## 1

#### THE COLLAPSE OF APPALLETE BODY, THE INABILITY TO MANAGE CHINA AND CHANGING TRENDS IN TRADE ALL MEAN THE WTO IS ON THE VERGE OF COLLAPSE

Suh et al 21 Jin Kyo Suh et. al, (Senior Research Fellow, Trade Agreement Team, Department of International Trade) 6/1/21, The Crisis of the WTO and New, Direction for Negotiation Strategies of Korea, Korean Institute for International Economic Policy. {bracketed for ableist language} SJEP

The WTO is facing a historical crisis. Its main functions ‒ namely, providing a negotiating forum, administrating WTO trade agreements and monitoring national trade policies, and resolving trade disputes ‒ have been significantly ~~paralyzed~~ [weakened]. Since launching the Doha Development Round in 2001, the WTO has failed to produce meaningful outcomes to this day. Further, China’s entry into the WTO has neither opened up its economy, nor created a level playing field when it comes to potentially market-distorting subsidies. The surveillance of trade policies based on the Trade Policy Review Mechanism (TPRM), a fundamentally important activity running throughout the work of the WTO aimed at fostering transparency, is criticized for its lack of effectiveness. **The Dispute Settlement Mechanism (DSM), once praised as the WTO’s “crown jewel,” is now on the verge of collapse due to the absence of an appeal court.** Although the cause of the crisis is partly institutional, higher uncertainty is also a considerable problem aggravating the fate of the multilateral trading system. Such uncertainty comes from two factors: rising protectionism, and trade frictions between developed and developing countries including those between the United States and China. Meanwhile, the WTO also needs to respond to rapid structural changes in global trade. The center of the world’s trade is shifting towards trade in services. The development and spread of information and communication technology (ICT) are making it easier to supply services across borders. The regionalization or localization of global value chains (GVCs) continues and GVCs are shifting towards knowledgebased goods. Therefore, the WTO faces a historical challenge it is highly unlikely to survive without proper reflection on the new trends of global trade.

#### THE PERCEPTION OF AN EFFECTIVE RESPONSE TO COVID, INJECTS THE WTO WITH LEGITIMACY AND GIVES IT MOMENTUM TO REFORM – THE AFF IS THAT PERCEPTION

Meyer 18 David Meyer (Senior writer, Fortune magazine), 6/18/2021, The WTO’s survival hinges on the COVID-19 vaccine patent debate, waiver advocates warn, Fortune, <https://fortune.com/2021/06/18/wto-covid-vaccines-patents-waiver-south-africa-trips/> SJEP

The World Trade Organization knows all about crises. Former U.S. President Donald Trump threw a wrench into its core function of resolving trade disputes—a blocker that President Joe Biden has not yet removed—and there is widespread dissatisfaction over the fairness of the global trade rulebook. The 164-country organization, under the fresh leadership of Nigeria's Ngozi Okonjo-Iweala, has a lot to fix. However, one crisis is more pressing than the others: the battle over COVID-19 vaccines, and whether the protection of their patents and other intellectual property should be temporarily lifted to boost production and end the pandemic sooner rather than later. According to some of those pushing for the waiver—which was originally proposed last year by India and South Africa—the WTO's future rests on what happens next. "The credibility of the WTO will depend on its ability to find a meaningful outcome on this issue that truly ramps-up and diversifies production," says Xolelwa Mlumbi-Peter, South Africa's ambassador to the WTO. "Final nail in the coffin" The Geneva-based WTO isn't an organization with power, as such—it's a framework within which countries make big decisions about trade, generally by consensus. It's supposed to be the forum where disputes get settled, because all its members have signed up to the same rules. And one of its most important rulebooks is the Agreement on Trade-Related Aspects of Intellectual Property Rights, or TRIPS, which sprang to life alongside the WTO in 1995. The WTO's founding agreement allows for rules to be waived in exceptional circumstances, and indeed this has happened before: its members agreed in 2003 to waive TRIPS obligations that were blocking the importation of cheap, generic drugs into developing countries that lack manufacturing capacity. (That waiver was effectively made permanent in 2017.) Consensus is the key here. Although the failure to reach consensus on a waiver could be overcome with a 75% supermajority vote by the WTO's membership, this would be an unprecedented and seismic event. In the case of the COVID-19 vaccine IP waiver, it would mean standing up to the European Union, and Germany in particular, as well as countries such as Canada and the U.K.—the U.S. recently flipped from opposing the idea of a waiver to supporting it, as did France. It's a dispute between countries, but the result will be on the WTO as a whole, say waiver advocates. "If, in the face of one of humanity's greatest challenges in a century, the WTO functionally becomes an obstacle as in contrast to part of the solution, I think it could be the final nail in the coffin" for the organization, says Lori Wallach, the founder of Public Citizen's Global Trade Watch, a U.S. campaigning group that focuses on the WTO and trade agreements. "If the TRIPS waiver is successful, and people see the WTO as being part of the solution—saving lives and livelihoods—it could create goodwill and momentum to address what are still daunting structural problems." Those problems are legion.

#### THE WTO UNDERMINES INITIATIVES THAT FIGHT CLIMATE CHANGE AND FOSTERS A GLOBAL ECONOMIC ORDER THAT PRIVILEGES PROFIT OVER ENVIRONMENTAL HEALTH. IN ORDER TO STOP CLIMATE CHANGE THE WTO MUST DIE.

Campesina 13 Via Campesina (international farmers organization founded in 1993 in Mons, Belgium, formed by 182 organisations in 81 countries,[1] and describing itself as "an international movement which coordinates peasant organizations of small and middle-scale producers, agricultural workers, rural women, and indigenous communities from Asia, Africa, America, and Europe), 9/9/13, To confront the climate emergency we need to dismantle the WTO and the free trade regime, VIA CAMPESINA, https://viacampesina.org/en/to-confront-the-climate-emergency-we-need-to-dismantle-the-wto-and-the-free-trade-regime/SJEP

These existing WTO trade rules are currently undermining initiatives to tackle climate change and they can be further aggravated by the attempt of new negotiations in the upcoming 9th Ministerial meeting in Bali, Indonesia. How the corporate rules of the WTO work Under the WTO logic, each country should specialize in what they can produce best -what is called their “comparative advantages”- and then trade these products in exchange for products that other countries produce best. This logic however promotes the construction of market-oriented and imbalanced economies that focus on the demands of the market rather than the needs of their people on the ground. These export-oriented economies also bleed Mother Nature in order to exploit the most out of it provoking disruptions in the environment as we are seeing now with climate change, biodiversity loss and the destruction of ecosystems. This is the capitalist logic – nature is just a thing to be exploited for profit. The real beneficiaries of this imbalanced trade rules of the WTO are the transnational corporations since in reality, they are the ones that have more “comparative advantages” than fledgling national and domestic infant industries. In a world of free trade flows – as the WTO aspires – transnational corporations are free to enter and move between countries, choosing those with cheap labor and relaxed regulations and at the same time able to exit and move out just as easily after it has exhausted and grabbed the natural resources, leaving in several cases, their toxic waste. At the same time, the losers are many – the farmers who lose their farms as they cannot compete with cheap food imports that flood the local markets, the workers whose jobs are made even more unstable and precarious with the pressure to lower labor standards, the persons who are forced to migrate because of loss of livelihood, the women who are most times those who bear the brunt of economic distress on the family and community, the indigenous people who are displaced from their lands, and Mother Earth. Global Trade Rules and the Environment The WTO, of course, claims to be committed to “environmental protection” and “sustainable development.” Citing Article XX from the old GATT[[1]](https://mail.google.com/mail/ca/u/0/?shva=1#140f3245da855c0a__ftn1)regime that was grandfathered into the WTO, any country can be exempted from the WTO rules to bring in policy measures “necessary to protect human, animal or plant life or health” [Article XX–b] or measures “relating to the conservation of exhaustible natural resources…” [Article XX–g]. At first glance this may sound ‘environmentally friendly,’ but it is conditioned by a big caveat in the Article’s preamble [or ‘chapeau’] which, in effect, puts the onus on countries initiating environmental protection measures to prove that their actions will not cause “arbitrary or unjustifiable discrimination” or pose a “disguised restriction on international trade.” In other words, global trade rules guaranteeing the free flow of capital, goods and services trump environmental protection priorities. As a result, environmental protection measures are often challenged and struck down for being a “disguised restriction on international trade.” Indeed, under the overarching ‘most favored nation’ and ‘national treatment’ clauses of the WTO regime, those transnational corporations based in member countries effectively have ‘sovereign rights.’ Moreover, even the scope of environmental protection covered by Article XX is too narrowly defined to adequately safeguard measures urgently needed today to combat climate change, let alone the further commodification of nature. Recent WTO ruling against climate initiatives In the province of Ontario, Canada, the WTO recently struck down a law and program designed to promote the development of renewable energy as a measure for mitigating climate change while also creating jobs. The program allots the majority of producer power rights to Ontario companies thereby making it possible for the province to make the transition from coal, oil and gas without completely damaging its local economy. Its ‘domestic content requirements’ ensure that new manufacturing jobs will be created in Ontario by requiring that 25 percent of the content of all wind projects and 50 percent of the content of all solar projects are produced by workers and industries in the province. This program also guaranteed preferential 20-year purchase price per kilowatt-hour for electricity from wind and solar generators from companies that had a certain percentage of their costs originating from Ontario. In its first two years, this program created more than 20,000 climate jobs in Ontario and was on track to create a total of 50,000. It was accelerating the production of renewable energy while simultaneously reducing both greenhouse gas emissions and unemployment. While there are particular concerns about the program’s implementation, it is recognized as an innovative step toward tackling climate change. In 2010/2011, however, Japan and the European Union representing the interest of their transnational corporations filed cases in the WTO against Ontario’s renewable energy incentives program claiming that it was violating the “national treatment” rule of the WTO. This rule establishes: “The products of the territory of any contracting party [country member of the WTO] imported into the territory of any other contracting party [country member of the WTO] shall be accorded treatment no less favourable than that accorded to like products of national origin in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.” [Art. III. 4 General Agreement on Tariffs and Trade (GATT) of the WTO] This means that you can give more benefits to foreign transnational corporations but never less than what you have given to a domestic enterprise. When it comes to climate change, this implies that a State cannot promote the development of a national industry of solar panels, wind energy or renewable energy by using national regulations primarily designed to benefit domestic companies or products. If a State wants to give subsidies or preferences to those national companies or products it must also give the same incentives to foreign transnational corporations. In other words an infant domestic effort at generating renewable energy, will have to compete from the first day with a big foreign transnational corporation of “clean energy”, most of them main actors of the so-called “Green Economy”, that care much more about their markets than the climate of the world and that in reality still promote a market-based and exploitative model of “renewable energy”. On May 2013, the Dispute Settlement Body of the WTO in its final ruling said that Canada/Ontario was in violation of WTO rules. One month later, the Ontario Minister of Energy announced that they will “comply with the World Trade Organization’s ruling on the domestic content provision”. The WTO ruling against Ontario is just the tip of the iceberg. There are other cases, for example, in India, who is still suffering the deaths of almost 1,000 persons, the disappearances of 3,000 and the evacuation of 100,000 due to the extreme floods caused by deforestation and climate change in Uttarakhand, there was a case filed by the United States in February 2013 in the WTO challenging India’s use of subsidies and “buy local” rules in its domestic solar program. The WTO rules that the United States has based its complaints on that India has supposedly violated are the very same ones that forced Ontario to change its renewable energy program. Furthermore, there are disputes in the WTO between China, the United States and the European Union in relation to wind power equipment and solar panels. These disputes don’t aim to lower the prices of renewable energy but rather the contrary. Their main aim is to preserve the markets and profits of their respective corporations. Bali: New attempt to expand the WTO and FTAs At the next ministerial meeting of the WTO, they will not try to conclude the “Doha Development Round.” This has proven to be too difficult as it is a massive agreement encompassing numerous areas and with the “single undertaking” clause of the WTO, where everything or nothing is agreed, this has led to the impasse in the negotiations. However, with a new Director General supported by the influential developing country coalition BRICS (Brazil, Russia, India, China and South Africa), the transnational corporations and big players in the WTO have a new strategy to unlock the stalemate and promote an “early harvest” of some agreements, what they call the “Bali Package”, and push forward agreements that will include environmental goods and services like the White House has recently announced: “The U.S. will work with trading partners to launch negotiations at the World Trade Organization towards global free trade in environmental goods, including clean energy technologies such as solar, wind, hydro and geothermal… Over the next year, we will work towards securing participation of countries, which account for 90 percent of global trade in environmental goods, representing roughly $481 billion in annual environmental goods trade. We will also work in the Trade in Services Agreement negotiations towards achieving free trade in environmental services.” [[2]](https://mail.google.com/mail/ca/u/0/?shva=1#140f3245da855c0a__ftn2) In effect, these measures are part of the follow-up to the false ‘green economy’ agenda promoted and adopted at the Rio+20 Earth Summit last June 2012. A prime objective of this Rio+20 plan of action is to promote and accelerate the commodification of both material and non-material parts of nature. Here, for example, the functions of forests are to be extended beyond just the provision of wood products to be used for environmental services ranging from green tourism to carbon capture and storage. In turn, this calls for the establishment of markets for ecosystem services and biodiversity offsets. However, in order to create and advance markets for environmental services and goods, they must be aided and abetted by global trade rules. In other words, the false ‘green economy’ agenda simply cannot operate without the WTO regime and the FTAs. And we need to remember that the rules of the WTO are the basis for all other free trade agreements, whether bilateral or regional, (TPP, TTIP, EPAs, CAFTA, NAFTA, EU-Association Agreements and others[[3]](https://mail.google.com/mail/ca/u/0/?shva=1#140f3245da855c0a__ftn3)). These WTO-plus agreements are also in their own right, undermining and working counter to initiatives to care for the environment and address climate change. There are dozens of cases all over the world of foreign corporations demanding huge compensations from States, using the FTAs clause allowing lawsuits from investor to State, because of national environmental regulations. Occidental v. Ecuador, Pacific Rim Mining Corp v. El Salvador, Vattenfall v. Germany, Renco vs. Peru are just some examples of how free trade and investment rules are designed and used to undermine initiatives to heal nature. In many situations a simple threat of a lawsuit from an investor, eases national environmental regulations. International trade law has legal mechanisms to sanction and implement their rulings while environmental provisions are mainly declarations that have no compliance mechanisms and are easily trumped by trade agreements. People and Nature first! To address the climate emergency we need to not only stop the expansion of the WTO and FTAs but we need to go beyond that and call for an end to the WTO itself and the free trade regime. There is no more time for half-measures. If we are to save nature and humanity, we need to change the system and changing the system means dismantling the free trade regime. WTO rulings like in the Ontario case cannot be allowed to proliferate. Governments should not have to follow rulings that undermine initiatives to address climate change. Human rights, labor rights, indigenous rights and the rights of Mother Earth have to be above trade rules if we want to preserve life as we know it. In the WTO and the FTAs, there are clauses that guarantee the patents of transnational corporations over inventions that can save millions of lives and that can help reduce greenhouse gas emissions. We are living a global emergency situation, greater than any that we have lived, and intellectual property rights for profit should not have precedence over nature and humanity. Trade is needed but a different kind of trade, one that is not based on the exploitation of people and nature and whose rules benefit the communities and not the corporations. The kind of trade we need is complementary and equitable trade not corporate free trade. We need to guarantee that all countries and especially those that are least responsible and most affected by climate change have the right and the capacity to: Support their national and domestic renewable energy sector trough “buy local” regulations, subsidies and all kinds of measures that allow them to get rid of fossil fuels as soon as possible. Have free access to all patents concerning renewable energy and inventions that can help limit the impacts of climate change. Promote food sovereignty and agroecology to not only cool the planet but to feed the people without agrotoxics and GMOs. Stimulate local production and consumption of durable goods to meet the fundamental needs of the people and avoid the transport of goods that can be produced locally. Guarantee the human right to water, reverse the privatization of public water services and preserve the watersheds. Push for clean and accessible public transport infrastructure to take cars off the roads to reduce greenhouse gas emissions. Establish regulations and sanctions against industries that destroy and pollute the environment without the threat of international disputes. Encourage the nationalization and control of the society over the energy sector to dismantle the dirty component and accelerate the expansion and promote community based renewable forms of clean energy. Promote economies that are diverse and resilient to climate change. To really address the climate crisis, a world without the WTO and the FTAs, one that is not dominated by transnational corporations and the global free trade regimes, is necessary! We have to change the system, and we have to do this now.

#### 1AC - Climate change destroys the world.

## 2

#### We are on pace to cut emissions by half in 2030 and prevent 2 degree tipping point, but continued biotech innovation is key

**Mcmurry-Health 5-21** Michelle Mcmurry-Heath May 21, 2021, 5-21-2021, "To help solve climate change, look to the biosciences," STAT, <https://www.statnews.com/2021/05/21/climate-change-solutions-from-biosciences/> //Nato

President Biden’s pledge to cut U.S. greenhouse gas emissions in half by 2030 is an admirable and ambitious undertaking. It’s nearly double the goal set by President Obama in 2015. And it establishes the United States as a world leader in battling climate change. But reaching the president’s target in just under 10 years is a monumental task. It’s so big, in fact, that we’ll never get there by government action alone. No amount of vehicle efficiency standards, forest conservation efforts, or gas taxes can [fully solve the problem](https://www.rff.org/publications/issue-briefs/emissions-projections-for-a-trio-of-federal-climate-policies/). We have to science our way out of it. The biosciences, including biotechnology, will play a pivotal role in the fight against climate change. It is already leading the way on several fronts. According to a [report from BIO](https://www.bio.org/sites/default/files/2021-04/Climate%20Report%20Executive%20Summary_FINAL.pdf), the organization I work for, the biotech industry’s green initiatives could mitigate the equivalent of 3 billion tons of carbon dioxide every year by 2030, or [about half](https://www.eia.gov/environment/emissions/carbon/#:~:text=Energy%E2%80%90related%20CO2%20emissions%20in,economy%20declined%204.9%25%20in%202019.) of the country’s annual CO2 emissions. Take food, for example. Food consumption — and production — is central to human existence. Global food production accounts for [one-quarter of greenhouse gas emissions](https://ourworldindata.org/food-ghg-emissions). A recent report from an international team of researchers concluded that even if all other fossil fuel emissions were eliminated, [emissions from food production alone](https://science.sciencemag.org/content/370/6517/705) would prevent us from reaching a key goal of the climate change agreement signed in Paris: preventing the global temperature from [rising more than 2 degrees Celsius](https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement). Halting food production isn’t an option, so biotech companies are helping farmers become part of the climate solution. Take, for example, Boston-based [Joyn Bio](https://joynbio.com/). It is engineering bacteria that pull nitrogen directly from the atmosphere. These microbes then pass the nitrogen to crops like wheat and corn, reducing the need to make, transport, and apply nitrogen fertilizers, which reduces greenhouse gas emissions. Minnesota-based Acceligen is using a technique it calls [precision breeding](https://www.acceligen.com/precision-breeding/) that improves the health of livestock while reducing their waste, greenhouse gas emissions, and water usage. Biotechnology can also help protect food from climate change. As fungal and bacterial infections accelerated by [human-driven environmental disturbances](https://www.nature.com/articles/s41579-019-0222-5) threaten to wipe out Cavendish bananas, [Tropic Biosciences](https://www.tropicbioscience.com/) in the United Kingdom is using CRISPR gene-editing technology to engineer infection-resistant bananas. Companies are also rethinking how food is packaged to reduce plastic pollution and open high-tech paths to broader adoption of biodegradables. This would be a game-changer in the interlinked fight to modulate climate change and protect the oceans. Globally, [100 million tons](https://www.wwf.org.au/news/blogs/plastic-waste-and-climate-change-whats-the-connection#gs.0r1uqu) of plastic are produced every year, [8 million of which ends up in the oceans](https://www.wwf.org.au/news/blogs/plastic-waste-and-climate-change-whats-the-connection#gs.0r1uqu). The production of plastic requires at least 8% of the world’s petroleum. Greenhouse gas emissions from plastic production and incineration [could rise](https://www.wwf.org.au/news/blogs/plastic-waste-and-climate-change-whats-the-connection#gs.0r1uqu) from the current 850 million tons a year to 3 billion tons a year by 2050. And discarded plastic that ends up in the ocean slowly breaks down in sunlight, releasing greenhouse gases and toxic microplastics. Georgia-based [Danimer Scientific](https://danimerscientific.com/) — partnering with the Mars Wrigley candy company — is working on biodegradable packaging that uses plant oils to manufacture “plastic” that dissolves in soil and water. Bioplastics and biopolymers can reduce greenhouse gas emissions reductions by up to [80%](https://www.bio.org/sites/default/files/2021-04/Climate%20Report%20Executive%20Summary_FINAL.pdf) more compared to their petroleum-based counterparts. Fuel is another target for biotechnology. Transportation accounts for the [highest percentage](https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions) of U.S. greenhouse gas emissions. While electric cars are gaining popularity, and the $174 billion allocated to support the transition to electrics in Biden’s American Jobs Plan is important, biofuels — which are [carbon neutral](https://link.springer.com/chapter/10.1007/978-4-431-54895-9_6#:~:text=of%20climate%20change.-,Biofuels%20can%20reduce%20the%20consumption%20of%20fossil%20fuels%20and%20thus,because%20biofuels%20are%20carbon%20neutral.&text=The%20production%20of%20a%20biofuel,material%20for%20making%20liquid%20fuel.) — will be needed to help reduce emissions in transportation and need comparable support. The biotech company [Synthetic Genomics](https://syntheticgenomics.com/algal-cell-factories/#beyond_biofuels), for instance, is utilizing saltwater algae, which convert sunlight and carbon dioxide into biomass, to make sustainable auto fuel. By 2025, 10,000 barrels of the algal biofuel could be produced per day for commercial use. Biofuels will also play an important role in air travel. While flying accounts for less than [3% of global CO2 emissions](https://ourworldindata.org/co2-emissions-from-aviation) a year, on a per-mile calculation it’s the least green form of travel. With the number of air travel passengers expected to double by 2040, the Biden administration is upping the financial incentives — through tax credits — for companies that produce sustainable aircraft fuels. Biotech firms are already stepping up. Companies like [Neste](https://www.neste.us/neste-in-north-america), [Gevo](https://gevo.com/), and [World Energy](https://www.worldenergy.net/products/sustainable-aviation-fuel-saf/) are using everything from algae to used or wasted cooking oil to create sustainable jet fuels. [LanzaTech](https://www.lanzatech.com/) recycles carbon from industrial emissions and other sources and turns it into aviation fuel — and has recently [partnered with other corporations](https://techcrunch.com/2020/06/02/lanzajet-launches-to-make-renewable-jet-fuel-a-reality/) to bring that fuel to market for commercial airline use. With help from biotechnology, the U.S. can achieve the climate change goals outlined by the Biden administration and the Paris Agreement. Human progress and technology got us into this mess. That same ingenuity can help get us out.

#### The aff sets the precedent that IP can be waived to solve global problems. That stunts innovation in Climate Change tech

**Brand 5-6** Melissa Brand, 5-26-2021, "TRIPS IP Waiver Could Establish Dangerous Precedent for Climate Change and Other Biotech Sectors," IPWatchdog, <https://www.ipwatchdog.com/2021/05/26/trips-ip-waiver-establish-dangerous-precedent-climate-change-biotech-sectors/id=133964/> //Nato

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