global South and professor at the University of the Philippines, July 28, “Derail Doha, Save the Climate”, <http://www.commondreams.org/views/2008/07/29/derail-doha-save-climate/> brett

There’s something surreal about the ongoing World Trade Organization talks in Geneva, which aim at coming up with a new agreement to bring down tariffs in order to expand world trade and resuscitate global growth. In the face of the looming specter of climate change, these negotiations amount to arguing over the arrangement of deck chairs while the Titanic is sinking. Indeed, one of the most important steps in the struggle to come up with a viable strategy to deal with climate change would be the derailment of the so-called “Doha Round.” Global trade is carried out with transportation that is heavily dependent on fossil fuels. It’s estimated that about 60% of the world’s use of oil goes to transportation activities which are more than 95% dependent on fossil fuels. An OECD study estimated that the global transport sector accounts for 20-25% of carbon emissions, with some 66% of this figure accounted for by emissions in the industrialized countries. Global Trade: Deeply Dysfunctional From the point of view of environmental sustainability, global trade has become deeply dysfunctional. Take agricultural trade. As the International Forum on Globalization has pointed out, the average plate of food eaten in Western industrial food-importing nations is likely to have traveled 1,500 miles from its source. Long-distance travel contributes to the absurd situation wherein “three times more food is used to produce food in the industrial agricultural model than is derived in consuming it.” The WTO has been a central factor in increasing carbon emissions from transport. A study by the OECD done in the mid-nineties estimated that by 2004, the year marking the full implementation of free-trade commitments under the WTO’s Uruguay Round, there would have been an increase in the transport of internationally traded goods by 70% over 1992 levels. This figure, notes the New Economics Foundation, “would make a mockery” of the Kyoto Protocol’s mandatory emissions reduction targets for the industrialized countries. Transportation: More Fossil Intensive than Ever Ocean shipping accounts for nearly 80% of the world’s international trade in goods. The fuel commonly used by ships is a mixture of diesel and low-quality oil known as “Bunker C,” which has high levels of carbon and sulfur. As Jerry Mander and Simon Retallack point out, “If not consumed by ships, it would otherwise be considered a waste product.” Aviation, which has the highest growth rate as a mode of transport, is also the fastest growing source of greenhouse gas emissions, with its consumption of fuel expected to rise by 65% from 1990 levels by 2010, according to one study cited by the New Economics Foundation. Other estimates are more pessimistic, with the Intergovernmental Panel on Climate Change (IPCC) suggesting that fuel consumption by civil aviation is going up at the rate of three percent a year and could rise by nearly 350% from 1992 levels by 2050. Note Mander and Retallack: “Each ton of freight moved by plane uses forty nine times as much energy per kilometer as when it’s moved by ship….A two-minute takeoff by a 747 is equal to 2.4 million lawn mowers running for twenty minutes.” In support of trade expansion and global economic growth, authorities have by and large not taxed aviation fuel as well as marine bunker fuel, which now account for 20% of all emissions in the transport sector. Along with fossil-fuel-intensive air transport, fossil-fuel-intensive road transport has also been favored by the expansion of world trade, instead of modes with less emission intensities like rail and marine traffic. In the European Union, for instance, the focus on building up a road transport network led an OECD study to comment that “the way in which the EU liberalization policy has been implemented has favored the less environment-friendly modes and accelerated the decline of rail and inland waterways.” Decoupling Growth and Energy: a Panacea There has been talk about decoupling trade and growth from energy or shifting from fossil fuels to other, less carbon-intensive energy sources. The reality is that the other energy sources being seriously considered are either dangerous, like nuclear power; with deleterious side-effects, like biofuels’ negative impact on food production; or science fiction as this stage, like carbon sequestration and storage technology. For the foreseeable future, trade expansion and global growth will fall in line with their historical trajectory of being correlated with increased greenhouse gas emissions. A sharp U-turn in consumption and growth in the developed countries and a significant decrease in global trade are unavoidable if we are to have a viable strategy against climate change. This will set the stage for a reduction in greenhouse gas emissions, including from the energy-intensive transportation sector. The outcome of the Doha negotiations will determine whether free trade will intensify or lose momentum. A successful conclusion to Doha will bring us closer to uncontrollable climate change. It will continue what the New Economics Foundation describes as “free trade’s free ride on the global climate.” A derailment of Doha won’t be a sufficient condition to formulate a strategy to contain climate change. But given the likely negative ecological consequences of a successful deal, it’s a necessary condition.

#### WTO bad – food security.

Ghosh 13 (Jayati Ghosh is a development economist and Professor of Economics at the Centre for Economic Studies and Planning, School of Social Sciences, at the Jawaharlal Nehru University, in New Delhi, India. “Why farming subsidies still distort advantages and cause food insecurity” 11/23/13. <https://www.theguardian.com/global-development/poverty-matters/2013/nov/27/farming-subsidies-distort-advantages-food-insecurity>) ME.

For developing countries, it seems, the more things change, the more they stay the same. **Despite all the talk of global power shifts and the rise of emerging economies, the runup to the World Trade Organisation (WTO) ministerial meeting in Bali next week has once again forced developing countries on to the back foot despite having reason and ethics on their side**. The recent inability to close a deal in Geneva before the talks reflects the intransigence of some governments – the US in particular – in the face of what seem to be fairly commonsense and fair proposals to rectify large anomalies in the trade rules, and demand a pound of flesh in return for every such "concession". The Doha development round of trade talks is all but dead, and only two issues have survived to merit serious consideration at Bali. One is "trade facilitation" – the harmonising and standardising of customs rules and procedures that is an agenda of the global north to ease import practices across the world**. There are the usual noises being made about how this will dramatically increase both trade and employment worldwide, on the basis of spurious empirical exercises. The other issue is more central: the focus on agricultural subsidies, which affects the livelihoods and food security of more than half the world's population. Unfortunately, some wealthy countries have demanded acceptance of the former while refusing to make even the most obvious adjustments to meet the latter. Since the WTO's Agreement on Agriculture took effect in 1995, world trade patterns have changed, and there are forces distorting food trade that are not being adequately addressed. Subsidies that wealthy countries give their farmers and agribusinesses are mostly classified as "non-distorting" measures, and remain high. A few multinational agribusinesses have increased their domination of global trade and food distribution. Speculation in commodity futures markets is creating volatile price movements that do not reflect true changes in demand and supply.** Get Society Weekly: our newsletter for public service professionals Read more All this is bad for small producers, who do not benefit from price increases and lose out when prices decline with import surges. It is also bad for poor consumers, who face much higher prices for their food. In many developing countries this has created two linked problems: food insecurity because of high and volatile food prices, and livelihood insecurity of food producers because of rising costs and uncertain supply. In the meantime, developing countries must find some way to ensure their citizens' food and livelihood security. Many countries try to do so by introducing measures to make food affordable for low-income consumers or by encouraging domestic food production, particularly through supporting small farmers. The trouble is that such measures sometimes come up against existing WTO rules. Thus, India's recent law that seeks to provide food security to one of the largest undernourished populations in the world has been challenged by the US in the WTO, even though India's scheme would cost a fraction of what the US provides in food subsidies. This is because of unbalanced and what should be archaic rules that allow higher levels of subsidies and protection for rich countries compared with developing ones. The WTO recognises three kinds of agriculture subsidies. "Amber box" measures are those that distort trade most severely. Developing countries are allowed to provide such subsidies worth up to only 10% of the total value of their agricultural production; developed countries are allowed up to 5%. The second category of subsidies, the "blue box", are considered slightly less distorting; developing countries are subject to an 8% ceiling on their blue box support. And finally, "green box" subsidies are those that are not thought to distort trade at all; these are not subject to any conditions or limitations. Examples of green box subsidies include direct income support to farmers as well as policies for environmental protection and regional development. Most developed countries have shifted towards green box subsidies for agriculture, so they continue to provide enormous support to their farmers without breaching WTO commitments. But developing countries trying to ensure food security may need more flexibility than global trade rules allow. To that end, the G33, a coalition of developing countries at the WTO, has suggested broadening the green box to include policies such as land reform programmes, the provision of infrastructure, and rural employment initiatives. It is important to expand the definition of green box support to account for the specific needs of developing countries. For example, some governments may find it necessary to provide crop-specific subsidies to encourage farmers to cultivate more food crops, thus lowering prices for consumers. Government purchases of crops at fixed, or "administered", prices can be an essential policy instrument. Under WTO rules, however, if governments pay farmers at rates that are even slightly above market prices when they are stockpiling food, those payments count toward the country's 10% amber box ceiling. But grain reserves can be essential to domestic food security, allowing countries to guard against sudden movements in global food prices. So such payments should also be classified in the green box. Most bizarrely of all, to calculate the level of current subsidies, the WTO uses prices of 25 years ago (the average 1986-88 global prices). This is clearly ridiculous since food prices have shot up since then, so recent prices should be used as the reference. But developed countries currently refuse to agree to this because "it will open up the agreement." Surprisingly, developed countries are contesting all of these points in the WTO negotiations. So a "peace clause" that would temporarily suspend WTO actions against countries that exceed their amber box limit is being suggested as a fallback negotiating strategy. But such an outcome should be accepted only as a transitional measure towards full recognition of the legitimacy of such policies to ensure food security. **The WTO rules make a travesty of the first millennium development goal, to reduce hunger. If the world community is truly concerned about hunger, then it should not let unfair trade rules reduce developing countries' ability to do something about it. Yet there is little global outcry about the state of the negotiations, and there are fears that the pressure to do a deal – any deal – at Bali may lead to developing countries accepting this pathetic compromise with no real gain. People everywhere need to make this a much more vital issue on which no compromise can be tolerated.**

#### No Disease Extinction

Farquhar 17 **–** Sebastian Farquhar, Leader of the Global Priorities Project (GPP) at the Centre for Effective Altruism, et al., “Existential Risk: Diplomacy and Governance”, https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf

1.1.3 Engineered pandemics

For most of human history, natural pandemics have posed the greatest risk of mass global fatalities.37 However, there are some reasons to believe that natural pandemics are **very unlikely** to cause human extinction. Analysis of the International Union for Conservation of Nature (IUCN) red list database has shown that of the 833 recorded plant and animal species extinctions known to have occurred since 1500, less than 4% (31 species) were ascribed to infectious disease.38 None of the mammals and amphibians on this list were globally dispersed, and other factors aside from infectious disease also contributed to their extinction. It therefore seems that our own species, which is **very numerous**, **globally dispersed**, and **capable of a rational response** to problems, is very unlikely to be killed off by a natural pandemic. One underlying explanation for this is that highly lethal pathogens can kill their hosts before they have a chance to spread, so there is a selective pressure for pathogens not to be highly lethal. Therefore, pathogens are likely to co-evolve with their hosts rather than kill all possible hosts.39

#### Vote neg on presumption – the compulsory licensing clause and exception in TRIPS is the same as the aff—proves no solvency b/c generic vaccines havent been made

### Access/Inherency - Plan already done

#### WTO already did the AFF – Doha Declaration nullifies medical patents for developing countries struggling with pricing

**World Trade Organization 17** (World Trade Organization – you should know who this is, “WTO IP rules amended to ease poor countries’ access to affordable medicines”, <https://www.wto.org/english/news_e/news17_e/trip_23jan17_e.htm>, 23 January 2017, EmmieeM)

**An amendment to** the agreement on **intellectual property entered** into force today (23 January) **securing for developing countries a legal pathway to access affordable medicines under WTO rules**.

The amendment to the WTO Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement marks the first time since the organization opened its doors in 1995 that WTO accords have been amended.

The WTO Secretariat has received in recent days notifications from five members that they have ratified the protocol amending the WTO TRIPS Agreement. These notifications — from Burkina Faso, Nigeria, Liechtenstein, the United Arab Emirates and Viet Nam — brought to two-thirds the number of WTO members which have now ratified the amendment. The two-thirds threshold was needed to formally bring the amendment into the TRIPS Agreement.

Members took the decision to amend the TRIPS Agreement **specifically to adapt** the **rules** of the global trading system **to the public health needs of people in poor countries**. This action follows repeated calls from the multilateral system for acceptance of the amendment, most recently by the United Nations General Assembly High-Level Meeting on Ending AIDS in June 2016.

“This is an **extremely important amendment**. It **gives legal certainty that generic medicines can be exported at reasonable prices to satisfy the needs of countries with** no pharmaceutical production capacity, or those with **limited capacity**. By doing so, **it helps the most vulnerable** access the drugs that meet their needs, helping to deal with diseases such as HIV/AIDS, tuberculosis or malaria, as well as other epidemics. I am delighted that WTO members have now followed through on their commitment and brought this important measure into force,” said WTO Director-General Roberto Azevêdo. In video statements available here, some of the key players share their thoughts on the TRIPS amendment.

Unanimously adopted by WTO members in 2005, the protocol amending the TRIPS Agreement **makes permanent a mechanism to ease poorer WTO members’ access to affordable generic medicines produced in other countries**. The amendment **empowers** importing **developing and least-developed countries facing public health problems and lacking** the **capacity to produce drugs** generically to seek such medicines from third country producers under "compulsory licensing" arrangements. Normally, most medicines produced under compulsory licences can only be provided to the domestic market in the country where they are produced. This amendment allows exporting countries to grant compulsory licences to generic suppliers exclusively for the purpose of manufacturing and exporting needed medicines to countries lacking production capacity.

“As important as trade policy is, health and well-being must take precedence,” said Amina Mohamed, Kenya’s Foreign Minister who chaired the WTO General Council at the time when the amendment was approved in December 2005. “WTO members recognise this and have proven how seriously they take health issues by ratifying and putting into force an amendment to WTO rules which will facilitate access to essential medicines in low income countries.”

The amendment provides **a secure and sustained legal basis for** both potential exporters and importers to adopt legislation and establish the means needed to allow **countries** with limited or no production capacity **to import affordable generics from countries where pharmaceuticals are patented**. More and more WTO members are taking practical steps to implement the system in their laws. The bulk of global medicine exports is covered by laws enabling exports under this system, opening up new options for potential beneficiaries to access a wider range of potential suppliers and enabling new, innovative procurement strategies.

### AT Developing Countries

#### It doesn’t solve – there are tons of barriers to access to vaccines, especially in developing countries. Even if it’s legal to make generics, lack of raw materials, expertise, and production facilities mean the plan is a drop in the bucket for responding to global covid

Herper et al 21 [Matthew Herper Senior Writer, Medicine, Editorial Director of Events at STAT. "Waiver of patent rights on Covid-19 vaccines, in near term, may be more symbolic than substantive." https://www.statnews.com/2021/05/06/waiver-of-patent-rights-on-covid-19-vaccines-in-near-term-may-be-more-symbolic-than-substantive/]

Prashant Yadav, a supply chain expert and senior fellow at the Center for Global Development, said the biggest barrier to increasing the global vaccine supply is a lack of raw materials and facilities that manufacture the billions of doses the world needs. Temporarily suspending some intellectual property, as the U.S. proposes to do, would have little effect on those problems, he said.

“My take is: By itself, it will not get us much benefit in increased manufacturing capacity,” Yadav said. “But as part of a larger package, it can.”

That larger package would include wealthy nations like the U.S. mounting an Operation Warp Speed-style effort to invest in manufacturing in low-income countries, he said, using their vast financial resources to actually produce vaccine doses rather than solely targeting patents.

Lawrence Gostin, director of the O’Neill Institute for National and Global Health Law at Georgetown Law, said the waiver is necessary but hardly sufficient. It will likely take months of international infighting before the proposal would take effect, he said, months during which would-be manufacturers would not have the right to start producing vaccines.

“We’re not talking about any immediate help for India or Latin America or other countries going through an enormous spread of the virus,” Gostin said. “While they’re going to be negotiating the text, the virus will be mutating.”

#### IP is insufficient for imitation; originators will challenge with intense litigation, and nations don’t have necessary ingredients and materials. Independently, the plan will cause companies to disengage from global efforts.

Silverman 3/15 [Rachel Silverman is a policy fellow at the Center for Global Development where she leads policy-oriented research on global health financing and incentive structures. Silverman’s current research focuses on the practical application of results-based financing; global health transitions; efficient global health procurement; innovation models for global health; priority-setting for UHC; alignment and impact in international funding for family planning; and strategies to strengthen evidence and accountability. BA with distinction in international relations and economics from Stanford University.) “Waiving vaccine patents won’t help inoculate poorer nations” Washington Post, PostEverything Perspective, <https://www.washingtonpost.com/outlook/2021/03/15/vaccine-coronavirus-patents-waive-global-equity/>] RM

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

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

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

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

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

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

Vaccines, in contrast, are complex biological products. Observing their contents is insufficient to allow for imitation. **Instead, to produce the vaccine, manufacturers need access to the developer’s “soft” IP — the proprietary recipe, cell lines, manufacturing processes and so forth**. While some of this information is confidentially submitted to regulators and might theoretically be released in an extraordinary situation (though not without legal challenge), manufacturers are at an enormous disadvantage without the originator’s cooperation to help them set up their process and kick-start production. Even with the nonconsensual release of the soft IP held by the regulator, the process of trial and error would cause long delays in a best-case scenario. Most likely, the effort would end in expensive failure. Manufacturers also need certain raw ingredients and other materials, like glass vials and filtration equipment; overwhelming demand, paired with disruptive export restrictions, has constricted the global availability of some of these items.

#### Underinvestment and regulation drive drug inefficiency---licenses are already available

Tabarrok 5/6/21 [Alex Tabarrok is Bartley J. Madden Chair in Economics at the Mercatus Center and a professor of economics at George Mason University. Along with Tyler Cowen, he is the co-author of the popular economics blog Marginal Revolution and co-founder of Marginal Revolution University. He is the author of numerous academic papers in the fields of law and economics, criminology, regulatory policy, voting theory and other areas in political economy. He is co-author with Tyler of Modern Principles of Economics, a widely used introductory textbook. He gave a TED talk in 2009. His articles have appeared in the New York Times, the Washington Post, the Wall Street Journal, and many other publications.) “Patents are not the problem!” Marginal Revolution University, 5/6/21, Current Affairs, Economics, Law, Medicine, <https://marginalrevolution.com/marginalrevolution/2021/05/ip-is-not-the-constraint.html>] RM

For the last year and a half I have been shouting from the rooftops, “invest in capacity, build more factories, shore up the supply lines, spend billions to save trillions.” Fortunately, some boffins in the Biden administration have found a better way, “the US supports the waiver of IP protections on COVID-19 vaccines to help end the pandemic.”

Waive IP protections. So simple. Why didn’t I think of that???

**Patents are not the problem**. All of the vaccine manufacturers are trying to increase supply as quickly as possible. Billions of doses are being produced–more than ever before in the history of the world. Licenses are widely available. **AstraZeneca have licensed their vaccine for production with manufactures around the world, including in India, Brazil, Mexico, Argentina, China and South Africa**. J&J’s vaccine has been licensed for production by multiple firms in the United States as well as with firms in Spain, South Africa and France. Sputnik has been licensed for production by firms in India, China, South Korea, Brazil and pending EMA approval with firms in Germany and France. Sinopharm has been licensed in the UAE, Egypt and Bangladesh. Novavax has licensed its vaccine for production in South Korea, India, and Japan and it is desperate to find other licensees but t**echnology transfer isn’t easy and there are limited supplies of raw materials:**

Virtually overnight, [Novavax] set up a network of outside manufacturers more ambitious than one outside executive said he’s ever seen, but they struggled at times to transfer their technology there amid pandemic travel restrictions. They were kicked out of one factory by the same government that’s bankrolled their effort. Competing with larger competitors, they’ve found themselves short on raw materials as diverse as Chilean tree bark and bioreactor bags. They signed a deal with India’s Serum Institute to produce many of their COVAX doses but now face the realistic chance that even when Serum gets to full capacity — and they are behind — India’s government, dealing with the world’s worst active outbreak, won’t let the shots leave the country.

Plastic bags are a bigger bottleneck than patents. The US embargo on vaccine supplies to India was precisely that the Biden administration used the DPA to prioritize things like bioreactor bags and filters to US suppliers and that meant that India’s Serum Institute was having trouble getting its production lines ready for Novavax. CureVac, another potential mRNA vaccine, is also finding it difficult to find supplies due to US restrictions (which means supplies are short everywhere). As Derek Lowe said:

Abolishing patents will not provide more shaker bags or more Chilean tree bark, nor provide more of the key filtration materials needed for production. These processes have a lot of potential choke points and rate-limiting steps in them, and there is no wand that will wave that complexity away.

Technology transfer has been difficult for AstraZeneca–which is one reason they have had production difficulties–and their vaccine uses relatively well understood technology. The mRNA technology is new and has never before been used to produce at scale. Pfizer and Moderna had to build factories and distribution systems from scratch. There are no mRNA factories idling on the sidelines. If there were, Moderna or Pfizer would be happy to license since they are producing in their own factories 24 hours a day, seven days a week (monopolies restrict supply, remember?). **Why do you think China hasn’t yet produced an mRNA vaccine? Hint: it isn’t fear about violating IP**. Moreover, even Moderna and Pfizer don’t yet fully understand their production technology, they are learning by doing every single day. **Moderna has said that they won’t enforce their patents during the pandemic but no one has stepped up to produce because no one else can.**

The US trade representative’s announcement is virtue signaling to the anti-market left and will do little to nothing to increase supply.

What can we do to increase supply? Sorry, there is no quick and cheap solution. We must spend. Trump’s Operation Warp Speed spent on the order of $15 billion. If we want more, we need to spend more and on similar scale. The Biden administration paid $269 million to Merck to retool its factories to make the J&J vaccine. That was a good start. We could also offer Pfizer and Moderna say $100 a dose to produce in excess of their current production and maybe with those resources there is more they could do. South Africa and India and every other country in the world should offer the same (India hasn’t even approved the Pfizer vaccine and they are complaining about IP!??) We should ease up on the DPA and invest more in the supply chain–let’s get CureVac and the Serum Institute what they need. We should work like hell to find a substitute for Chilean tree bark. See my piece in Science co-authored with Michael Kremer et. al. for more ideas. (Note also that these ideas are better at dealing with current supply constraints and they also increase the incentive to produce future vaccines, unlike shortsighted patent abrogation.)

Bottom line is that producing more takes real resources not waving magic patent wands.

You may have gathered that I am angry. I am indeed angry that the people in power think they can solve real problems on the cheap and at someone else’s expense. This is not serious. I am also angry that they are sending the wrong message about business, profits and capitalism. So let me end on positive note. Like the Apollo program and Dunkirk, the creation of the mRNA vaccines by Pfizer and Moderna should be lauded with Nobel prizes and major movies. Churchill called the rescue at Dunkirk a “miracle of deliverance,” well the miracle of Moderna will rescue many more. Not only was a vaccine designed in under a year, an entirely new production process was set up to produce billions of doses to rescue the world. The creation of the mRNA vaccines was a triumph of science, logistics, and management and it was done at a speed that I had thought possible only for past generations.

c [Tamara Kay is a sociologist studying trade, global health and globalization at the Keough School of Global Affairs, University of Notre Dame. Adnan Naseemullah is an international relations scholar at King's College London. Susan Ostermann is a political scientist at the Keough School of Global Affairs, Notre Dame and a former attorney at O'Melveny & Myers LLP, specializing in intellectual property law.) “Waiving patents isn't enough — we need technology transfer to defeat COVID” The Hil, Opinion Contributors: Healthcare, 5/13/21, 2:01 PM EDT, <https://thehill.com/opinion/healthcare/553368-waiving-patents-isnt-enough-we-need-technology-transfer-to-defeat-covid?rl=1>] RM

On May 5, U.S. Trade Representative Katherine Tai announced that the Biden administration would support a waiver of intellectual property (IP) restrictions for coronavirus vaccines to enable low-income countries to vaccinate their populations. While such a waiver is necessary to stem the global COVID-19 pandemic, it is not sufficient. What is missing from discussions of intellectual property is that **few of the countries with the potential to produce sophisticated pharmaceutical products currently have the technological capacity to manufacture mRNA and adenovirus vaccines to global standards.** This is because of the highly concentrated nature of the global pharmaceutical industry, which has impeded the transfer of production technology beyond a handful of countries.

Even after U.S. support of the IP waiver, significant obstacles to increased vaccine production and distribution remain. Primary among them is continuing resistance by profit-concerned pharmaceutical companies to sharing their technological expertise more broadly with capable partners, and the governments in high-income countries that support these strategies.

Corporations argue that, particularly for the mRNA vaccines, **wider distribution and production are prohibitively difficult due to the complex and relatively new technology involved.**

There is some truth in this. The genetic sequence of the virus is already publicly available. The safe transfer of this sequence to human bodies, via mRNA or an inactivated adenovirus, by contrast, is a complicated and sophisticated operation. Pharmaceutical companies argue this process needs to be kept in capable hands. They argue that they are the only ones with this capacity, and have received and continue to receive tremendous public funding as a result. None are offering up their expertise and, in particular, technology that they deem trade secrets, for wider public use, which would dramatically widen production and distribution capability beyond wealthy countries.

However, in light of the significant public funding already invested, the windfall profits already achieved and the significant public interest at stake, we can and should do more than support an intellectual property waiver to enable capacity building for pharmaceutical manufacturing and distribution in low-income countries. Vaccine producers are essentially realizing their profits as government contractors, and it is in the interest of the U.S. government for the pandemic to end globally, not just in the U.S. This will occur only if low-income countries can make and distribute vaccines.

We already see some examples of production beyond the West. The Serum Institute of India already produces a large proportion of the AstraZeneca vaccine bound for Europe. There is no reason why it and other Indian manufacturers, and those in other countries with emerging scientific and technological capacity, could not produce much more for the developing world over the next year. This was envisioned by the WHO’s C-TAP program. But Pfizer and Moderna, with the backing of the Trump administration, opposed this program.

Yet given the global threat — a threat which will not truly diminish locally until it diminishes globally — we should create incentives for them to lend their expertise and support to manufacturing partners of their own choosing in low-income countries to radically expand production capacity.

#### Circumvention and they don’t solve – even if they say “durable fiat”, they have not defined the scope of the plan in the 1AC so you don’t know what the plan would materially look like

Mercurio 6/24 [Simon F.S. Li Professor of Law, The Chinese University of Hong Kong, Shatin, Hong Kong. June 24, 2021. “The IP Waiver for COVID-19: Bad Policy, Bad Precedent” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/> Accessed 8/25 //gord0]

The role of intellectual property rights (IPRs) and access to medicines is contentious. On the one hand, IPRs encourage investment, innovation and the advancement of health science. On the other hand, the limited-term monopoly rights can result in artificially high prices and become a barrier to access to medicines. While the wisdom of the IPRs system has at times been tested, it has proven its value in the current COVID-19 pandemic as IPRs played a large role in the rapid (and unprecedented) development and availability of multiple vaccines. Despite the success, India and South Africa proposed that the World Trade Organization (WTO) waive IPRs under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) in order to increase access to vaccines and other COVID-19-related technologies.[1](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn1) The proposal, tabled at a meeting of the TRIPS Council in October 2020, calls on Members to waive IPRs relating to and having an impact on the “prevention, containment or treatment of COVID-19”.[2](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn2) The proposal attracted support from the majority of developing country Members,[3](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn3) but was opposed by a handful of Members including the United States (US).[4](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn4) Given that consensus could not be reached within the deadline of 90 days as set out in Art. IX:3 of the Agreement Establishing the WTO, Members agreed to keep the waiver proposal on the agenda of the TRIPS Council in 2021.[5](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn5) On 5 May 2021, the US reversed its position and announced that it would support a waiver for COVID-19 vaccines.[6](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn6) To be clear, this does not mean that the US supported the waiver as proposed by India and South Africa. Instead, the US has simply agreed to negotiate the perimeters of a waiver. Others, including the European Union (EU), Canada, Australia, Norway, Switzerland, the United Kingdom (UK) and even leading developing countries such as Brazil, Chile and Mexico remain opposed or lukewarm on the waiver.[7](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn7) The US dropping opposition does not mean the concerns of other Members will simply disappear – one would hope that these nations opposed the waiver for valid reasons and did not simply blindly follow the US. Indeed, many of the above-listed Members remain unconvinced that even such a draconian step as a waiver of IPRs would accomplish the goal of increased vaccine production.[8](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn8) For its part, the EU continues to favour an approach which makes better use of existing flexibilities available in the TRIPS Agreement.[9](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn9) Thus, those expecting quick agreement on the waiver will be disappointed. Negotiations at the WTO are always difficult and lengthy, and US Trade Representative Katherine Tai acknowledged that the “negotiations will take time given the consensus-based nature of the institution and the complexity of the issues involved”.[10](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn10) Issues of negotiation will include the scope of the waiver. Whereas the original proposal and its amended form extend the waiver beyond patents and vaccines to include nearly all forms of IP (i.e. copyright,[11](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn11) industrial designs and trade secrets) as well as to all “health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the prevention, treatment or containment of COVID-19”[12](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn12) (with no requirement on how or the extent to which they are related to or useful in combatting COVID-19), the US and others seem to support a waiver limited to patents and vaccines.[13](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn13) The length of the waiver will also be a contentious negotiating issue, with proponents seeking a virtual indefinite waiver lasting until the Membership agrees by consensus that it is no longer required – meaning even a single Member’s objection to ending the waiver would mean the waiver continues to remain in force[14](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn14) – as will the request that any action claimed to be taken under the waiver is outside the scope of the WTO’s dispute settlement mechanism.[15](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn15) These provisions will almost certainly be opposed by other Members, who would perhaps agree to a time-limited waiver which could be extended rather than an unchallengeable indefinite waiver which will be difficult to reverse. The proposal also fails to mention anything in relation to transparency and notification requirements and lacks safeguards against abuse or diversion. These points will likely also prove contentious in the negotiations. With so many initial divergences and as yet undiscussed issues, the negotiations at best could be completed by the time of the next WTO Ministerial Conference, scheduled to begin on 20 November 2021. There is precedent in this regard, as previous TRIPS negotiations involving IP and pharmaceuticals were not fully resolved until the days before the Ministerial Conferences (in 2003 and 2005).[16](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn16) There is also a chance that the negotiations will continue past the calendar year 2021. The chance for a swift negotiation diminished with the release of a revised proposal by India and South Africa on 22 May 2021. As mentioned above, the proposal contains no limit as to product coverage, scope, notification requirements or safeguards and proposes that the waiver will remain in effect for what could be an indefinite period. This was not a proposal designed to engender quick negotiations and a solution. Instead, the proposal perhaps reveals India’s and South Africa’s true intent to use the COVID-19 pandemic as an excuse to roll-back IPRs rather than a good-faith effort to rapidly increase access to lifesaving vaccines and treatments around the world. It is not only the length of time which is an issue but also the ultimate impact of the waiver. A waiver simply means that a WTO Member would not be in violation of its WTO obligations if it does not protect and enforce the COVID-19-related IPRs for the duration of the waiver. The waiver would thus allow Members to deviate from their international obligations but not obligate Members to suspend protection and enforcement of the IPRs. Members like the US who support the waiver may not implement the necessary domestic legislation to waive IPRs within the jurisdiction. It is questionable whether the US could even legally implement the waiver given that IPRs are a matter of constitutional law.[17](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn17) The US announcement remains meaningful, however, for two reasons. First, it signals a departure from the longstanding and bipartisan support for the pharmaceutical industry, which for decades has been instrumental in setting the IP and trade agenda.[18](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn18) Second, it sends a strong signal that the US does not oppose others from waiving patent protection for vaccines. This shift may also be part of a broader and alternative strategy to increase vaccine production and distribution, whereby the US is not viewing or supporting waiver negotiations as a legal tool but more so as a threat to encourage vaccine innovators to increase production. In essence, the desired reaction would be that the IP holders increase efforts to license, transfer technology and expand manufacturing – exactly what the world needs at this time. Alan Beattie, writing in the Financial Times, believes that even the proponents of the waiver desire this outcome: “having talked to the proponents, [the original proposal] was always a tactical position designed to start a debate, identify possible support and flush out opponents rather than a likely outcome. To that end, it seems to have worked rather well.”[19](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn19) India’s negotiator to the TRIPS Agreement and longtime WTO staffer, Jayashree Watal, agrees, stating the proposal is an “indirect attempt to put pressure on the original manufacturers to cooperate [and license production to companies in their countries]”.[20](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn20) This view makes sense, as the proponents (and their supporters) have not even pointed to one credible instance where IPRs have blocked the production of a COVID-19 vaccine. Moreover, it is well known that the leading vaccines using mRNA are difficult to reproduce and having the “blueprints” does not guarantee safe and effective production. Simply stated, if a pastry chef provides instructions on how to bake a cake, the cake they bake is still going to be better than cakes baked by novices using the exact same recipe. The know-how and trade secrets are the key ingredient to the manufacture of quality, safe and effective pharmaceuticals or vaccines, and not only is it not transferred through compulsory licenses but it is hard to imagine how any government would force the transfer of such information even under a waiver. For this reason, instead of encouraging production everywhere – including in locations where safety and efficacy standards are virtually nonexistent – and accepting that there will be a flood of substandard vaccines coming onto the world market (with devastating effects) it is much more sensible to find out where potential manufacturing capabilities exist and find ways to exploit them and scale them up. When asked if a waiver would improve vaccine availability and equity, Watal responded: “No. It won’t. That’s clear.”[21](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn21) I share Watal’s view and do not support a TRIPS waiver for IPRs or even a limited waiver for patents. With evidence mounting that “what the proposal … will definitely not achieve is speeding up the Covid-19 vaccination rate in India or other parts of the Global South”[22](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn22) I refuse to sacrifice academic integrity by supporting a proposal simply because it is gaining traction in some circles.[23](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn23) IPRs played a key role in delivering vaccines within a year of the discovery of a new pathogen; it seems inexplicable that the world would abandon the system without any evidence that IPRs are limiting during the current crisis.[24](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8223179/#Fn24) Moreover, innovators have been generous in licensing technology transfer and production and one would be hard-pressed to find credible reports of qualified generic producers being refused a license. This is not surprising, since multiple competing vaccines are on the market it simply does not make economic sense for innovators to refuse a license – the generic manufacturer would simply obtain a license (and market share) and pay royalties to a competitor. Instead, I support efforts to enable prompt and effective use of existing flexibilities in the TRIPS Agreement and concerted and coordinated efforts involving governments and the private sector to ensure all qualified generic producers willing and capable of manufacturing vaccines are doing so and to create supply by working to bring more facilities up to standard. Cooperation will not only lead us out of this pandemic but also put us in a better position to deal with the next one. Killing the goose that laid the golden egg may seem appealing to some in the short term but will only ensure that no eggs are delivered in the next pandemic.