### 1

#### India is building it’s relations with the West on the bedrock of new economic ties­­­­­---that’s key to counterbalancing China in the region

Mohan 21 C. Raja Mohan [director of the National University of Singapore’s Institute of South Asian Studies.],3-19-2021, "India Romances the West," Foreign Policy, https://foreignpolicy.com/2021/03/19/india-modi-west-quad-china-biden-non-aligned/ , accessed 8/8/2021 EH and Brett

In affirming that the “Quad has come of age” at the first-ever summit of the Quadrilateral Dialogue with the United States, Japan, and Australia last week, Indian Prime Minister Narendra Modi has sent an unmistakable signal that India is no longer reluctant to work with the West in the global arena, including in the security domain. The country’s new readiness to participate in Western forums marks a decisive turn in independent India’s world view. That view was long defined by the idea of nonalignment and its later avatar, strategic autonomy—both of which were about standing apart from, if not against, post-World-War-II Western alliances. But today—driven by shifting balance of power in Asia, India’s clear-eyed view of its national interest, and the successful efforts of consecutive U.S. presidents—India is taking increasingly significant steps toward the West. The Quad is not the only Western institution with which India might soon be associated. New Delhi is set to engage with a wider range of Western forums in the days ahead, including the G-7 and the Five Eyes. Britain has invited India to participate in the G-7 meeting in London this summer, along with other non-members Australia and South Korea. Although India has been invited to G-7 outreach meetings—a level or two below the summits—for a number of years, the London meeting is widely expected to be a testing ground for the creation of a “Democracy Group of Ten,” or D-10. In Washington today, there are multiple ideas for U.S.-led technology coalitions to reduce the current Western dependence on China. Two initiatives unveiled at the Quad summit—the working group on critical technologies, and the vaccine initiative to supply Southeast Asia—underline the prospects for an Indian role in the trusted technology supply chains of the United States and its partners. Along with Japan, India also joined a meeting of the Five Eyes—the intelligence-sharing alliance between the United States, Canada, Britain, Australia, and New Zealand— in October 2020 to discuss ways to give law enforcement agencies access to encrypted communications on platforms such as WhatsApp and Telegram. Five Eyes is a tightly knit alliance, and it is unlikely India will be a member any time soon. But it is very much possible to imagine greater consultations between the Five Eyes and the Indian intelligence establishment.To be sure, India’s engagement with Western institutions is not entirely new. India joined the British-led Commonwealth in 1947, but only after India’s first prime minister, Jawaharlal Nehru, made sure the forum was stripped of any security role in the postwar world. Refusing to join military alliances was a key plank of India’s policy of non-alignment. Nehru turned to the United States when his policy of befriending China and supporting its sensitivities collapsed by the end of the 1950s. Facing reverses in a military conflict with China on the long and contested border in 1962, Nehru sought massive defense assistance from U.S. President John Kennedy. With the deaths of both Kennedy and Nehru soon after, the prospects for strategic cooperation between New Delhi and Washington receded quickly. The 1970s saw India drift away from the West on three levels. On the East-West axis, it drew closer to the Soviet Union. On the North-South axis, it became the champion of the Third World. This was reinforced by the sharply leftward turn of India’s domestic politics and a deliberate severing of commercial cooperation with the West. Many concluded in the 1970s that anti-Americanism was part of India’s genetic code. After all, India voted more often against the United States at the United Nations during the Cold War than even the Soviet Union. The idea that India is irreconcilably opposed to the United States was the dominant assessment in both country’s capitals. Most scholars of Indian foreign policy assumed that come what may—at home or abroad—India would forever be alienated from the West. But the story of India’s international relations over the last three decades has been one of a slow but definite advances in cooperation with the United States and the West. The Quad summit is not only a culmination of that long trajectory, but also a major step up. It was the reform of the Indian economy at the end of the Cold War, along with the collapse of the Soviet Union as India’s superpower partner, that created the basis for the renewal of ties between New Delhi and Washington. But even as expanding commercial ties began to stabilize and deepen the bilateral relationship in the 1990s, Washington’s activism on Kashmir and its eagerness to denuclearize India made matters difficult for New Delhi. Beset with domestic turbulence and an era of weak coalition governments, New Delhi embarked on a hedging strategy by joining the Russian initiative for a so-called strategic triangle with Moscow and Beijing that eventually evolved into the BRICS Forum after Brazil and South Africa joined. U.S. President George W. Bush, however, revolutionized U.S. policy on India in the 2000s by discarding Washington’s mediating impulse on Kashmir, decoupling engagement with New Delhi from that with Islamabad, and resolving the dispute over non-proliferation. Bush recognized that India is critical for the construction of a stable balance of power in Asia as the continent was being transformed by the rapid rise of China. But just when Washington was ready to transform relations with New Delhi, India was paralyzed by self-doubt. If then-Prime Minister Atal Bihari Vajpayee boldly called India and the United States “natural allies” in 1998—at a time when no one seemed interested in Washington—his successor, Manmohan Singh, reverted to type. His government began to reinvent non-alignment, keep distance from the United States, and double down on the principle of strategic autonomy. Even as Indian-Chinese tensions multiplied after 2008—when the global financial crisis seemed to have convinced the Chinese leadership that the United States was in terminal decline, with the consequence that Beijing adopted a more assertive posture towards its neighbors—the Singh government continued to hedge against U.S. power. Modi, who became prime minister in 2014, began to reverse New Delhi’s resistance to a deeper partnership with Washington. His affirmation in his 2016 address to the U.S. Congress that India’s “historic hesitations” to engage the United States were over was not just a rhetorical flourish. Modi resolved the remaining issues that had prevented implementation of the historic 2008 Indian-U.S. nuclear deal, renewed the 2005 agreement for defense cooperation, and signed the so-called foundational defense agreements that have facilitated interoperability between the two country’s armed forces. He widened the annual bilateral Malabar exercises to include Japan in 2015 and Australia in 2020, helped revive the dormant Quad in 2017, came up with his own version of the Free and Open Indo-Pacific strategy in 2018, and joined the Quad summit in 2021. Beyond the relationship with the United States, Modi also revived India’s strategic interest in the Commonwealth, strengthened ties with the European Union, and joined the European Alliance for Multilateralism. He sought to make India part of the solution to mitigating climate change, supported “multi-stakeholderism” in global internet governance, initiated the International Solar Alliance and the Indo-Pacific maritime partnership with France, and is poised to lay the foundations for a substantive strategic partnership with British Prime Minister Boris Johnson when they meet in India next month. Every one of these moves was against the predominant instincts of India’s political class, bureaucratic establishment, and foreign-policy community. Two factors have facilitated this. First, Modi carried little of the anti-Western ideological baggage of the nationalists who thrive in his own party or the political left and center that prefer to keep a safe distance from Washington. Modi’s judgement that India needs a more productive relationship with the United States and the West is rooted in the simple calculus of national interest rather than any involved reasoning.

#### The TRIPS waiver sets the stage for India to use forced tech transfer to secure vaccines---that decks relations

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With the United States agreeing to text-based negotiations on the revised Intellectual Property Rights waiver proposal jointly submitted by India and South Africa at the World Trade Organisation, the European Union remains the last major power opposing this proposal.

While we await the results of possibly lengthy text-based negotiations, it is necessary for the government of India to come out with a white paper explaining how exactly it intends to operationalise a possible IP waiver for vaccines, if and when such a waiver comes into effect.

The aim of such an exercise should be to explain to the world the manner in which this waiver will translate into the mass production of vaccines to meet the immediate medical needs of the developing world.

The initial wisdom among the proponents of the waiver is based on an assumption that a waiver will remove the legal barriers to production of vaccines. But as is widely acknowledged by most experts, developing countries will not be able to reverse-engineer these Covid-19 vaccines on their own. They will require active technology transfer from vaccines developers in the West before they can begin manufacture of any vaccines. These challenges are more practical than legal.

Tech-transfer challenge

For starters, even if the IP waiver does come into effect, unless the tech-owning vaccine producers residing abroad (i.e. beyond India’s legal limits) are forced under their respective domestic law to part with critical know-how and physical inputs (for example, cell lines), a waiver in itself will not translate into technology transfer in favour of firms willing to produce vaccines in India.

Thus the Pfizer/BioNtech and Moderna’s mRNA vaccine technologies, which are currently not produced in India, may still remain inaccessible under the waiver, unless countries such as the U.S. where these firms primarily reside engage in forced technology transfer under their domestic laws.

It is very unlikely that the Biden administration will force American companies to transfer their technology to Indian companies for no remuneration. The domestic political costs of such a policy would be too high for the Biden administration.

A domestic policy option for India is to threaten Western vaccine makers in India with punitive action against their existing patents for other products if they fail to voluntary transfer technology to Indian companies. Such a move towards forced technology transfer is the policy equivalent of throwing a grenade at India’s trade relations with the West without solving the problem of access to technology.

Presuming India does enact a legislative measure to force technology transfer, it is still not clear how a legal obligation to transfer technology to new firms willing to produce vaccines will lead to actual vaccine production.

#### US-India economic ties are key to strategic co-operation

Gupta 20, Anubhav Gupta is the associate director of the Asia Society Policy Institute in New York. WPR, March 5, 2020. “Despite the Trump-Modi ‘Love,’ Trade Is Still the Weak Link in U.S.-India Relations” <https://www.worldpoliticsreview.com/articles/28579/despite-the-trump-modi-love-trade-is-still-the-weak-link-in-us-india-relations> brett

Despite winning a substantial mandate in elections last year, Modi’s inclination has been to double down on a feckless approach to trade and to push a Hindu-nationalist social agenda that endangers internal stability. India’s fast-growing economy helped solidify the U.S.-India partnership after decades of bilateral aloofness during the Cold War. Without a more open, market-oriented economy, India’s growth trajectory will decline, undermining the economic foundation of the relationship as well as India’s future capabilities, and in turn, India’s utility as a partner in the region.

In the aftermath of Trump’s visit, some analysts have dismissed the trade tensions as a minor hurdle and pointed to the strength of defense ties as reassurance, arguing that the cause of paramount importance—a strategic partnership to deal with a rising China—is progressing unabated. But there is no guarantee that trade differences can continue to be compartmentalized when two economic nationalists are in charge. It also remains an open question whether growing defense sales are taking place within a truly strategic framework or simply on a transactional basis for both sides. Most importantly, it assumes that economic relations are not part of the strategic puzzle.

This is evident in the decision by Trump to leave the Trans-Pacific Partnership shortly after winning election, and by Modi to abandon the Regional Comprehensive Economic Partnership. If the U.S.-India strategic imperative is to manage China’s rise and boost their own engagement and presence in the region, these twin actions, driven by economic nationalism, were self-inflected blunders of the highest order.

Without a vibrant commercial relationship and a constructive approach to trade that is anchored in the Free and Open Indo-Pacific strategy, the United States and India will impede their own strategic endgame for the region. For this reason, the absence of a trade deal last week makes any celebrations of a U.S.-India partnership that is “stronger than ever before” ring a little hollow.

#### Indian ocean goes nuclear---India’s role is key to prevent it.

Gamage 17 (Rajni Gamage is a senior analyst with the Maritime Security Programme at the Institute of Defence and Strategic Studies, S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore., 11/5/17, “Why the Indian Ocean Must Not Become Like the South China Sea”, https://nationalinterest.org/feature/why-the-indian-ocean-must-not-become-the-south-china-sea-23028?page=0%2C2)

Rising Strategic Uncertainty in the Indian Ocean The pursuit of contesting regional orders by major powers has engendered a strategic environment of uncertainty and mistrust in the Indo-Pacific. As geopolitical developments at land and sea feed off one another, the maritime domain has been marked as the latest theater of war. These dynamics have been most evident in the East and South China Seas, where the complexity of issues at hand is telling. A case in point is China’s construction of military facilities on artificial islands proximate to disputed maritime areas, against a backdrop of contesting interpretations of international law. As regional and extra-regional states face a rising China on all fronts, a climate of strategic anxiety prevails in anticipation of its potential impact on the existing rules-based international order. Such anxieties inevitably spill over into the Indian Ocean Region and manifest in ways unique to that part of the world. A rising India with aspirations to global-power status finds its regional dominance challenged by China’s two-ocean strategy and Belt and Road Initiative. In the maritime realm, India’s response comprises internal naval and port modernization, and increased naval engagements and exercises with neighboring littorals and external powers that have major stakes in the region. This has not, however, had any noticeable effects in tempering regional anxieties. Heavy maritime traffic in increasingly congested regional waters operate alongside this tense backdrop. The risk that various surface vessels could collide—whether naval or commercial—and the risk of submarine accidents is on the rise. A number of regional and extra-regional states have forward-deployed their navies in the Indian Ocean, independently or as part of various task forces. There have already been several maritime accidents involving warships and air crashes in the Persian Gulf and the northern Arabian Sea between regional and extra-regional navies—some of which escalated politically. The Iranian Navy, for instance, has confronted its smaller neighbors and the U.S. Navy by conducting high-speed naval maneuvers and missile firings, and it has used drones to shadow U.S. naval assets. Late last year, an Indian submarine attempted to enter into waters close to Gwadar Port and was reportedly repelled by the Pakistan Navy. Miscommunications and misperceptions are likely to result from such incidents and could escalate very fast to negative political and military expressions. It is against this setting that a code of conduct (COC) for the Indian Ocean was first proposed.

### 2

#### The United States should publicly renounce its support for any COVID TRIPS waivers.

#### Current US diplomatic efforts solve climate change BUT diplomatic capital is key

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Throughout the 2020 presidential campaign and in the early days of the transition, President-elect Joe Biden has made clear that climate action will be a core element of his plan to “build back better,” driving toward a more resilient, sustainable economy that will put the United States on an irreversible path to achieve net-zero emissions by no later than 2050.1 President-elect Biden’s first foreign policy actions have also demonstrated a commitment to make climate change a central pillar of his foreign policy. He has announced a senior national security team that recognizes the linkage between U.S. national security and climate change and is committed to climate action.2 He has raised climate action in every congratulatory call he has received from foreign leaders.3 And, most notably, he has created the new position of special presidential envoy (SPE) for climate change and enlisted former U.S. Secretary of State John Kerry, Washington’s leading climate champion—a strong signal that President-elect Biden intends to return the United States to global climate change leadership. President-elect Biden’s intention to position climate action as a central focus of U.S. foreign policy aligns with recommendations by the Center for American Progress and other leading international climate and U.S. foreign policy experts.4 Although President-elect Biden and SPE-designate Kerry will lead this transformation, it will be the U.S. Department of State and U.S. diplomats who will execute this new charge. This will require fundamental changes to the U.S. foreign policy apparatus and the work of its diplomats. At a time when experts are calling for reform and repurposing how the State Department executes a foreign policy to fit changing global challenges, now is the time to design for the centrality of climate action in the department’s mission and operations.5 There is no alternative to the United States for driving all countries toward climate ambition and action—including China, the world’s largest carbon emitter.6 Restoring U.S. leadership in the global fight against climate change is in the U.S. national interest and the global interest. But while the world would welcome the United States back to the fight against climate change, four years of head-snapping changes in U.S. policy—such as reversals in domestic climate policies and actions, withdrawal from the Paris Agreement, and retreat from global cooperation—have eroded trust in the United States’ consistency and commitment. America must demonstrate that it is a reliable global leader and partner. In order for the Biden administration to restore U.S. climate leadership and then drive global action, it will need to determine what the U.S. government will do and how it will do it. The president and his special envoy must lead, but they should put U.S. diplomats and the State Department in the central role to drive global climate action. This issue brief offers some priority actions for the new administration to consider and a series of detailed recommendations on how to execute these changes through leadership and actions by the president, the secretary of state, and U.S. ambassadors overseas. It concludes with recommendations on management reforms, including a boost in foreign service personnel, which the State Department should adopt to make the centrality of climate diplomacy in U.S. foreign relations built to last. A progressive U.S. agenda on global climate action President-elect Biden has been clear that a return to the Paris Agreement would be the first necessary step for the United States to reclaim its place in international climate leadership,7 but his administration will have much to do to repair the United States’ reputation and move to counter climate change. A U.S. agenda for international climate policy that prioritizes urgent and consequential outcomes should include the following core actions: Promptly deliver an ambitious and credible plan to demonstrate to the world that the United States will act domestically to reduce greenhouse gas emissions to net-zero by 2050.8 Reengage diplomatically in key multilateral processes and with major climate players such as China, India, the European Union, and Brazil to drive stronger and faster collective and country actions. Restore and elevate the United States’ work with developing countries to support their efforts to achieve their development goals in a clean energy pathway that aligns with the Intergovernmental Panel on Climate Change’s recommendation to limit global temperature rise to 1.5 degrees Celsius and that strengthens their resilience to the impacts of climate change.9 Accelerate work across U.S. agencies—such as the departments of State, Defense, Treasury, Agriculture, and Energy and the U.S. Agency for International Development (USAID)—and with key foreign governments, research institutions, and other stakeholders to deepen America’s understanding and planning to address the national security risk implications of climate change and develop measures to address them. Draw from the U.S. trade and financial policy toolkits to catalyze increased climate action by major emitters beyond U.S. borders. How can the Biden administration best position itself to drive climate action internationally? CAP identifies two key factors: Washington’s demonstration of climate leadership and a strategic use of the full power of U.S. diplomacy. Presidential leadership: The centrality of international climate action in words and deeds As noted earlier, President-elect Biden has demonstrated both in his statements and senior appointments his intention to prioritize climate action in his foreign policy agenda. As a practical matter, the new administration’s first priority on climate will be to deliver an ambitious and credible domestic plan to make up for lost progress. Demonstrating bold action at home is also the first step to regaining U.S. climate influence abroad to drive global action. In turn, helping to drive action internationally will be critical in order for the administration to sustain public support for domestic climate ambition. After he is sworn in, President-elect Biden should use the occasion of his first foreign policy speech to speak directly to the American people about the urgency of the climate crisis and the need for action—and explain how he will deliver climate results globally at the same time he calls for consequential domestic transformations. He should make the case that combatting climate change globally is in the economic and security interests of the United States and declare that, under his National Security Strategy, he will make achieving meaningful climate action beyond U.S. borders a central priority of U.S. foreign policy. President-elect Biden and senior leaders in his administration must reinforce that message and vision to both domestic and international audiences—and, importantly, to his own government. To reinforce his words, the president-elect can take the following steps to put climate at the center of U.S. foreign policy: Engage in presidential climate diplomacy. President-elect Biden has demonstrated this commitment to engaging on climate change in his congratulatory calls from foreign leaders. Once in office, he should continue to make clear to foreign governments that the U.S. government will prioritize addressing climate change in all bilateral relationships. He should commit to making climate an ongoing leader-level topic with key global climate players such as China, India, the European Union, and Brazil, and he should include it on his agenda at the G-7, G-20, NATO, and Asia Pacific Economic Cooperation, commonly known as APEC. Appoint senior officials committed to climate action. The president should select senior leadership who embrace this new paradigm and are committed to leading this transformation in U.S. foreign policymaking. His nominees for secretary of state, secretary of the treasury, national security adviser, and director of the national economic council do just that. He should look for those same qualities in his nominees for secretaries of defense and energy, U.S. trade representative, USAID administrator, and ambassadors to China, India, the European Union, and Brazil. Give his special presidential envoy for climate change resources and authority. Former Secretary of State John Kerry’s appointment to the SPE role gives the administration immediate credibility in foreign capitals and a leader with diplomatic experience, substantive expertise, and policy passion. To deliver on this central foreign policy priority, the White House must grant the SPE sufficient authority to lead across the government, mobilizing cabinet agencies to align diplomats and technical experts, as well as development assistance and other policy tools. His seat on the National Security Council is critical for that reason. The secretary of state-SPE relationship will also be critically important. Boost the federal climate budget to meet the crisis. To reinvigorate U.S. diplomatic and development strategies, the president-elect should seek funding from Congress to hire 500 new diplomatic positions and boost U.S. climate-related foreign assistance programs to $25 billion over five years. The Biden administration should use the additional funding to make good on U.S. funding commitments to the Green Climate Fund.10 Reenvisioning U.S. diplomacy and climate change For U.S. diplomacy to deliver on global climate action, State Department leaders will need to work seamlessly with SPE-designate Kerry, as the State Department will be the lead agency responsible for executing the reorientation of U.S. foreign policy to a climate-centric vision. The State Department will also need to partner with and rely on the contributions from a wide range of U.S. economic, development, and technical agencies, but it will be ultimately accountable for delivering results. The success of this reorientation will rely critically on the strategic vision and bureaucratic stamina of the secretary of state, who will face both the urgency to act on the climate crisis and the challenge of driving change to the State Department’s outmoded culture, structure, and incentives, which hamper its capacity to deliver stronger climate action. Secretary of State-designate Antony Blinken’s previous experience as deputy secretary in leading and managing the department would enable him to understand the scope of the challenge and lead the change, if confirmed.11 But change will not happen overnight or without the right mix of incentives and structural support. Setting diplomatic course direction at the State Department The Biden administration can draw useful lessons from then-Secretary of State Kerry’s efforts to elevate climate change as a top foreign policy issue and his attempts to implement cultural and operational change at the State Department. Current Secretary of State Mike Pompeo’s whole-of-department approach on China policy also offers insights and a potential model for climate policy management. Both examples illustrate that for climate change to be central to U.S. foreign policy—and not just a niche issue that may or may not be considered more broadly—State Department leaders will need to fully integrate it into department policy and operations, including by embassies worldwide. The secretary of state and State Department leadership should take the following key steps to elevate and center climate action in the work of the department: Set the secretary’s vision for climate diplomacy. One of Secretary-designate Blinken’s first tasks will be to translate the administration’s broad framing of climate change policy into a strategic vision and operational guidance for U.S. diplomats across the world and in Washington. During the Obama administration, Secretary Kerry’s focus on climate shook up the department’s tradition-bound bureaucracy. In his first months in office, he used the secretary’s traditional first message to U.S. embassies worldwide to issue a very nontraditional directive, declaring that climate action would be a top department priority. He identified core objectives and directed bureaus and embassies to realign resources and effort accordingly—and they did.12 In the department’s 2015 Quadrennial Diplomatic and Development Review, Secretary Kerry declared “mitigating and adapting to climate change” to be one of four department priorities.13 Transformative while he was there, Secretary Kerry’s efforts to lock in the primacy of climate in U.S. foreign policy went dormant after the change in administration. CAP recommends that the new administration take policy and administrative steps to build sustainability of climate as a State Department priority. Engage in secretarial climate diplomacy. The single most important action the incoming secretary can take to elevate and give urgency to climate in U.S. foreign policy is to do so in his own diplomacy. Secretary Kerry put climate change on the agenda in all of his foreign diplomatic engagements. For some engagements, climate was a top, extensive discussion topic. For others, it was a secondary but present issue. He took a direct role in securing the Paris Agreement. The department and embassies quickly adjusted and followed his new policy direction. Domestically, Secretary Kerry was a persistent and effective advocate with the White House, federal agencies, Congress, industry, and civil society to align effort and resources in support of the department’s climate agenda. Make the right senior State Department appointments. The department will need senior leaders who accept the strategic imperative of embedding climate action as a central pillar of foreign policy. The secretary of State, deputy Secretary, and undersecretaries14 will be instrumental in driving this change from the top. But it will be the department’s regional bureau assistant secretaries15 and U.S. ambassadors overseas who will direct U.S. diplomats on whether to take up and act on climate as a priority in the nation’s foreign policy. Their appointments will be critical. Sync climate policy coordination between the secretary of state and SPE Kerry . Clear communication and close coordination between Secretary-designate Blinken and SPE-designate Kerry will be critical for the administration to best leverage the expertise and policy connections of U.S. diplomats, who typically look to their chains of command for instruction. For good, SPE-designate Kerry knows how the department works and how it conducts climate diplomacy, but unity of communication between the secretary’s office and SPE-designate Kerry will be critical for foreign service officers (FSOs) to implement the administration’s climate action agenda with speed and effectiveness. Importantly, it will be the secretary of state and the department’s leadership who will ultimately drive U.S. diplomats to integrate climate change in their conduct of foreign policy. The success of this effort will be key to ensuring that climate action as a department priority is not vulnerable to changes in leadership or administration. China “core policy” offers a model for departmentwide climate policy action. Secretary Pompeo’s mobilization of bureaus and embassies to execute the administration’s China adversary strategy provides an interesting model that the next administration could draw from to unify and direct all department elements to advance its climate change strategy. Secretary Pompeo instructed the deputy secretary to chair a monthly meeting with all bureau assistant secretaries to identify and prioritize specific policy actions and align resources and efforts to act accordingly. The East Asia assistant secretary coordinated departmentwide efforts; each bureau identified a senior official and staff to coordinate China action within the bureau; and each embassy designated China-responsible officers. For example, under the deputy secretary’s direction, relevant regional and technical bureaus coordinated on a worldwide diplomatic strategy to counter China’s commercial 5G buildout by engaging foreign governments, corporations, and other stakeholders to explain the security risks Chinese technology pose to domestic networks.16 For climate purposes, the deputy secretary could adapt this mechanism to coordinate and leverage the efforts of senior State Department officials and ambassadors to engage senior foreign government leaders—particularly at the presidential or prime ministerial level—to address specific climate policy objectives or strategies. That could be at a global level—for example, a global hydrogen research and development strategy—or at a regional level, such as a Gulf states engagement strategy. Administratively, the assistant secretary for Oceans and International Environmental and Scientific Affairs could serve as the department coordinator. Regional bureaus and embassies could create structures to coordinate climate-related work within bureaus and between bureaus and embassies. Climate action on the ground: Ambassadors and embassies The urgency for global action requires the State Department to scrap its past practice of putting U.S. climate diplomacy solely in the hands of Washington-based climate policy experts and instead put its ambassadors, diplomats, and local embassy staff at the forefront of advancing U.S. climate policy in host countries. Climate diplomacy for the early 2020s has a very different charge when compared with the mission during the Obama administration and even earlier. At that time, the State Department was focused on negotiating the new design of an international climate regime, and long-time Washington-based climate experts carried the diplomatic load. FSOs, who often have generalist backgrounds, largely played supporting roles or watched from the side. A smaller team was able to successfully carry out the mission.17 But with the Paris Agreement framework now established, countries are focused on implementing their commitments. Climate policy has pivoted from U.N. negotiations to domestic governance. Governments are deciding development pathways; passing legislation and setting rules; debating economic and energy policies with business and labor; and communicating their climate policy vision to the public. It is at this governance stage where U.S. diplomats—advancing U.S. climate policy with government, business, and civil society—do their best work. To put climate at the center of every embassy’s policy mission, the administration can: Make clear embassy senior leaders’ intent. The president’s letter of instruction to chiefs of mission18 should direct all ambassadors to make climate change a priority issue in their embassies’ work in host countries. Just as the secretary would communicate to the entire department the centrality of climate change, U.S. ambassadors should do the same to embassy staff and in their own diplomacy. Ambassadors should prioritize climate change action appropriately in their Integrated Country Strategy, the strategic and priority-setting policy document for U.S. foreign policy in the host country.19 Institute a whole-of-embassy effort. Economic or science sections traditionally manage U.S. embassies’ climate change diplomacy. But because climate change policy spans the equities of nearly all parts of a typical embassy, the ambassador’s office should lead and direct a holistic approach to the embassy’s policy strategy. Under the deputy chief of mission’s (DCM) direction, for example, the embassy country team should make briefings on embassy actions on climate change a standard agenda item in its regular meeting. Forging a cohesive team that includes State Department economic and public affairs officers; defense attaches; and Foreign Commercial Service, Foreign Agricultural Service, and USAID officers is vital to a successful, full-court press to advance a U.S. climate agenda. Also, U.S. embassies have long benefited from the talent and experience of local professional staff, many of whom previously served in prestigious roles in government, industry, and academia. They are an invaluable resource that embassies should elevate to serve as full partners to advance the U.S. climate agenda. Leverage the diplomatic tool of climate assistance. There have been few more effective tools for U.S. technical agencies and embassies to drive on-the-ground climate policy implementation than the Obama administration’s Global Climate Change Initiative (GCCI), particularly in developing countries. Under the GCCI, the State Department funded the overseas climate-related activities of experts from the U.S. departments of Agriculture, Energy, and the Treasury and the U.S. Environmental Protection Agency,20 who advanced climate policy objectives and built important political and economic connections. The Biden administration should revive and boost GCCI-like activities. As noted above, CAP recommends seeking $25 billion over five years. Launch State Department annual climate country reports. The State Department’s annual Human Rights Country Report is one of the U.S. government’s most powerful instruments for monitoring and potentially driving improved human rights performance around the world.21 An annual State Department Climate Change Country Report could serve a similar catalytic function. Embassies could provide annual updates on host country greenhouse gas emissions; their climate policies and actions; climate adaptation preparedness; transition trends in the power, transportation, and other sectors; and more. Climate country reports could serve to increase transparency of country actions—or inaction and highlight creative solutions. Making climate diplomacy built to last in U.S. foreign relations Nearly all the leadership and management changes recommended in this issue brief are subject to the risk of fading or termination should a subsequent administration take a less urgent approach to climate change. To sustain prioritized climate action, the Biden administration, in any broader State Department reform strategy, should incorporate new measures to ensure climate change is mainstreamed into how the department and the foreign service conduct U.S. foreign relations. The secretary of state and the department leadership team can take administrative measures in the following areas to make “built to last” the goal of embedding climate action into U.S. foreign policy. More people Executing climate action effectively, both under the Biden administration and over the long term, will require many more foreign affairs professionals. The administration should create 500 new foreign service and local U.S. embassy staff positions at the State Department, USAID, the Department of Commerce, and the Department of Agriculture—all dedicated to the international climate brief. An exodus of diplomats in recent years22 might tempt the State Department to direct new officers and resources to traditional foreign policy priority areas. It should resist doing so. Looming global challenges such as climate change require the department to reorient its strategic outlook and resources. More climate-smart people For most foreign affairs professionals, climate change is a subject that is expansive, complex, and new. That can no longer stand. The department should implement training across a range of climate policy functions and at all seniority levels to elevate and sustain climate policy and program management competencies. A departmentwide climate training program should include climate policy familiarization modules at entering-officer orientation, as well as DCM and ambassador courses; required courses on topics such as climate diplomacy, decarbonization policy measures, and climate science for all officers with climate policy responsibilities; and distance learning units on priority climate policy initiatives for all personnel. The department should also offer promising officers one-year external assignments at agencies such as USAID, the Department of Energy, the U.S. Development Finance Corporation, and the U.S. Trade and Development Agency to learn about these agencies’ climate-related tools and capabilities. To realize those training and detail opportunities without compromising the State Department’s operational readiness, the department needs more “float” personnel slots, which the 500 new-hire positions would help make possible. More climate-as-career people The Biden administration can further embed climate change as a core State Department policy priority over time and across changes in administration with changes to organizational incentives that influence the culture of the foreign service.23 Foreign service job assignments and promotion are two areas where the department can act.24 If you were to speak to any FSO, she would tell you that her career path decisions are largely influenced by two incentives: onward job assignments and promotion potential. For any number of historical reasons, the personnel system rewards both in assignments and promotion those officers who specialize in regions—such as Europe, the Middle East, or East Asia—over those who specialize in global or transnational issues, such as climate change, nonproliferation, or refugee matters. To rebalance the system to make climate change a desirable career path for FSOs, the department should take the following actions: Create more embassy climate change jobs. Officers see little foreign service career growth opportunity in climate. At a typical embassy, climate change responsibility is given to one midlevel officer. Supervisors engage on an ad hoc basis, ambassadors and DCMs even less so. The department should create clear career ladder opportunities from midlevel to senior positions, both in Washington and at embassies. Embassies in major capitals should have senior climate officers who lead multiofficer teams. Consider climate performance in foreign service promotion decisions. Given the up-or-out system, all FSOs focus on how a job’s responsibilities and visibility can help them move up the ladder. The foreign service promotion system discourages an officer from considering a climate change assignment or career focused on climate. The system rewards accomplishments that support department-specified priorities, of which climate has long been absent. The department should work with the American Foreign Service Association to add to its promotion precepts a specific expectation that officers demonstrate positive performance on climate to be considered for promotion at each professional level. Reward and recognize climate performance. The department’s servicewide awards program is another signal of the low priority it places on climate change. There are awards for DCM performance, political reporting, consular management, and other areas. There is no department award recognizing foreign service performance on climate change.25 The department should create such an award. Conclusion The majority of Americans expect President-elect Biden to act promptly on climate change, both at home and abroad.26 The gravity of the threat of climate change to the United States and the world requires the Biden administration to make climate change a central focus of U.S. foreign policy, aligning the resources and influence of the United States to help drive global action. The president must lead, but he should put U.S. diplomats and the State Department in the central role for executing this new charge and driving global action. These recommendations should go a long way in enabling them to do so.

#### Biden is currently avoiding disagreements with other WTO members over TRIPS. The plan flips that to create consensus, expending critical dip-cap

Day 7-19, Meagan Day is a staff writer at Jacobin. Jacobin, 7-19-21. “Biden Just Turned Down a Golden Opportunity to End Vaccine Apartheid” <https://www.jacobinmag.com/2021/07/biden-administration-covid-19-vaccine-apartheid-global-south-distribution-merkel> brett

The protest on Thursday was organized by a coalition of progressive trade advocacy organizations who object to Merkel’s obstruction of the patent waiver proposal in the World Trade Organization (WTO). The WTO operates by consensus, which means that, in principle, any intransigent party can successfully block the implementation of a policy backed by more than a hundred forty countries.

“The protection of intellectual property is a source of innovation and this has to remain so in the future,” Merkel has said in defense of her opposition to the waiver, which would exempt COVID-19 vaccines from the patent protection rules spelled out in the WTO’s Trade-Related Aspects of Intellectual Property Rights Agreement, or TRIPS.

To improve global vaccine access, Merkel prefers instead to rely on the COVID-19 Vaccines Global Access initiative (COVAX), a program that has agreements with current vaccine patent holders and would not challenge their intellectual property rights. COVAX caps vaccine doses at 20 percent of a country’s population, and is meant only as a supplement to the ordinary market-based system. Critics say that while it will protect corporate profits, it will be insufficient to end the pandemic worldwide.

Merkel’s opposition to a waiver of TRIPS nominally puts her at odds with Biden, who publicly avowed his support for the patent waiver in May. Biden was praised by progressives and censured by the pharmaceutical industry for his position. But now groups who want to see the policy implemented say that Biden isn’t doing enough to convince allies like Merkel and make the idea a reality.

The White House meeting on Thursday came and went with no apparent change in Merkel’s position. Biden did not mention the TRIPS waiver in his post-meeting press conference, suggesting either that it was not discussed or that Biden felt no need to publicly pressure Merkel after she privately reiterated her position.

Biden and Merkel’s discussion appeared to focus more on Nord Stream 2, a Russian oil pipeline to Germany that Biden worries will give Russia greater influence over the European energy sector and undermine US dominance. He was willing to give airtime to this disagreement, but said nothing about their disagreement over the vaccine patent waiver.

“For Merkel to get a high-profile White House victory lap and have Pres. Biden proclaim that she ‘never fails to stand for human dignity’ while Biden has failed to get Merkel to stop blocking the WTO COVID vaccine waiver delivers a punishing blow to efforts to end the pandemic,” said Lori Wallach, director of the group Public Citizen’s Global Trade Watch.

“To show global leadership, Biden had to get Germany to stop blocking what he says is a U.S. priority to save tens of millions of lives,” she added. “This summit was a failure.”

COVID deaths have risen 40 percent in Africa in the past week alone. Only 1 percent of Africans have been vaccinated, as wealthy nations on other continents have preordered vaccine doses well into the future. Africa’s COVID spike illustrates the urgency of waiving vaccine patents so that global production can scale up immediately, even though to do so would undermine pharmaceutical profits.

Every month that passes without a patent waiver, COVID deaths increase in countries without the resources to buy vaccines. So do the chances of viral mutations whose risks won’t necessarily be contained to the Global South.

Merkel’s rejection of a TRIPS waiver is a deadly policy rooted in her politics of centrist market liberalism — a politics that, in this case, will result in many more deaths worldwide if not swiftly reversed.

Biden just had a chance to take a stand and push for that reversal, but he neglected to spend his political capital pushing the chancellor to get on board with our best shot at ending the pandemic globally. He has taken the right public position on TRIPS, but so far it’s still an open question how serious he is about making it a reality.

#### Dip-cap is finite---the plan distracts US focus

Anderson & Grewell 01 Terry L. Anderson is executive director of Political Economy Research Center / J. Bishop Grewell is a research associate with PERC, The Greening of Foreign Policy, Chicago Journal of International Law Fall, 2001 2 Chi. J. Int'l L. 427 (Lexis-Nexis)

Greater international environmental regulation can increase international tension. Foreign policy is a bag of goods that includes issues from free trade to arms trading to human rights. Each new issue in the bag weighs it down, lessening the focus on other issues and even creating conflicts between issues. Increased environmental regulations could cause countries to lessen their focus on international threats of violence such as the sale of ballistic missiles or border conflicts between nations. As countries must watch over more and more issues arising in the international policy arena, they will stretch the resources necessary to deal with traditional international issues. As Schaefer (2000, 46) writes, “Because diplomatic currency is finite . . . it is critically important that the United States focus its diplomatic efforts on issues of paramount importance to the nation.

#### Warming encompasses AND outweighs every existential threat

Torres 16 (Phil, affiliate scholar @ Institute for Ethics and Emerging Technologies PhD candidate @ Rice University in tropical conservation biology, Op-ed: Climate Change Is the Most Urgent Existential Risk, <http://ieet.org/index.php/IEET/more/Torres20160807>)

Humanity faces a number of formidable challenges this century. Threats to our collective survival stem from asteroids and comets, supervolcanoes, global pandemics, climate change, biodiversity loss, nuclear weapons, biotechnology, synthetic biology, nanotechnology, and artificial superintelligence. With such threats in mind, an informal survey conducted by the Future of Humanity Institute placed the probability of human extinction this century at 19%. To put this in perspective, it means that the average American is more than a thousand times more likely to die in a human extinction event than a plane crash.\* So, given limited resources, which risks should we prioritize? Many intellectual leaders, including Elon Musk, Stephen Hawking, and Bill Gates, have suggested that artificial superintelligence constitutes one of the most significant risks to humanity. And this may be correct in the long-term. But I would argue that two other risks, namely climate change and biodiveristy loss, should take priority right now over every other known threat. Why? Because these ongoing catastrophes in slow-motion will frame our existential predicament on Earth not just for the rest of this century, but for literally thousands of years to come. As such, they have the capacity to raise or lower the probability of other risks scenarios unfolding. Multiplying Threats Ask yourself the following: are wars more or less likely in a world marked by extreme weather events, megadroughts, food supply disruptions, and sea-level rise? Are terrorist attacks more or less likely in a world beset by the collapse of global ecosystems, agricultural failures, economic uncertainty, and political instability? Both government officials and scientists agree that the answer is “more likely.” For example, the current Director of the CIA, John Brennan, recently identified “the impact of climate change” as one of the “deeper causes of this rising instability” in countries like Syria, Iraq, Yemen, Libya, and Ukraine. Similarly, the former Secretary of Defense, Chuck Hagel, has described climate change as a “threat multiplier” with “the potential to exacerbate many of the challenges we are dealing with today — from infectious disease to terrorism.” The Department of Defense has also affirmed a connection. In a 2015 report, it states, “Global climate change will aggravate problems such as poverty, social tensions, environmental degradation, ineffectual leadership and weak political institutions that threaten stability in a number of countries.” Scientific studies have further shown a connection between the environmental crisis and violent conflicts. For example, a 2015 paper in the Proceedings of the National Academy of Sciences argues that climate change was a causal factor behind the record-breaking 2007-2010 drought in Syria. This drought led to a mass migration of farmers into urban centers, which fueled the 2011 Syrian civil war. Some observers, including myself, have suggested that this struggle could be the beginning of World War III, given the complex tangle of international involvement and overlapping interests. The study’s conclusion is also significant because the Syrian civil war was the Petri dish in which the Islamic State consolidated its forces, later emerging as the largest and most powerful terrorist organization in human history. A Perfect Storm The point is that climate change and biodiversity loss could very easily push societies to the brink of collapse. This will exacerbate existing geopolitical tensions and introduce entirely new power struggles between state and nonstate actors. At the same time, advanced technologies will very likely become increasingly powerful and accessible. As I’ve written elsewhere, the malicious agents of the future will have bulldozers rather than shovels to dig mass graves for their enemies. The result is a perfect storm of more conflicts in the world along with unprecedentedly dangerous weapons. If the conversation were to end here, we’d have ample reason for placing climate change and biodiversity loss at the top of our priority lists. But there are other reasons they ought to be considered urgent threats. I would argue that they could make humanity more vulnerable to a catastrophe involving superintelligence and even asteroids. The basic reasoning is the same for both cases. Consider superintelligence first. Programming a superintelligence whose values align with ours is a formidable task even in stable circumstances. As Nick Bostrom argues in his 2014 book, we should recognize the “default outcome” of superintelligence to be “doom.” Now imagine trying to solve these problems amidst a rising tide of interstate wars, civil unrest, terrorist attacks, and other tragedies? The societal stress caused by climate change and biodiversity loss will almost certainly compromise important conditions for creating friendly AI, such as sufficient funding, academic programs to train new scientists, conferences on AI, peer-reviewed journal publications, and communication/collaboration between experts of different fields, such as computer science and ethics. It could even make an “AI arms race” more likely, thereby raising the probability of a malevolent superintelligence being created either on purpose or by mistake. Similarly, imagine that astronomers discover a behemoth asteroid barreling toward Earth. Will designing, building, and launching a spacecraft to divert the assassin past our planet be easier or more difficult in a world preoccupied with other survival issues? In a relatively peaceful world, one could imagine an asteroid actually bringing humanity together by directing our attention toward a common threat. But if the “conflict multipliers” of climate change and biodiversity loss have already catapulted civilization into chaos and turmoil, I strongly suspect that humanity will become more, rather than less, susceptible to dangers of this sort. Context Risks We can describe the dual threats of climate change and biodiversity loss as “context risks.” Neither is likely to directly cause the extinction of our species. But both will define the context in which civilization confronts all the other threats before us. In this way, they could indirectly contribute to the overall danger of annihilation — and this worrisome effect could be significant. For example, according to the Intergovernmental Panel on Climate Change, the effects of climate change will be “severe,” “pervasive,” and “irreversible.” Or, as a 2016 study published in Nature and authored by over twenty scientists puts it, the consequences of climate change “will extend longer than the entire history of human civilization thus far.” Furthermore, a recent article in Science Advances confirms that humanity has already escorted the biosphere into the sixth mass extinction event in life’s 3.8 billion year history on Earth. Yet another study suggests that we could be approaching a sudden, irreversible, catastrophic collapse of the global ecosystem. If this were to occur, it could result in “widespread social unrest, economic instability and loss of human life.” Given the potential for environmental degradation to elevate the likelihood of nuclear wars, nuclear terrorism, engineered pandemics, a superintelligence takeover, and perhaps even an impact winter, it ought to take precedence over all other risk concerns — at least in the near-term. Let’s make sure we get our priorities straight.

### Case

### COVID

#### Squo solves.

Crosby et al. 6-8, Daniel Crosby specializes in international trade, investment and matters related to public international law. A partner in our International Trade practice and the manager of our Geneva office, Daniel helps sovereign and business clients to achieve practical economic objectives around the world by applying and negotiating international agreements. JDSUPRA, June 8, 2021. “Update on the Proposed TRIPS Waiver at the WTO: Where is it Headed, and What to Expect?” <https://www.jdsupra.com/legalnews/update-on-the-proposed-trips-waiver-at-8411942/> brett

Proponents have advanced the proposed TRIPS waiver in the name of meeting global vaccine demand. But even in the absence of a waiver, pharmaceutical manufacturers have continued efforts to expand global production and distribution of COVID-19 vaccines and therapies, with a focus on expanding access to developing countries. For example, Pfizer announced its plan to deliver two billion doses to developing nations over the next 18 months, with one billion doses coming this year.8 One forecast estimates that, by the end of 2021, total global COVID-19 vaccine production may exceed 11 billion doses – an amount potentially sufficient to achieve global herd immunity.9

Several pharmaceutical industry groups have also proposed a five-step plan to “urgently advance COVID-19 equity,” including: (1) increasing dose sharing among countries through COVAX and other mechanisms; (2) optimizing production of vaccines and raw materials; (3) eliminating trade barriers for critical raw materials; (4) supporting country readiness to deploy vaccination programs; and (5) driving further innovation.10

Manufacturers have also continued to partner with other companies in efforts to scale up global production. For example, Moderna recently engaged Samsung Biologics to provide fill-and-finish manufacturing for Moderna’s vaccine.11 Merck and Gilead also each entered into or expanded voluntarily licensing programs with manufacturers in India to produce the companies’ respective COVID-19 antiviral agents molnupiravir and remdesivir.12

Some WTO members have also considered using the existing TRIPS flexibilities to expand their vaccine access. For example, Bolivia has continued to pursue its effort to import the Johnson & Johnson COVID-19 vaccine from Canadian company Biolyse Pharma, under a compulsory license pursuant to TRIPS Article 31bis (if one could be obtained).13

#### The waiver is too slow

Rajesh Vellakkat 21, LLM Student, London School of Economics and Political Science and Partner of Fox Mandal and Associates LLP, Advocates and Solicitors, India. SSRN, June 7, 2021. “IP Waiver during COVID Pandemic – Salvage or Apostacy ?” <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3861961> brett

In addition, neither are there news reports of any other critical drug used for Covid 19 treatment or their shortage nor about a patent related hurdle in the manufacture of any drug used for Covid 19 treatment. For argument’s sake, let us assume that many other patented drugs are being used for Covid -19, which is in short supply and there is no such voluntary license given by the patent owner. Then will this patent waiver help? The answer is simple, unlikely for a year or more. It will be impossible to reverse engineer and set the entire manufacturing process so quickly. If the present technology owner is not willing to support, it would not be easy to find a parallel process of creating the drug in a short duration. Procurement of the active ingredients and raw materials is another challenge. Getting the required approvals and thereafter manufacturing a drug is a time-consuming process. To launch a new drug requires certain safety protocols and clinical trials. A waiver of IP rights will not waive regulatory requirements for drug approvals. Hence, even if a new Indian manufacturer attempts to make a drug, it invariably may take minimum of two to three years. By a waiver of patents, no one can compel the existing manufacturer to share the know-how. So, a waiver of patents on drugs relating to Covid-19 may not give any immediate effect in sourcing drugs for managing Covid19.

#### Can’t solve COVID until 2022 – prefer our evidence based on supply chain experts

Garde et al 5-6 [Damian Garde , Helen Branswell and Matthew Herper May 6, 2021, 5-6-2021, "Waiver of patent rights on Covid vaccines may be mostly symbolic, for now," STAT, <https://www.statnews.com/2021/05/06/waiver-of-patent-rights-on-covid-19-vaccines-in-near-term-may-be-more-symbolic-than-substantive/> ] //Lydia

#### The U.S.’s stunning [endorsement](https://www.statnews.com/pharmalot/2021/05/05/biden-covid19-vaccine-patent-rights/) of a proposal to waive Covid-19 vaccine patents has won plaudits for President Biden and roiled the global pharmaceutical industry. But, at least in the short term, it’s likely to be more of a symbolic milestone than a turning point in the pandemic. For months, proponents of the proposal have argued that the need to waive intellectual property protections was urgent given the growth of Covid cases in low- and middle-income countries, which have been largely left without the huge shipments of vaccine already purchased by wealthy countries. But patents alone don’t magically produce vaccines. Experts suggested the earliest the world could expect to see additional capacity flowing from the waiver — if it’s approved at the World Trade Organization — would be in 2022. 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.” Even James Love, director of the nonprofit Knowledge Ecology International and a longtime advocate of intellectual property reform, acknowledges a patent waiver would be a valuable first step, not a panacea. The fairly narrow proposal would mostly allow countries to issue compulsory licenses, essentially allowing third-party manufacturers to make and sell other companies’ patented products, while also helping free up some information about how that manufacturing is done. But that, at least, could provide a financial incentive for those third parties to invest in vaccine production. COVID is repeating its mutations – these mutations aren’t new rather the virus is running out of ways to adapt

Willyard 5-13 [Cassandra Willyard, 5-13-2021, "Five reasons why you don’t need to panic about coronavirus variants," [accessed 9-7-21]//Lydia

4. The same mutations keep popping up Once the virus enters a cell, it begins to replicate. The more copies it makes, the greater the likelihood that random errors, or mutations, will crop up. Most of these copying errors are inconsequential. A handful, however, might give the virus a leg up. For example, a spike-protein mutation known as D614G appears to help transmission of SARS-CoV-2. Another, E484K, might help the virus evade the body’s antibody response. If the viruses carrying these advantageous mutations get transmitted from one person to the next, they can start to outcompete the viruses that lack them, a process known as natural selection. That’s how the B.1.1.7 variant, which is more transmissible, became the predominant strain in the US. In the case of SARS-CoV-2, the mutations that improve the virus keep popping up in different parts of the globe, a phenomenon known as convergent evolution. “We are seeing the same combinations evolving over and over and over again,” says Vaughn Cooper, an evolutionary biologist at the University of Pittsburgh. Imagine a game of Tetris, Cooper writes in [a recent story for Scientific American](https://www.scientificamerican.com/article/the-coronavirus-variants-dont-seem-to-be-highly-variable-so-far/). “A limited number of building blocks can be assembled in different ways, in different combinations, to achieve the same winning structures.” Cooper and some other researchers see this evidence of convergent evolution as a hopeful sign: the virus may be running out of new ways to adapt to the current environment. “It’s actually a small deck of cards right now,” he says. “If we can control infections, that deck of cards is going to remain small.”

#### The issue is lack of resources, not IPR.

Brown 21, Delphine Knight Brown is a Partner in the firm’s Litigation Practice Group, and Intellectual Property Litigation Group. With over twenty years of trial experience, Delphine’s practice focuses on complex intellectual property and technology cases, with extensive experience in the life sciences industry. Freeborn Attorneys at Law, Summer 2021. “Will TRIPS Waiver of IP Protection for COVID-19 Vaccines Serve Global Need?” <https://www.freeborn.com/sites/default/files/downloads/Powerhouse%20Points_Newsletter_Summer%202021%20Final.pdf> brett

When the IP waiver concept was first proposed last October, Moderna agreed not to enforce its COVID-19 related patents during the pandemic. But despite Moderna’s voluntary waiver of its IP rights, no other company has stepped up to manufacture the Moderna vaccine. The most significant obstacle to COVID-19 vaccine supply is not just the IP rights that companies have obtained, or are pursuing, but rather the lack of raw materials and manufacturing facilities to produce the vaccines. Currently, there are shortages of raw materials and equipment used to make vaccines and biological products.

Unlike drug manufacturing, vaccine production processes are extremely complex and difficult to develop without support from current manufacturers. Additional manufacturers would need to have or acquire skilled expertise in mRNA technology and create or reconfigure manufacturing sites. Manufacturing vaccines requires additional processing steps and testing to assure quality and consistency. Manufacturing vaccines will also likely use the patented technology of other companies, who have not waived their IP rights. Investment in manufacturing is also an important piece of the solution. Whether existing companies can retool facilities and jump start manufacturing or new facilities need to be created through investment will be outcome determinative.

There is little doubt that the waiver proposals would at the very least up-end the existing incentives, including the prospect of future pharmaceutical innovation and development of products, that resulted in the rapid development and approval of COVID-19 vaccines. Moreover, the TRIPS waiver proposals may not have the desired effect of boosting COVID vaccine production and availability of mRNA vaccines. On the other hand, recent attempts at voluntary licensing and technology transfer agreements related to adenovirus vector technology have resulted in increased vaccine production and availability. A TRIPS waiver may not be as effective for more complex vaccine production.

Scaling up COVID-19 vaccine production is not a one-size-fits -all proposition. Ensuring equitable availability and delivery complicates the matter further.

#### New manufacturers trade off with current ones --- turns case because they won’t make vaccines as effectively.

Jonathan H. Spadt & Andrew J. Koopman 5-24, Jonathan H. Spadt is the Chief Executive Officer and President of RatnerPrestia. Andrew J. Koopman, J.D., Temple University Beasley School of Law (2008) Vice President, Intellectual Property Law Society Member, Intellectual Property Moot Court team Staff Writer, International and Comparative Law Journal B.S., Engineering Physics, Cornell University (2005) Minor in Electrical Engineering. 5-24-21, RatnerPrestia. “The “Moral” Waiver of IP Protection For COVID Vaccines: Why The US Proposal Creates More Problems Than It Solves” <https://www.ratnerprestia.com/2021/05/24/the-moral-waiver-of-ip-protection-for-covid-vaccines-why-the-us-proposal-creates-more-problems-than-it-solves/> brett

Not to be ignored in any discussion of short term effects is the potential impact a waiver would have on current vaccine manufacture. Like any product, the manufacture of vaccines is contingent on the availability of raw materials, which are not unlimited in supply. The waiver of IP rights would in principle substantially increase demand for these raw materials, resulting not only in higher prices but potential interference in the supply chain for established and proven vaccine manufacturers. There is no guarantee that manufacturers entering the market on the back of a TRIPS waiver would have the ability to produce vaccines with the quality and throughput of current suppliers.

#### The plan undermines the economic certainty provided by TRIPS---that disrupts innovation

Tom Lee & Christopher Holt 5-10, Tom received a B.A. in Economics with a Statistics Minor from the University of Maryland, College Park, in 2018. Christopher has a Master’s in Congressional and Presidential Studies from The Catholic University of America, and he studied political science as an undergraduate at Whitman College. American Action Forum, May 10, 2021. “Intellectual Property, COVID-19 Vaccines, and the Proposed TRIPS Waiver” <https://www.americanactionforum.org/insight/intellectual-property-covid-19-vaccines-and-the-proposed-trips-waiver/> brett

Public posturing aside, the Biden Administration surely knows that a TRIPS waiver for COVID-19 related IP will likely be futile. Scaling up production, as Klain alluded to, has proven to be the main challenge to manufacturing larger quantities of vaccine.[4] Waiving TRIPS would do nothing to address this constraint. Waiving TRIPS would instead encourage IP abuse and distort market forces and innovation.

TRIPS Provisions

The TRIPS agreement is an international trade agreement among all 164 members of the WTO. It is one of three founding and central components of the WTO, along with the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS).

The purpose of the TRIPS agreement is to unify trade and provide increased certainty in international economic relations. Among other things, TRIPS specifically:

Provides minimum IP protections and standards that apply to all WTO members;

Outlines enforcement actions that countries can undertake to remedy violations of the above standards; and

Establishes dispute settlement procedures to allow countries to negotiate an end to disagreements.

TRIPS does, however, allow for compulsory licensing where in a public health emergency, a country may copy patented drugs without the permission of the original manufacturer with WTO approval.

Proposal to Waive TRIPS

The recent proposal submitted by India and South Africa and signed on by over 100 developing countries would waive four specific protections of COVID-19 vaccines and related medical products and services:

Copyrights;

Patents;

Trademarks; and

Undisclosed information procedures.

The first three protections allow companies to prevent foreign companies from copying their products. They require the original company to disclose information about the product, however. Foreign companies are free to study the disclosed information of the patent but cannot copy it unless given a licensing agreement from the original company. Contrarily, companies can choose not to get patents for their products and instead keep their information secret. The fourth protection prevents the theft of trade secrets of foreign companies. While TRIPS has been waived previously, if approved, this would be the broadest waiver since the agreement’s enactment in 1995.[5]

TRIPS and Manufacturing Capacity

The primary justification for waiving TRIPS is that IP protections cause underutilized manufacturing capacity. By removing TRIPS, developing nations could copy patented drugs and use their own manufacturers to produce vaccines, thereby increasing access. This rationale, however, is flawed. Adar Poonawalla, CEO of the Serum Institute of India—currently the largest producer of COVID-19 vaccine doses in the world—has argued that access to IP is not limiting vaccine production, rather it is the time involved in scaling up manufacturing capacity.[6] It should also be noted that Moderna has already pledged not to enforce its own COVID-19 vaccine patents during the pandemic.[7]

In addition, COVID-19 vaccines such as those produced by Pfizer and Moderna use emerging and very complex technologies and processes. These technologies and processes are essential to producing and increasing scale of COVID-19 vaccines. They are not published in patents but rather kept as trade secrets. The fourth protection mentioned above only prevents theft of trade secrets; it does not allow or disallow a company from keeping trade secrets. Waiving TRIPS therefore does nothing to speed up vaccine production even if there were excess manufacturing capacity, as manufacturers would not receive the essential trade secrets they would need. The issue at present is not underutilized manufacturing capacity, rather scaling up production has been the largest difficulty of vaccine manufacturing. It takes anywhere from 60 to 120 days to produce a single batch of vaccines. Even with manufacturing challenges, between 9.5 and 13.5 billion doses of COVID-19 vaccines are projected to be produced in 2021. Eleven billion doses would be sufficient to vaccinate 70 percent of the world population and reach heard immunity, assuming 2-dose vaccinations.[8]

TRIPS and Compulsory Licensing

Separate from a broad IP waiver, TRIPS includes a compulsory licensing process. Foreign manufacturers are free to ask a patentee for a voluntary licensing agreement to manufacture a product. This process can be long, however, and the patentee can ultimately refuse. When this happens, TRIPS allows the manufacturer through its national government to grant a compulsory license provided the manufacturer has first sought a voluntary licensing agreement. This compulsory license is issued by that national government to the manufacturer to produce a patented drug without the original patentee’s permission. Each compulsory license must apply to a specific product. It is important to note that TRIPS does not have a governing body which oversees this process. At the same time, if a country grants an internationally unpopular compulsory license, it will face economic, political, and retaliatory ramifications from other governments and private firms, so governments must weigh these costs.

In addition, if a country declares a national emergency or other circumstances of extreme urgency, TRIPS allows a foreign manufacturer to immediately apply for a compulsory license, skipping the process to apply for a voluntary license. A TRIPS waiver, like the one suggested for COVID-19-related IP, is therefore entirely unnecessary—even if IP protections were an obstacle to vaccine access. In the case of COVID-19, compulsory licensing would not, however, address the real issues related to scaling manufacturing capacity.

The Vagueness of the Proposed TRIPS Waiver

Under the broad language of the proposed TRIPS waiver, any drugs that have use for patients with COVID-19, including those that predate the pandemic, could lose patent protection. Thus, a foreign company could produce a specific drug under the auspices of COVID-19 but sell it for another disease. Moreover, the foreign company would not have to provide any financial compensation to the company from whom they took the IP. The proposal’s language is so broad that other patented medical products beyond pharmaceutical drugs such as masks, non-pharmaceutical chemical compounds, and respirators would also be subject to the waiver.

It is also noteworthy that the vaccines developed by Pfizer, Moderna, and Johnson & Johnson are not currently approved by the Indian government for use in India, due to regulatory obstacles related to localized clinical trials. Effectively then, India is pointing to IP protections as an obstacle to obtaining vaccines they have not even approved for use in their country.[9]

At the same time, a concerted global effort is underway to ensure access to COVID-19 vaccines in all countries. The WHO, Gavi (previously the Global Alliance for Vaccines and Immunization), and the Coalition for Epidemic Preparedness Innovations have partnered to establish the COVAX initiative, designed specifically to distribute vaccines to the developing world. COVAX is projected to distribute at least 2 billion vaccines by the end of 2021.[10] Johnson & Johnson has further announced plans to distribute 500 million vaccines to developing nations starting in mid-2021, in addition to those it already allocated to other nations.[11]

TRIPS and Innovation

The TRIPS agreement and its IP protections were created to increase unity and certainty in the global economy. The economic certainty provided by IP protections preserve competitiveness and increase value—i.e., IP protections provide incentives to companies to create new and groundbreaking technologies. In terms of the COVID-19 pandemic, perhaps it is these incentives that encouraged companies to produce vaccines quickly and successfully. Without IP protections, companies could not reap the rewards of their efforts. Waiving TRIPS would weaken the market forces that encourage innovation. Combined with the broad language of the TRIPS waiver, the loss of innovation would happen in many industries and sectors of the global economy.

Conclusion

The proposal to waive TRIPS is based on the misperception that IP protections serve as barriers to COVID-19 vaccine production. In fact, the difficulty of scaling up production is the key challenge. Waiving TRIPS will do nothing to increase vaccine production, represents poor policy toward IP, and will create a whole new set of trade policy challenges.

A better approach is to build upon current global vaccine partnerships while ensuring that companies can secure their supply chains. Such efforts would increase access to vaccines while avoiding the potentially widespread and long-term problems associated with waiving IP protections provided by TRIPS.

#### Medical innovation is critical to addressing current AND future disease

Kenan 6-9, The Frank Hawkins Kenan Institute of Private Enterprise develops and promotes innovative, market-based solutions to vital economic issues. With the belief that private enterprise is the cornerstone of a prosperous and free society, the institute fosters the entrepreneurial spirit to stimulate economic prosperity and improve the lives of people in North Carolina, across the country and around the world. Kenan Institute, 6-9-21, “Turbocharging Healthcare Innovation” <https://kenaninstitute.unc.edu/kenan-insight/turbocharging-healthcare-innovation/> brett

As COVID-19 began to spread around the globe, companies and entrepreneurs stepped up to develop new technologies and redeploy existing technologies in their portfolio to tackle the disease and cope with the constraints it brought. The pandemic forced telemedicine into the mainstream and brought mRNA vaccine technology to the forefront. At the same time, new technologies such as CRISPR gene editing and artificial intelligence (AI) approaches have been finding their niche for speeding up drug discovery and development.

Healthcare innovation was already on the fast train before the pandemic. Now, it’s been turbocharged. In this Kenan Insight, we explore why the 2021 Trends in Entrepreneurship Report names emerging technology in the healthcare industry as a key trend for entrepreneurship, along with some of the challenges that come with fast-moving technology advances.

A trajectory of explosive growth

The healthcare industry has experienced extraordinary growth over the past four decades. Big pharma is driving much of this boom, accounting for 10% of the U.S. economy’s overall R&D spending at the end of 2020.1 The medical device industry, expected to generate $54.5 billion over the next four years, is another important player.2 This growth is catching the attention of investors. In 2020, health tech startups raised approximately $14 billion in venture capital funding, nearly double that of 2019.3 CB Insights estimates there are now 51 healthcare unicorns, defined as startups valued at $1 billion or more.

Health-tech venture funding reached record levels in 2020

Chart, bar chart, histogram

Description automatically generated

Source: Deloitte analysis of Rock Health’s Digital Health Funding Database

Innovation is a critical driver in the healthcare sector. Increasing rates of innovation can be seen in the sharp rise of U.S. patents granted for pharmaceuticals and medical devices in recent years. Between 2013 and 2019, more than 60,000 pharmaceutical patents and more than 125,000 medical device patents were granted.4 Today, there are more than 18,500 drugs at various stages of the development process worldwide.5

Maturing technologies

The increasing numbers of patent applications, clinical trials and collaborations are leading indicators of a vibrant and growing biopharmaceutical ecosystem. However, the proliferation of innovation tools, rather than just innovative products, is what will allow the next generation of pharmaceutical drugs to be discovered more quickly and more efficiently, to provide more effective treatments and to target diseases that have so far evaded our collective intervention efforts. As scientists learn more about human genes and their connection to diseases, these insights can feed into tools that make drug R&D faster, less expensive and more precise.

AI technology has matured to the point where it can now be used reliably to analyze huge amounts of data and solve extremely complex problems. This has made AI attractive to the pharmaceutical industry as a tool that can enable more efficient identification of new drugs and drug targets. In 2020, drug discovery was the focus area that received the most private AI investment, with more than $13.8 billion invested globally. This was 4.5 times higher than the total for 2019.6

CRISPR gene editing is another hot technology that is enabling the development of more innovative and accurate therapeutic strategies. This tool is making it easier to determine the genes and proteins that cause or prevent disease and thus to identify new targets for potential drugs. As of the second quarter of 2020, there were 724 active companies around the world focused on using or developing CRISPR technology and almost 50 clinical trials involving CRISPR.7

mRNA was certainly one of the brightest technology stars of 2020. After decades of research, mRNA proved to be the ideal solution for developing a highly effective COVID-19 vaccine at record speed. However, this is likely only the beginning of the story for mRNA. Therapies based on mRNA technology are being developed to treat malaria, cancer and multiple sclerosis and we’ll likely see more mRNA-based vaccines designed to fight a host of current and future infectious diseases. As of February 2021, CB Insights reports more than 520 ongoing clinical trials worldwide that were applying mRNA technology to more than 20 disease classes.8

#### The plan leads to counterfeit vaccines.

James M. Roberts 21, Research Fellow for Economic Freedom and Growth in the Center for International Trade and Economics, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. Gavin Zhao of the Heritage Young Leaders Program assisted in the preparation of this report. The Heritage Foundation, CENTER FOR INTERNATIONAL TRADE AND ECONOMICS. No. 3628 | June 9, 2021. “Biden’s Wink at Global Theft of U.S. Vaccine Patents Is Bad for America and the World” <https://www.heritage.org/economic-and-property-rights/report/bidens-wink-global-theft-us-vaccine-patents-bad-america-and-the> brett

The theft by actors in foreign countries of the trade secrets in patented pharmaceutical products made by American companies constitutes a Special 301 violation.

Waiving patent protection also opens the door to the overseas production of counterfeit vaccines that could be ineffective—even deadly. As the authors of a study commissioned by the National Institutes of Health report:

Counterfeit drugs pose a public health hazard, waste consumer income, and reduce the incentive to engage in research and development and innovation.… [C]ounterfeit drugs may raise concerns among consumers about safety and may reduce patient medication adherence.13

#### That turns case.

Erwin A. Blackstone et al. 14, PhD, Professor of Economics, Joseph P. Fuhr, Jr Professor of Economics, PhD, Steve Pociask President, The American Consumer Institute, MA. Am Health Drug Benefits. 2014 Jun; 7(4): 216–224. “The Health and Economic Effects of Counterfeit Drugs” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4105729/> brett

Especially important in terms of innovation are the pharmaceutical and biopharmaceutical industries. These industries typically spend an average of 15% to 17% of their revenues on R&D, which is among the highest rates of R&D spending of any industry. For example, in 2006, the US pharmaceutical industry spent 22% of sales on R&D, whereas all manufacturing spent only 3.3% of their sales.45 Counterfeit drugs reduce the incentive to engage in R&D. Indeed, the National Association of Boards of Pharmacy estimated that counterfeit drugs generated $75 billion in revenues in 2010.46 This represents a substantial percentage of lost revenues to the pharmaceutical industry. However, the attraction of counterfeits is their low prices, and the loss to the industry is presumably less than the estimated sales of the counterfeit drugs, because some consumers would likely not have purchased the drugs at the standard price. Nevertheless, the loss is significant and imposes a cost to society in the form of reduced incentives for innovation.

An example of the loss from counterfeit drugs comes from the experience of Pfizer. In 2010, authorities in 53 countries confiscated 8.4 million tablets, capsules, and vials of counterfeit Pfizer products.46 This part of the cost of fighting counterfeit drugs is borne by the companies. Brian Donnelly, PhD, Director of Pfizer's global security team (the unit that battles counterfeiters) is a pharmacologist who had worked as an FBI special agent for 21 years and is now leading the work on counterfeit drugs.46 Resources that could be used for more productive ventures are instead used to deal with the problem of counterfeit or adulterated goods. Such security officers investigate, and then seek cooperation, from public authorities to make arrests.

### Legitimacy

**Don’t give them legitimacy if the WTO responds poorly to COVID – here’s a rehighlighting of their ev – Tays reads yellow  
Meyer 6-18-21**

(David, Senior Writer, https://fortune.com/2021/06/18/wto-covid-vaccines-patents-waiver-south-africa-trips/)

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. Reform needs Top of the list is the WTO's Appellate Body, which hears appeals in members' trade disputes. It's a pivotal part of the international trade system, but Trump—incensed at decisions taken against the U.S. —blocked appointments to its seven-strong panel as judges retired. The body became completely paralyzed at the end of 2019, when two judges' terms ended and the panel no longer had the three-judge quorum it needs to rule on appeals. Anyone who hoped the advent of the Biden administration would change matters was disappointed earlier this year when the U.S. rejected a European proposal to fill the vacancies. "The United States continues to have systemic concerns with the appellate body," it said. "As members know, the United States has raised and explained its systemic concerns for more than 16 years and across multiple U.S. administrations." At her confirmation hearing in February, current U.S. Trade Representative Katherine Tai reiterated those concerns—she said the appellate body had "overstepped its authority and erred in interpreting WTO agreements in a number of cases, to the detriment of the United States and other WTO members," and accused it of dragging its heels in settling disputes. "Reforms are needed to ensure that the underlying causes of such problems do not resurface," Tai said. "While the U.S. [has] been engaging [with the WTO] it hasn't indicated it would move quickly on allowing appointments to the Appellate Body," says Bryan Mercurio, an economic-law professor at the Chinese University of Hong Kong, who opposes the vaccine waiver. "This is not a good sign. In terms of WTO governance, it's a much more important step than supporting negotiations on an [intellectual property] waiver." It's not just the U.S. that wants to see reform at the WTO. In a major policy document published in February, the EU said negotiations had failed to modernize the organization's rules, the dispute-resolution system was broken, the monitoring of countries' trade policies was ineffective, and—crucially—"the trade relationship between the U.S. and China, two of the three largest WTO members, is currently largely managed outside WTO disciplines." China is one of the key problems here. It became a WTO member in 2001 but, although this entailed significant liberalization of the Chinese economy, it did not become a full market economy. As the European Commission put it in February: "The level at which China has opened its markets does not correspond to its weight in the global economy, and the state continues to exert a decisive influence on China's economic environment with consequent competitive distortions that cannot be sufficiently addressed by current WTO rules." "China is operating from what it sees as a position of strength, so it will not be bullied into agreeing to changes which it sees as not in its interests," says Mercurio. China is at loggerheads with the U.S., the EU and others over numerous trade-related issues. Its rivals don't like its policy of demanding that Chinese citizens' data is stored on Chinese soil, nor do they approve of how foreign investors often have to partner with Chinese firms to access the country's market, in a way that leads to the transfer of technological knowhow. They also oppose China's industrial subsidies. Mercurio thinks China may agree to reforms on some of these issues, particularly regarding subsidies, but "only if it is offered something in return." All these problems won't go away if the WTO manages to come up with a TRIPS waiver for COVID-19 vaccines and medical supplies, Wallach concedes. "But," she adds, "**the will and the good faith** to tackle these challenges is **increased enormously** if the WTO has the **experience of being part of the solution, not just an obstacle."** Wallach points to a statement released earlier this month by Asia Pacific Economic Cooperation (APEC) trade ministers, which called for urgent discussions on the waiver. "The WTO must **demonstrate that global trade rules can help address the human catastrophe** of the COVID-19 pandemic and facilitate the recovery," the statement read in its section about WTO reform. Okonjo-Iweala's role The WTO's new director general, whose route to the top was unblocked in early 2021 with the demise of the Trump administration, is certainly keen to fix the problems that contributed to the early departure of her predecessor, Brazil's Robert Azevedo. "We must act now to get all our ambassadors to the table to negotiate a text" on the issue of an IP waiver for COVID vaccines, Ngozi Okonjo-Iweala, director general of the World Trade Organization, has said. Dursun Aydemir—Anadolu/Bloomberg/Getty Images Earlier this week, when the U.S. and EU agreed a five-year ceasefire in a long-running dispute over Boeing and Airbus aircraft subsidies, Okonjo-Iweala tweeted: "With political will, we can solve even the most intractable problems." However, Mercurio is skeptical about her stewardship having much of an effect on the WTO's reform process. "Upon taking [over she] stated it was time for delegations to speak to each other and not simply past each other, but at the recent General Counsel meeting delegations simply read prepared statements in what some have described as the worst meeting ever," he says. "On the other hand, Ngozi is very much someone who will actively seek solutions to problems, and in this way different to her predecessor. If the role of mediator is welcomed, she could have an impact not in starting discussions but in getting deals over the finish line." A spokesperson for the WTO Secretariat declined to offer comment on Mlumbi-Peter and Wallach's suggestions that the organization's credibility rests on the vaccine patent waiver issue, but pointed to a May speech in which Okonjo-Iweala said the WTO could help tackle vaccine supply chain monitoring and transparency, helping manufacturers scale up production, and creating a more geographically diversified manufacturing base. In her speech, the WTO chief also said members "must address issues related to technology transfer, knowhow and intellectual property," including the waiver proposal. "We must act now to get all our ambassadors to the table to negotiate a text," she said.

#### The plan creates a perception of uncertainty about WTO rules in times of crisis.

Clete Willems 8-5, J.D., Georgetown University Law Center, cum laude, 2008 B.S.Ch.E., University of Notre Dame, 2002. Official transcription from OnAir: Health Care. August 5, 2021. “Ep. 4: Onshoring Drug Manufacturing and TRIPS Waiver Part II” <https://www.akingump.com/a/web/fkezGqrYvu1TKfz4kpbUXb/33Qgf1/onair-health-care-ep04-clete-willems-jim-deyonker.pdf> brett

Clete Willems: I do think that there's value in the conversation, and if you look at the European proposal, actually, I think that's the way to go because what the Europeans are saying is let's not get rid of the WTO agreements in times of crisis. What they're saying is let's make sure that the provisions that are already embedded in those agreements on compulsory licensing actually work. I do think that that is a useful conversation. I don't want to get too philosophical on you all, but if you think about the trading system more generally and you think about the rules on international trade, they're supposed to work in all circumstances. They're not supposed to just work in the best of times. They're supposed to work in the worst of times. If you go down the path of India and South Africa and you say, "We're just going to get rid of the WTO rules during a pandemic," that doesn't make any sense. That's the law of the jungle.

#### That outweighs – their impact is specific to the willingness of WTO Members to follow trade rules – lifting them during crises sends the signal that trade rules are less important now.

#### No link— every sector says it but it’s not true and exaggerated

Meyer 21 David Meyer, 6-18-2021, "The WTO’s survival hinges on the COVID-19 vaccine patent debate, waiver advocates warn – Fortune," Fortune, https://fortune.com/2021/06/18/wto-covid-vaccines-patents-waiver-south-africa-trips/amp/ , accessed 7/18/2021 EH

Big Pharma’s stance on the issue is that WTO members can help the effort without backing a waiver, but instead by pushing for the lifting of export restrictions on medical goods. “The WTO still has much concrete work to do to remove trade barriers that are hurting manufacture and distribution of vaccines, therapeutics and diagnostics globally,” says Thomas Cueni, director general of the Geneva-based International Federation of Pharmaceutical Manufacturers & Associations (IFPMA). “The call for waiving patents is driven by a political agenda playing to the gallery and not bringing a single more vaccine short term, but could jeopardize the very framework which has helped us to respond so fast to the COVID-19 pandemic.” Mercurio also says Mlumbi-Peter and Wallach’s suggestions are agenda-driven. “I think the comments that the WTO’s credibility rests on the outcome of a TRIPS waiver (which I am against and have written on) are overstated, in the extreme,” he says. “People with an interest in every topic say it—environmentalists say the credibility rests on the outcome of fishery subsidies, tech people say the same on the e-commerce and services negotiations, and industrialists say the same regarding subsidies.” However, Wallach insists that nothing about the waiver would change the system, because the system already provides for such temporary suspensions of intellectual-property protections. “This doesn’t change a comma in the actual TRIPS agreement,” she says. “The WTO is the relevant forum and it has the relevant policy tools to respond to the current pandemic by addressing IP barriers so as to ramp-up and diversify production across the world,” says Mlumbi-Peter. IFPMA’s Cueni says “taking away the patent won’t do anything short term for the current pandemic” as the real problems are trade barriers and scarcity of raw materials. There is also a clear need for technology transfers if new COVID-19 vaccine-making facilities are to come online—though it should be noted that the vaccine companies have all failed to contribute to the World Health Organization’s COVID-19 Technology Access Pool (C-TAP), which was set up last year as a way for them to voluntarily help other manufacturers join the effort.