# Wiki Doc 5

## 1NC

### 1NC – States CP

#### The 50 states, territories, and DC should prohibit private sector business practices that violate an antitrust worker welfare standard.

### 1NC – Trade DA

#### **Antitrust expansion opens the floodgates of protectionism – that ends free trade**

Murray 19 [Allison Murray, Loyola Law, Judicial Law Clerk for U.S. Bankruptcy Courts. Edited by Loyola Law Professor David Kesselman and the ILR team of editors and staff. “Given Today’s New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade’s Coffin?” 2/28/2019. https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1785&context=ilr]

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences.

Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders’ best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law.3 So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims.

Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States (“U.S.”), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally.4 To remedy bad behavior in a specialized set of industries is not to instigate a global paradigm shift. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes.5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations.

Trump is not the only high-profile leader flirting with staunch protectionism. Western leaders in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western lawmakers themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions that could counteract that progress.6 Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies.

Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be forced to rely on existing avenues to meet protectionist aims. Again, we find ourselves relying squarely on antitrust law, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization (“WTO”), “once formal trade barriers come down, other issues become more important.”7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures.

Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause the death of even the smallest semblance of international free trade that remains in the international marketplace today.

#### Nuke war

Oppenheimer 21 [Dr. Michael F. Oppenheimer, Clinical Professor at the Center for Global Affairs at New York University, Senior Consulting Fellow for Scenario Planning at the International Institute for Strategic Studies, Former Executive Vice President at The Futures Group, Member of the Council on Foreign Relations, The Foreign Policy Roundtable at the Carnegie Council on Ethics and International Affairs, and The American Council on Germany, “The Turbulent Future of International Relations”, in The Future of Global Affairs: Managing Discontinuity, Disruption and Destruction, Ed. Ankersen and Sidhu, p. 23-30]

Four structural forces will shape the future of International Relations: globalization (but without liberal rules, institutions, and leadership)1; multipolarity (the end of American hegemony and wider distribution of power among states and non-states2); the strengthening of distinctive, national and subnational identities, as persistent cultural differences are accentuated by the disruptive effects of Western style globalization (what Samuel Huntington called the “non-westernization of IR”3); and secular economic stagnation, a product of longer term global decline in birth rates combined with aging populations.4 These structural forces do not determine everything. Environmental events, global health challenges, internal political developments, policy mistakes, technology breakthroughs or failures, will intersect with structure to define our future. But these four structural forces will impact the way states behave, in the capacity of great powers to manage their differences, and to act collectively to settle, rather than exploit, the inevitable shocks of the next decade.

Some of these structural forces could be managed to promote prosperity and avoid war. Multipolarity (inherently more prone to conflict than other configurations of power, given coordination problems)5 plus globalization can work in a world of prosperity, convergent values, and effective conflict management. The Congress of Vienna system achieved relative peace in Europe over a hundred-year period through informal cooperation among multiple states sharing a fear of populist revolution. It ended decisively in 1914. Contemporary neoliberal institutionalists, such as John Ikenberry, accept multipolarity as our likely future, but are confident that globalization with liberal characteristics can be sustained without American hegemony, arguing that liberal values and practices have been fully accepted by states, global institutions, and private actors as imperative for growth and political legitimacy.6 Divergent values plus multipolarity can work, though at significantly lower levels of economic growth-in an autarchic world of isolated units, a world envisioned by the advocates of decoupling, including the current American president. 7 Divergent values plus globalization can be managed by hegemonic power, exemplified by the decade of the 1990s, when the Washington Consensus, imposed by American leverage exerted through the IMF and other U.S. dominated institutions, overrode national differences, but with real costs to those states undergoing “structural adjustment programs,”8 and ultimately at the cost of global growth, as states—especially in Asia—increased their savings to self insure against future financial crises.9

But all four forces operating simultaneously will produce a future of increasing internal polarization and cross border conflict, diminished economic growth and poverty alleviation, weakened global institutions and norms of behavior, and reduced collective capacity to confront emerging challenges of global warming, accelerating technology change, nuclear weapons innovation and proliferation. As in any effective scenario, this future is clearly visible to any keen observer. We have only to abolish wishful thinking and believe our own eyes.10

Secular Stagnation

This unbrave new world has been emerging for some time, as US power has declined relative to other states, especially China, global liberalism has failed to deliver on its promises, and totalitarian capitalism has proven effective in leveraging globalization for economic growth and political legitimacy while exploiting technology and the state’s coercive powers to maintain internal political control. But this new era was jumpstarted by the world financial crisis of 2007, which revealed the bankruptcy of unregulated market capitalism, weakened faith in US leadership, exacerbated economic deprivation and inequality around the world, ignited growing populism, and undermined international liberal institutions. The skewed distribution of wealth experienced in most developed countries, politically tolerated in periods of growth, became intolerable as growth rates declined. A combination of aging populations, accelerating technology, and global populism/nationalism promises to make this growth decline very difficult to reverse. What Larry Summers and other international political economists have come to call “secular stagnation” increases the likelihood that illiberal globalization, multipolarity, and rising nationalism will define our future. Summers11 has argued that the world is entering a long period of diminishing economic growth. He suggests that secular stagnation “may be the defining macroeconomic challenge of our times.” Julius Probst, in his recent assessment of Summers’ ideas, explains:

…rich countries are ageing as birth rates decline and people live longer. This has pushed down real interest rates because investors think these trends will mean they will make lower returns from investing in future, making them more willing to accept a lower return on government debt as a result.

Other factors that make investors similarly pessimistic include rising global inequality and the slowdown in productivity growth…

This decline in real interest rates matters because economists believe that to overcome an economic downturn, a central bank must drive down the real interest rate to a certain level to encourage more spending and investment… Because real interest rates are so low, Summers and his supporters believe that the rate required to reach full employment is so far into negative territory that it is effectively impossible.

…in the long run, more immigration might be a vital part of curing secular stagnation. Summers also heavily prescribes increased government spending, arguing that it might actually be more prudent than cutting back – especially if the money is spent on infrastructure, education and research and development.

Of course, governments in Europe and the US are instead trying to shut their doors to migrants. And austerity policies have taken their toll on infrastructure and public research. This looks set to ensure that the next recession will be particularly nasty when it comes… Unless governments change course radically, we could be in for a sobering period ahead.12

The rise of nationalism/populism is both cause and effect of this economic outlook. Lower growth will make every aspect of the liberal order more difficult to resuscitate post-Trump. Domestic politics will become more polarized and dysfunctional, as competition for diminishing resources intensifies. International collaboration, ad hoc or through institutions, will become politically toxic. Protectionism, in its multiple forms, will make economic recovery from “secular stagnation” a heavy lift, and the liberal hegemonic leadership and strong institutions that limited the damage of previous downturns, will be unavailable. A clear demonstration of this negative feedback loop is the economic damage being inflicted on the world by Trump’s trade war with China, which— despite the so-called phase one agreement—has predictably escalated from negotiating tactic to imbedded reality, with no end in sight. In a world already suffering from inadequate investment, the uncertainties generated by this confrontation will further curb the investments essential for future growth. Another demonstration of the intersection of structural forces is how populist-motivated controls on immigration (always a weakness in the hyper-globalization narrative) deprives developed countries of Summers’ recommended policy response to secular stagnation, which in a more open world would be a win-win for rich and poor countries alike, increasing wage rates and remittance revenues for the developing countries, replenishing the labor supply for rich countries experiencing low birth rates.

Illiberal Globalization

Economic weakness and rising nationalism (along with multipolarity) will not end globalization, but will profoundly alter its character and greatly reduce its economic and political benefits. Liberal global institutions, under American hegemony, have served multiple purposes, enabling states to improve the quality of international relations and more fully satisfy the needs of their citizens, and provide companies with the legal and institutional stability necessary to manage the inherent risks of global investment. But under present and future conditions these institutions will become the battlegrounds—and the victims—of geopolitical competition. The Trump Administration’s frontal attack on multilateralism is but the final nail in the coffin of the Bretton Woods system in trade and finance, which has been in slow but accelerating decline since the end of the Cold War. Future American leadership may embrace renewed collaboration in global trade and finance, macroeconomic management, environmental sustainability and the like, but repairing the damage requires the heroic assumption that America’s own identity has not been fundamentally altered by the Trump era (four years or eight matters here), and by the internal and global forces that enabled his rise. The fact will remain that a sizeable portion of the American electorate, and a monolithically pro- Trump Republican Party, is committed to an illiberal future. And even if the effects are transitory, the causes of weakening global collaboration are structural, not subject to the efforts of some hypothetical future US liberal leadership. It is clear that the US has lost respect among its rivals, and trust among its allies. While its economic and military capacity is still greatly superior to all others, its political dysfunction has diminished its ability to convert this wealth into effective power.13 It will furthermore operate in a future system of diffusing material power, diverging economic and political governance approaches, and rising nationalism. Trump has promoted these forces, but did not invent them, and future US Administrations will struggle to cope with them.

What will illiberal globalization look like? Consider recent events. The instruments of globalization have been weaponized by strong states in pursuit of their geopolitical objectives. This has turned the liberal argument on behalf of globalization on its head. Instead of interdependence as an unstoppable force pushing states toward collaboration and convergence around market-friendly domestic policies, states are exploiting interdependence to inflict harm on their adversaries, and even on their allies. The increasing interaction across national boundaries that globalization entails, now produces not harmonization and cooperation, but friction and escalating trade and investment disputes.14 The Trump Administration is in the lead here, but it is not alone. Trade and investment friction with China is the most obvious and damaging example, precipitated by China’s long failure to conform to the World Trade Organization (WTO) principles, now escalated by President Trump into a trade and currency war disturbingly reminiscent of the 1930s that Bretton Woods was designed to prevent. Financial sanctions against Iran, in violation of US obligations in the Joint Comprehensive Plan Of Action (JCPOA), is another example of the rule of law succumbing to geopolitical competition. Though more mercantilist in intent than geopolitical, US tariffs on steel and aluminum, and their threatened use in automotives, aimed at the EU, Canada, and Japan,15 are equally destructive of the liberal system and of future economic growth, imposed as they are by the author of that system, and will spread to others. And indeed, Japan has used export controls in its escalating conflict with South Korea16 (as did China in imposing controls on rare earth,17 and as the US has done as part of its trade war with China). Inward foreign direct investment restrictions are spreading. The vitality of the WTO is being sapped by its inability to complete the Doha Round, by the proliferation of bilateral and regional agreements, and now by the Trump Administration’s hold on appointments to WTO judicial panels. It should not surprise anyone if, during a second term, Trump formally withdrew the US from the WTO. At a minimum it will become a “dead letter regime.”18

As such measures gain traction, it will become clear to states—and to companies—that a global trading system more responsive to raw power than to law entails escalating risk and diminishing benefits. This will be the end of economic globalization, and its many benefits, as we know it. It represents nothing less than the subordination of economic globalization, a system which many thought obeyed its own logic, to an international politics of zero-sum power competition among multiple actors with divergent interests and values. The costs will be significant: Bloomberg Economics estimates that the cost in lost US GDP in 2019- dollar terms from the trade war with China has reached $134 billion to date and will rise to a total of $316 billion by the end of 2020.19 Economically, the just-in-time, maximally efficient world of global supply chains, driving down costs, incentivizing innovation, spreading investment, integrating new countries and populations into the global system, is being Balkanized. Bilateral and regional deals are proliferating, while global, nondiscriminatory trade agreements are at an end.

Economies of scale will shrink, incentivizing less investment, increasing costs and prices, compromising growth, marginalizing countries whose growth and poverty reduction depended on participation in global supply chains. A world already suffering from excess savings (in the corporate sector, among mostly Asian countries) will respond to heightened risk and uncertainty with further retrenchment. The problem is perfectly captured by Tim Boyle, CEO of Columbia Sportswear, whose supply chain runs through China, reacting to yet another ratcheting up of US tariffs on Chinese imports, most recently on consumer goods:

We move stuff around to take advantage of inexpensive labor. That’s why we’re in Bangladesh. That’s why we’re looking at Africa. We’re putting investment capital to work, to get a return for our shareholders. So, when we make a wager on investment, this is not Vegas. We have to have a reasonable expectation we can get a return. That’s predicated on the rule of law: where can we expect the laws to be enforced, and for the foreseeable future, the rules will be in place? That’s what America used to be.20

The international political effects will be equally damaging. The four structural forces act on each other to produce the more dangerous, less prosperous world projected here. Illiberal globalization represents geopolitical conflict by (at first) physically non-kinetic means. It arises from intensifying competition among powerful states with divergent interests and identities, but in its effects drives down growth and fuels increased nationalism/populism, which further contributes to conflict. Twenty-first-century protectionism represents bottom-up forces arising from economic disruption. But it is also a top-down phenomenon, representing a strategic effort by political leadership to reduce the constraints of interdependence on freedom of geopolitical action, in effect a precursor and enabler of war. This is the disturbing hypothesis of Daniel Drezner, argued in an important May 2019 piece in Reason, titled “Will Today’s Global Trade Wars Lead to World War Three,”21 which examines the pre- World War I period of heightened trade conflict, its contribution to the disaster that followed, and its parallels to the present:

Before the First World War started, powers great and small took a variety of steps to thwart the globalization of the 19th century. Each of these steps made it easier for the key combatants to conceive of a general war. We are beginning to see a similar approach to the globalization of the 21st century. One by one, the economic constraints on military aggression are eroding. And too many have forgotten—or never knew—how this played out a century ago.

…In many ways, 19th century globalization was a victim of its own success. Reduced tariffs and transport costs flooded Europe with inexpensive grains from Russia and the United States. The incomes of landowners in these countries suffered a serious hit, and the Long Depression that ran from 1873 until 1896 generated pressure on European governments to protect against cheap imports.

…The primary lesson to draw from the years before 1914 is not that economic interdependence was a weak constraint on military conflict. It is that, even in a globalized economy, governments can take protectionist actions to reduce their interdependence in anticipation of future wars. In retrospect, the 30 years of tariff hikes, trade wars, and currency conflicts that preceded 1914 were harbingers of the devastation to come. European governments did not necessarily want to ignite a war among the great powers. By reducing their interdependence, however, they made that option conceivable.

…the backlash to globalization that preceded the Great War seems to be reprised in the current moment. Indeed, there are ways in which the current moment is scarier than the pre-1914 era. Back then, the world’s hegemon, the United Kingdom, acted as a brake on economic closure. In 2019, the United States is the protectionist with its foot on the accelerator. The constraints of Sino-American interdependence—what economist Larry Summers once called “the financial balance of terror”—no longer look so binding. And there are far too many hot spots—the Korean peninsula, the South China Sea, Taiwan—where the kindling seems awfully dry.

### 1NC – Adv CP

#### The United States federal government should

* Raise the minimum wage
* Institute a wealth tax and redistribution wealth program
* Establish a Guaranteed Basic Income program
* increase its investment in infrastructure development, creating an infrastructure bank
* establish a national innovation policy, to oversee procurement reform, incentives for research and development, and workforce training
* Pass the Consumer Protection and Recovery Act

#### Infrastructure solves inequality--- avoids politics

Lee 10 (Oct. 11, Jessie, Director of Progressive Media and Online Response, “The President on Infrastructure Investment: "This is Work That Needs to Be Done. There Are Workers Who Are Ready to Do It."”, The White House, <https://obamawhitehouse.archives.gov/blog/2010/10/11/president-infrastructure-investment-work-needs-be-done-there-are-workers-who-are-rea>) MFE

During tough economic times, one of the toughest jobs to hold is as a construction worker. In almost any city or town in America, you're likely to see buildings, projects, or roads left half-done after investments made by private enterprise or state and local governments based on expectations of a brighter economic future dried up. Meanwhile, there is a near-universal consensus that America's infrastructure is both falling apart and lagging behind as our competitors move forward on the next generation of transportation. That's part of why a new report from the Council of Economic Advisers and the Treasury Department (pdf) encourages a bold new plan to invest, finding that infrastructure projects have a high bang for the buck because construction costs are low due to underutilized resources, and that these investments would create jobs in sectors of the economy suffering from some of the highest levels of unemployment. The Recovery Act already created hundreds of thousands of jobs this way, but there is more than enough left to do. President Obama Holds a Meeting on Infrastructure President Barack Obama holds a meeting with Cabinet secretaries, former secretaries of Transportation and mayors and governors on infrastructure investment in the State Dining Room of the White House, October 11, 2010. (Official White House Photo by Pete Souza) After meeting with some of his Cabinet secretaries, along with a bipartisan group of former secretaries of Transportation, mayors and governors who have come together in support of infrastructure investment, the President spoke both on the depth of the problem and value of the solution. On the problem: For years, we have deferred tough decisions, and today, our aging system of highways and byways, air routes and rail lines hinder our economic growth. Today, the average American household is forced to spend more on transportation each year than food. Our roads, clogged with traffic, cost us $80 billion a year in lost productivity and wasted fuel. Our airports, choked with passengers, cost nearly $10 billion a year in productivity losses from flight delays. And in some cases, our crumbling infrastructure costs American lives. It should not take another collapsing bridge or failing levee to shock us into action. So we’re already paying for our failure to act. And what’s more, the longer our infrastructure erodes, the deeper our competitive edge erodes. Other nations understand this. They are going all-in. Today, as a percentage of GDP, we invest less than half of what Russia does in their infrastructure, less than one-third of what Western Europe does. Right now, China’s building hundreds of thousands of miles of new roads. Over the next 10 years, it plans to build dozens of new airports. Over the next 20, it could build as many as 170 new mass transit systems. Everywhere else, they’re thinking big. They’re creating jobs today, but they’re also playing to win tomorrow. So the bottom line is our shortsightedness has come due. We can no longer afford to sit still. On the solution: By investing in these projects, we’ve already created hundreds of thousands of jobs. But the fact remains that nearly one in five construction workers is still unemployed and needs a job. And that makes absolutely no sense at a time when there is so much of America that needs rebuilding. So that’s why, last month, I announced a new plan for upgrading America’s roads, rails and runways for the long-term. Over the next six years, we will rebuild 150,000 miles of our roads -- enough to circle the world six times. We will lay and maintain 4,000 miles of our railways -- enough to stretch from coast to coast. And we will restore 150 miles of runways and advance a next generation air-traffic control system that reduces delays for the American people. This plan will be fully paid for. It will not add to our deficit over time. And we are going to work with Congress to see to that. It will establish an infrastructure bank to leverage federal dollars and focus on the smartest investments. We want to cut waste and bureaucracy by consolidating and collapsing more than 100 different, often duplicative programs. And it will change the way Washington works by reforming the federal government’s patchwork approach of funding and maintaining our infrastructure. We’ve got to focus less on wasteful earmarks, outdated formulas. We’ve got to focus more on competition and innovation; less on shortsighted political priorities, and more on our national economic priorities. So investing in our infrastructure is something that members of both political parties have always supported. It’s something that groups ranging from the Chamber of Commerce to the AFL-CIO support today. And by making these investments across the country, we won’t just make our economy run better over the long haul -- we will create good, middle-class jobs right now.

#### Passing Consumer Protection and Recovery Act solves trust. Consumer protection’s a massive alt cause to trust—as is resource loss! Aff only makes things worse—cal’s yellow.

Testimony of Ted Mermin 21. Executive Director Center for Consumer Law & Economic Justice UC Berkeley School of Law. Before the United States House of Representatives Committee on Energy & Commerce Subcommittee on Consumer Protection and Commerce Hearing on “The Consumer Protection and Recovery Act: Returning Money to Defrauded Consumers”. https://docs.house.gov/meetings/IF/IF17/20210427/112501/HHRG-117-IF17-Wstate-MerminT-20210427.pdf

10. Trust the FTC. This final step informs all the others. There can be no doubt that there is more work to do protecting consumers than the FTC currently has the tools or resources to accomplish. There is also no doubt that the FTC has been trammeled in ways that its sister agencies, federal and state, have not. Whatever the reason, it is high time to retire the “zombie ideas” about the FTC – that the Commission is unnecessary, or overreaching, or heavy-handed, or inefficient.23 It is time, as one commissioner stated in Senate testimony last week, to “turn the page on the FTC’s perceived powerlessness.”24

For an American public eager for greater – not lesser – protection from increasingly sophisticated scam artists, deceptive advertisers, and privacy violating tech companies, building an effective FTC is an easy decision. It can and should be for this committee as well.

IV. Conclusion

This subcommittee meets at a remarkable historical moment, when the COVID-19 pandemic has revealed the profound need for a robust Federal Trade Commission just days after the Supreme Court made action by Congress an absolute necessity. This is a perilous time, with the chief protector of American consumers rendered nearly powerless just when those consumers are experiencing a heightened threat resulting from a once-in-a-century pandemic. The Consumer Protection and Recovery Act provides a critical first step toward restoring authority and effectiveness to the nation’s leading consumer protection agency.

Swift action to restore the FTC’s traditional 13(b) authority means that when constituents contact your office, and tell your staff that they have lost their life’s savings to a work-at-home scam, or their identity has been stolen and someone has opened accounts in their name, or they just spent their stimulus payment on a supposed cure for COVID for their grandmother who’s on a respirator – there will still be an agency to refer them to. No one wants that staffer to have to add: “Well, we could send you to the FTC, but they don’t actually have the power to get you your money back.”

Inaction or delay will mean no recovery for millions of wronged American consumers. The time to pass the Consumer Protection and Recovery Act is now.

#### Wealth tax solves inequality

BBC 4/7 [BBC News, "Tax wealth to help shrink inequality caused by Covid says IMF", 4/7/21, https://www.bbc.com/news/business-56665505]

Governments should consider raising taxes on the wealthy to help pay for the cost of Covid, the International Monetary Fund says.

It suggested a temporary increase in taxes on wealth or high incomes could help tackle inequalities that have widened due to the crisis.

In its fiscal report, it added the move would help the worst affected by the pandemic feel a sense of cohesion.

But the organisation urged governments to "carefully assess trade-offs".

The International Monetary Fund (IMF) pointed to the reform of current policies on inheritance taxes or property, for example, before turning to wealth taxes.

"To help meet pandemic-related financing needs, policymakers could consider a temporary Covid-19 recovery contribution, levied on high incomes or wealth," the report said.

"To accumulate the resources needed to improve access to basic services, enhance safety nets, and reinvigorate efforts to achieve the sustainable development goals, domestic and international tax reforms are necessary, especially as the recovery gains momentum," it said.

A wealth tax typically targets the assets owned by taxpayers, such as property or investments. Its use has declined in recent decades.

#### Guaranteed Income solves inequality

Holder 21 [Sarah Holder and Brentin Mock, "What a National Guaranteed Income Could Look Like", 7/8/21, https://www.bloomberg.com/news/articles/2021-07-08/what-a-national-guaranteed-income-could-look-like]

Researchers behind the Guaranteed Income for the 21st Century proposal estimate that it could elevate the nearly 14 million U.S. households who lived in poverty before the pandemic above the federal poverty line. It claims even more profound effects on Black households, which are disproportionately represented under the poverty line.

“We know that poverty is not race-neutral. We know that employment interactions are not race-neutral,” said Hamilton. By structuring the tax to benefit those with the fewest resources, it “will have heroic effects on addressing some racial inequities,” he said. “We know that there are dramatically disproportionate shares of Black and white people in poverty, particularly Black children. So what this does is say, well, we're going to eliminate it in its entirety.”

A negative income tax has been proposed in the past, most famously by conservative economist Milton Friedman during the Nixon administration. “A negative income tax has always been something supported by both sides of the political spectrum,” said William Lee, the chief economist for the Milken Institute. “The way it’s often proposed that gets the broadest support is to say we need a complete replacement of the existing benefits program in the U.S. with a basic minimum level of income.”

That’s where this proposal diverges from past iterations: It wouldn’t be a replacement of other elements of the social safety net, or an answer to calls for reparations or universal health insurance. Instead, it would flip the existing tax code — which is designed for “poverty maintenance, rather than income mobility, or income maintenance, rather than income mobility,” Hamilton says. Because the plan is linked to the median income of the country, indexing such support structurally would mean that “in perpetuity, we are trending families towards the middle class.”

#### National policy restarts innovation and solves slow growth without market disruption.

Sadat ’20 [Mir; November 22; former Policy Director leading interagency coordination on defense and space policy issues, including at the Department of Defense and National Security Council, Ph.D. from Claremont Graduate University; The Hill, “Why innovation is so important to America's global leadership,” <https://thehill.com/opinion/technology/526535-why-innovation-is-so-important-to-americas-global-leadership>]

The U.S. government must mitigate the harm to America’s innovation base. So far, the government has yet to craft a national innovation policy and stand up a true national innovation council to modernize government; coordinate between the government, industry and academia; transform monopolistic or oligopolistic markets into competitive sectors; and ensure that America regains global economic leadership through foreign partnerships. Reform of American innovation is necessary for several reasons.

First, to harness the untapped potential of exponential technologies, the government must democratize its requirements processes that have advantaged legacy systems and traditional technology providers. The government must evolve its industrial age procurement policies, practices and beneficiaries to the digital age by placing innovation at the core of its activities. The innovation base needs public and private investment capital, scaled to the risk and importance of the invention, to level the playing field for startups and scale-ups, and to increase competitiveness. In short, the government must increase funding and incentives for Apollo-scale research and development (R&D) programs.

Second, to create exponential technologies in an era of unprecedented disruption, America’s workforce requires continuous training and education. The “lone innovator” is a myth because every American invention is a mix of persistence, genius, teamwork, business model and resource management. The government must establish whole-of-nation policies that stimulate world-class innovators in the areas of science, technology, engineering and mathematics (STEM); support nationwide STEM access and diversity; promote R&D and economic growth in technologically underserved areas using economic opportunity zones; and improve mentorship programs for underrepresented persons.

Third, individual innovators and their teams are challenged to achieve successful outcomes because of the high costs and risks, the uncertainty and gaps in funding, and the vicissitudes of the market’s readiness. America’s innovators are strewn across the federal enterprise, the national security establishment, state and local governments, startups and established corporations, universities and research institutions, and other consortiums. Innovators must collaborate by leveraging innovation multipliers such as diversity of effort, thought and demographics.

Fourth, if rules-based, free-market innovation is to compete economically and demonstrate American leadership, then the government must create and enhance opportunities for innovators to compete in international markets and garner global funding. Innovation is the global competition that transcends borders. We must be the first to disrupt our markets, rather than others who could render particular industries potentially obsolete.

### 1NC – EU CP

#### The European Commission should

* prohibit private sector business practices that violate an antitrust worker welfare standard
* prevent companies that violate the rule extraterritorially from accessing the EU market

#### The Brussels effect solves certainty and ensures spillover, but unilateralism is key to maintain influence

Bradford 12 [Anu, International Trade Law Professor @ Columbia Law School, Adam S. Chilton, Professor @ University of Chicago Law School, Katerina Linos, Professor @ University of California, Berkeley. Alex Weaver, Linklaters Law Prof. “The Brussels Effect” p. 44-45 https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1275&context=faculty\_scholarship]

The strictest antitrust laws prevail in situations where conflict exists among different regulators. If lenient antitrust jurisdiction A and stringent antitrust jurisdiction B investigate the same transaction, B's standard will prevail. A company seeking to merge that would be rejected by State B has two options: abandon the merger or abandon State B. If State B's market is relatively insignificant, the company might choose the latter. However, if State B's market is large, abandoning it is not often a realistic option.74 At the international level, the EU antitrust laws are, indeed, often the most stringent." The EU also consists of a consumer market that is too large and important to abandon. For this reason, the EU antitrust laws have often become the de facto global antitrust standards, to which the more permissive U.S. antitrust laws must yield.76 The reasons for the U.S.-EU difference in antitrust enforcement are manifold. At the most basic level, the EU antitrust authorities remain suspicious of the market's ability to deliver efficient outcomes and are therefore more inclined to intervene through a regulatory process." While the EU is more fearful of the harmful effects of nonintervention (so called "false negatives," anti-competitive practices that the EU fails to regulate), the U.S. authorities are often more mindful of the detrimental effects of inefficient intervention (so called "false positives," pro-competitive practices that the United States erroneously restricts)." Yet given the logic of unilateral regulatory globalization, it is the EU approach that determines the outcome. One of the most famous examples of the EU's global regulatory clout was its decision to prohibit the $42 billion proposed acquisition of Honeywell International by General Electric." When the EU blocked this transaction involving two U.S. companies, it was irrelevant that the U.S. antitrust authorities had previously cleared the transaction: the acquisition was banned worldwide because it was legally impossible to let the merger proceed in one market and prohibit it in another. In this sense, merger decisions are legally nondivisible.so The GE/Honeywell case is emblematic 20 107:1 (2012) The Brussels Effect of a difference in the antitrust regulatory approaches of the EU and the United States. The U.S. authorities considered the merger to be efficient and hence welfare enhancing. In contrast, the EU was concerned that any efficiencies that resulted from the transaction, including a short-term decrease in price, would later drive out competitors and result in a longterm increase in price." While GE/Honeywell is the most famous international antitrust enforcement conflict, it does not stand alone.82 The EU similarly threatened to block a merger between two U.S. companies, Boeing and McDonnell Douglas, even though the deal was already cleared by the U.S. authorities without conditions." In the end, the EU let the merger proceed subject to extensive commitments.84 These included abandoning Boeing's exclusive dealing contracts with various U.S. carriers." Similarly, the EU often gets to dictate the code of conduct for dominant companies worldwide. For example, the EU has imposed record-high fines and behavioral remedies against dominant U.S. companies, including Microsoft and Intel. 6 The global nature of antitrust remedies is not unusual. The EU has frequently extracted commitments that require parties to modify their behavior globally or restructure assets in foreign countries." However, the United States has similarly restructured deals where parties' productive assets are located offshore. Both the U.S. and EU agencies are vested with 21 NORTHWESTERN UNIVERSITY LAW REVIEW extraterritorial regulatory capacity." Both recognize their authority to apply laws to foreign companies as long as anticompetitive "effects" are felt on their markets. It is thus not the regulatory capacity as such but the EU's sustained preference to impose more frequent and more invasive remedies that has made it the world's de facto antitrust enforcer. In some respect, however, the EU Commission has an even greater regulatory capacity than its U.S. counterparts: the Commission is empowered to prohibit mergers and impose behavioral and structural remedies without first obtaining a court judgment." Administrative delegation does not reach this far in the United States, where the agencies need federal court endorsement to enjoin a merger.90

### 1NC – Biz Con DA

#### Corporate optimism will drive self-sustaining recovery.

Van der Welle ’21 [Peter; July 7; Strategist within the Global Macro team, M.A. in Economics from Tilburg University; Robeco, “How capex holds the key to a self-sustaining economic recovery,” <https://www.robeco.com/latam/en/insights/2021/07/how-capex-holds-the-key-to-a-self-sustaining-economic-recovery.html>]

Title:

How capex holds the key to a self-sustaining economic recovery.

Capital expenditure to fix supply shortages and meet burgeoning demand is seen figuring strongly in the post-Covid recovery.

[Author and summary omitted].

Companies are expected to invest heavily in new equipment and capacity as they seek to meet the pent-up demand released from economic reopening.

“The world is emerging from the pandemic, and much of the focus has been on the release of huge pent-up demand for goods and services that have been inaccessible for much of the past year,” says Peter Van der Welle, strategist with Robeco’s multi-asset team.

“But there is a bigger issue regarding the ability of companies to supply these goods and services, due to the supply side constraints that have emerged through economic reopening. We believe this is powering a resurgence in capital expenditure by companies, and those which are investing in new equipment to meet greater demand will be the more sought after stocks.”

Capex intentions

Van der Welle says this trend can already be seen in the US Federal Reserve’s Capex Intentions Index, which shows that steep year-on-year increases in capital expenditures are planned.

“So, that's promising for a near-term rebound in the capex cycle,” he says. “The market has already picked up on that theme because you can see a clear outperformance of capex-intensive stocks compared to the broader market year to date.”

Fiscal dominance

Van der Welle says five elements support the multi-asset team’s view that capex will rise from here onwards. “The first is the overarching macroeconomic picture in that we are increasingly moving towards an environment of fiscal dominance and away from one that has been monetary-led via quantitative easing,” he says.

“Central banks have pursued very easy monetary policies, but they have hit the nominal lower bounds with regard to policy rates.”

“This is a hard constraint because real rates are difficult for central banks to push even lower than they are nowadays, given the strong consensus among both central bankers and market participants that inflation is transitory.”

Big spending plans

For stimulus, fiscal policy is better suited to address the negative supply shock that Covid-19 has posed. Fiscal dominance can be seen in the huge infrastructure spending planned in the US, with the USD 1.9 trillion American Rescue Plan already in motion, and the USD 2 trillion American Jobs Plan going through Congress. In Europe, the disbursement of the EUR 750 billion EU Recovery Fund is due to start later in July.

“An era of fiscal dominance is able to say goodbye to the secular stagnation thesis, which holds that the economy is suffering from under-investment,” says Van der Welle. “Under-investment due to insufficient demand, which was the biggest problem after the global financial crisis, has become less likely.”

“We saw very subdued consumption growth both in the US and elsewhere between 2009 and 2019. That story is reversing in the US. Households’ income has been supported by fiscal policy during the Covid-19 recession, while burgeoning consumer demand in the reopening phase could prove to be more sticky as employment prospects continue to improve in the medium term.”

Tobin’s Q looks good

A third reason to expect higher capex is driven by ‘Tobin’s Q’ – the market value of a company divided by its assets' replacement cost. If this ratio is above one, then corporates have an incentive to invest directly in the underlying assets rather than buying another company at market value to acquire the same assets.

The Tobin’s Q ratio is currently at 1.7 for the US. “So it's very expensive to do M&A, and it is wiser for corporates to invest in the underlying capital goods themselves,” Van der Welle says.

“We should therefore expect a gradual move away from M&A activity towards companies making direct investments in capital goods.”

Supply-side constraints

The fourth element is the severe supply-side constraints seen in the global economy, as capacity shut down during the pandemic.

“This is reflected in the ISM Prices Paid Index, which reached an all-time high in June in reflection of rampant shortages of raw materials and labor,” says Van der Welle.

“Clearly the issue today following the pandemic is not demand related, but supply related. This will also trigger more awareness to push the productivity frontier and incentivize capital expenditure.”

Less reliance on labor

The fifth element is the partial substitution from labor to capital in the US against the backdrop of lingering labor shortages.

“A decline in the labor force participation rate shows that people are not quickly returning to the labor force, as they have been disincentivized by the subsidies and pay checks they have gained from the stimulus plans, and/or structural changes in their work/life balance due to the pandemic,” says Van der Welle.

“When the cost of labor becomes more expensive, substituting labor with capital becomes more attractive for employers. Typically, the inflection point for capex intentions becoming positive is when unit labor costs rise by more than 2% year on year, which is the case today.”

Capex will lengthen the earnings cycle

Regarding earnings, there is a significant relationship between capex intentions and productivity, though the lag from intending to invest to actually getting a realized productivity gain is quite long – up to several years.

Higher capex that eventually brings higher productivity growth will sustain the earnings cycle, Van der Welle says. Higher productivity gives corporates more pricing power because they suppress unit labor costs, and that means profit margins can stay elevated for longer.

#### Changing the legal standards of antitrust spills over to crush otherwise surging growth.

Thierer ’21 [Adam; February 25; Senior Research Fellow with the Mercatus Center at George Mason University; The Hill, “Open-ended antitrust is an innovation killer,” <https://thehill.com/opinion/technology/540391-open-ended-antitrust-is-an-innovation-killer>]

Unfortunately, the calls for more bureaucracy and regulation emanating from all corners of the political world could have an unintended consequence: discouraging the sort of vibrant innovation and consumer choice that made America’s tech companies household names across the globe.

Sen. [Amy Klobuchar](https://thehill.com/people/amy-klobuchar) (D-Minn.) is leading one charge. Klobuchar, who chairs the Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights, [recently introduced](https://www.klobuchar.senate.gov/public/_cache/files/e/1/e171ac94-edaf-42bc-95ba-85c985a89200/375AF2AEA4F2AF97FB96DBC6A2A839F9.sil21191.pdf) the “Competition and Antitrust Law Enforcement Reform Act.” This sweeping measure seeks to expand the powers and budgets of antitrust regulators at the Federal Trade Commission and the Department of Justice. It also includes new filing requirements and potentially hefty civil fines.

The most important feature is the proposed change to the legal standard by which regulators approve business deals. It would allow the government to stop any deal that creates an “appreciable risk of materially lessening competition,” and it also defines exclusionary behavior as, “conduct that materially disadvantages one or more actual or potential competitors.”

These may sound like simple, semantic tweaks, but – much like some of the other policy ideas currently circulating – they would upend decades of settled law and create a sea change in U.S. antitrust enforcement. This change could undermine business dynamism, innovation and investment in ways that inhibit the global competitiveness of U.S. businesses.

Critics of merger and acquisition (M&A) activity by large tech firms include not only Sen. Klobuchar but also Republicans such as Sen. [Josh Hawley](https://thehill.com/people/joshua-josh-hawley) (R-Mo.). Hawley recent [offered an amendment](https://www.axios.com/josh-hawley-big-tech-merger-ban-1467081d-216c-45a2-9d09-9416dfbde330.html) to a budget bill that would preemptively prohibit mergers and acquisitions by dominant online firms. Klobuchar and Hawley believe that M&A skews the market in favor of today’s largest firms, entrenching their market power and discouraging innovation.

History teaches a different lesson. Consider DirecTV and Skype, both once considered innovative market leaders in their respective fields of satellite TV and internet telephony. Both firms stumbled, however, and they might not even be with us today without creative business deals. DirecTV has been partially or fully controlled by Hughes Electronics, News Corp., Liberty Media and now AT&T. Skype has swapped hands multiple times, moving from eBay, to a private investment firm and now to Microsoft.

These were complex deals, and some didn’t work, leading to divestitures. But each was a learning experience that illustrated how dynamic media and technology markets can be with firms constantly searching for value-added arrangements that serve their customers and shareholders. If we make this type of activity presumptively illegal, we’re imagining that government bureaucrats are better suited to make these calls than businesspeople and the consumers who choose whether or not to buy the product.

Worse yet, legal tests like those Klobuchar proposes – “conduct that materially disadvantages potential competitors” – are remarkably open-ended and could be easily abused. The system will be gamed by opponents of deals for business reasons. They will claim that their own failure to attract investors or customers must all be the fault of more creative rivals. That’s a recipe for cronyism and economic stagnation.

Those who worry about today’s largest tech giants becoming supposedly unassailable monopolies should consider how similar fears were expressed not so long ago about other tech titans, many of which we laugh about today. Just 14 years ago, headlines [proclaimed](https://www.technewsworld.com/story/55185.html) that “MySpace Is a Natural Monopoly,” and [asked](https://www.theguardian.com/technology/2007/feb/08/business.comment), “Will MySpace Ever Lose Its Monopoly?” We all know how that “monopoly” ceased to exist.

At the same time, pundits [insisted](https://www.marketwatch.com/story/apple-should-pull-the-plug-on-the-iphone) “Apple should pull the plug on the iPhone,” since “there is no likelihood that Apple can be successful in a business this competitive.” The smartphone market of that era was viewed as completely under the control of BlackBerry, Palm, Motorola and Nokia. A few years prior to that, critics lambasted the merger of AOL and TimeWarner as a new [corporate “Big Brother”](http://www.ojr.org/ojr/workplace/1017966109.php?__cf_chl_jschl_tk__=67a5f6a101935b8e3586ca48216d31ba6d4e03de-1612467283-0-AXvbGCtUx-p_N4T-8_2m8OHezQUhQ9kelg9-pVuD6IzKvFfXrllJujU9ERvjqjyIsAeCovUw9bfZqq75_NYasBM87SnQT_027hDJOhjXeowzK1QQH_7vcmr1tS4XgCGC_NNx6UGbAvVgcJNFhSkqkVKKeRJ-BjdDA7Vus-gwmr7wQXcS7KKfTtHyqxdRfureL9alpZHU2IJcbbdYaZpTjTrfcJHCKa8pIZcdiScjaRJmON9X1Ip20Vuv7tyDHbZSvcrn88WrY_9N_qBpKvZhQ4PAe90w5Fx5iHjjNIzoNMKSpToTFGLbPdqawgge9PVubSQbkS7xXDXxCBMA2Sh-Y_U) that would decimate digital diversity and online competition.

Today, we know these tales of the apocalypse ended up instead becoming case studies in the continuing power of “creative destruction.” New innovations and players emerged from many unexpected quarters, decimating whatever dreams of continued domination the old giants once had.

Today’s biggest players face similar pressures, and it’s better to let rivalry and innovation emerge organically, not through the wrecking ball of heavy-handed antitrust regulation.

#### Extinction---recovery caps numerous geopolitical crises.

Baird ’20 [Zoe; October 2020; C.E.O. and President of the Markle Foundation, Member of the Aspen Strategy Group and former Trustee at the Council on Foreign Relations, J.D. and A.B. from the University of California at Berkeley; Domestic and International (Dis)order: A Strategic Response, “Equitable Economic Recovery is a National Security Imperative,” Ch. 13]

A strong and inclusive economy is essential for American national security and global leadership. As the nation seeks to return from a historic economic crisis, the national security community should support an equitable recovery that helps every worker adapt to the seismic shifts underway in our economy.

Broadly shared economic prosperity is a bedrock of America’s economic and political strength—both domestically and in the international arena. A strong and equitable recovery from the economic crisis created by COVID-19 would be a powerful testament to the resilience of the American system and its ability to create prosperity at a time of seismic change and persistent global crisis. Such a recovery could attack the profound economic inequities that have developed over the past several decades. Without bold action to help all workers access good jobs as the economy returns, the United States risks undermining the legitimacy of its institutions and its international standing. The outcome will be a key determinant of America’s national security for years to come.

An equitable recovery requires a national commitment to help all workers obtain good jobs—particularly the two-thirds of adults without a bachelor’s degree and people of color who have been most affected by the crisis and were denied opportunity before it. As the nation engages in a historic debate about how to accelerate economic recovery, ambitious public investment is necessary to put Americans back to work with dignity and opportunity. We need an intentional effort to make sure that the jobs that come back are good jobs with decent wages, benefits, and mobility and to empower workers to access these opportunities in a profoundly changed labor market.

To achieve these goals, American policy makers need to establish job growth strategies that address urgent public needs through major programs in green energy, infrastructure, and health. Alongside these job growth strategies, we need to recognize and develop the talents of workers by creating an adult learning system that meets workers’ needs and develops skills for the digital economy. The national security community must lend its support to this cause. And as it does so, it can bring home the lessons from the advances made in these areas in other countries, particularly our European allies, and consider this a realm of international cooperation and international engagement.

Shared Economic Prosperity Is a National Security Asset

A strong economy is essential to America’s security and diplomatic strategy. Economic strength increases our influence on the global stage, expands markets, and funds a strong and agile military and national defense. Yet it is not enough for America’s economy to be strong for some—prosperity must be broadly shared. Widespread belief in the ability of the American economic system to create economic security and mobility for all—the American Dream— creates credibility and legitimacy for America’s values, governance, and alliances around the world.

After World War II, the United States grew the middle class to historic size and strength. This achievement made America the model of the free world—setting the stage for decades of American political and economic leadership. Domestically, broad participation in the economy is core to the legitimacy of our democracy and the strength of our political institutions. A belief that the economic system works for millions is an important part of creating trust in a democratic government’s ability to meet the needs of the people.

The COVID-19 Crisis Puts Millions of American Workers at Risk

For the last several decades, the American Dream has been on the wane. Opportunity has been increasingly concentrated in the hands of a small share of workers able to access the knowledge economy. Too many Americans, particularly those without four-year degrees, experienced stagnant wages, less stability, and fewer opportunities for advancement.

Since COVID-19 hit, millions have lost their jobs or income and are struggling to meet their basic needs—including food, housing, and medical care.1 The crisis has impacted sectors like hospitality, leisure, and retail, which employ a large share of America’s most economically vulnerable workers, resulting in alarming disparities in unemployment rates along education and racial lines. In August, the unemployment rate for those with a high school degree or less was more than double the rate for those with a bachelor’s degree.2 Black and Hispanic Americans are experiencing disproportionately high unemployment, with the gulf widening as the crisis continues.3

The experience of the Great Recession shows that without intentional effort to drive an inclusive recovery, inequality may get worse: while workers with a high school education or less experienced the majority of job losses, nearly all new jobs went to workers with postsecondary education. Inequalities across racial lines also increased as workers of color worked in the hardest-hit sectors and were slower to recover earnings and income than White workers.4

The Case for an Inclusive Recovery

A recovery that promotes broad economic participation, renewed opportunity, and equity will strengthen American moral and political authority around the world. It will send a strong message about the strength and resilience of democratic government and the American people’s ability to adapt to a changing global economic landscape. An inclusive recovery will reaffirm American leadership as core to the success of our most critical international alliances, which are rooted in the notion of shared destiny and interdependence. For example, NATO, which has been a cornerstone of U.S. foreign policy and a force of global stability for decades, has suffered from American disengagement in recent years. A strong American recovery—coupled with a renewed openness to international collaboration—is core to NATO’s ability to solve shared geopolitical and security challenges. A renewed partnership with our European allies from a position of economic strength will enable us to address global crises such as climate change, global pandemics, and refugees. Together, the United States and Europe can pursue a commitment to investing in workers for shared economic competitiveness, innovation, and long-term prosperity.

The U.S. has unique advantages that give it the tools to emerge from the crisis with tremendous economic strength— including an entrepreneurial spirit and the technological and scientific infrastructure to lead global efforts in developing industries like green energy and biosciences that will shape the international economy for decades to come.

### 1NC – Politics DA

#### Biden will shepherd though social spending just like infrastructure—it solves climate change.

Rosenstein 11—11—(staff writer). Peter Rosenstein. November 11, 2021. Washington Blade. “Biden has won big twice — third win will come soon”. <https://www.washingtonblade.com/2021/11/11/biden-has-won-big-twice-third-win-will-come-soon/>. 11/11/21.

Last week President Biden got a big win when the House passed the hard infrastructure bill. We shouldn’t forget it was his second big win; the first came in March when Democrats passed the Coronavirus Relief Bill. In the weeks ahead he will get his third big win when Democrats pass a version of the Build Back Better bill doing more for children, the elderly, the middle-class, and the poor; giving help to those living in rural communities. Democrats must remind people after four years of failed ‘infrastructure weeks’ under Trump and Republican control, President Biden delivered on his promise to work across the aisle and shepherded through a historic investment in our nation’s infrastructure.

Democrats must stop talking about these bills in terms of cost and what was left out and rather talk about all the great programs in the bills and how they will lift people out of poverty, keep businesses from going under, and are rebuilding our economy.

These bills are about creating jobs, the infrastructure bill alone will create 2 million good-paying new jobs a year for 10 years. It will allow us to rebuild our roads and bridges, and expand broadband so every American has access to high-speed internet. As President Biden said, “This bill is for the kids in rural communities who now have to do their homework in the McDonald’s parking lot because they don’t have WiFi. This bill is for families who have to boil their water to make it safe to drink. This bill is for those who rely on rail to get back and forth to work. This bill is for Americans who care about our climate. And yes, this bill is for the elderly man I met years ago in rural South Carolina, who just wanted his damn dirt road paved.”

Most Americans, whatever their politics, agree it was past time to invest in rebuilding our nation’s infrastructure. They understand it is a major step in growing our economy and will give people in every community, large and small, rural and big cities, the chance to compete and succeed.

Americans can now look forward to the Build Back Better Bill, which will go a long way in fighting climate change, keeping children out of poverty, provide universal early childhood education, help keep the elderly in their homes, reduce the cost of some drugs, and so much more.

Recently Abigail Spanberger (D-Va.), a more moderate Democrat, spoke about President Biden saying to the New York Times, “Nobody elected him to be FDR they elected him to be normal and stop the chaos.” Well that is true for many voters who might just be happy they don’t have to wake up each morning to another nasty tweet, more craziness, and endless lies.

Yet many Democrats, independents and Republicans voted for him to do that, but so much more. They can now celebrate President Biden and Democrats in Congress having done much more. They have passed, and will continue to pass, legislation giving all Americans a chance to succeed. They have lifted children out of poverty and given each parent hope for a better future for themselves and their children.

They’ve given many a chance at a high-paying job and given all of us the chance to move on from the pandemic and return to a more normal life.

Democrats need to move on from fighting each other, join hands, and fight Republicans who opposed doing any of this by opposing any legislation to help all Americans. They need to recognize the American public as a whole is moderate. They want change and to move forward but understand compromise.

Democrats must find the right words to explain in detail what has been accomplished and how it will benefit families. To explain what Democrats have done by keeping their promise and making life a little better for all Americans.

There is still much work to be done — defending a woman’s right to choose, passing voting rights legislation, and protections for all minorities including the LGBTQ community. In the next year Democrats must convince Americans they can only continue to move the country forward if they allow them to keep control of Congress.

#### Antitrust requires PC—that trades off

Carstensen 21 [Peter; February 2021; Fred W. & Vi Miller Chair in Law Emeritus at the University of Wisconsin Law School; Concurrences, “The ‘Ought’ and ‘Is Likely’ of Biden Antitrust,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en#carstensen>]

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities.

15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate!

16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### It causes extinction.

Dunlop 17. (Ian Dunlop chaired the Australian Coal Association in 1987-88, chaired the Australian Greenhouse Office Experts Group on Emissions Trading from 1998-2000 and was CEO of the Australian Institute of Company Directors from 1997-2001. He has a particular interest in the interaction of corporate governance, corporate responsibility and sustainability. An engineer by qualification, he holds an MA (Mechanical Sciences) degree from the University of Cambridge, he is a Fellow of the Australian Institute of Company Directors, the Australasian Institute of Mining and Metallurgy, and the Energy Institute (UK), and a Member of the Society of Petroleum Engineers of AIME (USA). He also chairs the Australian National Wildlife Collection Foundation. David Spratt is a Research Director for Breakthrough and co-author of Climate Code Red: The case for emergency action (Scribe 2008). His recent reports include Recount: It’s time to “Do the math” again; Climate Reality Check and Antarctic Tipping Points for a Multi-metre Sea-level Rise. A Failure of Imagination on Climate Risks. July 26, 2017. www.resilience.org/stories/2017-07-26/a-failure-of-imagination-on-climate-risks/)

Climate change is an existential risk that could abruptly end human civilisation because of a catastrophic “failure of imagination” by global leaders to understand and act on the science and evidence before them. At the London School of Economics in 2008, Queen Elizabeth questioned: “Why did no one foresee the timing, extent and severity of the Global Financial Crisis?” The British Academy answered a year later: “A psychology of denial gripped the financial and corporate world… [it was] the failure of the collective imagination of many bright people… to understand the risks to the system as a whole”. A “failure of imagination” has also been identified as one of the reasons for the breakdown in US intelligence around the 9/11 attacks in 2001. A similar failure is occurring with climate change today. The problem is widespread at the senior levels of government and global corporations. A 2016 report, Thinking the unthinkable, based on interviews with top leaders around the world, found that: “A proliferation of ‘unthinkable’ events… has revealed a new fragility at the highest levels of corporate and public service leaderships. Their ability to spot, identify and handle unexpected, non-normative events is… perilously inadequate at critical moments… Remarkably, there remains a deep reluctance, or what might be called ‘executive myopia’, to see and contemplate even the possibility that ‘unthinkables’ might happen, let alone how to handle them. Such failures are manifested in two ways in climate policy. At the political, bureaucratic and business level in underplaying the high-end risks and in failing to recognise that the existential risk of climate change is totally different from other risk categories. And at the research level in underestimating the rate of climate change impact and costs, along with an under-emphasis on, and poor communication of, those high-end risks. Existential risk An existential risk is an adverse outcome that would either annihilate intelligent life or permanently and drastically curtail its potential. For example, a big meteor impact, large-scale nuclear war, or sea levels 70 metres higher than today. Existential risks are not amenable to the reactive (learn from failure) approach of conventional risk management, and we cannot necessarily rely on the institutions, moral norms, or social attitudes developed from our experience with managing other sorts of risks. Because the consequences are so severe — perhaps the end of human global civilisation as we know it — researchers say that “even for an honest, truth-seeking, and well-intentioned investigator it is difficult to think and act rationally in regard to… existential risks”. Yet the evidence is clear that climate change already poses an existential risk to global economic and societal stability and to human civilisation that requires an emergency response. Temperature rises that are now in prospect could reduce the global human population by 80% or 90%. But this conversation is taboo, and the few who speak out are admonished as being overly alarmist. Prof. Kevin Anderson considers that “a 4°C future [relative to pre-industrial levels] is incompatible with an organized global community, is likely to be beyond ‘adaptation’, is devastating to the majority of ecosystems, and has a high probability of not being stable”. He says: “If you have got a population of nine billion by 2050 and you hit 4°C, 5°C or 6°C, you might have half a billion people surviving”. Asked at a 2011 conference in Melbourne about the difference between a 2°C world and a 4°C world, Prof. Hans Joachim Schellnhuber replied in two words: “Human civilisation”.

### 1NC – T Per Se

TOPICALITY:

#### ‘Prohibiting’ a practice requires per se illegality.

Lee Mendelsohn 6, Director at Edward Nathan, “KIPA Conduct Amounts to Price Fixing”, Business Day (South Africa), 6/12/2006, Lexis

The first step in any competition law analysis is to define the relevant market. There are two components to an analysis of the relevant market, namely the relevant product market and the geographic market.

The relevant product market consists of those products and services that operate as a competitive constraint on the behaviour of the suppliers of those products and/or services.

The relevant product market is determined by ascertaining whether a small but significant non-transient increase in pricing of the product in question would cause buyers to substitute the product with another product or would cause suppliers of other products to begin producing the product in question.

The relevant geographic market is determined by ascertaining whether a small but significant non-transient increase in pricing of the product in question would cause buyers to purchase the product from other geographic areas, alternatively suppliers of the product in other geographic areas to supply those products into the area in question.

For the purposes of this case study, we are instructed to accept that each medical speciality constitutes a relevant product market and that the relevant geographic market for each of them is Kleindorpie.

The Competition Act provides that "an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if … it involves … directly or indirectly fixing a purchase or selling price or any other trading condition".

An "agreement" is defined as including a contract, arrangement or understanding, whether or not legally enforceable. The term agreement is very widely defined. A "horizontal relationship" is defined as a "relationship between competitors".

The prohibition on the fixing of a purchase or selling price or any other trading condition is one of the so-called "per se" prohibitions which are included in our Competition Act. The prohibition is automatic and absolute and the fixing of prices or other trading condition cannot be justified on the basis of any technological, efficiency or other procompetitive gains that could outweigh the potential anticompetitive effect of the fixing of the price or trading condition. If the capitation plan of KIPA falls within the restrictive horizontal practice prohibiting price fixing and the fixing of other trading conditions, such practice will be a contravention of the act.

Limits---many standards, requiring distinct answers, make the topic unmanageable.

Ground---fringe standards dodge links and allow bidirectional permissiveness.

## Inequality Adv

### 1NC – Circumvention

#### Even new laws fail—courts refuse to enforce, including SCOTUS

Newman 19 [John Newman is a University of Miami School of Law professor and a former attorney with the U.S. Department of Justice Antitrust Division, "What Democratic Contenders Are Missing in the Race to Revive Antitrust", 4/1/19, https://www.theatlantic.com/ideas/archive/2019/04/what-2020-democratic-candidates-miss-about-antitrust/586135/]

But the federal courts represent a massive stumbling block for any progressive antitrust movement. Reformers have identified two paths forward; both lead eventually to the court system. The first is relatively moderate: appoint regulators who will actually enforce the laws already on the books. Warren’s plan rests in part on this straightforward idea. The second, more audacious path requires congressional action to amend and strengthen our current laws. Warren’s call for a new ban on technology companies’ buying and selling via their own platforms falls into this category. Klobuchar has also proposed new antitrust legislation that would make it easier to block harmful mergers and acquisitions.

But no matter its content, enforcing a law requires persuading a judge. When it comes to U.S. antitrust laws, federal judges—not Congress, and not regulatory agencies—are the ultimate arbiters. The Department of Justice Antitrust Division, one of our two public enforcement agencies, files all its cases in federal courts. And although the Federal Trade Commission (the other) can decide cases internally, the inevitable appeals eventually end up in court as well.

No matter how strongly worded a law may be, ideologically driven judges can usually find a way around enforcing it. The cyclical history of U.S. antitrust law is proof that judges wield nearly limitless institutional power in this area.

Soon after Congress passed the Sherman Act in 1890, a conservative Supreme Court began to chip away at its effectiveness. Congress reacted in 1914 with the Clayton Act, which sought to ban anticompetitive mergers. In 1936, at the height of the New Deal era, Congress passed the Robinson-Patman Act, which prohibits price discrimination (charging different prices to different buyers for the same product). These laws were actively enforced for decades.

But starting in the late 1970s, conservative judges began to erode the Clayton Act. Today, megamergers among competitors such as Bayer and Monsanto barely raise eyebrows. So-called vertical mergers, which combine suppliers and their customers, are now all but immune from antitrust enforcement—see the DOJ’s failed challenge to AT&T and Time Warner’s recent tie-up.

Under the business-friendly Roberts Court, the Robinson-Patman Act has similarly been eviscerated. By the 2000s, the ideas of the conservative Chicago School had become mainstream in antitrust circles. Robinson-Patman, a law intended to protect small businesses, was an easy target for Chicago School critics narrowly focused on efficiency and low consumer prices. Their attacks found a receptive audience in the federal judiciary. Among insiders, Robinson-Patman is now known as “zombie law.” It remains on the books, but regulators no longer bother trying to enforce it.

If Democrats want to change antitrust law, they will first and foremost need to change the judges who apply it. Yet none of the 2020 contenders championing antitrust reform have even mentioned the possibility of appointing progressive antitrust thinkers to the bench.

Conservatives, on the other hand, have long recognized the centrality of antitrust to broader questions about the apportionment of power in society. In his seminal work, The Antitrust Paradox, Robert Bork called antitrust a “microcosm in which larger movements of our society are reflected.” Battles fought in this arena, Bork wrote, “are likely to affect the outcome of parallel struggles in others.” Strong antitrust enforcement keeps powerful monopolies in check. Toothless antitrust allows the unlimited accumulation of corporate power.

Recognizing the high stakes, the Republican Party has gone to great lengths to appoint conservative antitrust experts to the federal judiciary. Bork was an antitrust professor at Yale Law School before becoming an appellate judge in 1982.\* Frank Easterbrook practiced and taught antitrust before donning the black robe in 1985. Douglas Ginsburg served as the head of the Justice Department’s Antitrust Division before he became a federal judge in 1986. None of the three managed to join the Supreme Court, but not for lack of trying. Reagan nominated both Bork and Ginsburg to serve as justices, though Ginsburg withdrew and Bork was famously rejected after a contentious Senate hearing.

And whom did the GOP select as its very first U.S. Supreme Court nominee during the Trump Administration? None other than Neil Gorsuch, who practiced antitrust law for more than a decade before joining the Tenth Circuit. Even as a judge, Gorsuch continued to teach a law-school course on antitrust until his confirmation to the Supreme Court in 2017.

Once upon a time, progressives demonstrated similar concern about judicial treatment of antitrust laws. Justice Stephen Breyer, for example, served as special assistant to the head of the DOJ Antitrust Division before his judicial appointment by President Jimmy Carter. Earlier still, Justice John Paul Stevens was an antitrust lawyer, scholar, and professor before his appointment to the bench.

Today’s Democratic 2020 hopefuls seem to have forgotten the lessons of history. Their antitrust proposals focus exclusively on appointing the right regulators and amending our current statutes. These are right-minded ideas, but they overlook the central role judges play in our political system.

There is an old saying in the legal community: “Hard cases make bad law.” That may be true, but it is just as often the case that bad judges make bad law. Real antitrust reform will require more than regulatory and legislative tweaks; it will require the right judges.

#### Antitrust fails – history, resources, and political opposition

Jones 20 [Alison Jones, Professor of Law at King's and a solicitor at Freshfields Bruckhaus Deringer LLP. William E. Kovacic, George Mason University Foundation Professor at the George Mason University School of Law. “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy.” 2020. https://journals.sagepub.com/doi/pdf/10.1177/0003603X20912884]

The proponents of change have set out a breathtaking agenda for reform. The various papers and reports are powerfully reasoned and argued but devote relatively little attention to the question of how their proposals can be achieved successfully. Rather many of them seem to be predicated on the assumption that any legislative changes required can be introduced rapidly and that the new, more aspiring, program can be driven home straightforwardly by agencies led by courageous leaders and supported by a larger staff that shares the vision for fundamental change.

The discussion below, and history, seems to indicate, however, that more courage and more people will not necessarily overcome the implementation obstacles that stand in the way of a program that requires the rapid prosecution of a large number of complex cases against well-resourced and powerful companies. Indeed, the criticisms levied at the current system, the proposals for more effective enforcement and reform, and the scale of the action being demanded bear some resemblance to those that led to a more re-invigorated and aggressive antitrust enforcement policy in the 1960s and early 1970s. For example, at that time complaints that the FTC was in decay, was obsessed with trivial cases and failing to address matters of economic importance, anticompetitive conduct, and rising concentration,77 led the FTC to embark on a new, bold, and astoundingly broad enforcement program.78 In an effort to meet criticisms of it as a shambolic and failing institution, the FTC sought to upgrade its processes for policy planning, made concerted efforts to improve its human capital in management and case handling, and sought to improve substantive processes and the quality of its competition and consumer protection analysis.

In the end, FTC’s efforts to improve capability proved insufficient to support the expanded enforcement agenda, partly because the Commission failed to formulate an adequate plan to overcome the full range of implementation obstacles. The FTC seriously overreached because it did not grasp, or devise strategies to deal with, the scale and intricacies of its expanded program of cases and trade regulation rules, the ferocious opposition that big cases with huge remedial stakes would provoke from large defendants seeking to avoid divestitures, compulsory licensing, or other measures striking at the heart of their business, and the resources required to deliver good results. The Commission lacked the capacity to run novel shared monopoly cases that sought the break-up of the country’s eight leading petroleum refiners and four leading breakfast cereal manufacturers79 and simultaneously pursue an abundance of other high stake, difficult matters involving monopolization, distribution practices, and horizontal collaboration. The FTC also overlooked swelling political opposition, stoked by the vigorous lobbying of Congress, that its aggressive litigation program provoked.80

New legislation envisaged by reform advocates could ease the path for current government agencies seeking to reduce excessive levels of industrial concentration by arresting anticompetitive behavior of dominant enterprises (through interim and permanent relief) and by blocking mergers that pose incipient threats to competition. It seems clear, however, that such dramatic legislative proposals are likely to be fiercely contested through the legislative process and so will take time, and be difficult, to enact. Further, even if armed with a more powerful mandate, the DOJ and the FTC will still have to bring what are likely to be challenging cases applying the new laws (see Section F). The adoption, setting up, and bedding in of new legislation or regulatory structures and bodies is therefore unlikely to happen very quickly and is, consequently, unlikely to meet the demands of those seeking urgent and immediate action now.

These difficulties suggest that for the near future, at least, the agencies will have to achieve successful extensions of policy mainly through launching themselves into a number of lengthy, complex investigations and litigation based on the current regime. This means establishing violations under existing judicial interpretations of the antitrust laws and making a convincing case for the imposition of effective remedies, including structural relief.

### 1NC – D

#### Demographic shifts lock in long term labor power.

Irwin ’21 [Neil; June 5; senior economics correspondent; New York Times, “Workers Are Gaining Leverage Over Employers Right Before Our Eyes,” <https://www.nytimes.com/2021/06/05/upshot/jobs-rising-wages.html>; KP]

Yet in key respects, the shift builds on changes already underway in the tight labor market preceding the pandemic, when the unemployment rate was 4 percent or lower for two straight years.

That follows decades in which union power declined, unemployment was frequently high and employers made an art out of shifting work toward contract and gig arrangements that favored their interests over those of their employees. It would take years of change to undo those cumulative effects.

But the demographic picture is not becoming any more favorable for employers eager to fill positions. Population growth for Americans between ages 20 and 64 turned negative last year for the first time in the nation’s history. The Congressional Budget Office projects that the potential labor force will grow a mere 0.3 percent to 0.4 percent annually for the remainder of the 2020s; the size of the work force rose an average of 0.8 percent a year from 2000 to 2020.

An important question for the overall economy is whether employers will be able to create conditions attractive enough to coax back in some of the millions of working-age adults not currently part of the labor force. Depending on your view of the causes, the end of expanded pandemic-era jobless benefits might also have an effect. Some businesses may need to raise prices or retool how they operate; others may be forced to close entirely.

Higher wages are part of the story. The jobs report issued on Friday showed that average hourly earnings for nonmanagerial workers were 1.3 percent higher in May than two months earlier. Other than in a brief period of statistical distortions early in the pandemic, that is the strongest two-month gain since 1983.

But wages alone aren’t enough, and firms seem to be finding it in their own best interest to seek out workers across all strata of society, to the benefit of people who have missed out on opportunity in the last few decades.

“I’ve been doing this a long time and have never felt more excited and more optimistic about the level of creative investment on this issue,” said Bertina Ceccarelli, chief executive of NPower, a nonprofit aimed at helping military veterans and disadvantaged young adults start tech industry careers. “It’s an explosive moment right now.”

In effect, an entire generation of managers that came of age in an era of abundant workers is being forced to learn how to operate amid labor scarcity. That means different things for different companies and workers — and often involves strategies more elaborate than simply paying a signing bonus or a higher hourly wage.

At the high end of the labor market, that can mean workers are more emboldened to leave a job if employers are insufficiently flexible on issues like working from home.

### 1NC – AT: Slow Growth

#### Slow growth is inevitable AND has no impact.

Dietrich Vollrath 20, Professor of economics at the University of Houston, "Slow economic growth is a sign of success," USAPP, 02/22/2020, https://blogs.lse.ac.uk/usappblog/2020/02/22/slow-economic-growth-is-a-sign-of-success/.

We’re accustomed to looking at the growth rate of GDP to evaluate the health of our economy. Which is why the recent slowdown in growth appears so troubling. In the US, GDP growth for 2019 was 2.3%, meaning it has been nineteen years since growth hit 4%, and nearly as long since it touched 3%. For the UK the story is similar, as it has been fifteen years since growth hit 3%. In the Eurozone as a whole, growth last came close to 4% in 2000. These slowdowns across developed economies predates the financial crisis, and leads to natural questions: what went wrong with the economy, and how do we fix it?

But the slowdown we’re observing isn’t something we can fix – or that we would want to fix – because the slowdown was never a consequence of things that went wrong. Instead, as I show my new book, the slowdown is a consequence of things that went right.

From a simple accounting perspective, there are two main factors behind slower growth: the fall in fertility during the 20th century, and the shift of our expenditures away from goods and towards services. And both of those explanations can be traced back to economic success.

The fall in fertility had a significant impact on economic growth for decades, particularly in the US. The baby boom generated a one-time wave of human capital that hit the economy during the middle of the 20th century. As those new workers hit the workforce, the proportion of workers to population rose substantially, as evidenced by the fall in the youth dependency ratio between 1960 and 1980 (see Figure 1). Combined with the relatively high educational attainment of the baby boomers compared to prior generations, this provided a substantial boost to the growth rate, increasing it around 1.25 percentage points in 1990 compared to immediately after World War II.

As that wave of human capital receded, so did the growth rate. Starting in the early 2000s, the old age dependency ratio started to rise (see Figure 1) the inevitable consequence of the drop in youth dependency back in the 1960s and 1970s. As workers aged out of the workforce – and continue to do so – this dragged down the growth rate of the aggregate economy. That 1.25 percentage point boost during the 20th century disappeared in the 21st, explaining most of the slowdown in the US.

But why should we see these demographic shifts as a success? The drop in fertility after the baby boom which explains the shifts was driven by several successes. Expanded access to college education pushed back the age at which people were willing to marry. The opening up of many professions to women, along with growth in overall wages, meant that it made sense for many women to delay marriage. Finally, advances in contraceptive technology meant it was possible for women to take advantage of the new educational and professional opportunities that arose. The growth slowdown today is a consequence of family decisions made decades ago in response to rising living standards and the expansion of women’s rights.

The second source of the slowdown, the shift from goods towards services, was also driven by success. In the past one hundred years we became incredibly efficient at producing goods like clothes, food, furniture, and computers. The consequence was a steady reduction in the price of those goods relative to services. We could have used that reduction to buy even more goods than we did, but instead we took advantage of the savings to purchase more services like education, healthcare, and travel. Therefore the composition of our expenditures shifted away from goods and towards services (see Figure 2). We still consume more goods than before; it is just that they got so cheap that their share of our total expenditure fell relative to services.

This had a consequence for overall economic growth, however. Productivity growth in services is lower than for goods. That wasn’t a failure of services in the last few years. It appears to be an inherent quality noted by economist William Baumol in the 1960s. If a restaurant — a service — tried to operate with half their normal staff, you’d complain about the slow service and lack of attention. In comparison, if a manufacturer produced a laptop – a good – with half as much labour, you’d never know. This makes productivity growth harder for services than for goods. As we shifted expenditures towards services, aggregate productivity growth was thus bound to fall. Between the middle of the 20th century and today, that probably shaved another 0.2 to 0.25 percentage points off of the growth rate. But note that this only happened because of the productivity growth we experienced in the first place, a success.

Relative to the successes in the demographic shifts and spending shifts, the usual suspects are not capable of explaining the growth slowdown. Tax rates fell right as the slowdown started, and evidence from across states and industries shows that, if anything, more regulation was associated with faster growth, not slower. Trade with China exploded in the last twenty years, but evidence suggests that this had little effect on growth for the economy as a whole, even though individual regions and industries saw booms or busts. Economy-wide measures of the mark-up of price over cost rose, but it turns out that this didn’t lower growth. The shift of activity to high mark-up industries kept economic growth rates from falling even further than they did, as it meant we produced more valuable products.

If you’re still uncertain that the growth slowdown is a consequence of success, ask yourself what you’d give up to bring growth back to 4%. We could destroy half of all our goods: cars, couches, TVs, laptops, houses, trampolines, and so on. That would lead to a massive shift of spending towards goods as we scrambled to replace everything, and we’d see a jump in productivity growth. Alternatively, we could roll back contraceptive rights and women’s participation in the workforce in the hopes of starting a new baby boom. Wait twenty years and we’d have another surge of human capital into the economy. Would either of those be worth it just to see growth hit 4% again, perhaps not until 2040? Assuming the answer is “no”, that tells us the growth slowdown happened because of things that went right, things we would not sacrifice.

#### Alt causes to LIO – Trump decked it, China SCS claims, populism in Turkey and Eastern Europe

#### No liberal order or SOI impact---states won’t risk war, err towards isolation, AND mediate ties economically.

Mueller ’21 [John; February 17; Adjunct Professor of Political Science and Senior Research Scientist at the Mershon Center for International Security Studies; The Stupidity of War: American Foreign Policy and the Case for Complacency, “The Rise of China, the Assertiveness of Russia, and the Antics of Iran,” Ch. 6]

Complacency, Appeasement, Self-destruction, and the New Cold War

It could be argued that the policies proposed here to deal with the international problems, whether real or imagined, presented by China, Russia, and Iran constitute exercises not only in complacency, but also in appeasement. That argument would be correct. As discussed in the Prologue to this book, appeasement can work to avoid military conflict as can be seen in the case of the Cuban missile crisis of 1962. As also discussed there, appeasement has been given a bad name by the experience with Hitler in 1938.

Hitlers are very rare, but there are some resonances today in Russia’s Vladimir Putin and China’s Xi Jinping. Both are shrewd, determined, authoritarian, and seem to be quite intelligent, and both are fully in charge, are surrounded by sychophants, and appear to have essentially unlimited tenure in office. Moreover, both, like Hitler in the 1930s, are appreciated domestically for maintaining a stable political and economic environment. However, unlike Hitler, both run trading states and need a stable and essentially congenial international environment to flourish.128 Most importantly, except for China’s claim to Taiwan, neither seems to harbor Hitler-like dreams of extensive expansion by military means. Both are leading their countries in an illiberal direction which will hamper economic growth while maintaining a kleptocratic system. But this may be acceptable to populations enjoying historically high living standards and fearful of less stable alternatives. Both do seem to want to overcome what they view as past humiliations – ones going back to the opium war of 1839 in the case of China and to the collapse of the Soviet empire and then of the Soviet Union in 1989–91 in the case of Russia. Primarily, both seem to want to be treated with respect and deference. Unlike Hitler’s Germany, however, both seem to be entirely appeasable. That scarcely seems to present or represent a threat. The United States, after all, continually declares itself to be the indispensable nation. If the United States is allowed to wallow in such self-important, childish, essentially meaningless, and decidedly fatuous proclamations, why should other nations be denied the opportunity to emit similar inconsequential rattlings? If that constitutes appeasement, so be it. If the two countries want to be able to say they now preside over a “sphere of influence,” it scarcely seems worth risking world war to somehow keep them from doing so – and if the United States were substantially disarmed, it would not have the capacity to even try.

If China and Russia get off on self-absorbed pretensions about being big players, that should be of little concern – and their success rate is unlikely to be any better than that of the United States. Charap and Colton observe that “The Kremlin’s idee fixe that Russia needs to be the leader of a pack of post-Soviet states in order to be taken seriously as a global power broker is more of a feel-good mantra than a fact-based strategy, and it irks even the closest of allies.” And they further suggest that

The towel should also be thrown in on the geo-ideational shadow-boxing over the Russian assertion of a sphere of influence in post-Soviet Eurasia and the Western opposition to it. Would either side be able to specify what precisely they mean by a regional sphere of influence? How would it differ from, say, US relations with the western-hemisphere states or from Germany’s with its EU neighbors?129

Applying the Gingrich gospel, then, it certainly seems that, although China, Russia, and Iran may present some “challenges” to US policy, there is little or nothing to suggest a need to maintain a large US military force-in-being to keep these countries in line. Indeed, all three monsters seem to be in some stage of self-destruction or descent into stagnation – not, perhaps, unlike the Communist “threat” during the Cold War. Complacency thus seems to be a viable policy.

However, it may be useful to look specifically at a couple of worst-case scenarios: an invasion of Taiwan by China (after it builds up its navy more) and an invasion of the Baltic states of Estonia, Lithuania, and Latvia by Russia. It is wildly unlikely that China or Russia would carry out such economically self-destructive acts: the economic lessons from Putin’s comparatively minor Ukraine gambit are clear, and these are unlikely to be lost on the Chinese. Moreover, the analyses of Michael Beckley certainly suggest that Taiwan has the conventional military capacity to concentrate the mind of, if not necessarily fully to deter, any Chinese attackers. It has “spent decades preparing for this exact contingency,” has an advanced early warning system, can call into action massed forces to defend “fortified positions on home soil with precision-guided munitions,” and has supply dumps, booby traps, an wide array of mobile missile launchers, artillery, and minelayers. In addition, there are only 14 locations that can support amphibious landing and these are, not surprisingly, well-fortified by the defenders.130

The United States may not necessarily be able to deter or stop military attacks on Taiwan or on the Baltics under its current force levels.131 And if it cannot credibly do so with military forces currently in being, it would not be able to do so, obviously, if its forces were much reduced. However, the most likely response in either eventuality would be for the United States to wage a campaign of economic and military (including naval) harassment and to support local – or partisan – resistance as it did in Afghanistan after the Soviet invasion there in 1979. 132 Such a response does not require the United States to have, and perpetually to maintain, huge forces in place and at the ready to deal with such improbable eventualities.

The current wariness about, and hostility toward, Russia and China is sometimes said to constitute “a new Cold War.”133 There are, of course, considerable differences. In particular, during the Cold War, the Soviet Union – indeed the whole international Communist movement – was under the sway of a Marxist theory that explicitly and determinedly advocated the destruction of capitalism and probably of democracy, and by violence to the degree required. Neither Russia nor China today sports such cosmic goals or is enamored of such destructive methods. However, as discussed in Chapters 1 and 2, the United States was strongly inclined during the Cold War massively to inflate the threat that it imagined the Communist adversary to present. The current “new Cold War” is thus in an important respect quite a bit like the old one: it is an expensive, substantially militarized, and often hysterical campaign to deal with threats that do not exist or are likely to selfdestruct.134

It may also be useful to evaluate terms that are often bandied about in considerations within foreign policy circles about the rise of China, the assertiveness of Russia, and the antics of Iran. High among these is “hegemony.” Sorting through various definitions, Simon Reich and Richard Ned Lebow array several that seem to capture the essence of the concept: domination, controlling leadership, or the ability to shape international rules according to the hegemon’s own interests. Hegemony, then, is an extreme word suggesting supremacy, mastery, preponderant influence, and full control. Hegemons force others to bend to their will whether they like it or not. Reich and Lebow also include a mellower designation applied by John Ikenberry and Charles Kupchan in which a hegemon is defined as an entity that has the ability to establish a set of norms that others willingly embrace.135 But this really seems to constitute an extreme watering-down of the word and suggests opinion leadership or entrepreneurship and success at persuasion, not hegemony.

Moreover, insofar as they carry meaning, the militarized application of American primacy and hegemony to order the world has often been a fiasco.136 Indeed, it is impressive that the hegemon, endowed by definition by what Reich and Lebow aptly call a grossly disproportionate military capacity, has had such a miserable record of military achievement since 1945 – an issue discussed frequently in this book.137 Reich and Lebow argue that it is incumbent on IR scholars to cut themselves loose from the concept of hegemony.138 It seems even more important for the foreign policy establishment to do so.

There is also absurdity in getting up tight over something as vacuous as the venerable “sphere of influence” concept (or conceit). The notion that world affairs are a process in which countries scamper around the world seeking to establish spheres of influence is at best decidedly unhelpful and at worst utterly misguided. But the concept continues to be embraced in some quarters as if it had some palpable meaning. For example, in early 2017, the august National Intelligence Council opined that “Geopolitical competition is on the rise as China and Russia seek to exert more sway over their neighboring regions and promote an order in which US influence does not dominate.”139 Setting aside the issue of the degree to which American “influence” could be said to “dominate” anywhere (we still wait, for example, for dominated Mexico supinely to pay for a wall to seal off its self-infatuated neighbor’s southern border), it doesn’t bloody well matter whether China or Russia has, or seems to have, a “sphere of influence” someplace or other.

More importantly, the whole notion is vapid and essentially meaningless. Except perhaps in Gilbert and Sullivan’s Iolanthe. When members of the House of Lords fail to pay sufficient respect to a group of women they take to be members of a ladies’ seminary who are actually fairies, their queen, outraged at the Lords’ collected effrontery, steps forward, proclaims that she happens to be an “influential fairy,” and then, with a few passes of her wand, brushes past the Lords’ pleas (“no!” “mercy!” “spare us!” and “horror!”), and summarily issues several edicts: a young man of her acquaintance shall be inducted into their House, every bill that gratifies his pleasure shall be passed, members shall be required to sit through the grouse and salmon season, and high office shall be obtainable by competitive examination. Now, that’s influence. In contrast, on December 21, 2017, when the United States sought to alter the status of Jerusalem, the United Nations General Assembly voted to repudiate the US stand in a nearly unanimous vote that included many US allies. Now, that’s not influence.

In fact, to push this point perhaps to an extreme, if we are entering an era in which economic motivations became paramount and in which military force is not deemed a sensible method for pursuing wealth, the idea of “influence” would become obsolete because, in principle, pure economic actors do not care much about influence. They care about getting rich. (As Japan and Germany have found, however, influence, status, and prestige tend to accompany the accumulation of wealth, but this is just an ancillary effect.) Suppose the president of a company could choose between two stories to tell the stockholders. One message would be, “We enjoy great influence in the industry. When we talk everybody listens. Our profits are nil.” The other would be, “No one in the industry pays the slightest attention to us or ever asks our advice. We are, in fact, the butt of jokes in the trade. We are making money hand over fist.” There is no doubt about which story would most thoroughly warm the stockholders’ hearts.

### 1NC – Inequality

#### Inequality’s declining.

Gramm ’21 [Phil and John Early; March 23; a former chairman of the Senate Banking Committee and a visiting scholar at the American Enterprise Institute; served twice as assistant commissioner at the Bureau of Labor Statistics; Wall Street Journal, “Incredible Shrinking Income Inequality,” <https://www.wsj.com/articles/incredible-shrinking-income-inequality-11616517284>; KP]

Twice over the past 50 years, the Census Bureau has significantly changed how it collects and records income statistics. In 1993 and 2013 the Census Bureau changed its methods in an effort to collect better information from high-income households. These changes created two major discontinuities and distorted the time-series so that the change in measured income inequality in those years was as much as 15 times the average annual change found for the entire 50-year period. At the time, the Census Bureau explained in detail what it had done. It also explained the limitations the changes imposed on the use of its income-inequality measure to look at changes over extended periods. In subsequent use of the data by the Census Bureau and others, however, those warnings have been neglected.

The simple solution would have been to isolate the distortions caused solely by the changes in data-collection techniques and adjusted the previous years’ measures to reflect the effect of the changes. We made these adjustments and they are shown in the nearby figure. The blue line is the actual reported Census Bureau measurement of income inequality. The yellow line eliminates the effects of the 1993 and 2013 discontinuities caused solely by changes in measurement technique. The black line shows income inequality when the value of all transfer payments received is counted as income, income is reduced by taxes paid, and the two technical corrections are made.

Lo and behold—income inequality is lower than it was 50 years ago.

The raging debate over income inequality in America calls to mind the old Will Rogers adage: “It ain’t what you don’t know that gets you into trouble. It is what you do know that ain’t so.” We are debating the alleged injustice of a supposedly growing social problem when—for all the reasons outlined above—that problem isn’t growing, it’s shrinking. Those who want to transform the greatest economic system in the history of the world ought to get their facts straight first.

### 1NC – Inequality No war

#### Inequality doesn’t cause war

Elise Must 16, PhD student at LSE, this was her PhD thesis, “When and how does inequality cause conflict? Group dynamics, perceptions and natural resources”, http://etheses.lse.ac.uk/3438/1/Must\_When\_and\_how\_does\_inequality.pdf

Does economic inequality lead to conflict? This question has attracted the attention of prominent scholars at least since the time of Aristotle (Nagel 1974). The frequent assumption that unequal distribution somehow fuels rebellion has resulted in a vast amount of theoretical as well as empirical work. For long, results remained mixed. Despite countless qualitative studies asserting that inequality is a major reason for conflict outbreak, quantitative studies struggled to establish a firm relationship between the two (Blattman and Miguel 2010, Cramer 2005, Lichbach 1989). These quantitative studies, including the most influential ones by Collier and Hoeffler (2004) and Fearon and Laitin (2003), rely on analysis of individual measures of inequality. However, as most prominently set forth by Frances Stewart, it is minority groups or collectives of individuals who rebel, not the whole population, nor individuals (Stewart 2002). Stewart’s theoretical development has given rise to several quantitative studies which uniformly support the role of economic group inequality in inducing conflict (Buhaug, Cederman, and Gleditsch 2014, Cederman, Weidmann, and Bormann 2015, Cederman, Weidmann, and Gleditsch 2011, Deiwiks, Cederman, and Gleditsch 2012, Østby 2008a, b, Østby, Nordås, and Rød 2009). Hence, there is an emerging consensus in the literature that inequality causes civil conflict when it overlaps with relevant group identities. Promising as these studies are, they nevertheless neglect a potential crucial part of the inequality-conflict causal chain. Seemingly all studies of inequality and conflict, including those measuring group inequalities, are based on objective inequalities. Yet, as Stewart (2010, 14) herself notes, ‘People take action because of perceived injustices rather than because of measured statistical inequalities of which they might not be aware’. Economic inequality measured by the Gini coefficient, or by local GDP data, is most commonly used as proxies, leaving completely aside how economic inequality is actually interpreted and perceived by both groups and individuals (ref. Zimmermann 1983). It remains obvious, however, that in order for people to take action to address inequalities, the first step is to recognize them and to consider them unjust (Han et al. 2012). The use then, of objective measures in current empirical studies, is based on the assumption that both objective and perceived horizontal inequalities essentially amount to the same thing. Put another way it is assumed that all objective inequalities are actually perceived as inequalities by relevant groups, and conversely all perceived inequalities have an objective basis. These are strong claims that are so far largely untested. Existing studies of the link between objective and perceived horizontal inequalities range from concluding that there is no such link (Langer and Smedts 2013) to documenting imperfect correlations – ranging from 0.27 to 0.30 depending on indicators and datasets (Holmqvist 2012). While cross-country analyses of conflict have neglected perceptions of inequality, the case study literature does offer some examples demonstrating their importance. Interviewing Muslim immigrants in London and Madrid, Gest (2010, 178) finds that what distinguishes democratic activists from those who engage in anti-system behavior, is the nature of their individual expectations and perceptions about shared economic realities. Moving on to larger conflicts, a recent World Bank report concludes that the so called ‘Arab Spring’ was driven by a decrease in popular subjective satisfaction, while the objective economic situation actually improved in the years before the widespread mobilization (Ianchovichina, Mottaghi, and Shantayanan 2015). The report also points to the importance of inter-group inequality as opposed to individual inequality. My main argument is that in order to better capture the role of inequality in inducing civil conflict, measures have to account for relevant groups as well as for the perception of inequality in these groups. In addition, my analyses fill two other gaps in the literature. While Stewart emphasizes how groups can mobilize around different identities, current studies have almost exclusively focused on ethnic groups. However, a regional identity might be just as relevant (ref. Posner 2004). I will therefor look at the effect of regional economic inequality on civil war. And finally, most of the studies, and all of those with a global scope, rely on time invariant measures of economic horizontal inequality. This is commonly defended by referring to the demonstrated ‘stickiness’ of horizontal inequalities (see e.g. Stewart and Langer 2008, Tilly 1999). Still, a recent study covering 1992 to 2013 demonstrates a global decline of ethnic inequality (Bormann et al. 2016), while Kanbur and Venables (2005) compare case studies of 26 developing countries and conclude that regional inequalities are rising. The data used in this analysis also show that horizontal inequalities change quite substantially over time. Using inequality data from one particular year to analyze decades of conflict incidents is therefore questionable. Hence, my study represents the first time-variant analyses of the effect of both objective and perceived regional inequality on civil war covering developed and developing countries in all world regions14 . Analysing data for the period 1989 to 2014 from the World Values Survey (WVS), I find that countries with a high level of perceived regional economic inequality have an elevated risk of civil war outbreak. On the other hand, mere objective regional economic inequalities do not have any significant effect. The group aspect remains essential, as neither objective nor perceived individual inequality is linked to increased civil conflict risk.

## FTC Adv

### 1NC – FTC Dead

#### FTC is dead

Sisco ’10-5 [Josh; October 5; Legal reporter covering antitrust, former Senior Correspondent at various market analysis firms; The Information, “Staff Exits Complicate FTC Chief Lina Khan’s Agenda,” <https://www.theinformation.com/articles/staff-exits-complicate-ftc-chief-lina-khans-agenda>]

Passing bipartisan legislation to curb the dominance of big tech companies seems doomed in the current Congress. That's what staffers on Capitol Hill, officials at federal antitrust agencies, private lawyers and advocacy groups backing the various bills told me last week during a visit to Washington and New York. They said lawmakers can't seem to agree on how to adjust antitrust laws to handle Google, Apple, Facebook, Amazon and Microsoft.

That leaves the antitrust agencies—the Department of Justice and the Federal Trade Commission—as the arbiters of whether to try to break apart the companies by filing federal court lawsuits against them, as well as whether to block or at least slow down any new acquisitions they want to make.

But the FTC has problems. The politically appointed commissioners who run it are likely to be deadlocked on major decisions for several months at least. And a spate of senior staff departures—with many more likely to come—means its new chair Lina Khan may not have enough bodies to tackle her stated goals, including dismantling parts of Amazon, for some time. To manage an expected increase in cases, she's going to need to hire a lot more like-minded trial lawyers with the experience to stand up in court and win cases.

The takeaway:

* Chopra’s departure could leave FTC deadlocked for months
* Senior merger enforcement lawyers are shopping resumes
* More departures are expected

A deadlocked FTC is inevitable. The Senate on Friday confirmed Rohit Chopra, a current FTC commissioner and a key Khan ally, to take over the Consumer Financial Protection Bureau, which means he will leave the FTC. Until the Senate confirms his replacement—Alvaro Bedoya, a privacy and surveillance expert—to the five-member FTC, a two-to-two deadlock along party lines awaits Khan, depending on what cases she tries to bring. The replacement process could take months. Chopra has one more week left at the FTC, so Khan may push through actions while she still has a three-to-two Democratic majority, though the actions may not be made public right away.

### 1NC – FTC Turn

#### The plan trades off with wins in other areas – causes Facebook loss

Nylen 20 [Leah Nylen, covers antitrust and investigations for POLITICO Pro. Before joining POLITICO, Leah spent eight years covering antitrust at MLex. She has also worked for Bloomberg and Congressional Quarterly and was selected as an Abe Journalist Fellow in 2014 for a reporting project in Japan on price-fixing cartels and cartel deterrence policies. “FTC Suffering a Cash Crunch as it Prepares to Battle Facebook” https://www.politico.com/news/2020/12/10/ftc-cash-facebook-lawsuit-444468]

The agency that just launched a landmark antitrust suit to break up Facebook is so strapped for cash that its leaders have discussed shrinking their staff and warned against taking on more cases.

In a series of emails to all Federal Trade Commission staff, obtained by POLITICO, Executive Director David Robbins said the agency would face a period of “belt tightening” to cut costs — and that filing fewer cases and trimming litigation expenses must be on the table.

“[W]e will either need to bring fewer expert intensive cases or significantly decrease our litigation costs (e.g. experts, transcripts, litigation support contractors, etc.),” Robbins said in an Oct. 29 email.

The emails offer an increasingly dire portrait of the money woes facing the FTC, which has launched a record amount of litigation in the past year even as the pandemic has caused a sharp reduction in the corporate merger filing fees that normally supply about half its budget. The crunch also raises the possibility that the FTC may not have the cash it needs to win its case against Facebook, which is gearing up for an expensive fight, or to take on additional companies like Amazon.

### 1NC – Terror D

#### No nuke terror – people like Allison are hacks

* Two decades of threats haven’t panned out
* Too many things can go wrong:

Getting trusted collaborators

Stealing and transporting guarded material

Getting the top technicians in the world

No ability to test

Skilled detonation crew

All that while attracting zero attention

* Weapons have safety devices, are stored in pieces in different places
* Terrorists are like Bond villains that scheme instead of accomplishing anything
* Most attacks are bombs which don’t even work

Mueller and Stewart 10/29/18 [John Mueller is Woody Hayes Senior Research Scientist, Mershon Center for International Security Studies, and adjunct professor of Political Science, at Ohio State University. He is also a Senior Fellow at the Cato Institute in Washington. Mark G. Stewart is Professor of Civil Engineering and Director of the Centre for Infrastructure Performance and Reliability at The University of Newcastle in Australia. Terrorism and Bathtubs: Comparing and Assessing the Risks. October 29, 2018. https://www.tandfonline.com/doi/abs/10.1080/09546553.2018.1530662?journalCode=ftpv20]

However, there is of course no guarantee that things will remain that way, and the 9/11 attacks inspired the remarkable extrapolation that, because the terrorists were successful with box cutters, they might soon be able to turn out weapons of mass destruction— particularly nuclear ones—and then detonate them in an American city. For example, in his influential 2004 book, Nuclear Terrorism, Harvard’s Graham Allison relayed his “considered judgment” that “on the current path, a nuclear terrorist attack on America in the decade ahead is more likely than not.”11 Allison has had a great deal of company in his alarming pronouncements. In 2007, the distinguished physicist Richard Garwin put the likelihood of a nuclear explosion on an American or European city by terrorist or other means at 20 percent per year, which would work out to 91 percent over the eleven-year period to 2018.12

Allison’s time is up, and so is Garwin’s. These off-repeated warnings have proven to be empty. And it is important to point out that not only have terrorists failed to go nuclear, but as William Langewiesche, who has assessed the process in detail, put it in 2007, “The best information is that no one has gotten anywhere near this. I mean, if you look carefully and practically at this process, you see that it is an enormous undertaking full of risks for the would-be terrorists.”13 That process requires trusting corrupted foreign collaborators and other criminals, obtaining and transporting highly guarded material, setting up a machine shop staffed with top scientists and technicians, and rolling the heavy, cumbersome, and untested finished product into position to be detonated by a skilled crew, all the while attracting no attention from outsiders.

Nor have terrorist groups been able to steal existing nuclear weapons—characteristically burdened with multiple safety devices and often stored in pieces at separate secure locales—from existing arsenals as was once much feared. And they certainly have not been able to cajole leaders in nuclear states to palm one off to them—though a war inflicting more death than Hiroshima and Nagasaki combined was launched against Iraq in 2003 in major part under the spell of fantasies about such a handover.14

More generally, the actual terrorist “adversaries” in the West scarcely deserve accolades for either dedication or prowess. It is true, of course, that sometimes even incompetents can get lucky, but such instances, however tragic, are rare. For the most part, terrorists in the United States are a confused, inadequate, incompetent, blundering, and gullible bunch, only occasionally able to get their act together. Most seem to be far better at frenetic and often self-deluded scheming than at actual execution. A summary assessment by RAND’s Brian Jenkins is apt: “their numbers remain small, their determination limp, and their competence poor.”15 And much the same holds for Europe and the rest of the developed world.16 Also working against terrorist success in the West is the fact that almost all are amateurs: they have never before tried to do something like this. Unlike criminals they have not been able to develop street smarts.

Except perhaps for the use of vehicles to deliver mayhem (though this idea is by no means new in the history of terrorism), there has been remarkably little innovation in terrorist weaponry or methodology since 9/11.17 Like their predecessors, they have continued to rely on bombs (many of which fail to detonate or do much damage) and bullets.18

### 1NC – Emerging Tech D

#### No emerging tech impact.

Pinker et al. ’20 [Steven; PhD, Professor of Psychology @ Harvard; Stuart Russell, Professor of Computer Science @ UC Berkeley; Lucas Perry; “Steven Pinker and Stuart Russell on the Foundations, Benefits, and Possible Existential Threat of AI”; June 29th, 2020; https://futureoflife.org/2020/06/15/steven-pinker-and-stuart-russell-on-the-foundations-benefits-and-possible-existential-risk-of-ai/]

Lucas Perry: Now that’s quite a beautiful picture of the future. There’s a lot of existential hope there. The other side to existential hope is existential risk. Now this is an interesting subject, which Steve and you, Stuart, I believe have disagreements about. So pivoting into this area, and Steve, you can go first here, do you believe that human beings, should we not go extinct in the meantime, will we build artificial superintelligence? And does that pose an existential risk to humanity?

Steven Pinker: Yeah, I’m on record as being skeptical of that scenario and dubious about the value of putting a lot of effort into worrying about it now. The concept of superintelligence is itself obscure. In a lot of the discussions you could replace the word “superintelligence” with “magic” or “miracle” and the sentence would read the same. You read about an AI system that could duplicate brains in silicon, or solve problems like war in the Middle East, or cure cancer.  It’s just imagining the possibility of a solution and assuming that the ability to bring it about will exist, without laying out what that intelligence would consist of, or what would count as a solution to the problem.

So I find the concept of superintelligence itself a dubious extrapolation of an unextrapolable continuum, like human-to-animal, or not-so-bright human-to-smart-human. I don’t think there is a power called “intelligence” such that we can compare a squirrel or an octopus to a human and say, “Well, imagine even more of that.”

I’m also skeptical about the existential risk scenarios. They tend to come in two varieties. One is based on the notion of a will to power: that as soon as you get an intelligent system, it will inevitably want to dominate and exploit. Often the analogy is that we humans have exploited and often extinguished animals because we’re smarter than them, so as soon as there is an artificial system that’s smarter than us, it’ll do to us what we did to the dodos. Or that technologically advanced civilizations, like European colonists and conquistadors subjugated and sometimes wiped out indigenous peoples, so that’s what an AI system might do to us. That’s one variety of this scenario.

I think that scenario confuses intelligence with dominance, based on the fact that in one species, Homo sapiens, they happen to come bundled together, because we came about through natural selection, a competitive process driven by relative success at capturing scarce resources and competing for mates, ultimately with the goal of relative reproductive success. But there’s no reason that a system that is designed to pursue a goal would have as its goal, domination. This goes back to our earlier discussion that the ability to achieve a goal is distinct from what the goal is.

It just so happens that in products of natural selection, the goal was winning in reproductive competition. For an artifact we design, there’s just no reason that would be true. This is sometimes called the orthogonality thesis in discussions of existential risk, although that’s just a fancy-schmancy way of referring to Hume’s distinction between our goals and our intelligence.

Now I know that there is an argument that says, “Wouldn’t any intelligence system have to maximize its own survivability, because if it’s given the goal of X, well, you can’t achieve X if you don’t exist, therefore, as a subgoal to achieving X, you’ve got to maximize your own survival at all costs.” I think that’s fallacious. It’s certainly not true that all complex systems have to work toward their own perpetuation. My iPhone doesn’t take any steps to resist my dropping it into a toilet, or letting it run out of power.

You could imagine if it could be programmed like a child to whine, and to cry, and to refuse to do what it’s told to do as its power level went down. We wouldn’t buy one. And we know in the natural world, there are plenty of living systems that sacrifice their own existence for other goals. When a bee stings you, its barbed stinger is dislodged when the bee escapes, killing the bee, but because the bee is programmed to maximize the survivability of the colony, not itself, it willingly sacrifices itself. So it is not true that by definition an intelligent system has to maximize its own power or survivability.

But the more common existential threat scenario is not a will to power but collateral damage. That if an AI system is given a single goal, what if it relentlessly pursues it without consideration of side effects, including harm to us? There are famous examples that I originally thought were spoofs, but were intended seriously, like giving an AI system the goal of making as many paperclips as possible, and so it converts all available matter into paperclips, including our own bodies (putting aside the fact that we don’t need more efficient paperclip manufacturing than what we already have, and that human bodies are a pretty crummy source of iron for paperclips).

Barely more plausible is the idea that we might give an AI system the goal of curing cancer, and so it will  conscript us as involuntary guinea pigs and induce tumors in all of us, or that we might give it the goal of regulating the level of water behind a dam and it might flood a town because it was never given the goal of not drowning a village.

The problem with these scenarios is that they’re self-refuting. They assume that an “intelligent” artifact would be designed to implement a single goal, which is not true of even the stupid artifacts that we live with. When we design a car, we don’t just give the goal of going from A to B as fast as possible; we also install brakes and a steering wheel and a muffler and a catalytic converter. A lot of these scenarios seem to presuppose both idiocy on the part of the designers

, who would give a system control over the infrastructure of the entire planet without testing it first to see how it worked, and an idiocy on the part of the allegedly intelligent system, which would pursue a single goal regardless of all the other effects. This does not exist in any human artifact, let alone one that claims to be intelligent. Giving an AI system one vaguely worded, sketchy goal, and empowering it with control over the entire infrastructure of the planet without testing it first seems to me just so self-evidently moronic that I don’t worry that engineers have to be warned against it.

I’ve quoted Stuart himself, who in an interview made the point well when he said, “No one talks about building bridges that don’t fall down. They just call it building bridges.” Likewise, AI that avoids idiocies like that is just AI, it’s not AI with extra safeguards. That’s what intelligence consists of.

# 2NC

### Adv CP

#### Infrastructure maintenance spending solves the wealth gap

Jennifer French Giarratano Andrew Young School of Policy Studies JUNE 19, **20**17 “Infrastructure Maintenance Spending Can Reduce Inequality, Georgia State Economists Find” <http://news.gsu.edu/2017/06/19/infrastructure-spending-inequality-reduction/> )//masw

ATLANTA—Public infrastructure spending on maintenance projects has a greater impact on economic growth and equitable wealth distribution than spending on new investments, according to Georgia State University research.

In “Public Infrastructure Maintenance and the Distribution of Wealth,” (Economic Inquiry, 2017), economists John Gibson and Felix Rioja of the Andrew Young School of Policy Studies examined the impact of infrastructure maintenance spending on economic output and wealth distribution. For their model they used Mexico, an emerging market where the level of infrastructure is average for Latin American countries while its income per capita ranks among the top third in that region.

“Poor infrastructure networks—whether roads, railways, airports, water systems or power utilities—are rated globally among the greatest barriers to doing business,” said Gibson, an assistant professor of economics. “Insufficient spending can lead to deterioration and a reduction in services, which will increase both transportation and production costs.”

Several prior studies have shown public infrastructure investment positively affects growth. Rioja’s earlier studies also found that spending more on maintenance rather than new infrastructure can have a larger positive impact on economic output. Yet no earlier study had analyzed how various policies may influence the distribution of wealth and degree of inequality present in the economy.

“Governments often neglect maintenance in favor of building new infrastructure,” said Gibson. “Our first key finding shows that spending more on maintenance rather than on new investment can increase aggregate Gross Domestic Product and foster the more equitable distribution of wealth. Poorer households that experience an increase in infrastructure services increase their savings at a comparatively higher rate than do richer households.”

They also found that spending more on maintenance rather than new investment yielded the highest improvements to overall output, income and wealth.

“Policymakers need to pay much more attention to maintenance within their spending priorities,” the economists conclude.

#### R&D is self-reinforcing and drives economic growth – every 1% increase more than doubles the return and encourages investment from other sources.

Mandt et al. ’20 [Rebecca, Kushal Seetharam, and Michael Cheng; August 20; Ph.D. Candidate in the Department of Immunology and Infectious Diseases at Harvard University; Ph.D. Candidate in the Department of Electrical Engineering and Computer Science at the Massachusetts Institute of Technology; M.S. from Harvard University; MIT Science Policy Review, “Federal R&D funding: the bedrock of national innovation,” <https://sciencepolicyreview.org/2020/08/federal-rd-funding-the-bedrock-of-national-innovation/>]

Virtuous Cycles of Federal Funding

In addition to directly supporting research related to public priorities, federal investment also produces a domino effect in resource commitment, inducing investment from non-federal sources such as the private and philanthropic sectors into R&D related to broad societal objectives [41]. A multitude of studies have found that government investment in R&D increases private investment and effort (see, for example, [42]). Analysis done by Lanahan et al. in 2016 estimated that every 1% increase in federal research funding leads to a 0.468% increase in industry research investment, a 0.411% increase in nonprofit research investment, and a 0.217% increase in state and local research funding, cumulatively more than doubling the initial federal investment [41]. This positive feedback effect generally holds true across different disciplines including life sciences, physical sciences, and engineering. We therefore see that federal funding has an effect of “crowding-in” R&D investment from non-federal sources rather than crowding them out, as is sometimes erroneously assumed. As federal R&D investments are typically made in line with the missions of federal agencies which are in line with public priorities, increasing federal funding would lead the entire national R&D infrastructure to move more in step with societal needs and public benefits rather than purely market considerations. Additionally, federally-supported research is much more likely to be publicly disclosed compared to private sector R&D, and is therefore more likely to catalyze other innovations [23]. For example, as previously discussed, advances in supercomputing, and even the invention of the web browser, were built upon research done on computationally modeling black hole collisions [43]. As another example, fundamental physics research studying the movement of atoms led to the invention of molecular resonance imaging (MRI), a medical technology that helps save countless lives today [44, 45].

Federal R&D expenditure is also responsible for both the education and training of scientists and engineers who move into the broader workforce as well as the physical infrastructure that often forms the kernel for regional hubs of technological innovation [46]. A core part of the NSF’s mission, for example, is supporting science, technology, engineering, and mathematics (STEM) education and the broader development of the human capital pipeline for national R&D [23]. The agency is also tasked with maintenance of large-scale research infrastructure such as facilities for materials research and fabrication, high-performance computing facilities, and particle accelerators, out of which technologies underlying countless start-ups and private sector innovations have been born [47]. The work done by university research centers and national labs, both of which are primarily funded by the federal government, also end up attracting technology incubators, start-ups, and a larger industry presence [3]. Therefore, federal funding is often responsible for the key centers around which technology hubs form and lead to regional economic growth; examples include Silicon Valley in California; Boston, Massachusetts; the Research Triangle Park in North Carolina; the Boulder-Denver corridor in Colorado; and Madison, Wisconsin. In addition to its indirect role in forming such innovation hubs, the federal government often takes a direct role in creating infrastructure critical to future private sector R&D including advanced manufacturing, high-performance computing, and smart cities [48]. Federal funding, therefore, plays two major roles: it spurs the general pace of national innovation forward, and it guides the national innovation ecosystem towards societal priorities. Both of these tasks are accomplished by utilizing the “crowd-in” effect of federal R&D investments, the training of the STEM workforce, the tendency for technology hubs to form around academic and federal research centers, and the types of R&D infrastructure the government catalyzes.

#### Empirics prove – R&D is just as likely to catalyze competition as antitrust.

Kovacic ’20 [William E.; 2020; Global Competition Professor of Law and Policy, George Washington University Law School; George Mason Law Review, “Competition Policy Retrospective: The Formation of the United Launch Alliance and the Ascent of SpaceX,” vol. 27; KP]

A second timely aspect of a review of the ULA transaction is the light it sheds on the many forms of government intervention that constitute a nation's competition policy. The prosecution of antitrust cases is but one way by which governments can help foster competition and stimulate business rivalry.26

Footnote starts.

Economists R. Shyam Khemani and Mark Dutz have developed the distinction between "antitrust" and a broader notion of "competition policy." See R. Shyam Khemani &Mark A. Dutz, The Instruments of Competition Policy and Their Relevance for Economic Development, in REGULATORY POLICIES AND REFORM: A COMPARATIVE PERSPECTIVE 16 (Claudio R. Frischtak ed., 1995). Antitrust agencies have come to realize that, in executing their own mandates, it is valuable to complement a law enforcement program with the application of non-litigation tools such as advocacy before other government agencies, preparaing reports, and convening public hearings. See More Than Law Enforcement:TheFTC'sManyTools-AConversationwithTimMurisandBobPitofsky,72ANTITRUST L.]. 773, 777-78 (2005).

Footnote ends.

Perhaps most important, the ULA episode illustrates the power of public procurement policy-including the funding of private sector research and development and the acquisition of goods and services-to influence the course of competition. 27 A key part of the ULA story is how government agencies (first NASA and later the DOD) used their funding and purchasing decisions to facilitate entry into the space launch services market by SpaceX and other private firms.2' Through policies that can be correctly characterized as procompetitive, the government purchasers helped catalyze new entry that transformed a sector seemingly destined to be the province of two firms or a single survivor. NASA, in particular, experimented with a new business model to inject more rivalry into the launch services sector. The ULA experience provides inspiration to ask how government procurement policy could achieve similar results in other concentrated sectors of the US economy.

### EU CP

#### The EU counterplan is the core of the topic and key to vital real-world education

Sam Bowman, former Executive Director of the Adam Smith Institute in London, Dirk Auer, Senior Fellow in Law & Economics at the International Center for Law & Economics (ICLE) and an adjunct professor at UCLouvain and ULiege, and Geoffrey Manne, president and Founder of ICLE and a Distinguished Fellow at the Northwestern University Center on Law, Business, and Economics, Aug 9, 2021. “How US and EU Competition Law Differ”

https://truthonthemarket.com/2021/08/09/how-us-and-eu-competition-law-differ/

U.S. and European competition laws diverge in numerous ways that have important real-world effects. Understanding these differences is vital, particularly as lawmakers in the United States, and the rest of the world, consider adopting a more “European” approach to competition.

### Adv 1

#### Here is an example – also cites studies so means the aff independently fails

Sherk 9 [James Sherk, research fellow in labor economics at The Heritage Foundation. “What Unions Do: How Labor Unions Affect Jobs and the Economy.” 5/21/9. https://www.heritage.org/jobs-and-labor/report/what-unions-do-how-labor-unions-affect-jobs-and-the-economy]

Unions function as labor cartels. A labor cartel restricts the number of workers in a company or industry to drive up the remaining workers' wages, just as the Organization of Petroleum Exporting Countries (OPEC) attempts to cut the supply of oil to raise its price. Companies pass on those higher wages to consumers through higher prices, and often they also earn lower profits. Economic research finds that unions benefit their members but hurt consumers generally, and especially workers who are denied job opportunities.

The average union member earns more than the average non-union worker. However, that does not mean that expanding union membership will raise wages: Few workers who join a union today get a pay raise. What explains these apparently contradictory findings? The economy has become more competitive over the past generation. Companies have less power to pass price increases on to consumers without going out of business. Consequently, unions do not negotiate higher wages for many newly organized workers. These days, unions win higher wages for employees only at companies with competitive advantages that allow them to pay higher wages, such as successful research and development (R&D) projects or capital investments.

#### American corporations bought out judges – they’ll use the aff in protectionist ways

Root 19 [Danielle Root, director of voting rights and access to justice on the Democracy and Government Reform team at the Center for American Progress. Sam Berger, vice president of Democracy and Government Reform at the Center for American Progress. “Structural Reforms to the Federal Judiciary.” 5/8/2019. https://www.americanprogress.org/issues/courts/reports/2019/05/08/469504/structural-reforms-federal-judiciary/]

Discussions of the federal judiciary often focus on the substance of decisions made—which side wins and which side loses—and rightly so. These individual opinions are frequently of incredible importance, not just to the parties involved but in shaping the law more broadly. Yet this focus on substantive decisions has obscured deeper structural factors at play in the nation’s federal judiciary. Structural problems—such as lack of judicial diversity, ideologue judges, and lack of judicial accountability—undercut the courts’ legitimacy and have tangible negative effects on judicial decision-making. Instead of protecting everyday Americans by serving as a check on abuses of power, too often the federal courts have become a tool for carrying out the agendas of special interests and corporations.

Structural problems with the judiciary have always existed to varying degrees. But they have been exacerbated in recent years due to an ongoing campaign by conservatives to take control of the federal courts, often through procedural changes that have significant effects but garner little public attention. The problem has now reached a crisis point. Conservatives have shown a willingness to abandon any and all norms to undermine the judicial nominations process and pack the courts with judges who will help them realize political goals they cannot achieve through the political process. These judges have proven more than willing to carry out the task, supporting the most specious of legal claims in order to skew the system in favor of conservative interests and even prevent many Americans from accessing the courts at all.

#### Enforcement and prohibition are distinct steps

Alan S. Kaplinsky & Mark J. Levin 1, Kaplinsky is the former longtime Practice Leader of the firm's Consumer Financial Services Group; Senior Counsel @ Ballard Spahr, “ANATOMY OF AN ARBITRATION CLAUSE: DRAFTING AND IMPLEMENTATION ISSUES WHICH SHOULD BE CONSIDERED BY A CONSUMER LENDER,” May 2001, ALI-ABA COURSE OF STUDY MATERIALS, Lexis

. So that there is no misunderstanding on the part of the consumer, the lender should consider expressly disclosing the unavailability of class actions in arbitration, as in the sample clause language. Some lenders go even further and include an express "waiver" by the consumer of any right to participate in or prosecute a class action. But, see, the Reporter's Notes to Section 10 of the Proposed Revisions of the Uniform Arbitration Act (February, 2000) which states: "In some cases [i.e., where the clause specifically precludes class actions], such provisions may effectively undermine consumer's rights by making the relative cost of arbitrating or securing effective legal representation cost prohibitive. In such cases, it may be appropriate for a court to refuse to enforce the term prohibiting class actions and consolidation under Section 6 of the Act." Section 6(a) of the Revised UAA provides that an arbitration agreement "is valid, enforceable, and irrevocable except upon grounds that exist in law or in equity for the revocation of any contract."

#### They don’t understand markets – static view – wrecks the second advantage

Keating 21 [Raymond J. Keating, chief economist for the Small Business & Entrepreneurship Council and an adjunct professor in the MBA program at the Townsend School of Business at Dowling College. “The Treacherous Turn on Antitrust Regulation of U.S. Tech Companies.” https://sbecouncil.org/2021/02/24/the-treacherous-turn-on-antitrust-regulation-of-u-s-tech-companies/]

Insurmountable Challenges. From the perspectives of economics and market realities, antitrust law and regulation suffer from two challenges that are insurmountable. First, a static picture of the market currently is just that, i.e., static, and therefore, stands ignorant of the realities of market dynamism. Second, if elected officials, antitrust regulators and the courts were to recognize market dynamism, and also somehow guide antitrust enforcement by such dynamism, this would amount to nothing more than wild speculation about the future of existing and future industries. Each case would be dangerously disconnected from economic reality.

#### Enforcement is too slow – investigation, litigation, and appeals

Jones 20 [Alison Jones, Professor of Law at King's and a solicitor at Freshfields Bruckhaus Deringer LLP. William E. Kovacic, George Mason University Foundation Professor at the George Mason University School of Law. “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy.” 2020. <https://journals.sagepub.com/doi/pdf/10.1177/0003603X20912884>]

In the discussion above, we have been addressing the types of remedies that are imposed at the conclusion of a lawsuit. A problem in highly dynamic markets, however, is that the lag between the initiation of a case and a final order on relief may be so great that market circumstances have changed dramatically or the victim of allegedly improper exclusion may have left the market or otherwise lost its opportunity to expand and contest the position of the incumbent dominant firm. In this context, the antitrust cure arrives far too late to protect competition. The relatively slow pace of antitrust investigations and litigation (with appeals that follow an initial decision) has led some observers to doubt the efficacy of antitrust cases as effective policy-making tools in dynamic commercial sectors.

#### Most workers aren’t affected.

Schubert et al. ‘21 [Gregor; 1/18/21; Ph.D. Candidate in Business Economics at the Harvard Economics Department and the Harvard Business School; et al.; "Employer Concentration and Outside Options," https://scholar.harvard.edu/files/stansbury/files/stansbury-jmp-jan18.pdf/]

On the other hand, our results do not support the idea that employer concentration is a major factor in wage suppression for the majority of U.S. workers. (This does not imply that other sources of monopsony power are not at play for workers in unconcentrated labor markets, notably arising from search frictions, switching costs, or differentiated jobs). While a very large share of occupation-city labor markets are highly concentrated according to typical thresholds, the majority of U.S. workers are not in labor markets with high degrees of employer concentration as measured by typical thresholds.58 This is because the most concentrated labor markets tend to be those with the fewest workers. So, while the effects of concentration on wages are non-trivial for the subset of workers in highly-affected labor markets, the aggregate effect of employer concentration on wages is unlikely to be very large, and employer concentration cannot explain more than a small share of aggregate income inequality.59

#### There’s no statistical basis for your claims—our study analyzes 670 different downturns

Charles BOEHMER, professor of political science at Pennsylvania State University, ‘2 [March 24, 2002, “Domestic Crisis and Interstate Conflict: The Impact of Economic Crisis, Domestic Discord, and State Efficacy on the Decision to Initiate Interstate Conflict,” paper presented to the International Studies Association, http://isanet.ccit.arizona.edu/noarchive/boehmer.html]

I have argued in this study that economic growth should be positively related to militarized interstate conflicts while at the same time reducing the risk of domestic regime transitions. I also expected that domestic conflict would reduce the risk of interstate conflict. The research design used here specifically allows for a comparison of the relative probabilities of both interstate conflict and regime transitions. I do not find support for the conclusions often made in studies of diversionary conflict claiming that lower rates of economic growth should lead to interstate conflict. With the exception of MID initiations (where it had little effect), economic growth increases state involvement in militarized foreign conflicts. However, the results also show that higher levels of domestic protest and rebellion both increase international conflict as well as the risk of regime transitions. These results are in part consistent with the predictions of diversionary conflict theory, although it is important to note that involvement in foreign conflicts in the face of high levels of domestic protest or rebellion is very risky. Of the 670 observations where country-years where a militarized interstate conflict was initiated, 117 of these foreign conflicts (17%) were related somehow to regime transitions. This means that some attempts to divert failed, while others following MID transitions may be completely unrelated

to diversionary behavior. Moreover, these conflict initiations likely include many conflicts which most would agree were not diversionary, such as US interventions into Bosnia or Afghanistan. This means that the risk of regime transition during is even probably higher when leaders would most prefer to divert. To gain higher confidence that domestic conflict leads to diversionary behavior, we should require a more detailed analysis of other causes, controlling for such factors as interventions into civil wars.

Theories of diversionary conflict need to further specify the linkages between domestic conflict, state efficacy, and regime type. Attention has been focused on each of these elements, but more work could be done. For example, the results here show that domestic conflict is partly a source of both international conflict and domestic instability, although whether states will most likely experience high levels of protest or rebellion would seem to depend on the structure and efficacy of their governments. While most existing studies provide a discussion of why diversionary conflict could be beneficial to leaders, more attention must be paid to the potential costs of diversion. The results here suggest that some leaders will be removed from power before they can take advantage of an opportunity to use foreign conflict to induce a rally effect, while others that attempt this gambit fail in the process. Can leaders really fool all the people all the time? The answer would appear to be no. This should not be surprising. However, an implication of this study is that the rally-around-the-flag effect identified in the American case may not be applicable to other countries or necessarily work as successfully.

### Adv 2

#### Enforcement – its expensive and time-consuming – the aff is a massive resource drain

Galston & Hendrickson 18 [William, Senior Fellow at the Brookings Institute, served from 1993 to 1995 as Deputy Assistant to President Clinton for Domestic Policy, Saul Stern Professor and Acting Dean at the School of Public Policy, University of Maryland, and Clara, researcher at the Brookings Institution in Washington, D.C. and a freelance reporter for national and local outlets, does PolitiFact fact checking at the Detroit Free Press. “A policy at peace with itself: Antitrust remedies for our concentrated, uncompetitive economy” https://www.brookings.edu/research/a-policy-at-peace-with-itself-antitrust-remedies-for-our-concentrated-uncompetitive-economy/]

Reduce the costs of antitrust enforcement

Enforcing antitrust laws is typically slow and expensive. Individual cases, such as the Justice Department’s Microsoft and AT&T investigations, can last for a decade and consume an outsize share of an agency’s resources. In these circumstances, the government is understandably reluctant to initiate actions against large firms with deep pockets.

Prior to 1974, the rules allowed automatic appeals of district courts’ antitrust decisions to the Supreme Court, bypassing an entire level of appellate review. In light of the enforcement experience since this rule was repealed in 1974, the case for legislation that reinstates this rule is strong. This is particularly true for anti-monopoly cases arising under Section 2 of the Sherman Act. The longer monopoly abuses are allowed to persist, the more entrenched offenders become, and the more unlawful rents they can extract from consumers. Forcing firms to disgorge these ill-gotten gains after the fact is difficult at best, and there is no way of compensating potential entrepreneurs whom monopolistic firms deterred from starting new businesses.[42]

#### Lobbying and backlash undermine enforcement

Jones 20 [Alison Jones, Professor of Law at King's and a solicitor at Freshfields Bruckhaus Deringer LLP. William E. Kovacic, George Mason University Foundation Professor at the George Mason University School of Law. “Antitrust’s Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy.” 2020. <https://journals.sagepub.com/doi/pdf/10.1177/0003603X20912884>]

D. Political Backlash

As we have already indicated, the government’s prosecution of high stakes antitrust cases often inspires defendants to lobby elected officials to rein in the enforcement agency. Targets of cases that seek to impose powerful remedies have several possible paths to encourage politicians to blunt enforcement measures. One path is to seek intervention from the President. The Assistant Attorney General of the Antitrust Division serves at the will of the President, making DOJ policy dependent on the President’s continuing support. The White House ordinarily does not guide the Antitrust Division’s selection of cases, but there have been instances in which the President pressured the Division to alter course on behalf of a defendant, and did so successfully.125

The second path is to lobby the Congress. The FTC is called an “independent” regulatory agency, but Congress interprets independence in an idiosyncratic way.126 Legislators believe independence means insulation from the executive branch, not from the legislature. The FTC is dependent on a good relationship with Congress, which controls its budget and can react with hostility, and forcefully, when it disapproves of FTC litigation—particularly where it adversely affects the interests of members’ constituents. Controversial and contested cases may consequently be derailed or muted if political support for them wanes and politicians become more sympathetic to commercial interests. The FTC’s sometimes tempestuous relationship with Congress demonstrates that political coalitions favoring bold enforcement can be volatile, unpredictable, and evanescent.127 If the FTC does not manage its relationship with Congress carefully, its litigation opponents may mobilize legislative intervention that causes ambitious enforcement measures to the founder.

Imagine, for a moment, that the DOJ and the FTC launch monopolization cases against each of the GAFA giants. Among other grounds, these cases might be premised on the theory that the firms used mergers to accumulate and protect positions of dominance. The GAFA firms have received unfavorable scrutiny from legislators from both political parties over the past few years, but the current wave of political opprobrium is unlikely to discourage the firms from bringing their formidable lobbying resources to bear upon the Congress. It would be hazardous for the enforcement agencies to assume that a sustained, well-financed lobbying campaign will be ineffective. At a minimum, the agencies would need to consider how many battles they can fight at one time, and how to foster a countervailing coalition of business interests to oppose the defendants.

E. Opposition to Legislative Reform

Although statutory reform might at first sight appear to be a direct, effective solution to some of the impediments (such as entrenched judicial resistance to intervention), there are good reasons to expect that powerful business interests will also stoutly oppose any proposals for legislation to expand the reach of the antitrust laws or to create a new digital regulator.128 One can envisage the formidable financial and political resources of the affected firms will amass to stymie far-reaching legislative reforms. Legislative steps that threaten the structure, operations, and profitability of the Tech Giants and other leading firms are fraught with political risk. These risks are surmountable, but only by means of a clever strategy that anticipates and blunts political pressure. One element of such a strategy is to mobilize countervailing support from consumer and business interests to sustain an enabling political environment to enact ambitious new laws.

Even if successful, “[l]egislative relief from existing jurisprudential structures might take years to accomplish”;129 acts taken under new legislation—even with the establishment of presumptions that improve the litigation position of government plaintiffs—may still be relatively complex and difficult to prosecute. Rulemaking is an alternative to litigation, but it is no easy way out of the problem. On the contrary, promulgation and defense, in litigation, of a major trade regulation rule is liable to take as long as the prosecution of a Section 2 case. It can also be anticipated that a judiciary populated with many regulation skeptics will subject new rules or related measures to demanding scrutiny.

#### Bathtubs kill more people than terrorism

Mueller and Stewart 10/29/18 [John Mueller is Woody Hayes Senior Research Scientist, Mershon Center for International Security Studies, and adjunct professor of Political Science, at Ohio State University. He is also a Senior Fellow at the Cato Institute in Washington. Mark G. Stewart is Professor of Civil Engineering and Director of the Centre for Infrastructure Performance and Reliability at The University of Newcastle in Australia. Terrorism and Bathtubs: Comparing and Assessing the Risks. October 29, 2018. https://www.tandfonline.com/doi/abs/10.1080/09546553.2018.1530662?journalCode=ftpv20]

The likelihood that anyone outside a war zone will be killed by an Islamist extremist terrorist is extremely small. In the United States, for example, some six people have perished each year since 9/11 at the hands of such terrorists—vastly smaller than the number of people who die in bathtub drownings. Some argue, however, that the incidence of terrorist destruction is low because counterterrorism measures are so effective. They also contend that terrorism may well become more frequent and destructive in the future as terrorists plot and plan and learn from experience, and that terrorism, unlike bathtubs, provides no benefit and exacts costs far beyond those in the event itself by damagingly sowing fear and anxiety and by requiring policy makers to adopt countermeasures that are costly and excessive. This article finds these arguments to be wanting. In the process, it concludes that terrorism is rare outside war zones because, to a substantial degree, terrorists don’t exist there. In general, as with rare diseases that kill few, it makes more policy sense to expend limited funds on hazards that inflict far more damage. It also discusses the issue of risk communication for this hazard

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### Biz Con DA

#### The link alone turns case---alternative frameworks are unenforceable and vague, but breadth produces false positives that distort marketplace effects.

Newman ’19 [John; 2019; Assistant Professor at the University of Memphis Cecil C. Humphreys School of Law; Indiana Law Journal, “Procompetitive Justifications in Antitrust Law,” vol. 94]

B. Competitive Process

The competitive-process approach purports to distinguish between pro-and anticompetitive restraints via their effects not on welfare or efficiency, but on "competition itself' or on the "competitive process." In other words, if a challenged restraint somehow benefits the competitive process, the defendant may avoid antitrust liability. Multiple antitrust scholars argue that "competitive process" is the prevailing and appropriate approach. 97 Others, while conceding that it has fallen out of favor, nonetheless call for its resurrection. 98

Footnote 97:

97. E.g., Werden, supra note 9; see also Barak Orbach, How Antitrust Lost Its Goal, 81 FORDHAM L. REv. 2253, 2256 (2013). Here and elsewhere, Orbach offers a convincing argument to the effect that the "consumer welfare" standard does not offer as much clarity as its proponents generally assume. While that may be so, it does not follow that the "competitive process" (or "competition") standard fares any better. In fact, the latter standard appears to offer even less clarity—unless it means simply that defendants always lose, in which case it offers a great deal of clarity but also (likely) an overly high likelihood of false positives. Orbach's historical account concludes that "competition" was the sole standard for the roughly seven decades between the passage of the Sherman Act and the release of Bork's The Antitrust Paradox. Orbach, supra, at 2277. This account does not, however, discuss Chicago Board of Trade.

End of Footnote 97.

But the actual content of the competitive-process approach remains mercurial, a cipher. The scholarly arguments in favor of it never seem to identify what, exactly, constitutes the "competitive process." More than a half-century has passed since the Court first clearly invoked the competitive process approach to condemn a restraint of trade, yet terms like "competition" and "competitive process" are still "wonderfully ill-defined." 99

Whatever the competitive process may be, it apparently can be harmed. A plaintiff carries its initial burden by showing such harm.100 If (or, perhaps more accurately, when) the plaintiff succeeds, the burden then shifts to the defendant to demonstrate some offsetting benefit.1 " 101 If it is unclear what constitutes harm to the competitive process, it is even less clear what might qualify as a benefit. But, at least in theory, a defendant who succeeds in proving such a benefit may escape liability. 102

A permissible reading of the relevant precedent suggests that the overriding concern does not lie with marketplace effects, placing this approach at loggerheads with the rest of modem antitrust law. 103 Instead, the competitive-process approach derives from a group of rather vaguely defined rights. These include, but are not limited to, the right of a "single merchant" to compel a "group of powerful businessmen" to supply him with "the goods he needs to compete effectively," 10 4 the "right" of traders to be "free" from various nonstandard contractual provisions,105 and a more general right of "freedom of action."106

Given the lack of clarity in the area, one is left free (or, less charitably, forced) to speculate as to the source and content of these rights. Perhaps they derive from Lochnerian freedom of contract. Certain early U.S. Supreme Court antitrust decisions-which happen to lie squarely in the heart of the Lochner Era-do speak of antitrust-related "rights." Thus, for example, the Court in 1914 identified a single retailer's "unquestioned right to stop dealing with a wholesaler for reasons sufficient to himself."10 But by 1945, after the end of the Lochner Era,10 8 the Court was retreating from that hardline stance, referring to it as "true" only "in a very general sense." 109

#### The XO is empty talk that’s years from being implemented

Jeff Jaeckel 21, Co-Chair Global Antitrust Law Practice Group at Morrison & Foerster, Alexander Paul Okuliar, Co-Chair Global Antitrust Law Practice Group at Morrison & Foerster, and Lisa M. Phelan, Co-Chair Global Antitrust Law Practice Group at Morrison & Foerster, and Megan E. Gerking, Partner at Morrison & Foerster, “Charting a New Course for Antitrust: President Biden’s Executive Order Promoting Competition in the American Economy”, Client Alert, 7/14/2021, https://www.mofo.com/resources/insights/210714-president-biden-executive-order-antitrust.html

Despite its breadth, the immediate effect of the EO on law or regulation is less clear. The EO itself does not enact any new law or regulation. Rather, the EO often uses vague language in instructing or guiding the actions of agencies. This is likely purposeful in many instances, including when the EO refers to independent agencies, like the FTC, Federal Communications Commission, Maritime Commission, Consumer Financial Protection Bureau, and the Surface Transportation Board. Nonetheless, for almost every initiative, there is likely to be a significant gap between the action directed or encouraged by the EO and the time it will take for the relevant agency to investigate, evaluate, and potentially implement a new rule or policy. Even where the direction to an agency is explicit, issuing a new rule or regulation takes time. An agency must first draft a rule, allow for a notice-and-comment period, make any necessary revisions, and then issue and start to enforce a final rule. And this does not account for likely legal challenges. In some instances, the EO directs the agencies to submit a report on the issue first rather than make any immediate changes, pushing any resulting regulatory activity out at least until the period following completion of the report.

#### It's non-binding AND will be blocked by the court and Congress

Lewis Brisbois 21, JD, Lewis Brisbois Bisgaard & Smith LLP, “President Biden Signs Executive Order on Promoting Competition in the American Economy”, 7/12/2021, https://lewisbrisbois.com/newsroom/legal-alerts/president-biden-signs-executive-order-on-promoting-competition-in-the-american-economy

On July 9, 2021, President Biden signed an “Executive Order on Promoting Competition in the American Economy.” According to a Fact Sheet released in advance of the signing, the Executive Order takes “decisive action to reduce the trend of corporate consolidation, increase competition, and deliver concrete benefits to America’s consumers, workers, farmers, and small businesses.”

Among other things, the Executive Order encourages the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ) to focus enforcement efforts on problems in key markets and coordinate other federal agencies’ responses to corporate consolidation. Further, the Executive Order calls on the FTC and DOJ to “enforce the antitrust laws vigorously.” The Executive Order would also make it easier for high tech workers to change jobs by banning or limiting non-compete agreements, lower prescription drug prices by supporting programs to import cheaper prescription drugs from Canada, make it less expensive to repair products by limiting manufacturers from barring self-repairs or third-party repairs of their products, and increase opportunities for small businesses by directing all federal agencies to promote greater competition through procurement and spending decisions. In all, the Executive Order outlines 72 initiatives that attempt to rein in corporate powerhouses that control markets.

In the Fact Sheet, the Biden Administration compared its Executive Order to the responses of previous Administrations to “growing corporate power,” expressly citing the trust-busting efforts of the Theodore Roosevelt and FDR Administrations’ “supercharged antitrust enforcement” agendas.

Although Democratic lawmakers and union leaders have cheered the Executive Order, some business advocacy groups have reportedly warned that such measures as those in the Executive Order could slow the economy.

Executive Orders are expressions of policy intent that have no actual binding legal force. Their ability to change the law lies in follow-up implementation by federal agencies that act to implement presidential initiatives. Those changes are limited by the extent of underlying statutory authority, and the courts in recent years have appeared reluctant to expand the scope of what is considered anticompetitive activity under the antitrust laws. Business interests should keep a close eye on the regulatory proposals that result from this Executive Order and consider engaging on those that affect their business operations.

#### Consumer confidence up and high now – their studies go aff a month later

Mutikani 10/26 [Lucia, “U.S. consumer confidence rebounds; house price growth likely peaked”. https://www.reuters.com/business/us-consumer-confidence-unexpectedly-rebounds-october-2021-10-26/]

WASHINGTON, Oct 26 (Reuters) - U.S. consumer confidence unexpectedly rose in October as concerns about high inflation were offset by improving labor market prospects, suggesting economic growth was picking up after a turbulent third quarter.

The survey from the Conference Board on Tuesday showed consumers eager to buy a home and big-ticket items such as motor vehicles and major household appliances over the next six months. The share of Americans planning to go on vacation was the largest since February 2020, just before the nation was slammed by the first wave of COVID-19 infections.

Report ad

A resurgence in coronavirus cases over the summer, driven by the Delta variant, and supply-chain constraints related to the pandemic restrained economic activity last quarter.

"Consumers are more upbeat after a rocky third quarter and this argues for a strong finish for the economy in 2021," said Christopher Rupkey, chief economist at FWDBONDS in New York. "Consumers know the tight labor market has their backs. Those forecasting a recession from the drop in the confidence late in the summer will have to back off that call."

The consumer confidence index increased to a reading of 113.8 this month from 109.8 in September, ending three straight monthly declines. The measure, which places more emphasis on the labor market, remains below its peak of 128.9 in June. The rise contrasted with the University of Michigan's survey of consumers, which showed sentiment falling early this month.

The rebound in confidence coincided with an ebb in coronavirus infections. Consumers were upbeat about both current conditions and the short-term outlook. Economists polled by Reuters had forecast that the index would dip to 108.3.

Report ad

The Conference Board's so-called labor market differential, derived from data on respondents' views on whether jobs are plentiful or hard to get, raced to a reading of 45 this month, the highest in 21 years, from 43.5 in September.

This measure closely correlates to the unemployment rate in the Labor Department's closely watched employment report.

Combined with declining new claims for unemployment benefits, it raises hopes that job gains picked up this month after employers hired the fewest workers in nine months in September. Slower job growth has been blamed on pandemic-related labor shortages. There were 10.4 million job openings at the end of August.

"This is another sign that job growth reaccelerated in October," said Ryan Sweet, a senior economist at Moody's Analytics in West Chester, Pennsylvania."It points toward a decline in the unemployment rate in October."

#### Confidence high --- overzealous regulation slams the breaks on recovery.

Nguyen 10-19-21 (Lananh Nguyen, covers Wall Street for The New York Times. She previously spent more than a decade at Bloomberg News in New York and London, where she wrote about banking and financial markets, 10-15-2021, "Wall Street Sees a Record Deal Spree as a Reason for Optimism,” NYT, <https://www.nytimes.com/2021/10/15/business/wall-street-banks-earnings-mergers.html>?)

The dealmakers at the nation’s biggest banks are the busiest they’ve ever been. Interest rates are low, private equity firms [flush with cash](https://www.nytimes.com/2021/08/31/business/private-equity-uk.html) are looking for promising investments, and companies are aggressively pursuing mergers at a breakneck pace.  
  
Wall Street banks announced blockbuster quarterly profits this week from a record wave of transactions that shows no signs of ebbing: Even in the face of surging inflation and shaky consumer sentiment, corporate clients are ready to deal — and bank leaders say that’s a reason to be optimistic about the economic recovery.  
  
“Whenever C.E.O. confidence is high, M&A activity increases,” David M. Solomon, Goldman Sachs’s chief executive, said in an interview Friday after the bank reported third-quarter earnings of $5.38 billion, surpassing analyst forecasts. “The world’s resettled a bit coming out of the pandemic, and that is now giving a lot of companies an opportunity to really take note of where they want to go.”

A record $1.6 trillion in mergers and purchases were struck worldwide in the quarter, according to [a research report](https://thesource.refinitiv.com/thesource/getfile/index/07ccc1f9-e30d-47ad-8c84-f620b4a990c5?utm_source=Eloqua&utm_medium=email&utm_campaign=00014FG_NewsletterDQRFinancialAdvisory_Other&utm_content=NL_M&A%20Financial%20Advisory%20Review_9M21) from Refinitiv. That, in turn, set records for advisory businesses across Wall Street: [Goldman Sachs](https://www.nytimes.com/2021/10/15/business/goldman-sachs-earnings.html) and Morgan Stanley tallied record revenues, JPMorgan Chase and Bank of America announced all-time high fees, and Citigroup’s mergers and acquisitions bankers had their best quarter in a decade.

Goldman Sachs has already had the most profitable year in its history — earning $17.7 billion so far — with three months to go. In the most recent quarter, its bankers closed transactions including the $32 billion [spinoff of Universal Music Group](https://www.nytimes.com/2021/09/21/business/dealbook/evergrande-stock-markets.html) by the French conglomerate Vivendi and Salesforce.com’s $28.1 billion [purchase of Slack Technologies](https://www.nytimes.com/2020/12/01/technology/salesforce-slack-deal.html). Those were two of the 10 biggest deals completed in the three-month period ending in September, according to Dealogic.

Morgan Stanley also had two top-10 deals: the chip maker Analog Devices’s $20 billion acquisition of a competitor, Maxim Integrated, and the $12.3 billion purchase of Proofpoint, a cybersecurity company, by the private equity firm Thoma Bravo.

Sharon Yeshaya, Morgan Stanley’s chief financial officer, said the financial, health care and technology industries in the Americas and Europe have been the hottest areas, but momentum was building elsewhere, too.  
  
“What we’re seeing is really strong pipelines,” Ms. Yeshaya said in an interview after the bank reported a jump in profits to $3.7 billion. “The strength is broadening.”  
  
The frenetic pace has persisted despite the economic upheaval caused by the pandemic, trade disputes and [geopolitical tension](https://www.nytimes.com/2021/07/13/business/dealbook/china-wall-street-ipos.html), Matt Toole, director of deals intelligence at Refinitiv, wrote about the record quarter. Buoyant [stock markets](https://www.nytimes.com/2021/10/21/business/economy/stock-market-record.html), low borrowing costs and the emergence of [new buyers from special purpose acquisition companies](https://www.nytimes.com/2021/08/21/business/dealbook/spac-market-future.html) will continue to prop up activity, he wrote.

“With the all-time full-year deal making record broken in less than nine months and five consecutive quarters of more than $1 trillion in M&A activity, we have very little data to make true historical comparisons,” Mr. Toole wrote.

Even so, there are plenty of factors that could put the brakes on. Tougher regulators in the United States, rising prices for goods and services and central banks’ moves to cut back on stimulus efforts “will all contribute to how much further this cycle has to go,” he wrote.

Even as they [maintained an optimistic outlook](https://www.nytimes.com/2021/10/14/business/bofa-wells-fargo-earnings.html), bank chiefs acknowledged there were many factors that could slow things down, including supply-chain problems that have lasted for months and [driven up prices](https://www.nytimes.com/2021/10/13/business/economy/september-2021-cpi-inflation.html) for materials and goods. And economic indicators remain mixed:

While bank bosses cited increasing [consumer spending](https://www.nytimes.com/2021/10/15/business/retail-sales-september-2021.html) as a positive sign, [consumer confidence is falling](https://conference-board.org/data/consumerconfidence.cfm).

Perhaps the biggest potential disrupter remains the Federal Reserve. Officials at the central bank could dial back some of their support measures for the [economy](https://www.nytimes.com/2021/10/19/business/economy/us-economy.html) as soon as next month, and have begun debating when they might need to raise interest rates to tame inflation.  
  
But Jason Goldberg, an analyst at Barclays, said the uneven recovery just isn’t a major concern for the banks right now, especially when it comes to the deals they’re helping line up. Volatility is historically the biggest hurdle to deal-making, he said, so analysts are watching the stock market closely. But he expected global deal activity to remain high for some time.

“You’re seeing many companies across industries re-examining their business models coming out of the pandemic,” Mr. Goldberg said. And they have a range of reasons to strike deals, he said: building scale, bolstering their digital operations, smoothing out their supply chains and making use of stockpiled cash.

Mr. Solomon of Goldman Sachs says the number of deals the bank is working to complete is evidence of an “extraordinarily robust” climate. Still, he cautioned that deal making may recede slightly from its breakneck pace.

“We’re clearly recovering coming out of the pandemic, but it’ll be interesting to see the trajectory of the recovery” and what other economic factors come into play, Mr. Solomon said. “But at the moment, with high corporate confidence, that’s having an impact on M&A in a positive way.”

#### Rising vaccinations stop Delta from killing the economy

Reilly 9/23 – Devon Reilly, assistant editor at S&P Global, “Economic Outlook U.S. Q4 2021: The Rocket Is Leveling Off,” 9/23/21, https://www.spglobal.com/ratings/en/research/articles/210923-economic-outlook-u-s-q4-2021-the-rocket-is-leveling-off-12120697

In this light, we revised our forecasts of real GDP growth for 2021 and 2022 to 5.7% and 4.1%, respectively, from 6.7% and 3.7% in our June report, with our new 2021 GDP forecast down a whopping 1 percentage point from June. Still, the near-term health of the U.S. economy remains strong and our current GDP forecast, if correct, is still the highest reading since 1984. The number of new cases fell in the first week of September, for the first time since late June. The delta variant and FDA approval of the Pfizer vaccine are encouraging more people to get vaccinated, bringing the country closer to herd immunity with 55% of Americans fully vaccinated as of Sept. 20. Moreover, the U.S. economy has felt less impact with each wave of the virus and has been able to withstand the damage. We maintain our assessment of U.S. recession risk over the next 12 months at 10%-15%--our lowest assessment in six years.

### Trade DA

#### Trade turns and solves the case---foreign competition is better than antitrust

Anu Bradford 19, Henry L. Moses Professor of Law and International Organization at Columbia Law School, LLM from Harvard Law School, Master of Laws from University of Helsinki, JD from Harvard Law School, and Dr. Adam S. Chilton, University of Chicago, Professor of Law and the Walter Mander Research Scholar at the University of Chicago Law School, MA in Political Science from Yale University, JD and PhD in Political Science from Harvard University, “Trade Openness and Antitrust Law”, Journal of Law & Economics, Volume 62, Number 1, 62 J. Law & Econ. 29, February 2019, Lexis

2.1. Trade and Antitrust Law as Substitutes

Many scholars suggest that trade liberalization may make adopting an anti trust regime unnecessary (Bhagwati 1968; Helpman and Krugman 1989; Blackhurst 1991; Neven and Seabright 1997; Melitz and Ottaviano 2008). According to this view, free trade is an effective way to ensure that markets remain competitive because facilitating entry checks market power (Baumol, Panzar, and Willig 1982). For example, when an economy is open to trade, monopolists refrain from abusing their market power because low external barriers ensure that competitors can enter the market and contest any such abusive practices. In this way, trade liberalization renders an anti trust intervention into monopolistic practices superfluous. Exports fueled by trade liberalization should also enhance market competition. New opportunities in export markets ensure that more firms can reach an efficient scale of production, which further spurs competition and reduces the need for an anti trust regime (Bartók and Miroudot 2008).

Relying on trade liberalization to safeguard market competition could have several advantages. First, foreign producers must incur certain fixed costs and variable trade costs to enter a new market that domestic producers do not incur. If foreign firms are able to enter and effectively compete even after incurring those costs, they are presumably more efficient and hence may act as an even more effective discipline on the market than domestic firms (Bartók and Miroudot 2008). Second, choosing free trade over anti trust regulation eliminates the need to rely on government bureaucracies. Many who remain skeptical of governmental intervention favor free trade and thus prefer to have imports discipline [\*33] anticompetitive behavior. This argument may gain all the more force today considering the complexities associated with antitrust regulators from over 130 countries all applying different rules in an effort to regulate the global marketplace. Finally, although trade openness may "act as an effective antitrust policy" (Pomfret 1992, p. 11), an effective antitrust policy does not act as an effective trade policy. For example, if the United States were to impose a 30 percent tariff on foreign producers today, foreign firms would likely not enter no matter how competitive the markets are behind the border. Domestic antitrust laws thus may do little to facilitate market entry in the presence of highly protectionist trade policy.

#### Recent, robust studies

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Why does protectionism lead to conflict and why does free trade help prevent it? Learn about the connection between peace and free trade.

Frédéric Bastiat famously claimed that “if goods don’t cross borders, soldiers will.”

Bastiat argued that free trade between countries could reduce international conflict because trade forges connections between nations and gives each country an incentive to avoid war with its trading partners. If every nation were an economic island, the lack of positive interaction created by trade could leave more room for conflict. Two hundred years after Bastiat, libertarians take this idea as gospel. Unfortunately, not everyone does. But as recent research shows, the historical evidence confirms Bastiat’s famous claim.

To trade or to raid

In “Peace through Trade or Free Trade?” professor Patrick J. McDonald, from the University of Texas at Austin, empirically tested whether greater levels of protectionism in a country (tariffs, quotas, etc.) would increase the probability of international conflict in that nation. He used a tool called dyads to analyze every country’s international relations from 1960 until 2000. A dyad is the interaction between one country and another country: German and French relations would be one dyad, German and Russian relations would be a second, French and Australian relations would be a third. He further broke this down into dyad-years; the relations between Germany and France in 1965 would be one dyad-year, the relations between France and Australia in 1973 would be a second, and so on.

Using these dyad-years, McDonald analyzed the behavior of every country in the world for the past 40 years. His analysis showed a negative correlation between free trade and conflict: The more freely a country trades, the fewer wars it engages in. Countries that engage in free trade are less likely to invade and less likely to be invaded.

Trading partners

The causal arrow

Of course, this finding might be a matter of confusing correlation for causation. Maybe countries engaging in free trade fight less often for some other reason, like the fact that they tend also to be more democratic. Democratic countries make war less often than empires do. But McDonald controls for these variables. Controlling for a state’s political structure is important, because democracies and republics tend to fight less than authoritarian regimes.

McDonald also controlled for a country’s economic growth, because countries in a recession are more likely to go to war than those in a boom, often in order to distract their people from their economic woes. McDonald even controlled for factors like geographic proximity: It’s easier for Germany and France to fight each other than it is for the United States and China, because troops in the former group only have to cross a shared border.

The takeaway from McDonald’s analysis is that protectionism can actually lead to conflict. McDonald found that a country in the bottom 10 percent for protectionism (meaning it is less protectionist than 90 percent of other countries) is 70 percent less likely to engage in a new conflict (either as invader or as target) than one in the top 10 percent for protectionism.



#### **b) Empirics**

Cary Huang 18, Senior Writer and Veteran Columnist at the South China Morning Post, Former China Editor for The Standard, “Trade Wars Cause World Wars, History Shows. Will This Time Be Different?”, South China Morning Post, 7/17/2018, https://www.scmp.com/comment/insight-opinion/united-states/article/2155565/trade-wars-cause-world-wars-history-shows-will

History provides ample evidence that trade problems have heightened tensions among nations. Such fights lead to economic crises, and trigger political and social crises and, finally, trigger wars.

A full-blown trade war often features the combination of a tariff war and currency war. In practice, exporting countries will, in response to imposed tariffs, resort to currency manipulation, moving to cheapen their money to offset the impact of the tariffs.

But a competitive devaluation among trade partners makes a currency war meaningless. Once countries realise that currency wars do not work, they resort to all the tools available to set up barriers to block trade. This seems evident amid the escalating US-China trade feud. The slump in the renminbi in past few months is stoking fears in markets that China’s policymakers are deliberately pushing the currency’s depreciation in an effort to offset the US tariff hikes.

Trump staring down barrel of yuan devaluation in trade war

Before the first world war, most countries accepted the classical gold standard of pegging their currencies to gold as an effort to anchor smooth trade. However, from 1913, countries began to suspend or abandon the system as they devalued their currencies to compete for export markets in the ongoing tariff war.

The end of the first world war sparked the first worldwide currency war, starting in Weimar Germany in 1921, followed by France in 1925. In the end, all the major economies scrambled to devalue their currencies – sterling, the franc and the US dollar – throughout the 1930s.

In 1930, US president Herbert Hoover signed into law the Smoot-Hawley Tariff Act, which intensified the currency war and deepened the Great Depression. The protectionist law raised tariffs on more than 20,000 imported products and triggered retaliation from many US trade partners.

Trade wars stoke nationalism and hatred among people and finally trigger wars, as evidenced by the breakout of the second world war: the Japanese invaded Manchuria in 1931, and the whole of China in 1937; the Germans invaded Poland in 1939, then the rest of Europe; and the Japanese attacked Pearl Harbour in 1941.

Could Trump’s trade war turn into a third world war?

A quote often attributed to the 19th-century French economist, Frédéric Bastiat, goes: “When goods do not cross frontiers, armies will.” It is obvious that the current US-China trade war is stoking geopolitical tensions between the world’s two largest economies and chief political adversaries, as they become more confrontational over their discord on maritime issues in the South and East China seas and over Taiwan.

History often repeats itself if we do not learn from it. The two full-blown trade wars some 80 and 100 years ago helped to ignite the two world wars. Could such a catastrophe happen again?

#### Breakdown escalates civil conflicts that draw in Iran, Russia, and North Korea---nuclear war

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But that overlooked the ways in which the risk of interstate war was already rising before COVID-19 began to spread. Civil wars were becoming more numerous, lasting longer and attracting more outside involvement, with dangerous consequences for stability in many regions of the world. And the global dynamics most commonly cited to explain the falling incidence of interstate war—democracy, economic prosperity, international cooperation and others—were being upended.

If the spread of democracy kept the peace, then its global decline is unnerving. If globalization and economic interdependence kept the peace, then a looming global depression and the rise of nationalism and protectionism are disconcerting. If regional and global institutions kept the peace, then their degradation is unsettling. If the balance of nuclear weapons kept the peace, then growing risks of proliferation are disquieting. And if America’s preeminent power kept the peace, then its relative decline is troubling.

Now, the pandemic, or more specifically the world’s reaction to it, is revealing the extent to which the factors holding major wars in check are withering. The idea that war between nations is a relic of the past no longer seems so convincing.

The Pessimists Strike Back

More than any other individual, it was cognitive scientist Steven Pinker who popularized the idea that we are living in the most peaceful moment in human history. Starting with his 2011 bestseller, “The Better Angels of Our Nature: Why Violence Has Declined,” Pinker argued that the frequency, duration and lethality of wars between great powers have all decreased. In his 2019 book, “Enlightenment Now: The Case for Reason, Science, Humanism, and Progress,” he wrote that war “between the uniformed armies of two nation-states appears to be obsolescent. There have been no more than three in any year since 1945, none in most years since 1989, and none since the American-led invasion of Iraq in 2003.”

Optimists like Pinker held that, rather than the world falling apart, as a quick glance at headline news might suggest, the opposite was true: Humanity was flourishing. More regions are characterized by peace; fewer mass killings are occurring; governance and the rule of law are improving; and people are richer, healthier, better educated and happier than ever before.

In their book, “Clear and Present Safety: The World Has Never Been Better and Why That Matters to Americans,” Michael A. Cohen and Micah Zenko argued that the evidence is so overwhelming that it is difficult to argue against the idea that wars between great powers, and all other interstate wars, are becoming vanishingly rare. Even when wars do break out, they tend to be shorter and less deadly than they were in the past. John Mueller, a senior fellow at the Cato Institute, also reasoned that the idea of war, like slavery and dueling before it, was in terminal decline, while Joshua Goldstein, an international relations researcher at American University, credited the United Nations and the rise of peacekeeping operations for helping win the “war on war.”

But in recent years, a range of critics have begun to poke holes in these arguments. Tanisha M. Fazal, an international relations professor at the University of Minnesota, contends that the decline in war is overstated. Major advances in medicine, speedier evacuations of wounded soldiers from the field of battle and better armor have made war less fatal—but not necessarily less frequent. Fazal and Paul Poast, who is at the University of Chicago, further assert that the notion of war between great powers as a thing of the past is based on the assumption that all such conflicts resemble World War I and II—both are historical anomalies—and overlooks the actual wars fought between great powers since 1945, from the Korean War and the Vietnam War to proxy wars from Afghanistan to Ukraine. Meanwhile, Bear F. Braumoeller, an Ohio State political science professor, analyzed the same historical data on conflicts used by Pinker, Mueller and Goldstein, and found no general downward trend in either the initiation or deadliness of warfare over the past two centuries. What’s more, Braumoeller contends that the so-called “long peace”—the 75 years that have passed without systemic war since World War II—is far from invulnerable, and that wars are just as likely to escalate now as they used to be. Just because a major interstate war hasn’t happened for a long time, doesn’t mean it never will again. In all probability, it will.

And by focusing solely on interstate wars, the optimists miss half the story, at least. Wars between states have declined, but civil wars never disappeared—and these internal conflicts could easily escalate into regional or global wars.

The number of conflicts in the world reached its highest point since World War II in 2016, with 53 state-based armed conflicts in 37 countries. All but two of these conflicts were considered civil wars. To make matters worse, new studies have shown that civil wars are becoming longer, deadlier and harder to conclusively end, and that these internal conflicts are not really internal. Civil wars harm the economies and stability of neighboring countries, since armed groups, refugees, illicit goods and diseases all spill over borders. Some 10 million refugees have fled to other countries since 2012. The countries that now host them are more likely to experience war, which means states with huge refugee populations like Lebanon, Jordan and Turkey face legitimate security challenges. Even after the threat of violence has diminished in refugees’ countries of origin, return migration can reignite conflicts, repeating the brutal cycle.

A Yugoslav Federal Army tank.

Perhaps most importantly, recent research indicates that civil wars increase the risk of interstate war, in large part because they are attracting more and more outside involvement. In a 2008 paper, researchers Kristian Skrede Gleditsch, Idean Salehyan and Kenneth Schultz explained that, in addition to the spillover effects, two other factors in civil wars increase international tensions and could possibly provoke wider interstate wars: external interventions in support of rebel groups and regime attacks on insurgents across international borders.

Immediately after the Cold War, none of the ongoing civil wars around the world were internationalized. According to the Uppsala Conflict Data Program, there were 12 full-fledged civil wars in 1991—in Afghanistan, Iraq, Peru, Sri Lanka, Sudan, and elsewhere—and foreign militaries were not active on the ground in any of them. Last year, by contrast, every single full-fledged civil war involved external military participants. This is due, in part, to the huge growth in U.S. military interventions abroad into civil conflicts, but it’s not only the Americans. All of today’s major wars are in essence proxy wars, pitting external rivals against one another. Conflicts in Syria, Yemen and Libya are best understood not as civil wars, but as international warzones, attracting meddlers including the United States, Russia, Saudi Arabia, Turkey, Iran, France and many others, which often intervene not to build peace, but to resolve conflicts in a way that is favorable to their own interests. These internationalized wars are more lethal, harder to resolve and possibly more likely to recur than civil wars that remain localized. It is not that difficult to imagine how these conflicts could spark wider international conflagrations. Wars, after all, can quickly spiral out of control.

As Risks Increase, Deterrents Decline

To make matters worse, most of the global trends that explained why interstate war had decreased in recent decades are now reversing. The theories that democracy, prosperity, cooperation and other factors kept the peace have been much debated—but if there was any truth to them, their reversals are likely to increase the chance of war, irrespective of how long the coronavirus pandemic lasts.

Democracy is often considered a prophylactic for war. Fully democratic countries are less likely to experience civil war and rarely, if ever, go to war with other democracies—though, of course, they do still go to war against non-democracies. While this would be great news if democracy and pluralism were spreading, there have now been 14 consecutive years of global democratic decline, and there have been signs of additional authoritarian power grabs in countries like Hungary and Serbia during the pandemic. If democracy backslides far enough, internal conflicts and foreign aggression will become more likely.

Other theories posit that economic bonds between countries have limited wars in recent decades. Dale Copeland, a professor of international relations at the University of Virginia, has argued that countries work to preserve ties when there are high expectations for future trade, but war becomes increasingly possible when trade is predicted to fall. If globalization brought peace, the recent wave of far-right nationalism and populism around the world may increase the chances of war, as tariffs and other trade barriers go up—mostly from the United States under President Donald Trump, who has launched trade wars with allies and adversaries alike.

The coronavirus pandemic immediately elicited further calls to reduce dependence on other countries, with Trump using the opportunity to pressure U.S. companies to reconfigure their supply chains away from China. For its part, China made sure that it had the homemade supplies it needed to fight the virus before exporting extras, while countries like France and Germany barred the export of face masks, even to friendly nations. And widening economic inequalities, a consequence of the pandemic, are not likely to enhance support for free trade.

This assault on open trade and globalization is just one aspect of a decaying liberal international order, which, its proponents argue, has largely helped to preserve peace between nations since World War II. But that old order is almost gone, and in all likelihood isn’t coming back. The U.N. Security Council appears increasingly fragmented and dysfunctional. Even before Trump, the world’s most powerful country ratified fewer treaties per year under the Obama administration than at any time since 1945.

Trump’s presidency only harms multilateral cooperation further. He has backed out of the Paris Agreement on climate change, reneged on the Iran nuclear deal, picked fights with allies, questioned the value of NATO and defunded the World Health Organization in the middle of a global health crisis. Hyper-nationalism, rather than international collaboration, was the default response to the coronavirus outbreak in the U.S. and many other countries around the world.

It’s hard to see the U.S. reluctance to lead as anything other than a sign of its inevitable, if slow, decline. The country’s institutionalized inequalities and systemic racism have been laid bare in recent months, and it no longer looks like a beacon for others to follow. The global balance of power is changing. China is both keen to assert a greater leadership role within traditionally Western-led institutions and to challenge the existing regional order in Asia. Between a rising China, revanchist Russia and new global actors, including non-state groups, we may be heading toward an increasingly multipolar or nonpolar world, which could prove destabilizing in its own right.

Finally, the pacifying effect of nuclear weapons could be waning. While vast nuclear arsenals once compelled the United States and the Soviet Union to reach arms control agreements, old treaties are expiring and new talks are breaking down. Mistrust is growing, and the chance of an unwanted U.S.-Russia nuclear confrontation is arguably as high as it has been since the Cuban missile crisis.

The theory of nuclear peace may no longer hold if more countries are tempted to obtain their own nuclear deterrent. Trump’s decision to abandon the Iran nuclear deal, for one thing, has only increased the chance that Tehran will acquire nuclear weapons. It’s almost easy to forget that, just a few short months ago, the United States and Iran were one miscalculation or dumb mistake away from waging all-out war. And despite Trump’s efforts to negotiate nuclear disarmament with Kim Jong Un’s regime in Pyongyang, it is wishful thinking to believe North Korea will give up its nuclear weapons. At this point, negotiators can only realistically try to ensure that North Korea’s nuclear menace doesn’t get even more potent.

In other words, by turning inward, the United States is choosing to leave other countries to fend for themselves. The end result may be a less stable world with more nuclear actors.

If leaders are smart, they will take seriously the warning signs exposed by this global emergency and work to reverse the drift toward war.

If only one of these theories for peace were worsening, concerns would be easier to dismiss. But together, they are unsettling. While the world is not yet on the brink of World War III and no two countries are destined for war, the odds of avoiding future conflicts don’t look good.

The pandemic is already degrading democracies, harming economies and curtailing international cooperation, and it also seems to be fostering internal instability within states. Rachel Brown, Heather Hurlburt and Alexandra Stark argue that the coronavirus could in fact sow more civil conflict. If this proves accurate, the increase in civil wars is likely to lead to more external meddling, and these next proxy wars could soon precipitate all-out international conflicts if outsiders aren’t careful. With the usual deterrents to conflict declining around the world, major wars could soon return.

#### Trade is stable and growing---governments are avoiding protectionism, the key threat

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Global supply chains have weathered the pandemic intact, and the deep recession has not unleashed a wave of protectionism. That is good for global trade, and probably for foreign direct investment, too, and suggests that predictions of globalization’s demise were premature.

Trade is recovering robustly alongside the upticks in growth in major economies. This good news deserves more attention. Less than 12 months ago, many observers were predicting an end to globalization. The pandemic disrupted supply chains, and governments, suddenly confronted with the resulting vulnerabilities and dependencies, encouraged “reshoring” production of critical goods.

Today, the outlook is much brighter. There is little indication of a sustained movement away from global supply chains. And many governments have realized that trade is more of an opportunity than a threat to national sovereignty. As a result, the World Trade Organization expects the volume of global trade to increase by 8% in 2021, more than offsetting last year’s 5.3% decline.

True, foreign direct investment (FDI) still lags, having plummeted 42% in 2020. Europe actually recorded a negative flow. But the pandemic’s differential impact on trade and investment is not surprising. Transporting goods around the world requires little physical human interaction. Giant cranes, often remotely operated, load and unload containers, and supertankers pump oil ashore.

In contrast, acquiring a firm or establishing a new production facility in another country requires travel to meet potential partners, and in many cases close contact with foreign governments to obtain permits. Pandemic-induced border closures and travel restrictions obviously made this much more difficult.

But FDI is notoriously volatile, often plunging one year and recovering the next, so it could still bounce back strongly in 2021. In fact, the OECD has already detected signs of a recovery.

Moreover, global supply chains have proved to be less vulnerable than many had feared. The notion of a “supply chain” conjures up an image of a fragile arrangement, with each enterprise depending on inputs from the adjacent link. And a chain is only as strong as its weakest link.

The global trading system’s vulnerability to choke points seemed to be driven home in March, when a single large freighter blocked the Suez Canal, after sandstorms restricted visibility and transformed the huge stack of containers on board into sails. But this incident, which was resolved relatively quickly, is not representative of how global trade works.

It is more accurate to talk of interrelated networks of suppliers than supply chains. Most enterprises have more than one supplier of key components, and multinational companies with operations in many countries source supplies from many other countries. The pandemic has reinforced multi-sourcing, rather than triggering a retrenchment from the division of labor.

Yes, governments almost everywhere have interfered with trade during the pandemic to address acute shortages of key products, such as personal protective equipment in 2020 and COVID-19 vaccines during the first few months of 2021. But both of these products, while vital in the context of the pandemic, play only a marginal role in the wider economy. The rich countries could vaccinate the entire world for less than a dollar a week from each citizen.

The main danger is that governments, fearing similar dependence on foreign suppliers for many other key products, introduce protectionist measures. Prompted by the EU’s concern that such dependence could leave the bloc vulnerable to political pressures from hostile governments, the European Commission has recently completed a fascinating study of strategic dependencies and capacities.

The Commission examined more than 5,000 products and found only 137 in the most sensitive sectors, accounting for about 6% of all EU imports by value, for which the EU is highly dependent on imports from outside the bloc. For 34 of these products, constituting only 0.6% of all imports, the EU could be more vulnerable, owing to the low potential for further import diversification or substitution through EU production.

In other words, for the overwhelming majority of products, large economies like the EU have a sufficiently diversified supply base to make them independent of any single supplier. And broad protectionist measures like tariffs or quotas would have little impact on the few goods for which only a single source may exist.

Moreover, most of the 137 sensitive products that the Commission identified are raw materials and related commodities that are easy to store. It would thus be relatively straightforward for the EU to build up strategic stockpiles of those goods.

In the end, governments do not appear to have resorted to protectionism in response to the COVID-19 crisis. Although precise data on new trade barriers erected last year are not yet available, the strong expansion of trade in 2021 implies that the use of such measures must have been limited.

#### Trade’s rebounding

Laura Wood 9-16, Senior Press Manager at Research and Markets, “Global Terminal Tractor Market (2021 to 2026) - Advancements in Terminal Tractors Presents Opportunities”, Research and Markets, 9/16/2021, https://www.globenewswire.com/en/news-release/2021/09/16/2298189/28124/en/Global-Terminal-Tractor-Market-2021-to-2026-Advancements-in-Terminal-Tractors-Presents-Opportunities.html

However, a strong rebound in global trade with the recovery of major industries across the globe since the middle of last year has helped soften the impact of the pandemic for trade. The global economic recovery is also expected to be fueled by the higher production of vaccines and vaccination rates, allowing businesses to reopen more quickly. According to World Trade Organization (WTO), the volume of world merchandise trade is expected to increase by 8.0% in 2021 after having fallen 5.3% in 2020, continuing its rebound from the pandemic-induced collapse that bottomed out in the second quarter of 2020.

#### The aff is selectively enforced

Murray 19 [Allison Murray, Loyola Law, Judicial Law Clerk for U.S. Bankruptcy Courts. Edited by Loyola Law Professor David Kesselman and the ILR team of editors and staff. “Given Today’s New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade’s Coffin?” 2/28/2019. https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?article=1785&context=ilr]

Although the U.S. appears to be quick to make these allegations, it is not immune from being on the receiving end of similar charges.161 The U.S. has also attempted to preserve its own “economically important industries which are threatened by import competition” through protectionism on many occasions, though perhaps with more subtlety than China.162 Some academics observe that the U.S. appears to be “less keen to go after its own monopolies, although [the U.S.] appears to have no problem going after foreign ones.”

#### Lobbying – it guarantees protectionism

Bradford 12 [Anu Bradford, Henry L. Moses Distinguished Professor of Law and International Organization at the Columbia Law School, expert in international trade law, the author of The Brussels Effect: How the European Union Rules the World. “Antitrust Law in Global Markets.” 2012. https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=2977&context=faculty\_scholarship]

Antitrust laws rarely plainly favor local firms at the expense of their foreign counterparts. But even facially neutral antitrust laws can lead to discrimination if those unbiased laws are enforced selectively. Antitrust agencies are often vested with substantial discretion. Organized domestic interest groups could exploit that discretion by seeking protection from antitrust enforcement or by urging the domestic authorities to take on cases against their foreign competitors. This could lead to deliberate underenforcement of the anticompetitive conduct of domestic corporations, or to deliberate overenforcement of the anticompetitive conduct of foreign corporations.149

#### They’re successful because it offsets increased antitrust enforcement against them

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Thirdly, and closely related to the two previous concerns, domestic corporations will have strong incentives to lobby for softer enforcement of competition law and might request additional protectionist measures as compensation for corporate generosity and flexibility during the pandemic. If some protectionist measures are arguably acceptable for some time, they should not be at the expense of strict enforcement of competition law in domestic markets.

In such a context, my concern is that competition policy might become excessively lenient. This would be a questionable policy choice. If protectionism was winning supporters before the pandemic, a post-COVID-19 world will tolerate more protectionism in order to back domestic industries and businesses.

#### Trump’s court packing guarantees the link

Root 19 [Danielle Root, director of voting rights and access to justice on the Democracy and Government Reform team at the Center for American Progress. Sam Berger, vice president of Democracy and Government Reform at the Center for American Progress. “Structural Reforms to the Federal Judiciary.” 5/8/2019. https://www.americanprogress.org/issues/courts/reports/2019/05/08/469504/structural-reforms-federal-judiciary/]

Discussions of the federal judiciary often focus on the substance of decisions made—which side wins and which side loses—and rightly so. These individual opinions are frequently of incredible importance, not just to the parties involved but in shaping the law more broadly. Yet this focus on substantive decisions has obscured deeper structural factors at play in the nation’s federal judiciary. Structural problems—such as lack of judicial diversity, ideologue judges, and lack of judicial accountability—undercut the courts’ legitimacy and have tangible negative effects on judicial decision-making. Instead of protecting everyday Americans by serving as a check on abuses of power, too often the federal courts have become a tool for carrying out the agendas of special interests and corporations.

Structural problems with the judiciary have always existed to varying degrees. But they have been exacerbated in recent years due to an ongoing campaign by conservatives to take control of the federal courts, often through procedural changes that have significant effects but garner little public attention. The problem has now reached a crisis point. Conservatives have shown a willingness to abandon any and all norms to undermine the judicial nominations process and pack the courts with judges who will help them realize political goals they cannot achieve through the political process. These judges have proven more than willing to carry out the task, supporting the most specious of legal claims in order to skew the system in favor of conservative interests and even prevent many Americans from accessing the courts at all.

#### Private claims – Increasing prohibitions skyrockets them

LW 21 [Latham & Watkins Antitrust and Competition Practice. "US Senate Bill Would Reshape Antitrust Enforcement and Litigation." 2/18/21. https://www.lw.com/thoughtLeadership/US-Senate-Bill-Would-Reshape-Antitrust-Enforcement-and-Litigation]

CALERA would increase antitrust enforcement and private actions

Widen scope of anticompetitive conduct

In addition to broadening the definition of market power and lowering the standard for prohibited mergers, CALERA would add a new prohibition on “exclusionary conduct that presents an appreciable risk of harming competition.” “Exclusionary conduct” is defined by CALERA as conduct that “materially disadvantages one or more actual or potential competitors,” or “tends to foreclose or limit the ability or incentive of one or more actual or potential competitors to compete.” This prohibition would lead to an increase in claims, and novel allegations of anticompetitive conduct, as litigants would likely try to take advantage of these broad and undefined terms and shape the precedent.

#### Perception – Adverse enforcement is inevitable and will be perceived as protectionist

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IV. COSTS OF NONCOOPERATION

As the above theoretical explanation shows, attempts to regulate international trade creates costs and benefits that are not fully accounted for in the domestic policy decisions of states. Transaction costs and bias stand out as two prominent costs of the de facto regime.

Since regulatory bodies exist in many different countries, and since some of those bodies apply their laws extraterritorially, firms that conduct business on a global scale must contend with increased and duplicative costs. In order to operate in accord with regulatory policies in many different countries, firms must retain legal counsel in multiple states in order to satisfy jurisdictional differences in reporting and disclosure requirements. This is slow, burdensome, and expensive for the fi rms, while it also increases costs carried by the various regulatory agencies. Because regulatory bodies in different states all act independently, from the perspective of global efficiency, the regulatory bodies are expending duplicative energy in reviewing the same activities.

In the context of international trade under the de facto international competition policy regime, firms operating in multiple states are subject to multiple regulatory reviews. As already noted, this overregulation is costly in terms of duplicative work on the part of both fi rms and regulatory states, but it also introduces yet another cost of noncooperation in the form of bias. A regulatory agency has the temptation to be more lenient when reviewing activities by local firms and potentially more restrictive when reviewing activities by foreign firms.

From the point of view of the firms, even if regulatory activities by states are unbiased, it might appear that unfavorable rulings stem from bias. Perception, in this case, is important because the way firms perceive regulatory actions or regulatory policies by states has implications for the way firms conduct their business activities. Furthermore, states might perceive the regulatory activities of other states on their firms as biased or even as punitive regulatory activity, which potentially drives a wedge between any possibility of interstate regulatory cooperation. Bias is more apparent in the choice of which cases to pursue, rather than in statutory language, but nevertheless, the presence of export cartel exemptions is the most ready example of substantial evidence that points to state bias in regulatory activity. Again, as mentioned above, the United States reveals its bias in exemptions for firms operating in the international markets in aviation, energy, ocean shipping, and communications.

#### It’s the nail in trade’s coffin

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VI. CONCLUSION

There is a clear "conflict between the evolving economic and technical interdependence of the globe and the continuing compartmentalization of the world political system composed of sovereign states . . . ." 196 This conflict can breed protectionist political views. Unless and until there is a complete paradigm shift away from protectionism, which is impossible, the global economy will not meet the "rational" assumptions necessary to preserve free market efficiency.

Some amount of protectionism is inevitable. Although "inefficient" in economic and academic circles, protectionism preserves the sovereign powers enjoyed by certain countries. In this way, it is a necessity of free [\*146] trade. This paper is not intended to be a commentary on whether protectionism is right or wrong, but rather a demonstration and prediction that antitrust law, a tool of political and economic power, can and will be wielded by individual countries to promote protectionist policies that will affect the international trade landscape in the near term.

While attempting to act on this protectionism is difficult because of the web of international trade agreements currently in existence, individual countries may still use domestic antitrust law to meet protectionist aims, especially given that an international authoritative body governing the use of antitrust does not exist. Countries serious about preserving free trade may cooperate with one another to adopt realistic economic policies that serve to dull the blade of antitrust law through regional agreements, but ought not to attempt to eliminate it altogether.

Antitrust law, like medicine, must be used appropriately to be effective. While antitrust laws generally should encourage free trade, as promoting competition is the aim of their enforcement, they are also at risk of being used to thwart free trade. That risk is further exacerbated by perceptions of unfair enforcement and the divisive rhetoric of world leaders. In this way, antitrust law has the potential to weaken the already delicate international cooperative framework that exists to foster free trade. Absent a change in perceptions and the protectionist rhetoric fueling the current political landscape, antitrust law is likely to be manipulated to serve protectionist viewpoints, making it increasingly likely to become a nail in free trade's coffin, instead of the key to its preservation. It may be a nail that nations are able to ignore for the sake of its benefit, or it may be the one that finally puts an end to the pursuit of truly international free trade. Only time will tell, but one thing is clear: anti-trust law is a field that will impact the international economic community significantly for years to come.