# 1NC

### OFF

T-Per Se

#### ‘Prohibiting’ a practice requires per se illegality – they defend the rule of reason

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.

#### Vote neg for limits and ground – infinite standards make the topic unmanageable and fringe standards dodge links and allow bidirectional permissiveness.

### OFF

Extra T

#### Prohibit means forbid by authority

Merriam-Webster No Date <https://www.merriam-webster.com/dictionary/prohibition> and <https://www.merriam-webster.com/dictionary/prohibiting>

Definition of prohibition 1: the act of prohibiting by authority

Definition of prohibit transitive verb 1: to forbid by authority : ENJOIN

#### Anticompetitive practices reduce competition

FTC No Date [Federal Trade Commission, “Anticompetitive Practices,” https://www.ftc.gov/enforcement/anticompetitive-practices]

Anticompetitive Practices

The FTC takes action to stop and prevent unfair business practices that are likely to reduce competition and lead to higher prices, reduced quality or levels of service, or less innovation. Anticompetitive practices include activities like price fixing, group boycotts, and exclusionary exclusive dealing contracts or trade association rules, and are generally grouped into two types:

agreements between competitors, also referred to as horizontal conduct

monopolization, also referred to as single firm conduct

The FTC generally pursues anticompetitive conduct as violations of Section 5 of the Federal Trade Commission Act, which bans “unfair methods of competition” and “unfair or deceptive acts or practices.”

#### They increase funding for enforcement – that doesn’t prohibit a practice.

#### Vote neg – extra topicality allows affs to tack on unpredictable planks that spike neg generics.

#### At best they’re effects T – that’s a voter – infinite policies could result in a topical advocacy because of the butterfly effect.

### OFF

Adv CP

#### The United States federal government should

#### Substantially increase development aid to India for the purpose of solving food scarcity;

#### Substantially invest in renewable energy technology; and

#### Announce that it will no longer apply its antitrust laws extraterritorially.

#### The Association of Southeast Asian Nations should harmonize their antitrust laws with the U.S., including adopting the consumer welfare standard.

### OFF

Multilat CP

The United States federal government should establish a framework for contingent international cooperation that at least expands enforcement resources for and the scope of its core antitrust laws, substantially increases prohibitions on domestic export cartels that operate in foreign nations without protections for export cartels.

#### The CP’s framework multilateralizes antitrust---explicit reciprocity bypasses generic barriers AND spills over to deep economic integration.

Dr. Daniel Francis 21, Climenko Fellow and Lecturer on Law at Harvard Law School, Doctorate of Laws Degree from the NYU School of Law, Master of Laws Degree from Harvard University, JD from Trinity College at Cambridge University, Former Deputy Director of the Federal Trade Commission, “Choices and Consequences: Internationalizing Competition Policy after TPP”, in Megaregulation Contested: The Global Economic Order After TPP, Ed. Kingsbury, Revised 8/26/2021, p. 40-48

B. Between Contracts and Networks: Frameworks

Another dichotomy that dominates the integration of competition policy pertains to the forms of internationalization, which in the competition policy space have generally been dominated by contract-style treaties on the one hand and by open networks on the other.166 Between these two models lies what seems to be an under-utilized alternative, which I call a “framework for contingent cooperation.”

[FOOTNOTE] 166 This binary view dominates the literature. See, e.g., Edward M. Graham, “Internationalizing” Competition Policy: An Assessment of the Two Main Alternatives, 48 Antitrust Bull. 947, 949 (2003) (“[M]echanisms [for antitrust internationalization] range from bilateral treaties creating arrangements for cooperation between or among national competition law enforcement agencies to informal working arrangements among agencies.”); Eleanor M. Fox, International Antitrust and the Doha Dome, 43 Va. J. Int’l L. 911, 912 (2003) (contrasting “horizontalism” with “globalism”); Anu Piilola, Assessing Theories of Global Governance: A Case Study of International Antitrust Regulation, 39 Stan. J. Int'l L. 207, 247 (2003) (“Rather than drafting overarching multilateral agreements on antitrust laws, cooperation efforts in the immediate future are more likely to succeed in managing existing diversity and promoting voluntary convergence based on approximation of domestically applied standards. Networks of antitrust authorities are well-suited to facilitate this process of cooperation and voluntary convergence.”). [END FOOTNOTE]

A “framework” in the sense that I am using that term is a facilitative arrangement that does not constitute a treaty under international law,167 and which does not carry the charge of international legal obligation, but which involves an exchange of specific and reciprocally contingent commitments by participant jurisdictions to engage in mutually beneficial conduct. Specifically, each party states that it will extend certain benefits to each other party so long as each other does likewise; the parties may also create supplementary mechanisms to monitor and/or adjudicate compliance with these commitments.168

A framework of this kind is not a treaty: it is what Kal Raustiala calls a “pledge,”169 and what Charles Lipson calls an “informal” agreement,170 involving no legal obligation, and it involves no commitment of the parties’ reputation for law-abiding behavior.171 On the other hand, it differs from an open, information-sharing network because it precisely specifies behavioral commitments, and because each of the parties shares an understanding that concrete consequences will promptly follow—exclusion from the benefits provided by others—if its behavior materially deviates from the terms of the commitment.172 A framework is therefore essentially a specific declaration of intention to engage in conduct that benefits others, contingent upon parallel behavior by other participating states, without obligatory status under international law.

This is, in some sense, the direct opposite of the approach typically taken in competition policy chapters in trade agreements. The provisions of competition policy chapters partake of the substance of treaty law, but are generally framed in broad terms rather than specifics, and generally do not reflect a shared understanding that specific consequences will attend breach. By contrast, frameworks do not bind in international law, are framed in specific terms than aspirational generalities, and reflect an understanding that the benefits of cooperation will be withdrawn in the event of violation.

Contingent cooperation thus depends for its effectiveness primarily upon three important dynamics. The first and most important of these is the rationality of strategic cooperation. A familiar mainstream view holds that to a significant extent states behave in international society in ways that rationally serve their interests.173 And when cooperation over a series of interactions is overall in the interests of each member of a group, but when each member faces a rational incentive to defect from the terms of cooperation in individual cases, familiar economic theory teaches that a strategic cooperative equilibrium can be maintained among the parties.174 In contingent cooperation, each party understands that if it defects materially from the terms of the framework, the other participants will withdraw the excludable benefits of cooperation, and this provides the incentive to comply.175

Contingent cooperation can be made more stable by the introduction of certain structures designed to monitor compliance (just as with a cartel among private companies).176 This might among other things involve the creation of a central “facilitator” that is responsible, in a general sense, for obtaining, collecting, and processing information necessary to sustain a cooperative equilibrium.177 Depending on the purpose and scope of the cooperation project, this could include (for example): reviewing the text of laws, regulations, and policy documents for consistency with the terms of the framework; conducting peer-review-style evaluations and certifications; hosting voluntary dispute resolution processes, including mediation and/or arbitration, to determine whether and when the framework has been violated; or even receiving and handling complaints of violations ombudsman-fashion (i.e., receiving the complaint, giving the subject of the complaint an opportunity to respond, and publishing findings and conclusions). A central facilitator could also go beyond a policing function and offer a common forum for certain forms of cooperation and information sharing. The nature of such broader functions, and the extent to which they would be useful or desirable, would depend on the nature and purpose of the cooperation.

The second dynamic that powers contingent cooperation is the normative appeal of the project itself. The point here is not unlike what Gráinne de Búrca calls “mission legitimacy”: the normative force of the underlying purpose of a cooperative project, and specifically the power of that normativity to secure the acceptance and cooperation of those who participate.178 Parties joining projects of contingent cooperation can be expected to be in some sense self-selecting: they join such endeavors because, in part, they are genuinely committed to promoting and achieving the ends that the project represents, and they embrace the project of cooperation as worthwhile.179 It may sound a little naïve to suggest that a project of cooperation may be more likely to “stick” if it has some normative appeal to the participating polities, but legal scholarship has long recognized that states do what they undertake to do more often than strictly rational analysis would predict.180 And I think the proposition that genuine commitment to a goal can contribute to compliance is in truth somewhat less naïve than the converse idea that compliance is just as likely without it.

The third source of a framework’s effectiveness is to be found in the acculturative and socializing effects of interaction in an environment in which values and practices are shared and reinforced as normative, and in which attention is paid to the existence and nature of violations. There is a rich and complex literature on the ways in which states, state actors, and the individuals within them may be “socialized” or “acculturated” by repeated engagement with others through common institutions and shared environments of normativity, eventually contributing to the emergence of obligations with genuine normative force.181 Jutta Brunnée and Stephen Toope have pointed out ways in which the force of legal obligation itself arises from shared communities of practice grounded in social reality and shared understandings, not formal commitments.182 As they put it, “[s]tability may be aided by explicit articulation of a norm in a text, but it is ultimately dependent upon [an] underlying shared understanding and a continuous practice of legality.”183

Participation in an endeavor of contingent cooperation may help to engender the development of such understandings and practices, and these may contribute to the effectiveness of the framework. In the longer term, this may even result in the creation of a legal instrument. But this progression is not necessary for acculturation to exert a reinforcing effect: for, as Anu Bradford accurately notes, there is no reason to think that “the pathway from nonbinding to binding rules” is an inevitable or even a natural one.184

The distinctive value of a framework is that it provides a low-cost way for jurisdictions to explore and participate in possible arrangements of mutual benefit that depend upon shared concrete understandings regarding future behavior, but without bearing the burden of an obligation under international law, without running the reputational risk of having to break a treaty, and without facing the domestic hurdles (or political scrutiny) that a treaty would necessitate.185 Use of such a framework may help to reduce the concerns grounded in political morality that might otherwise attend inter-jurisdictional action in sensitive areas:186 to use a term I have coined elsewhere, as contingent practices from which states could withdraw at any time, frameworks would benefit from considerable resources of “exit legitimacy.”187

Frameworks are not suited to every application. They seem particularly apt for types of international cooperation that generate excludable benefits for other participants and can be reasonably well monitored: in the sphere of competition policy, for example, this would include commitments to provide nondiscriminatory access to procurement markets as well as many forms of antitrust cooperation (including cooperation with one another’s investigations, coordination of enforcement activity, the operation of joint filing systems for merger review and cartel leniency programs, and so on). Certain guarantees of nondiscriminatory treatment by SOEs could also be extended on a selective basis. On the other hand, contingent cooperation is much less suitable for projects that require strong and highly credible guarantees of commitment from the participants (in which case a traditional treaty-contract would seem more appropriate188) or groups of parties still lacking the prerequisite agreement on the terms and ambit of desirable cooperation. Nor is it suitable in the absence of sufficient confidence in the ability or incentive of other parties to deliver on their commitments: in these cases, open dialogue and information exchange through a network would seem preferable. Nor, obviously, is it a good fit for projects in which the benefits of cooperation are non-excludable.189 To pick an obvious example, contingent cooperation would not recommend itself as a natural choice for an international project to introduce SOE discipline: the benefits are non-excludable (there is no obvious way to withdraw them selectively in the event of defection) and compliance is very difficult to monitor, so the use of a framework is unlikely to make much of a contribution.190

#### Normative convergence through antitrust harmonization prevents extinction.

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A. The international political environment

At the root of international political theory is the fundamental maxim that relations between sovereign nations in the absence of mitigating factors is characterized by intense competition, mutual distrust, the inability to make credible commitments, and war.20

[FOOTNOTE] 20 Political scientists characterize the international system as “anarchic.” In the absence of world government (or other mitigating force), competition between states is largely unregulated by external laws or enforcement. The world is characterized by mistrust, the inability to contract, and the ultimate reliance on a state’s own devices. See THOMAS HOBBES, LEVIATHAN 80 (Edwin Curley ed., 1994) (in the state of nature “the condition of man . . . is a condition of war of everyone against everyone”). In fuller terms:

There is no authoritative allocator of resources: we cannot talk about a ‘world society’ making decisions about economic outcomes. No consistent and enforceable set of comprehensive rules exists. If actors are to improve their welfare through coordinating their policies, they must do so through bargaining rather than by invoking central direction. In world politics, uncertainty is rife, making agreements is difficult, and no secure barriers prevent military and security questions from impinging on economic affairs.

ROBERT O. KEOHANE, AFTER HEGEMONY: COOPERATION AND DISCORD IN THE WORLD POLITICAL ECONOMY 18 (1984). Efficiency-enhancing gains from trade are difficult to appropriate because trade itself (and any other form of exchange or agreement between nations) is characterized by the absence of credible commitments to future behavior. And underlying the problem is the ever-present threat of the use of force. See, e.g., Kenneth N. Waltz, Anarchic Orders and Balances of Power, in NEOREALISM AND ITS CRITICS 98, 98 (Robert O. Keohane ed. 1986) (“The state among states . . . conducts its affairs in the brooding shadow of violence . . . . Among states, the state of nature is a state of war.”). Although this dire characterization of the international environment is, of course, a stylized approximation of the real world—there are always overlying constraints on sovereign behavior in the form of norms, reputational effects, and customary international law, HEDLEY BULL, THE ANARCHICAL SOCIETY: A STUDY OF ORDER IN WORLD POLITICS (1977)—it is a useful and widely accepted heuristic for crafting a theory of international politics. [END FOOTNOTE]

As one commentator notes, “Nations dwell in perpetual anarchy, for no central authority imposes limits on the pursuit of sovereign interests.”21 And states are “unitary actors who, at a minimum, seek their own preservation and, at a maximum, drive for universal domination.”22 As a result, states operating on the international stage are unable to judge the sincerity of each others’ stated intentions when those intentions are contrary to this manifest interest. Because of self-help rules, states are forced in the main to assess their own security environment by assessing the capabilities of competitors, downplaying their motives. Given that the nature of the competition can implicate the fundamental survival of one (or more) of the actors, actions taken by one state to improve its own security must necessarily decrease the security of its competitor; in the absence of mitigation, security is a zero-sum game.23 In a world where cooperation is exceedingly difficult (because there is no authority to enforce agreements, nor any basis for assessing the reliability of another state’s commitments), international relations are characterized by a continuous race to the bottom, a mindless arms race rather than the opportunity to realize gains from cooperation.

It is obvious that not all relations between states are characterized by the security dilemma, however. Canada, for example, shares an unprotected border with the most powerful nation in the world without degenerating into a destructive and costly arms race. By some mechanism, then, Canada must be able reliably to judge U.S. intentions, even absent the apparent ability by the United States credibly to bind itself to a nonaggressive policy toward Canada. The key to mitigating the pressures of the security dilemma is the ability to distinguish a state with aggressive and expansionist tendencies from a benign one.24 States can be distinguished by their fundamental type. They can be classified as “revisionist,” that is, they seek to subvert the dominant order, or they can be classified as “status quo,” that is, they seek to support it.25 But, as noted, a state’s ability to judge another’s intentions (as opposed simply to counting its armaments) is extremely tenuous and comes at great cost. In fact, political science offers few well-understood mechanisms for judging a state’s propensity for aggression.

At the same time, hegemonic states have an abiding interest in spreading and maintaining their dominant worldview.26 Not only is it imperative that dominant states receive credible signals about other states’ intentions, but it is also important that dominant states attempt to inculcate their norms within other states that, over time, might mount credible challenges to the dominant states’ security.27 The spread of hegemony through internalization of norms occurs for three reasons. First, states with similar institutions and sympathetic domestic norms are simply better and more reliable trading partners, and it is in the hegemon’s economic interest to instill its norms.28 Second, states with defensive military postures and that adhere to the status quo present significantly less security risk to dominant states.29 And finally, the hegemon has a normative interest in the spread of its culture, its worldview, and its norms.30 This conception of the playing field upon which states interact leads to the conclusion that, entirely apart from the immediate and substantial economic benefits to a state from well-ordered interactions with other states, hegemonic states also have a national security and a normative interest in the information to be gleaned from the fact that these interactions are, in fact, well ordered.

In the absence of centralized enforcement, privately held and nonverifiable information as to a state’s fundamental type is the critical problem in assessing motives.31

[FOOTNOTE] 31 See KEOHANE, supra note 20, at 31 (“Order in world politics is typically created by a single dominant power [or hegemon].”). States are consequently classified as one of two types, “revisionist” or “status quo,” based on their acceptance and adherence to the political norms, institutions, and rules created by the hegemon. Status quo states are those that try to improve their condition from within the framework of the accepted world order. Revisionist states, by contrast, seek to gain position both by working outside that order and by working to subvert the hegemonic order itself. For instance, the existing world order is generally accepted to be that created by the United States after World War II. It comprises a liberal international economic order, the use of multilateral institutions (such as the United Nations and the WTO), negotiation for dispute resolution rather than the threat of violence, and the promotion of liberal democratic moral norms. See, e.g., Schweller, supra note 24, at 85; HANS J. MORGENTHAU, POLITICS AMONG NATIONS: THE STRUGGLE FOR POWER AND PEACE 32 (1948). Trade disputes between status quo states (like tariff disputes between the United States and Europe) are resolved through peaceful negotiation rather than the threat of war. Although status quo states do not entirely eschew the use of violence, they typically seek international authorization and legitimization before employing military force, as in the multilateral operations in Iraq, Kosovo, and Afghanistan. Revisionist states, on the other hand, such as North Korea, Iran, and China, will more readily use military force as a bargaining tool and are more reluctant fully to participate in transparent military, economic, and political negotiations. [END FOOTNOTE]

States wishing to escape the pressures of the security dilemma and engage in cooperative behavior need a means of conveying their preferences to others in a credible manner. There are, in general, two means by which such information can be transmitted: states can either bind themselves in such a way that they are unable to deviate from a stated behavior (known as “hands tying” in Schelling),32 or they can signal their intention to engage in a specified course of action by incurring costs sufficiently large that they discourage the misrepresentation of preference.33

International institutions can play a crucial role in facilitating the transmission of this information.34 In particular, international agreements over the terms of trade, even without binding supranational enforcement authority, provide a means for states to bind themselves to a desirable course of behavior in the short run and, more importantly, to signal their acquiescence to the ruling world order in the long run. Because compliance with treaty obligations often requires signatories to alter their domestic laws to reflect the terms of the treaty, the costs of compliance can be substantial. In the short run, to the extent that states enforce their domestic laws they can bind themselves to a certain course of behavior. In the long run, a state’s willingness to incur the substantial costs of changing its laws, both the transaction costs inherent in changing domestic laws and the even more substantial costs in domestic political capital, signals a willingness to engage other states on the terms set by the reigning international power. Moreover, there may be unintended effects, as changes in domestic laws result in a new set of domestic incentives to which actors respond, and new windows of opportunity may open up through which policy entrepreneurs can push for the internalization of new norms.35 Competition laws in particular are susceptible to this mode of analysis.

Most nations have adopted competition laws as a way to actualize (as well as to symbolize) a degree of commitment to the competitive process and to the prevention of abusive business practices . . . . The introduction of competition laws and policies has also gone hand in hand with economic deregulation, regulatory reform, and the end of command and control economies.36

The surest way to remove the threat of war, increase wealth, conserve resources, and protect human rights is through fundamental agreement between all states (or at least effective agreement between verifiably status quo states) under a normative umbrella that promotes all of those values. This normative convergence can be effected through the stepwise internalization of the sorts of economic and democratic values inherent in international economic liberalization, perhaps most notably through the adoption of principled international antitrust standards.37

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Cap K

#### The aff promotes a neoliberal project of enforced competition that normalizes inequality in the social and markets in the political.

Davies 18 [William Davies, Professor in Political Economy, Goldsmiths, University of London, “The SAGE Handbook of Neoliberalism | The Neoliberal State: Power Against ‘Politics,’” 2018, SAGE, pp. 273-277]

The state is a central instrument for the advancement of a neoliberal agenda. Commitment to a strong state, capable of rebuffing political and ideological challenges to capitalist competition, is a defining feature of neoliberalism, both as a system of thought and of applied political strategy. There is scant evidence of neoliberal reforms ever leading to a ‘smaller’ or ‘weaker’ state in any meaningful sense, even if certain functions have been removed from the state via policies of privatization and outsourcing. However, the state is also an object of considerable critical scrutiny and resentment under neoliberalism. As Jamie Peck argues, ‘neoliberalism’s curse has been that it can live neither with, nor without, the state’ (Peck, 2008: 39). The suspicion that the state and its agents are wasteful, self-serving, irrational, ~~blind~~ to the merits of competition, excessively ‘intellectual’ and resistant to change is an abiding feature of neoliberal critique. The paradoxical status of the state under neoliberalism, being simultaneously the key instigator of reform and main obstacle to it, means that this anxiety can never be entirely allayed.

In the face of this ambivalence, neoliberal critique focuses on seeking to rationalize the state using techniques drawn from the world of business or to actively involve business in the running of public sectors. Reforms known as ‘new public management’ took off from the 1980s onwards, seeking to re-model state bureaucracies on private sector enterprise, using target-setting and audit to disrupt allegedly slow and wasteful public sector administrations (Hood, 1995). Outsourcing and public-private partnerships have produced a new institutional sphere between market and state conventionally understood, that can be analyzed in terms of networks of ‘governance’ or ‘governmentality’ that redistribute state functions into various new administrative units (Rhodes, 1996; Rose and Miller, 2013). Neoliberalism often involves the determined pursuit of state agendas, but in ways that bypass inconvenient, ‘political’ or supposedly inefficient instruments of government.

This chapter explores the neoliberal state in three different ways. First, it discusses the idea of the neoliberal state, as it exists in neoliberal thought between the 1920s and the 1970s. I will show how neoliberals such as Friedrich Hayek consciously distanced themselves from the Victorian vision of laissez-faire, and committed to an active state agenda. This is something that Michel Foucault highlighted in his renowned lectures on neoliberalism (Foucault, 2008). Second, I will specify key features of the ‘actually existing’ neoliberal state, including its status over the course of the global financial crisis of 2007–09. Neoliberalism does not shrink state power, but it does involve it shifting from spheres designated (pejoratively) as ‘political’ to those viewed as unpolluted by the dangers of politics. Finally, I will identify some of the core contradictions at the heart of the neoliberal state, and draw out what these mean for the critique of neoliberalism.

The idea of the neoliberal state

A defining feature of neoliberal thinking is the presumption that there is no a priori distinction between the realm of the ‘political’ and that of the ‘economic’. The way in which individuals act in the marketplace is not substantially any different from how they act in public sector bureaucracies or as participants in democracy. From a neoliberal perspective ‘there is no separate economic motive’ (Hayek, 2007 [1944]: 93), a principle reiterated by various members of the Chicago School of Economics (e.g., Friedman, 1962; Becker, 1976). A commensurate assumption is that there is no ‘separate’ institutional sphere of economy. A recurring motif of neoliberal political critique is to extend metaphors, norms and measures from the economic realm of markets and business to the political realm of government. For example, the discourse of ‘national competitiveness’ borrows the language and methodologies of business strategy, and applies them to questions of national executive decision-making, representing political leaders as national ‘CEOs’.

In The Birth of Biopolitics (2008), Foucault argues that this application of economic critique to the state was the main hallmark of neoliberalism. In contrast to liberalism, which required government to develop techniques and knowledge through which to retreat into a limited ‘political’ space and leave economic activity alone, neoliberalism involves relentless efforts to remake social and political life around an ideal plucked from the market. As Foucault argued, it:

…is not a question of freeing an empty space [as laissez-faire was], but of taking the formal principles of a market economy and referring and relating them to, of projecting them on to a general art of government. (Foucault, 2008: 131)

It is not simply that neoliberalism privileges markets, but that it seeks to buttress markets (and market-like behaviours and culture) using the force of the state and to transform the state around principles extracted from the market (Davies, 2014). Foucault examined this via the writings of the Freiburg School of ordoliberalism and the Chicago School of neoclassical economics. While these two intellectual traditions are strongly divergent in their theoretical approach and political implications, what they share is the assumption that the state (in addition to other non-market realms of existence) can and should be reformed through a deliberate re-organization around principles associated with the marketplace.

In the case of ordoliberalism, the authority of the state is derived from its capacity to enforce the rules of the market ‘game’, preventing firms from dominating markets, combating inflation, entrenching property rights, and defending the rights of entrepreneurs and small businesses through competition law (Bonefeld, 2012). The state should act aggressively to produce an overarching framework, robust enough to withstand whatever economic upheavals occur within the competitive market (Gerber, 1994). Ordoliberalism allows for copious state intervention, but only to act upon the conditions and formal properties of economic action, and never to direct or control it. The ordoliberal state would be focused purely on a priori conditions of competition, and ~~blind~~ to utilitarian questions of outcomes. This philosophy is resonant with the fear of ‘moral hazard’ that is often used to obstruct government interventions in the market, on the basis that flexibility in the application of rules will make them ineffective in disciplining behaviour in future.

It needs noting that the ordoliberal paradigm is compatible with many policies associated with social democracy or even socialism. Welfare policies and social spending could be perfectly legitimate, so long as they were structured in such a way as to preserve the formal structure of the competitive market as the a priori logic of society. Many German and French neoliberal thinkers of the 1930s saw neoliberalism as a path between socialism and laissez-faire, that would harness the capabilities of the growing welfare state towards the promotion of enterprise (Burgin, 2012). What was often known as the ‘social market’ model (including by many neoliberal think-tanks in the UK during the 1960s and 1970s) was as much about harnessing the instruments of social democracy as it was about promoting the free market (Gamble, 1988). In this respect, neoliberalism was and remains an agenda for the transformation of society, and not simply for the expansion of the market (Dardot and Laval, 2013). In addition to the influence that ordoliberals exerted over German reconstruction and European integration during the 1950s, legacies of this tradition might also include the ‘Third Way’ policies of centre-left governments of the 1990s, which focused on ‘active’ labour market interventions rather than labour market protections.

From the perspective of the Chicago School (and equally the Virginia School of public choice) by contrast, the authority of the state needs to be relentlessly questioned and tested through the application of neoclassical economics to the study of law-makers, bureaucrats and democratic processes. ‘The economic critique the [American] neo-liberals try to apply to governmental policy’, Foucault argued, ‘is also a filtering of every action by the public authorities in terms of contradiction, lack of consistency and nonsense’ (2008: 246). The ‘imperialism’ of neoclassical economics is therefore an integral part of the American neoliberal project of state rationalization, which gradually crowds out alternative logics from the social and political realms (Fine and Milonakis, 2009). This is manifestly a more state-phobic, pro-business orientation than that of ordoliberalism and the traditions that spun off it. It is also in strong contrast to liberal political philosophies, which preserved space for a separate realm of political interaction not reducible to economics (Brown, 2015). It rests on a latent libertarian suspicion that politicians, bureaucrats and law-makers are likely to be just as self-interested as business-people and consumers, only less honest about this fact.

Implicit and sometimes explicit in this analysis is the idea that the ideals associated with the state are more dangerous than those associated with the market. Perversely, the ideals of the market might be a more effective (and certainly a safer) basis on which to safeguard key political principles, such as democracy, liberty and justice. If all action is fundamentally economic action, it makes perfect sense to treat the state as a particular type of economic entity, and to view economic institutions as safeguards of political values. Gary Becker claimed that ‘there is relatively little to choose between an ideal free enterprise system and an ideal political democracy; both are efficient and responsive to preferences of the “electorate”’ (Becker, 1958: 108). However, the neoliberal stance is that the market will act as a better guarantor of democracy than vice versa. It therefore makes sense to entrench the market in a quasi-constitutional fashion, and assume that democracy (or at least, individual liberty) will follow. The alternative, to trust democracy to safeguard markets, is treated as self-evidently misguided, given the rise of socialism and fascism over the course of the twentieth century.

So what are the perceived virtues of markets that need to be used as a basis on which to re-imagine and reconstruct the state? There is potentially a wide range of answers to this question, from more conservative ones which point to the ethic of self-reliance associated with entrepreneurship, to more modernizing ones, which view the market as a source of constant innovation. Here I want to focus on two perceived ideals of the market that provide inspiration, purpose and templates for the reform of the state: competition and explicitness.

Competitiveness

As various scholars have argued, competition and competitiveness are primary and fundamental virtues within neoliberal thinking (Dardot and Laval, 2013; Davies, 2014; Brown, 2015). It is precisely the capacity of markets to produce new and unequal outcomes that makes them valuable, because this inequality is deemed a valid empirical reflection on the ideas, efforts, productivity and knowledge of those who are party to the market contest. Competition, according to Hayek, is a ‘discovery procedure’ (Hayek, 2002).

This implies various roles for the state. First and foremost, the state must act as the regulator and guarantor of economic competition via the provision and enforcement of antitrust law. Ever since the earliest congregations of neoliberal thinkers in the 1930s, antitrust had been viewed as one of the most important functions of the state (Gerber, 1998). What this indicates is that, while competition might be viewed as an ideal that emanates from the market, it is not something that real-world markets will safeguard left to their own devices. It will not exist or survive naturally and inevitably, in the way that classical liberals like Adam Smith assumed. Businesses, individuals and entrepreneurs are just as likely to form cartels, avoid competition or seek to suppress it, and this provides the state with an important regulatory and legal function (Bonefeld, 2012). In this sense, the ‘free’ market needs the state to act as its law-giver and policeman (as Polanyi argued), just as much as the ‘liberal’ state needs the market to provide it with discipline.

Given the unique qualities of competition as a basis for social interaction, it makes sense that other institutions and spheres of existence should be governed in ways to render them competitive. This provides the state with additional areas of focus. First, the neoliberal state must strive to push competition and competitive dynamics into areas of social life that are otherwise resistant to entrepreneurial values and ethos, such as universities, and to inculcate people with a respect for competition generally (Dardot and Laval, 2013). Each individual is exhorted to become ‘an entrepreneur of himself’, and learn and train accordingly, for optimal positioning in the market (Foucault, 2008: 226; Binkley, 2014). Second, government institutions should themselves be re-imagined along competitive principles where possible, reducing the state’s monopoly power through outsourcing and seeking to make ‘national competitiveness’ a loosely-defined teleology of all policy (Cerny, 1990). Neoliberals (and other conservative economists such as Joseph Schumpeter) of the mid-twentieth century shared a deep-set fear that the benefits of competition were invisible to the public, who were too easily seduced by the short-term promises of socialists and planners (Schumpeter, 1976). Ideally, therefore, the rules of competition would be placed beyond the scope of democratic politics, where they could not be touched. Unelected commissions, regulators and auditors would serve a valuable function in safeguarding competition from short-sighted political counter-movements.

Explicitness

A second principle that the market upholds, and that carries potential political value for the state, is what might be termed explicitness. Chicago School economist George Stigler argued that ‘the price system lays the cards face up on the table’, in contrast to other institutions which are mired in opacity and ambiguity (Stigler, 1975: 36). Right from the beginning of the ‘socialist calculation debate’, which catalyzed the earliest forms of neoliberal critique in the 1920s (Gane, 2013), the merits of the price system have been treated by neoliberals as partly phenomenological in nature. While markets have an in-built system of explicit, quantitative and public valuation in the form of prices, socialism was deemed to suffer from a necessary inability to grasp value in any rational or objective way. As Ludwig von Mises put it in 1920, under socialism ‘there is only groping in the dark’ (1990 [1920]: 17). This stems from a pessimistic view of moral discourse, shared by both European and American neoliberals, which assumed that it would be impossible to reach agreement on common values or goals in the absence of a neutral calculative technology such as markets, economics or some combination of the two.

This celebration of the market’s public, phenomenological properties has certain implications for the critique and reform of the state. These can be seen in the overall push for better ‘governance’ in the public sector in general, and for more ‘transparency’, ‘accountability’ and ‘value for money’, in particular. Capturing the ‘outputs’ of public sector workers and agencies in quantitative, standardized forms represents a way of reconfiguring the state in market-like ways, without simply privatizing it. Performing cost-benefit analysis becomes a crucial way of capturing the value of public goods or social costs (Fourcade, 2011). The political pessimism of the neoliberal mindset, which doubts the capacity for collective action or agreement on normative or teleological grounds alone, becomes manifest in a constant evaluative scrutiny of public sector employees and professions – a feature of what Michael Power has termed the ‘audit society’ (Power, 1997). The various new forms of audit, derived from the private sector or invented anew for the public sector, have often been bracketed together as ‘new public management’ (Hood, 1995). But the same quest for explicitness can also be seen in subsequent efforts to quantify the work of the state, such as new metrics for the capture of ‘social value’ or the push for more ‘open data’ through which the public can critically scrutinize the work of government in the digital age.

The neoliberal state in practice

Being both the agent of reform and the object of critique, the state provides neoliberalism with a profound dilemma. Which part of the state will drive reform and which part of the state will be the object of reform? Unless state agencies and civil servants are expected to undergo some mystical conversion to the neoliberal vision, the practical realities of the neoliberal state involve a permanent confrontation with this problem. The prosaic day-to-day activities of the neoliberal state are too copious and various to be easily synthesized into a brief description. It goes without saying that such a state never entirely conforms to the ideals of competitiveness and explicitness described in the previous section, but operates via channels that remain noticeably ‘political’. Neoliberal politics is riven as much as any other politics by what Weber famously termed the ‘strong and slow boring of hard boards’, confronting obstacles that need to be overcome via compromise, coalition-building and patience. The strategic battles that are prioritized will vary from case to case, depending on national political traditions and the contingent strength of opposition in parliaments, within the state and in civil society. There is no pure or perfect example of the neoliberal state. This also accounts for the fact that neoliberal reform is perpetually incomplete, chasing ideals that remain elusive, and hence endlessly compelling.

The neoliberal project of state reform typically operates in a parasitical fashion, drawing on the political and social energies of one set of existing institutions and traditions, so as to subvert or undermine others (Mitchell, 2002). Paradoxically, the reduction of politics to economics requires copious political will and authority to be achieved (Davies, 2014). With the exception of the think-tanks which were set up in the decades preceding the Reagan and Thatcher victories, neoliberalism has no indigenous bases from which to launch its critique and transformation of the state, so depends on building alliances within sympathetic corners of state and civil society. This is manifestly a political challenge, but one of the most effective rhetorical and cultural strategies is to re-purpose the category of ‘political’ as a pejorative one, designating certain state institutions as corrupted by ‘politics’ and in need of reform. The legislature, permanent civil service, professions and trade unions are frequent objects of this kind of rhetorical strategy. A key justification for this fear of ‘politics’ is that democracy and political movements lead to unaffordable promises being made to citizens, leading inexorably towards inflation (Blyth, 2013). Meanwhile, another set of interests and power centres can be designated as ‘non-political’, allowing them to act in ways that seem to circumvent the intrinsic defects of the state. The more that economic policy-making can be insulated from the vanity and ideologies of politicians, the better it will be for the public in the long term. This argument in favour of quasipermanent policies, and against the vagaries of political whims, was summed up in an influential paper, ‘Rules Rather Than Discretion’ (Kydland and Prescott, 1977).

#### Capitalism is terminally unsustainable and at a turning point – reinforcing structures causes extinction and turns their impacts.

* TCC = Transnational Capitalist Class, TNS = Transnational State

Robinson 20 [William I. Robinson, American professor of sociology at the University of California, Santa Barbara, “The Global Police State,” 2020, Pluto Press, EA]

But the globalization boom of the late twentieth and early twenty-first centuries was short-lived. The global financial meltdown of 2008 marked the onset of a new structural crisis of global capitalism, one that opens the possibility for systemic change. Karl Marx was the first to identify crisis as immanent to capitalism and there is a vast literature on capitalist crisis.11 Here I identify three types of crisis. Cyclical crises, or recessions, occur about every ten years in the capitalist system and typically last some 18 months. These comprise the so-called “business cycle.” There were recessions in the early 1980s, the early 1990s, and the early 2000s. “Structural crises,” so called because the only way out of crisis is to restructure the system, occur approximately every 40–50 years. A new wave of colonialism and imperialism resolved (that is, displaced) the first recorded structural crisis of the 1870s and 1880s. The next structural crisis, the Great Depression of the 1930s, was resolved through a new type of redistributive capitalism, referred to as the “class compromise” of Fordism-Keynesianism, social democracy, New Deal capitalism, and so on (more on this below). As we have seen, capital responded to the next structural crisis, that of the 1970s, by going global. Each of these major episodes of structural crisis have presented this potential for systemic change. Historically, each has involved the breakdown of state legitimacy, escalating class and social struggles, and military conflicts. In the past, structural crises have led to a restructuring that includes new institutional arrangements, class relations, and accumulation activities that eventually resulted in a restabilization of the system and renewed capitalist expansion. Yet a new period of far-reaching restructuring through digitalization appears to be under way at this time. Before we return to this new wave of restructuring, let us focus on the nature of the current crisis, which shares aspects of earlier system-wide structural crises of the 1880s, the 1930s, and the 1970s. Yet there are several interrelated dimensions to the current crisis that I believe sets it apart from these earlier ones and suggest that a simple restructuring of the system will not lead to its restabilization—that is, our very survival requires now a revolution against global capitalism. Above all is the existential crisis posed by the ecological limits to the reproduction of the system. We have already passed tipping points in climate change, the nitrogen cycle, and diversity loss. For the first time ever, human conduct is intersecting with and fundamentally altering the earth system in such a way that threatens to bring about a sixth mass extinction.12 While capitalism cannot be held solely responsible for the ecological crisis, it is difficult to image that the environmental catastrophe can be resolved within the capitalist system given capital’s implacable impulse to accumulate and its accelerated commodification of nature. The ecological dimensions of global crisis have been brought to the forefront of the global agenda by the worldwide environmental justice movement. Communities around the world have come under the escalating repression of a global police state as they face off against transnational corporate plunder of their environment and demand environmental justice and action by governments to avert the climate catastrophe. And climate change refugees, who are likely to run into the hundreds of millions in the years ahead, are vilified by racist and neo-fascist forces and repressed by a global police state. This accelerated commodification of nature points to another underlying dimension of the current crisis. We are reaching limits to the extensive expansion of capitalism, in the sense that there are no longer any new territories of significance to integrate into world capitalism and new spaces to commodify are drying up. The capitalist system is by its nature expansionary. In each earlier structural crisis, the system went through a new round of extensive expansion—that is, incorporating new territories and populations into it—from waves of colonial conquest in earlier centuries, to the integration in the late twentieth and early twenty-first centuries of the former socialist bloc countries, China, India and other areas that had been marginally outside the system. There are no longer any new territories to integrate into world capitalism. At the same time, the privatization of education, health, utilities, basic services, and public lands are turning those spaces in global society that were outside of capital’s direct control into “spaces of capital,” so that intensive expansion—that is, the commodification of what were non-commodified resources and activities—is reaching depths never before seen. Commodification refers to the process of turning people, the things that people produce, and nature into things that are privately owned, have a monetary value, and that can be bought and sold. Capitalism by its nature must constantly expand intensively by commodifying more and more of the world. What is there left to commodify? Where can the system now expand? New spaces have to be violently cracked open and the peoples in these spaces must be repressed by a global police state. But what does exhaustion of spaces for extensive and intensive expansion imply for the reproduction of the system? The sheer magnitude of the means of violence and social control is unprecedented, as well as the magnitude and concentrated—and increasingly privatized—control over these means of violence along with the means of global communication and the production and circulation of symbols, images, and knowledge. As I will discuss in more detail in Chapters 2 and 3, computerized wars, drone warfare, robot soldiers, bunkerbuster bombs, satellite surveillance, cyberwar, spatial control technology, and so forth, have changed the face of warfare, and more generally, of systems of social control and repression. We have arrived at the panoptical surveillance society, a point brought home by revelations of the defector from the U.S. National Security Agency (NSA), Edward Snowden, that the NSA monitored virtually every communication on the planet. It is no exaggeration to say that we are now in the age of thought control by those who control global flows of communication, information, and symbolic production. But most frightening is the production and deployment of a new generation of nuclear weapons and the threat of “limited” nuclear war.13 If global crisis leads to a new world war, the destruction would simply be unprecedented. Combined with ecological meltdown, it is difficult to see how humanity could survive such a conflagration. Global capitalism lends itself to escalating inter-national tensions with the potential to spill over into major interstate conflict. But we should not explain these tensions through the outdated nation-state/interstate mode of analysis that attributes such tensions to national rivalry and competition among national capitalist classes for international economic control. Rather, these tensions derive, above all, from an acute political contradiction in global capitalism that I already alluded to above: economic globalization takes places within a nation-state-based system of political authority. Nation-states face a contradiction between the need to promote transnational capital accumulation in their territories and their need to achieve political legitimacy. In the age of capitalist globalization, governments must attract to the national territory transnational corporate and financial investment, which requires providing capital with all the incentives associated with neo-liberalism—downward pressure on wages, deregulation, low or no taxes, privatization, fiscal austerity, and on so— that aggravate inequality, impoverishment, and insecurity for working and popular classes. As a result, states around the world have been experiencing spiraling crises of legitimacy. To put it in more technical terms, there is a contradiction between the accumulation function and the legitimacy function of nation-states. This situation generates bewildering, unstable, and seemingly contradictory politics. It helps explain the rise of far-right and neo-fascist forces that espouse rhetoric of nationalism and protectionism even as they promote neo-liberalism, such as the Trump government in the United States, and has confused some into believing that “deglobalization” is under way as we move backward to an earlier era of national protectionism. In fact, the “old protectionism” of the twentieth century aimed to protect national products and the national capitalist groups that produced them with tariffs and subsidies. The new protectionism—if we could call it that, as the term is extremely misleading and leads to much confusion—aims to create the conditions to attract transnational capital to national territories. Despite its protectionist rhetoric, for instance, the Trump White House called not for locking out foreign investors but for transnational investors from around the world to invest in the United States, enticed by a regressive tax reform, unprecedented deregulation, and some limited tariff walls that would benefit groups from anywhere in the world that establish operations behind them. “America is open for business,” Trump declared at the 2018 meeting of the global elite gathered for the annual conclave of the World Economic Forum (WEF) in Davos, Switzerland: “Now is the perfect time to bring your business, your jobs and your investments to the United States.”14 And the biggest single beneficiary of steel tariffs that Trump imposed in 2018 on imported steel was ArcelorMittal, the Indian-based company that owns majority shares in U.S. Steel.15 Moreover, as we will see later, TCC contingents from countries around the world that appear to be in geopolitical competition are not just heavily invested in global police state but they are cross- and mutually invested in it. More to the point here, economic globalization as it has unfolded within the interstate system generates mounting international and geo-political tensions to the extent that the crisis exacerbates the problem of legitimacy and destabilizes national political systems and elite control. Inter-national tensions must be seen as derivative of the contradiction between the expansion of transnational capital within the framework of the nationstate/inter-state system, in which global capitalism pits nationally constrained workers against one another and sets up the conditions for the TCC to manipulate the crises of state legitimacy and the international tensions generated by this contradiction. The political tensions generated by this contradiction can and do take on the appearance of geo-political competition.16 Will the centrifugal pressures produced by this contradiction undercut the centripetal pressures brought about by economic globalization? Will these centrifugal pressures break out into open, largescale inter-state warfare?17 Will geo-political tensions “overdetermine” the corporate interests of the TCC? We need here to extend the analysis of transnational politics and the TNS in order to understand this dimension of global crisis, especially so considering that it is central to the story of global police state. Transnational elites have been clamoring for more effective TNS institutions, in part, in order to resolve this disjuncture between economic globalization and the nation-state system of political authority. However, the fragmentary and highly emergent nature of TNS apparatuses makes the effort problematic given both the dispersal of formal political authority across many nation-states and the loose nature of TNS apparatuses with no center or formal constitution. The more “enlightened” elite representatives of the TCC are now searching for ways to develop a more powerful TNS, one that could impose regulation on the global market and certain controls on unbridled global accumulation. They are seeking transnational mechanisms of “governance” that would allow the global ruling class to rein in the anarchy of the system in the interests of saving global capitalism from itself and from radical challenges from below—from both an insurgent Left and extreme Right. More than in any other forum, the politicized strata of the transnational elite comes together in the activities of the WEF, a “network of networks” for the TCC and the transnational elite that holds its famed annual meeting in Davos. Indeed, it is not for nothing that “Davos Man” has been used to describe the new global ruling class. WEF founder and Executive Chairman Klaus Schwab called in 2008 for renovated forms of “global leadership” by the TCC: Whether it is poverty in Africa or the Haze over Southeast Asia, an increasing number of problems require bilateral, regional or global solutions and, in many cases, the mobilization of more resources than any single government can marshal … The limits of political power are increasingly evident. The lack of global leadership is glaring, not least because the existing global governance institutions are hampered by archaic conventions and procedures devised, in some instances, at the end of World War II. Sovereign power still rests with national governments, but authentic and effective global leadership has yet to emerge. Meanwhile, public governance at the local, national, regional, and international levels has weakened. Even the best leaders cannot operate successfully in a failed system.18 But if the transnational elite wants a stronger TNS in order to cement the TCC’s rule and stabilize the system, it has not been able to resolve the contradictory mandate it has accorded to the TNS. On the one hand, the TNS sets out to promote the conditions for capitalist globalization; on the other, it tries to resolve the myriad problems globalization creates: economic crisis, poverty, environmental degradation, chronic political instability, and military conflict. The TNS has had great difficulty addressing these issues because of the dispersal of formal political authority across many nation-states. To reiterate, TNS apparatuses are fragmentary; there is no center or formal constitution, and there is certainly no transnational enforcement capacity. These TNS apparatuses have not been able to substitute for a leading nation-state—what the international relations literature refers to as a “hegemon”—with enough power and authority to organize and stabilize the system, much less to impose regulations on transnational capital. The politicized strata of the TCC and transnationally oriented elites and organic intellectuals, including those who staff TNS institutions, attempt to define the long-term interests of the system and to develop policies, projects, and ideologies to secure these interests. Since the specific interests of the various components of the global power bloc are divergent, it is the TNSs’ role to unify and organize the various classes and fractions to uphold their long-term political interests against the threat of the exploited and oppressed classes around the world. But the inability of the TNS to impose coherence and regulation on transnational accumulation and to stabilize the system is also due to the vulnerability of the TCC as a class group in terms of its own internal disunity and fractionation, and its ~~blind~~ pursuit of immediate accumulation—that is, of its immediate and particular profit-seeking interests over the long-term or general interests of the class. There is of course a profound social dimension of global crisis. In these times of unprecedented worldwide inequalities, capitalist crisis breaks apart the social fabric and devastates communities everywhere. Billions of people around the world face struggles to survive from one day to the next, with no guarantee that they will succeed in this struggle (indeed, many are not and many more won’t). In academic terms we could call this a crisis of social reproduction, but this phrase does nothing to capture the depths of misery that poverty, disease, un- and underemployment, food insecurity, social exclusion, racist, xenophobic, and other forms of social violence into which billions are thrust on a daily basis, or to the persecution that they face as migrants, refugees, surplus labor, and so on. The next two chapters will take up these matters. However, let us point out that the social crisis is decidedly not a crisis for capital, and may even help it to reproduce its rule, until or unless it leads to mass rebellion that threatens the ruling groups’ control.

#### The alternative is a class-based movement towards socialism – only rejecting capitalist ideology allows for sustainable development.

Foster 19 [John Bellamy Foster, professor of sociology at the University of Oregon, “Capitalism Has Failed—What Next?,” 02/01/19, *Monthly Review*, https://monthlyreview.org/2019/02/01/capitalism-has-failed-what-next/, EA]

It may be objected that socialism has been tried and has failed and hence no longer exists as an alternative. However, like the earliest attempts at capitalism in the Italian city-states of the late Middle Ages, which were not strong enough to survive amongst the feudal societies that surrounded them, the failure of the first experiments at socialism presage nothing but its eventual rebirth in a new, more revolutionary, more universal form, which examines and learns from the failures.95 Even in failure, socialism has this advantage over capitalism: it is motivated by the demand for “freedom in general,” rooted in substantive equality and sustainable human development—reflecting precisely those collective social relations, borne of historical necessity and the unending struggle for human freedom, crucial to human survival in our time.96

The great conservative economist Joseph Schumpeter, who, as Austrian finance minister in Red Vienna, had allied himself for a time with the socialist government and found himself attacked on all sides, once wrote that capitalism would perish not because of “the weight of economic failure,” but rather because its “very success” in pursuing its narrow economic ends, had undermined the sociological foundations of its existence. Capitalism, Schumpeter exclaimed, “‘inevitably’ creates conditions in which it will not be able to live and which strongly point to socialism as its heir apparent.”97 He was, it turns out, in many ways correct, though not entirely in the way he expected. The global development of monopoly capitalism and financialization spearheaded by the very same counterrevolutionary neoliberalism that first arose in response to Red Vienna in the interwar years—at a time when Schumpeter himself was a major actor—has now undermined the material bases, not so much of capitalism itself, but of global society and planetary ecology. The result has been the emergence of an “atmosphere of almost universal hostility” to the prevailing social order, though, playing out in the confused context of the present, less as opposition to capitalism itself than to neoliberalism.98

It is capitalism’s undermining of the very basis of human existence that will eventually compel the world’s workers and peoples to seek new roads forward. An inclusive, class-based movement toward socialism in this century will open up the possibility of qualitative new developments that the anarchy of the capitalist-market society with its monopolistic competition, extreme inequality, and institutionalized greed cannot possibly offer.99 This includes the development of a socialist technology, in which both the forms of technology utilized and the purposes to which they are put are channeled in social directions, as opposed to individual and class gain.100 It introduces the prospect of long-term democratic planning at all levels of society, allowing decisions to be made and distributions to occur outside the logic of the cash nexus.101 Socialism, in its most radical form, is about substantive equality, community solidarity, and ecological sustainability; it is aimed at the unification—not simply division—of labor.

Once sustainable human development, rooted not in exchange values, but in use values and genuine human needs, comes to define historical advance, the future, which now seems closed, will open up in a myriad ways, allowing for entirely new, more qualitative, and collective forms of development.102 This can be seen in the kinds of needed practical measures that could be taken up, but which are completely excluded under the present mode of production. It is not physical impossibility, or lack of economic surplus, most of which is currently squandered, that stands in the way of the democratic control of investment, or the satisfaction of basic needs—clean air and water, food, clothing, housing, education, health care, transportation, and useful work—for all. It is not the shortage of technological know-how or of material means that prevents the necessary ecological conversion to more sustainable forms of energy.103 It is not some inherent division of humanity that obstructs the construction of a New International of workers and peoples directed against capitalism, imperialism, and war.104 All of this is within our reach, but requires pursuing a logic that runs counter to that of capitalism.

Humanity, Karl Marx wrote, “inevitably sets itself only such tasks as it is able to solve, since closer examination will always show that the problem itself arises only when the material conditions for its solution are already present or at least in the course of formation.”105 The very waste and excess of today’s monopoly-finance capitalism, together with the development of new means of communication that allow for greater human coordination, planning, and democratic action than ever before, suggest that there are countless paths forward to a world of substantive equality and ecological sustainability once the world is freed from the fetters of capital.106

### OFF

FTC DA

#### FTC focusing on algorithmic bias now – success is key for follow-on litigation.

Fath 10/19 [Kyle Fath, Kristin Bryan, Christina Lamoureux, and Elizabeth Helpling, \* counsel in the Data Privacy, Cybersecurity & Digital Assets Practice at Squire Patton Boggs, “Data Privacy and Cybersecurity FTC Priorities Going Forward,” 10/19/21, *Consumer Privacy World*, https://www.consumerprivacyworld.com/2021/10/data-privacy-and-cybersecurity-ftc-priorities-going-forward/, EA]

In mid-September, the FTC voted to approve a series of resolutions, directed at key enforcement areas, including the following, each discussed in further detail below:

• Children Under 18: Harmful conduct directed at children under 18 has been a source of significant public concern, now, FTC staff will similarly be able to expeditiously investigate any allegations in this important area.

• Algorithmic and Biometric Bias: Allows staff to investigate allegations of bias in algorithms and biometrics. Algorithmic bias was the subject of a recent FTC blog.

• Deceptive and Manipulative Conduct on the Internet: This includes, but is not limited to, the “manipulation of user interfaces,” including but not limited to dark patterns, also the subject of a recent FTC workshop.

The approval of this series of resolutions will enable the Commission “to efficiently and expeditiously investigate conduct in core FTC priority areas. Through the passage of the resolutions, the FTC has now directed that all “compulsory processes” available to it be used in connection with COPPA enforcement. This omnibus resolution mobilizes the full force of the FTC for the next ten years and gives FTC staff full authority to conduct investigations and commence enforcement actions in pursuit of this goal. The FTC has offered very little elaboration on this front, however, regarding how it will use such “compulsory processes,” which include subpoenas, civil investigative demands, and other demands for documents or testimony.

What does seems clear, however, is that the FTC is buckling down on the enforceability of its own actions. Previous remarks by Chair Lina M. Khan before the House Energy and Commerce Committee expressed frustration at the frequent hamstringing of the agency at the hands of courts in its enforcement efforts in the past. With this declaration of renewed energy, the FTC is summoning all the power it can to do its job, and we should expect to see an energized FTC kick up its patrol efforts in the near future. Businesses that conduct activities that implicate these renewed areas should be aware of the FTC’s focus and penchant for investigations and enforcement in such areas.

Children Under 18

The FTC’s mandate to focus on harmful conduct directed at children under 18 is a signal that the Commission plans on broadening and doubling down on its already active enforcement efforts in this area. Areas of the Commission’s prior and current focus on children include marketing claims, loot boxes and other virtual items that can be purchased in games, and in-app and recurring purchases made by children without parental authorization. Most importantly, the FTC is the main arbiter of children’s online privacy through its enforcement of the Children’s Online Privacy Protection Act (“COPPA”), but that law only applies to children under 13 (i.e., 12 and under). With this new proviso to focus on children under 18, we can certainly expect the FTC to focus on consumer privacy issues, broader than COPPA, for children from ages 13 to 17 as well.

Algorithmic and Biometric Bias

The FTC already has enforcement capabilities to regulate the development and use of artificial intelligence (“AI”) and its associated algorithms. These include the Section 5 of the FTC Act, which prohibits “unfair or deceptive acts or practices,” the Fair Credit Reporting Act, which rears its head when algorithms impact lenders’ decisions to provide credit, and the Equal Opportunity Credit Act, which prohibits the use of biased algorithms that discriminate on the basis of race, color, sex, age, and so on when making credit determinations. In using these tools, the FTC aims to clarify how algorithms are used and how the data that feeds them contributes to algorithmic output, and to bring to light issues that arise when algorithms don’t work or feed on improper biases.

Bias and discrimination arising from use of biometrics will also now be a focus of the FTC. Interestingly, much recent research and criticism has pointed out that algorithms and biometric systems are biased against faces of color. This has arisen in many contexts, from the iPhone’s FaceID feature to the 2020 remotely-administered bar exam that threatened to fail applicants of color because their webcams could not detect their faces. These are just some of the issues that arise when companies turn to algorithms to try to create heuristics in making business decisions. The FTC has not let these concerns go by the wayside, and after preliminarily addressing them in an April 2021 blog post, has now reestablished that algorithmic and biometric bias is a new focus for the upcoming years.

Notably, AI and other automated decision-making, particularly that which results in legal and/or discriminatory effects, will also become regulated under omnibus privacy legislation in California, Virginia, and Colorado, forthcoming in 2023.

Deceptive and Manipulative Conduct on the Internet (Including “Dark Patterns”)

The sinisterly-nicknamed practice of “dark patterns” happens constantly to online consumers, albeit in ways that tend to seem benign. For example, shoppers contemplating items in their cart may be pressured to complete the sale if they receive a notification like, “Hurry, three other people have this in their cart!” More annoyingly, online consumers who wish to unsubscribe to newsletters or email blasts may find themselves having to click through multiple pages just to free their inboxes, rather than an easily-identifiable and quickly-accessible “unsubscribe” button. “Dark patterns” is the term coined for these sorts of techniques, which impair consumers’ autonomy and create traps for online shoppers.

Earlier this year, the FTC hosted a workshop called “Bringing Dark Patterns to Light,” and sought comments from experts and the public to evaluate how these dark patterns impact customers. The FTC was particularly concerned with harms caused by these dark patterns, and how dark patterns may take advantage of certain groups of vulnerable consumers. The FTC is not alone in its attention to this issue; in March, California’s Attorney General announced regulations that banned dark patterns and required disclosure to consumers of the right to opt-out of the sale of personal information collected through online cookies. These regulations also prohibit companies from requiring consumers who wish to opt out to click through myriads of screens before achieving their goals. On the opposite coast, the weight-loss app Noom now faces a class action alleging deceptive acts through Noom’s cancellation policy, automatic renewal schemes, and marketing to consumers.

With both public and private entities turning their eyes toward dark patterns, the FTC has now declared the agency will put its full weight behind seeking out and investigating “unfair, deceptive, anticompetitive, collusive, coercive, predatory, exploitative, or exclusionary acts or practices…including, but not limited to, dark patterns…” Keeping an eye on this work will be important—just as important as keeping an eye on which cookies you accept, and which are best to just let go stale.

In addition to being in the crosshairs of the FTC, dark patterns are also a focus of regulators across the globe, including in Europe, and will be regulated under California’s forthcoming California Privacy Rights Act.

Anticipated Litigation Trends

With the FTC declaring its intent to vigorously investigate these three aforementioned areas, we now turn to what the agency’s new enforcement priorities mean for civil litigation. As practitioners in this field already know, it is unlikely that they will result in an influx of new litigations. The FTC’s enforcement authority exists pursuant to Section 5(a) of the FTC Act, which outlaws “unfair or deceptive acts or practices in or affecting commerce,” but does not contain a private right of action – so plaintiffs cannot technically bring new suits based on the new enforcement priorities, as they have no private right to enforce those priorities.

However, these areas of focus could influence broader trends in civil litigation, even if, on their own, they do not create any new liability. Successful enforcement actions by the FTC could bring about new industry standards with respect to algorithmic bias, dark patterns, and other areas of focus. These standards, in turn, could be cited in consumer privacy class action complaints. New civil actions could also stem from enforcement actions by the FTC and the information revealed in settlements resulting from such actions. For example, the FTC announced a settlement with fertility-tracking app Flo Health Inc. in January; this month, a consolidated class action complaint was filed against Flo Health, stemming from seven proposed class actions filed against it this year, alleging that the app unlawfully shared users’ health information with third parties.

#### The plan trades off – empirically privacy and antitrust are zero-sum.

Kovacic 13 [William E. Kovacic & David A. Hyman, Professor of Law at George Washington University, "Competition Agencies with Complex Policy Portfolios: Divide or Conquer?" GW Law Faculty Publications, 2013, https://scholarship.law.gwu.edu/faculty\_publications/631, accessed 7-4-21]

A second mechanism is to fund new projects adequately by a relatively silent form of triage. This consists of draining resources away from other programs ostensibly designed to implement congressionally imposed duties. To support new programs in areas such as privacy, data protection, and mortgage lending fraud, the FTC over time has quietly abandoned other programs that used to be mainstays of enforcement. To some extent this is done with at least the implicit approval of Congress. Through official budget requests and oversight hearings, Congress is at least generally aware of how the Commission is spending its money. It can detect that some areas of policy responsibility seem to be inactive. Congress can observe, for example, that the FTC has brought two Robinson-Patman Act price discrimination cases in the past 23 years.112 This reliably indicates diminished attention to a statute whose enforcement in the 1960s yielded hundreds of cases. For the most part, the FTC has constructed or retooled major programs involving privacy, financial services, mergers, horizontal restraints, and single firm conduct by severely reducing outlays for the enforcement of the Robinson-Patman Act and consumer protection statutes dealing with fur and textile labeling.

#### Extinction

Thomas 20 [Mike Thomas, Quoting AI experts including MIT Physics Professors, Senior Features Writer for BuiltIn, “The Future of Artificial Intelligence: 7 ways AI can change the world for better ... or worse,” 04/20/20, *BuiltIn*, https://builtin.com/artificial-intelligence/artificial-intelligence-future]

Klabjan also puts little stock in extreme scenarios — the type involving, say, murderous cyborgs that turn the earth into a smoldering hellscape. He’s much more concerned with machines — war robots, for instance — being fed faulty “incentives” by nefarious humans. As MIT physics professors and leading AI researcher Max Tegmark put it in a 2018 TED Talk, “The real threat from AI isn’t malice, like in silly Hollywood movies, but competence — AI accomplishing goals that just aren’t aligned with ours.” That’s Laird’s take, too.

“I definitely don’t see the scenario where something wakes up and decides it wants to take over the world,” he says. “I think that’s science fiction and not the way it’s going to play out.”

What Laird worries most about isn’t evil AI, per se, but “evil humans using AI as a sort of false force multiplier” for things like bank robbery and credit card fraud, among many other crimes. And so, while he’s often frustrated with the pace of progress, AI’s slow burn may actually be a blessing.

“Time to understand what we’re creating and how we’re going to incorporate it into society,” Laird says, “might be exactly what we need.”

But no one knows for sure.

“There are several major breakthroughs that have to occur, and those could come very quickly,” Russell said during his Westminster talk. Referencing the rapid transformational effect of nuclear fission (atom splitting) by British physicist Ernest Rutherford in 1917, he added, “It’s very, very hard to predict when these conceptual breakthroughs are going to happen.”

But whenever they do, if they do, he emphasized the importance of preparation. That means starting or continuing discussions about the ethical use of A.G.I. and whether it should be regulated. That means working to eliminate data bias, which has a corrupting effect on algorithms and is currently a fat fly in the AI ointment. That means working to invent and augment security measures capable of keeping the technology in check. And it means having the humility to realize that just because we can doesn’t mean we should.

“Our situation with technology is complicated, but the big picture is rather simple,” Tegmark said during his TED Talk. “Most AGI researchers expect AGI within decades, and if we just bumble into this unprepared, it will probably be the biggest mistake in human history. It could enable brutal global dictatorship with unprecedented inequality, surveillance, suffering and maybe even human extinction. But if we steer carefully, we could end up in a fantastic future where everybody’s better off—the poor are richer, the rich are richer, everybody’s healthy and free to live out their dreams.”

### OFF

States CP

#### The 50 states and all relevant territories should, by at least expanding enforcement resources for and the scope of its core antitrust laws, substantially increase prohibitions on domestic export cartels that operate in foreign nations without protections for export cartels.

### OFF

Gun Control PIC

#### The United States Federal Government should NOT expand the scope of its core antitrust laws, NARROWING the scope of its core antitrust laws to exempt gun manufacturers, expanding enforcement resources and increasing prohibitions on domestic export cartels that operate in foreign nations without protections for export cartels.

#### Exempting gun manufacturers spurs monopolization and massive price hikes for guns, engineering *de facto* gun control.

**Ayres & Wickelgren 18** --- \*William K. Townsend Professor - Yale Law School. Professor - Yale School of Management. \*\*Bernard J. Ward Professor in Law - University of Texas at Austin

[Ian & Abraham, 3-14-2018, "A gun control solution manufacturers can get behind," Brookings, https://www.brookings.edu/research/a-gun-control-solution-manufacturers-can-get-behind/]

One of the more daunting tasks in the current struggle to pass sensible gun control legislation is how to neutralize the political power of gun manufacturers who potentially have hundreds of millions of dollars at stake.

But there is a straightforward, if perverse, way to co-opt the gun industry into supporting some restrictions: Help firearm manufacturers cartelize their industry. Congress could immunize gun manufacturers from antitrust liability—making it legal for them to collude and raise gun prices.

Our antitrust laws are designed to prevent firms from agreeing to limit supply in order raise prices. In most markets, this is in the service of protecting consumers and enhancing efficiency. But for products that cause harm, both the public and the producers of the product can benefit from higher prices and reduced supply. Legalizing a gun cartel by itself is a kind of gun control. Just as OPEC is the friend of any environmentalist who wants to reduce oil consumption, a gun manufacturing cartel will reduce the quantity of guns sold in order to raise prices.

Consider, for example, the AR-15 rifle.  The AR-15 isn’t a brand name sold by single manufacturer.  Rather it is a genus of rifles produced by more than [a dozen competitors](https://gunnewsdaily.com/best-ar-15-for-the-money/)—sometimes with prices [less than $700](https://gun.deals/product/ar15-rifle-comparison-700-or-less). But protected by antitrust immunity, these erstwhile competitors could band together and raise the price toward what a monopolist would charge.  Remember last year when Turing Pharmaceuticals realized it was the only seller of [Daraprim and raised the price more than 50 fold.](https://www.scientificamerican.com/article/martin-shkreli-who-raised-drug-prices-from-13-50-to-750-arrested-in-securities-fraud-probe/) Monopolists sometimes charge prices many multiples of their cost. The demand for guns has been estimated to have a fairly high price elasticity—so even relatively small price increases of these deadly firearms might have put them beyond the means of the purchasers of the AR-15 style rifles used in the Parkland, Newtown, and Aurora mass shootings.

#### Guns kill people, and gun control solves it, BUT direct gun control is politically impossible.

**Lopez 17** --- Senior Correspondent at Vox.

[German, 10-4-2017, "The research is clear: gun control saves lives," Vox, https://www.vox.com/policy-and-politics/2017/10/4/16418754/gun-control-washington-post]

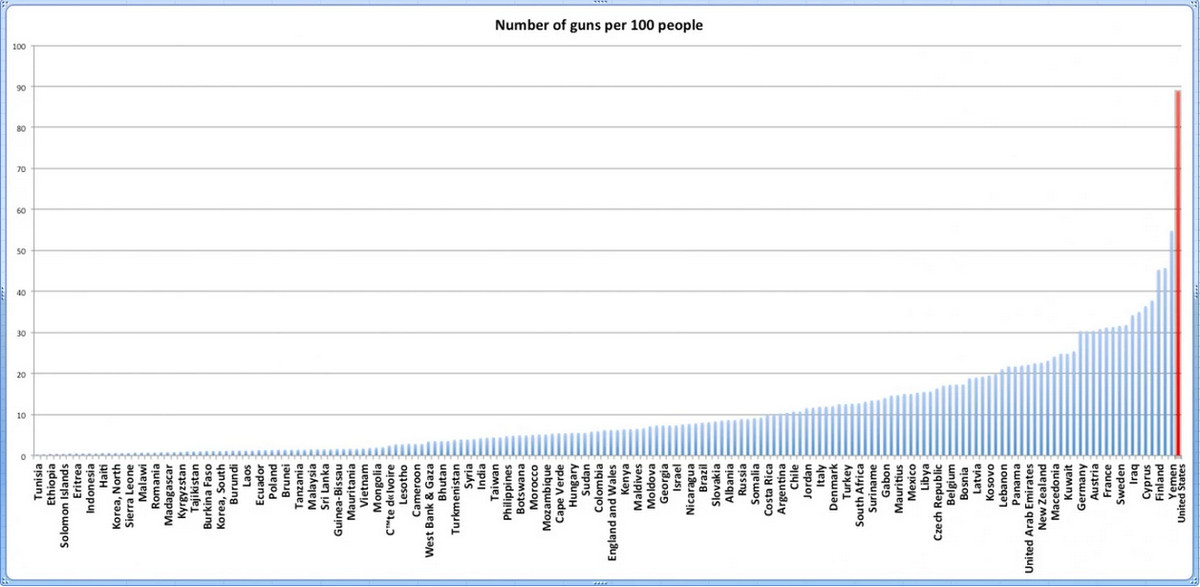
In fact, it’s so persuasive that it changed my mind. I was once skeptical of gun control; I doubted it would have any major impact on gun deaths (similar to [the views I took on drugs](https://www.vox.com/policy-and-politics/2017/4/20/15328384/opioid-epidemic-drug-legalization)). Then I looked at the actual empirical research and studies. My conclusion: Gun control likely saves lives, even if it won’t and can’t prevent all gun deaths.

America’s affair with guns is unique in the developed world

To understand this issue, there’s one thing you need to know: America stands alone when it comes to guns. Not only does the US have more guns than any other country in the world, it also has far more gun deaths than any other developed nation.

The US has nearly six times the gun homicide rate of Canada, more than seven times that of Sweden, and nearly 16 times that of Germany, according to [United Nations data](http://www.theguardian.com/news/datablog/2012/jul/22/gun-homicides-ownership-world-list) compiled by the Guardian. (These gun deaths are a big reason America has a [much higher overall homicide rate](http://www.vox.com/2015/4/7/8364263/us-europe-mass-incarceration), which includes non-gun deaths, than other developed nations.)

The US also has by far the highest number of guns in the world. Estimated in 2007, the number of civilian-owned firearms in the US was 88.8 guns per 100 people, meaning there was almost one privately owned gun per American and more than one per American adult. The world's second-ranked country was Yemen, a quasi-failed state torn by civil war, where there were 54.8 guns per 100 people.



In short, America has the most gun deaths in the developed world, and the most guns period. What’s more, the research indicates these two issues are very much related.

The research is very clear: more guns mean more gun deaths

Going back to the Washington Post op-ed, Libresco argues that her research proved her initial bias — that gun control works — wrong.

But there have been much more thorough statistical analyses than what Libresco published at FiveThirtyEight or wrote about in the Washington Post. They all point to one fact: Gun control does work to save lives.

Last year, researchers from around the country reviewed more than 130 studies from 10 countries on gun control for Epidemiologic Reviews. This is, for now, the most current, extensive review of the research on the effects of gun control. The findings were clear: “The simultaneous implementation of laws targeting multiple firearms restrictions is associated with reductions in firearm deaths.”

The study did not look at one specific intervention, but rather a variety of kinds of gun control, from licensing measures to buyback programs. Time and time again, they found the same line of evidence: Reducing access to guns was followed by a drop in deaths related to guns. And while non-gun homicides also decreased, the drop wasn’t as quick as the one seen in gun-related homicides — indicating that access to guns was a potential causal factor.

Based on the other research, this actually isn’t a very surprising finding. Regularly updated reviews of the evidence compiled by the [Harvard School of Public Health’s Injury Control Research Center](http://www.hsph.harvard.edu/hicrc/firearms-research/guns-and-death/) have consistently found that when controlling for variables such as socioeconomic factors and other crime, places with more guns have more gun deaths.

“Within the United States, a wide array of empirical evidence indicates that more guns in a community leads to more homicide,” David Hemenway, the Injury Control Research Center’s director, wrote in [Private Guns, Public Health](http://books.google.com/books?id=iANw1pb4fPAC&pg=PA61&lpg=PA61&dq=david+hemenway+%22more+guns+in+a+community+lead+to+more+homicide%22&source=bl&ots=GMTIi0MHC2&sig=x63NBQltDDNYkxHQeADfEl1EOis&hl=en&sa=X&ei=2nQIVLiKFY6wyATa5YGoCw&ved=0CDEQ6AEwAg#v=onepage&q=david%20hemenway%20%22more%20guns%20in%20a%20community%20lead%20to%20more%20homicide%22&f=false).

For example, this chart, from [a 2007 study](http://www.ncbi.nlm.nih.gov/pubmed/17070975) by Harvard researchers, shows a correlation between statewide firearm homicide victimization rates and household gun ownership after controlling for robbery rates:

Chart, scatter chart

Description automatically generated

A more recent [study](http://ajph.aphapublications.org/doi/abs/10.2105/AJPH.2013.301409) from 2013, led by a Boston University School of Public Health researcher, reached similar conclusions: After controlling for multiple variables, the study found that each percentage point increase in gun ownership correlated with a roughly 0.9 percent rise in the firearm homicide rate.

This holds up around the world. As [Zack Beauchamp explained for Vox](http://www.vox.com/2015/8/27/9217163/america-guns-europe), a breakthrough analysis in the 1990s by UC Berkeley’s Franklin Zimring and Gordon Hawkins found that the US does not, contrary to the old conventional wisdom, have more crime in general than other Western industrial nations. Instead, the US appears to have more lethal violence — and that’s driven in large part by the prevalence of guns.

“A series of specific comparisons of the death rates from property crime and assault in New York City and London show how enormous differences in death risk can be explained even while general patterns are similar,” Zimring and Hawkins wrote. “A preference for crimes of personal force and the willingness and ability to use guns in robbery make similar levels of property crime 54 times as deadly in New York City as in London.”

So America’s easy access to guns seems to lead to more gun violence and death.

But let’s focus on Australia and the UK in particular, since that’s what Libresco did in her Washington Post piece.

It is true that this is a difficult area to study. In part, that’s because these countries have such low homicide rates — to some degree because of previously existing, stricter gun control, criminal justice researcher Jerry Ratcliffe [pointed out](https://twitter.com/Jerry_Ratcliffe/status/915349170436927489) — that it’s going to be difficult to produce any statistically significant findings. It’s also difficult to wash out external effects, besides gun control, on gun deaths, even under the most statistically rigorous models.

The evidence from Australia in particular, though, is very suggestive. In her article for FiveThirtyEight, Libresco cited two studies — [one from 2003](http://faculty.publicpolicy.umd.edu/sites/default/files/reuter/files/gun%20chapter.pdf) and [another from 2016](http://jamanetwork.com/journals/jama/fullarticle/2530362) — that found what she described as little evidence of the effectiveness of gun control. This seems to be true for the 2003 analysis. But the 2016 analysis is much more mixed, noting that there were faster drops in gun deaths after the buyback program was put in place, but failed to reach any hard conclusions because non-gun deaths also dropped more quickly (even more than gun deaths), suggesting that other variables were likely involved.

But this isn’t the only research into Australia’s laws. As my colleagues [Dylan Matthews](https://www.vox.com/2015/10/5/9454161/gun-violence-solution) and [Zack Beauchamp](https://www.vox.com/2015/8/27/9212725/australia-buyback) noted, other studies found positive impacts of the law. [A review of the evidence](https://cdn1.sph.harvard.edu/wp-content/uploads/sites/1264/2012/10/bulletins_australia_spring_2011.pdf) by Harvard’s David Hemenway and Mary Vriniotis, for one, concluded that Australia’s law “seems to have been incredibly successful in terms of lives saved.”

[A 2010 study](http://andrewleigh.org/pdf/GunBuyback_Panel.pdf) by Andrew Leigh of Australian National University and Christine Neill of Wilfrid Laurier University also found that buying back 3,500 guns per 100,000 people correlated with up to a 50 percent drop in firearm homicides and a 74 percent drop in gun suicides. The drop in homicides wasn’t statistically significant, largely because the country’s gun homicide rate is so low that it’s hard to tease out even sharp drops with a lot of certainty. But the drop in suicides was statistically significant.

Most tellingly, Leigh and Neill’s study found that “the largest falls in firearm deaths occurred in states where more firearms were bought back.” Hemenway and Vriniotis reached similar conclusions in their review: “First, the drop in firearm deaths was largest among the type of firearms most affected by the buyback. Second, firearm deaths in states with higher buyback rates per capita fell proportionately more than in states with lower buyback rates.”

By homing in on individual states and types of guns, these studies provide a more rigorous and robust look at Australia’s law than a study like the 2016 analysis that Libresco cited, which broadly looked at nationwide data. And they conclude that the buyback program, along with other changes brought on by the 1996 law, reduced gun deaths.

But most importantly, this goes along with the rest of the evidence — including the extensive review published in Epidemiologic Reviews. When you put it all together, it’s hard to come to any conclusion other than gun control does, at least to some extent, reduce gun deaths.

Gun control can’t stop all violence. But it can help.

With that said, it's probably true that this aspect of the gun control debate is not emphasized enough: Guns are a factor, not the only factor. Other factors include, for example, poverty, urbanization, and alcohol consumption.

But when researchers control for other confounding variables, they have found time and time again that America's high levels of gun ownership are a major reason the US is so much worse in terms of gun violence than its developed peers — and stricter access to guns could help.

Another issue is that many of the policies researchers have studied seem to have, politically speaking, little to no chance in the US, at least at the federal level. Australia outright banned some types of guns, and set up a registry for all firearms owned in the country, required a permit for all new purchases. And, as if that wasn’t enough, its buyback program was mandatory — meaning you had to turn in your weapons, which is essentially government-mandated confiscation.

America can’t even get universal background checks through Congress. These much stricter measures have almost no chance of happening. That hinders the potential effectiveness of US laws: As Dylan Matthews [explained](https://www.vox.com/2015/10/5/9454161/gun-violence-solution), milder versions of gun control do have some evidence behind them in terms of reducing gun deaths, but they’re nowhere as strong as the effects seen with stricter policies.

It’s also true, as Libresco [said on Twitter](https://twitter.com/LeahLibresco/status/915582680263217152), that we could always use more research into gun policy (or, really, any policy issue). But the federal government has [stifled](https://www.vox.com/2015/10/6/9465649/gun-violence-research-cdc) gun research for years.

Still, the current research is clear: Gun control does cut down on gun deaths. A single data journalist’s look at some of the evidence doesn’t change that fact.

## Solvency

#### Vagueness dooms solvency – big business lawyers and judges subvert the plan

Stoller, 21 -- American Economic Liberties Project research director

[Matt Stoller, former policy advisor to the Senate Budget Committee, "Why Did Congress Just Vote to Break Up Big Tech?," BIG, 6-25-21, https://mattstoller.substack.com/p/why-did-congress-just-vote-to-break, accessed 6-25-2021]

The bad is pretty simple. The tech-specific bills, as written, probably won’t deliver what their sponsors think they will, because they didn’t get all the specifics right. This isn’t intentional, it’s just that it is hard to write this kind of legislation. A friend once told me a good legal expression, ‘to write a good law, you have to think like a criminal.’ And that’s basically right. There are **extremely well-paid lawyers** who will spend their time exploiting the **tiniest loophole**, so good drafting means thinking about making statutes airtight. Competition law is complex and warped to make drafting full of **legal minefields**, so without extreme care in the language, the law will likely be **subverted**.

To understand why it’s so hard to get these laws right, it helps to start with the two basic problems with antitrust law. The first is that regulators and enforcers make key policy decisions, and have done a very bad job at it. A good example is they just decided to stop enforcing the anti-chain store Robinson-Patman Act, which prohibits certain forms of kickbacks, as well as prohibiting giving better prices to bigger customers. At some point in the 1970s and 1980s, the Department of Justice and FTC chose not to enforce the law anymore. And when they stopped doing so, Walmart and other chain stores, and eventually Amazon, exploded in size and power.

And then there are judges. Judges have been trained in a type of thinking in which antitrust is all about promoting a certain form of economics, known as ‘consumer welfare.’ Most of the things you and I would consider unfair, like paying kickbacks to someone to stop them from selling rival products, or selling below cost to drive your competitors out of business, or intentionally making your products incompatible to undermine smaller rivals, judges tend to see as ‘pro-competitive,’ which is to say, good and efficient. I’m not kidding. Yesterday, Obama-appointed judge Daniel Crabtree dismissed an antitrust case against Epipen maker Mylan, which was paying bribes to stop their competitor’s product from being available to consumers. To Crabtree, such bribes weren’t corrupt, they were efficient!

It’s not that judges are corrupt, it’s that there is now 40 years of case law saying that they must generally be hands-off and let firms do what they want. And to get judges to rule in your favor, plaintiffs must spend millions of dollars getting an economist to make up fancy models saying that intervening in a particular case creates more economic value than not intervening, and then hopefully the judge flips a coin and likes your expert more than Amazon’s expert. To put it differently, imagine if, say, you had to show in any robbery case not just that your money was stolen, but that you would spend your money more wisely than the person who took it. That’s basically what antitrust is like these days. This is called ‘consumer welfare’ but it is in fact just a corrupt and foolish way to understand law.

The way to address both problems - bad regulators and bad judges - is to write very specific and careful legislative text. Give clear instructions on which practices are and are not legal, and try to avoid corrupted words like competition, which only invite judges to opine on economic questions. Moreover, have a clear vision on what gets broken off from what. These bills don’t really do that. (Neither did Klobuchar’s bill introduced earlier this year; state Senator Michael Gianaris’s antitrust update in New York came closer.)

The break-up bill, for instance, centers on conflicts of interest between lines of business. But it never defines what it means by “line of business,” and **this stuff gets very blurry**. **Big tech will use** this **ambiguity to its advantage**. Right now, for instance, Amazon has a marketplace on Amazon.com. It also has a logistics business, Fulfillment by Amazon. If you try to split these two obviously different divisions apart, Amazon will claim that these are all one line of business, with Amazon Prime, Fulfillment by Amazon, and Marketplace all one thing. And then a judge gets to decide whether that’s true, because this bill doesn’t. Judges really don’t like to make what they perceive of as product design decisions, preferring to defer to monopolists. So yeah, that’s a problem.

This problem is pervasive across the legislative text. The merger bill, rather than a straightforward ban on big tech mergers, instead says big tech firms have to jump through a bunch of hoops showing that whoever they are buying doesn’t compete with them or potentially compete with them. That sounds fine, except that judges understand ‘competition’ to mean very expensive and unwieldy fights over how to define the market, according to fancy expensive economists. So basically enforcers will still have to unnecessarily spend massive resources to stop big tech mergers, though they will have more authority to do so. (Also, during the mark-up, big tech managed to punch a hole through this one, exempting mergers of less than $50 million. But that happens.)

## Trade Adv

#### Diashowa thumps – didn’t impact US-Japanese trade

#### Plan doesn’t solve lobbying for protectionism – that’s not illegal under antitrust law

#### Murry’s not specific to export cartels – says competition law is manipulated domestically

#### No scenario for war – they haven’t identified countries that would stop trading with us

#### Trade is on the rise

**Brodzicki, 22** – Principal Economist at IHS Markit

[Tomasz Brodzicki, "Global Trade Outlook 2022. High global trade volume growth in 2021 and significant moderation in 2022. Supply chains disruption is likely to continue in the first half of 2022," IHS Markit, 1-12-2022, https://ihsmarkit.com/research-analysis/Global-Trade-Outlook-2022.html, accessed 2-12-2022]

PMI New Export Orders point to a positive outlook for both global manufacturing and trade in services

PMI New Export Orders (adjusted) by IHS Markit is an excellent predictor of the situation in trade over the coming quarter. The 50.0 points is a benchmark value with a value above pointing to recovery and below indicative of contraction. The analyses were performed to show a high correlation between PMI NExO and changes in IHS Markit GTA monthly data reported by states over the coming quarter (mostly the following month).

The adjusted PMI new exports orders (PMI NExO) readouts for the global manufacturing industry in November 2021 were above the benchmark value of 50.0 points (51.37) the 15th month in a row proving the sustained nature of recovery and still pointing to a positive short-term outlook for global trade; in comparison to October readouts, they were higher by 0.76.

The values for November were pointing to a positive short-term outlook for exports in eight out of the top 10 economies with the highest importance for the EU (54.42), Canada (53.65), Japan (52.78), India (51.73) above the global average); the values were below of 50.0 for the UK (49.00) & China (49.85); Russia scored a result above of 50.0 for the first time in 11 months.

PMI NExO in November 2021 for global manufacturing (50.60) and global services (51.44) were above the 50.0 points benchmark (49.31); PMI NExO for global services went up month-on-month for the second time in a row.

#### Alt causes to protectionism – we read green

1AC Oppenheimer 20 - (Michael 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; 10-2-2020, The Future of Global Affairs: Managing Discontinuity, Disruption and Destruction, "The Turbulent Future of International Relations," doa: 10-23-2021) url: <https://link.springer.com/chapter/10.1007/978-3-030-56470-4_2>

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

#### Trade doesn’t solve war

van de Haar 20 [Edwin van de Haar, formerly a visiting fellow and lecturer in political theory at John Tomasi’s Political Theory Project at Brown University, a lecturer in international relations and political economy at the Institute of Political Science at Leiden University, and a lecturer in international relations at the European Studies Program at Ateneo de Manila University, “Free trade does not foster peace,” 2020, *Economic Affairs*, Vol. 40, Issue 2, pp. 281-286, https://doi.org/10.1111/ecaf.12405, EA]

Trade is unable to foster peace, because it is unable to overcome many causes of war. Think about cultural and religious differences, geopolitical causes such as the fight for natural resources, including increasingly rare raw materials, or more traditional wars between great powers or their proxies over a border dispute. States may also act against their economic interest for some perceived higher goal (Coker, 2014). The causes of war are often multifaceted and complex. Wars happen because people have reasons to fight, in the form of goals and grievances, and possess enough resources and resolve (Ohlson, 2009). Trade relations are just one factor in the mix of causes of war, which include such coincidental factors as chance, luck, or reckless behaviour by individuals who happen to influence public policy. International commerce is simply not a “perfectly effective antiwar device” (Suganami, 1996, pp. 153–210). The best one can say is that the protection of trade relations is sometimes one of the factors in the decision not to wage war. Nothing less, nothing more.

To sum up, many of Adam Smith's arguments still stand, and are confirmed or complemented by modern research. There is no solid ground for the expectation that trade promotes, fosters, or leads to peace. Generally, international economic interests are not the crucial factors in decisions over war and peace. Too many other factors come into play. To believe that trade fosters peace was folly even hundreds of years ago. To still think so is to believe in fairy tales, to be ~~blinded~~ by the correlates computed by limited yet available datasets, or both.

#### No brink – protectionism doesn’t mean a complete collapse in trade

#### Plan doesn’t solve – their ev is about negotiations with other countries, which they don’t fiat

## Resources Adv

#### Plan only applies to domestic export cartels – Potash cartels are based in other countries – we read green

1AC Kwok 15 – (Tiffany Kwok, PhD Candidate @ University of Birmingham; published 2015, Edinburgh Student Law Review 2, no. 4, “Export Cartels: Analysing the Gap in International Competition Law and Trade,” doa: 6-9-2021) url: https://heinonline.org/HOL/P?h=hein.journals/edinslr2&i=474&a=dW1uLmVkdQ

(4)) Qualitative Effects of Export Cartels on Foreign Markets

Export cartels can also have qualitative effects on the market in addition to the heavy economic burden already sustained, particularly in developing countries. For instance, Canada's potash export cartel, which was in operation for forty years, faced significant criticism from the media and academics alike. PotashCorp used its jointly owned subsidiary Canpotex in order to coordinate sales with American companies Mosaic Co. and Agrium Inc. into export markets beyond North America. 14 Uralkali, Russia's largest producer of fertiliser quickly followed with a similar strategy of price fixing and production cuts. These cartels accounted for approximately 70% of the global trade in potash. 15 Due to the nature of potash itself, the geographical supply is highly concentrated, with Canada owning 52% of the world's known reserves, Russia owning 21%, Belarus owning 9% and Germany owning 8.4%.16 Therefore, countries without such reserves would be more heavily dependent on imports from other countries in order to meet their needs. This is problematic as potash is essential in the production of fertiliser used in the agricultural industry.

#### Either fertilizer production in other countries solves OR is an alt cause

#### Squo solves – cartels are on the decline.

Verbeke & Buts 08-17 – Professor of International Business and Strategy, McCaig Chair in Management, University of Calgary; Professor at the department of applied economics of the Vrije Universiteit Brussel

[Alain Verbeke, Caroline Buts, “The Not So Brilliant Future of International Cartels,” Management and Organization Review, Cambridge University Press, August 2021, https://www.cambridge.org/core/journals/management-and-organization-review/article/not-so-brilliant-future-of-international-cartels/363CC718A5FD54F8BB390B9AB22150B7]

A NOT SO BRILLIANT FUTURE OF INTERNATIONAL CARTELS?

As explained in the previous section, we do not dispute the possibility that international cartels could become more important in the future under carefully defined conditions. We are doubtful, however, even when accepting B&C’s broad definition of this governance mode, that international cartels will gain ground more generally, vis-à-vis other forms of governance in international business, when multinational enterprises face increased political risk.

A key element, and perhaps a surprising one, explaining our doubt about the bright future of cartels is four clear trends in cartel regulation that are now creating significant political risk for international cartel members (admittedly not covering B&C’s benevolent cartels). First, competition policy is now a priority for policy makers around the world, as reflected in the progress made in detecting, investigating, and prosecuting cartels (OECD, 2020; OECD, 2021b). Recently published data indicate that 68% of global cartels (with members from at least two different continents) have been prosecuted by multiple jurisdictions, with average cartel fines being very high at €19.3 million (OECD, 2020).

Second, the consequences of being caught as a cartel member have gradually become more severe and far-reaching, both for the orchestrating and the participating companies, and for the employees involved (Ordóñez-De-Hano, Borrell, & Jiménez, 2018). Depending on the jurisdiction, a wide array of sanctions is now being deployed, including personal fines, trade prohibitions, and prison sentences (these have increased sevenfold over a recent five-year period, OECD, 2020). After a finding of cartel-behavior from the competition authority, the legal battle usually continues in the form of lawsuits for damages whereby victims file claims and may also coordinate their actions, e.g., to recover cartel overcharges (Burke, 2019).

Third, cartel investigations have also become more sophisticated. Leniency policies – providing immunity from fines for the first player who admits to the existence of a cartel and discloses information on its functioning – are on the rise. This powerful tool serves both detection and deterrence purposes in the realm of anticompetitive behavior (Margrethe & Halvorsen, 2020; Marvão & Spagnolo, 2018; Miller, 2009). It incentivizes cartel members to become whistle blowers. Companies will be less likely to join a cartel if they know that its members may be enticed to disclose cartel operations, (Brenner, 2009; Vanhaverbeke & Buts, 2020).

A larger number of agencies than before now also have the mandate to conduct ‘dawn raids’, in order to collect evidence of cartel behavior and they can even enter private premises of employees during their search for incriminating material. In addition, sophisticated econometric analyses have become standard practice to provide evidence of coordinated conduct in industry and to calculate cartel overcharges (Parcu, Monti, & Botta, 2021).

Fourth, competition authorities have invested more in outreach, communicating competition rules through dedicated events, online campaigns, and competition networks. Compliance programs have also been on the rise with an increasing number of mainly large companies investing in compliance training to abide by competition rules (De Stefano, 2018).

The increased efforts to fight anticompetitive agreements in industry are now deterring and destabilizing cartels. Following a substantial increase in the number of cartels that have been ‘caught’, the average life span of these cartels is now going down rapidly (OECD, 2020). The fight against illegal, anticompetitive behavior will intensify further in the near future, rather than governments shifting their focus to contemplate potential benefits. At the same time, the beneficial effects have been widely acknowledged of international collaboration forms that are legally allowed by various competition policy regimes (and are therefore not considered cartels), see for instance Martínez-Noya and Narula (2018) on international R&D cooperation.

#### Covid thumps – caused massive food insecurity AND supply chain shortages

#### No internal link – more people joining terrorist orgs doesn’t translate into the capabilities to steal a nuke

#### No nuke terror

Mueller 20 [John Mueller, member of the political science department and senior research scientist with the Mershon Center for International Security Studies at Ohio State University, “Nuclear Alarmism: Proliferation and Terrorism,” 06/24/20, *Cato Institute*, https://www.cato.org/publications/publications/nuclear-alarmism-proliferation-terrorism, EA]

However, thus far, terrorist groups seem to have exhibited only limited desire and even less progress in going atomic. That lack of action may be because, after a brief exploration of the possible routes, they — unlike generations of alarmists — have discovered that the tremendous effort required is scarcely likely to be successful.34

Obtaining a Finished Bomb: Assistance by a State

One route a would-be atomic terrorist might take would be to receive or buy a bomb from a generous like-​minded nuclear state for delivery abroad. That route is highly improbable, however, because there would be too much risk — even for a country led by extremists — that the ultimate source of the weapon would be discovered. As one prominent analyst, Matthew Bunn, puts it, “A dictator or oligarch bent on maintaining power is highly unlikely to take the immense risk of transferring such a devastating capability to terrorists they cannot control, given the ever-present possibility that the material would be traced back to its origin.” Important in this last consideration are deterrent safeguards afforded by “nuclear forensics,” which is the rapidly developing science (and art) of connecting nuclear materials to their sources even after a bomb has been exploded.35

Moreover, there is a very considerable danger to the donor that the bomb (and its source) would be discovered before delivery or that it would be exploded in a manner and on a target the donor would not approve of — including on the donor itself. Another concern would be that the terrorist group might be infiltrated by foreign intelligence.36

In addition, almost no one would trust al Qaeda. As one observer has pointed out, the terrorist group’s explicit enemies list includes not only Christians and Jews but also all Middle Eastern regimes; Muslims who don’t share its views; most Western countries; the governments of Afghanistan, India, Pakistan, and Russia; most news organizations; the United Nations; and international nongovernmental organizations.37 Most of the time, it didn’t get along all that well even with its host in Afghanistan, the Taliban government.38

Stealing or Illicitly Purchasing a Bomb: Loose Nukes

There has also been great worry about “loose nukes,” especially in postcommunist Russia — weapons, “suitcase bombs” in particular, that can be stolen or bought illicitly. A careful assessment conducted by the Center for Nonproliferation Studies has concluded that it is unlikely that any of those devices have been lost and that, regardless, their effectiveness would be very low or even nonexistent because they (like all nuclear weapons) require continual maintenance.39 Even some of those people most alarmed by the prospect of atomic terrorism have concluded, “It is probably true that there are no ‘loose nukes,’ transportable nuclear weapons missing from their proper storage locations and available for purchase in some way.“40

It might be added that Russia has an intense interest in controlling any weapons on its territory because it is likely to be a prime target of any illicit use by terrorist groups, particularly Chechen ones of course, with whom it has been waging a vicious on-and-​off war for two decades. The government of Pakistan, which has been repeatedly threatened by terrorists, has a similar interest in controlling its nuclear weapons and material — and scientists. As noted by Stephen Younger, former head of nuclear weapons research and development at Los Alamos National Laboratory, “Regardless of what is reported in the news, all nuclear nations take the security of their weapons very seriously.“41 Even if a finished bomb were somehow lifted somewhere, the loss would soon be noted and a worldwide pursuit launched.

Moreover, finished bombs are outfitted with devices designed to trigger a nonnuclear explosion that would destroy the bomb if it were tampered with. And there are other security techniques: bombs can be kept disassembled with the components stored in separate high-​security vaults, and security can be organized so that two people and multiple codes are required not only to use the bomb but also to store, maintain, and deploy it. If the terrorists seek to enlist (or force) the services of someone who already knows how to set off the bomb, they would find, as Younger stresses, that “only few people in the world have the knowledge to cause an unauthorized detonation of a nuclear weapon.” Weapons designers know how a weapon works, he explains, but not the multiple types of signals necessary to set it off, and maintenance personnel are trained in only a limited set of functions.42

There could be dangers in the chaos that would emerge if a nuclear state were to fail, collapsing in full disarray — Pakistan is frequently brought up in this context and sometimes North Korea as well. However, even under those conditions, nuclear weapons would likely remain under heavy guard by people who know that a purloined bomb would most likely end up going off in their own territory; would still have locks (and in the case of Pakistan would be disassembled); and could probably be followed, located, and hunted down by an alarmed international community. The worst-​case scenario in that instance requires not only a failed state but also a considerable series of additional permissive conditions, including consistent (and perfect) insider complicity and a sequence of hasty, opportunistic decisions or developments that click flawlessly in a manner far more familiar to Hollywood scriptwriters than to people experienced with reality.43

Building a Bomb of One’s Own

Because they are unlikely to be able to buy or steal a usable bomb and because they are further unlikely to have one handed off to them by an established nuclear state, the most plausible route for terrorists would be to manufacture the device themselves from purloined materials. That is the course identified by a majority of leading experts as the one most likely to lead to nuclear terrorism.44

The simplest design is a “gun” type of device in which masses of highly enriched uranium are hurled at each other within a tube. Such a device would be, as Allison acknowledges, “large, cumbersome, unsafe, unreliable, unpredictable, and inefficient.“45

The process of making such a weapon is daunting even in this minimal case. In particular, the task requires that a considerable series of difficult hurdles be conquered and in sequence.

To begin with, now and likely for the foreseeable future, stateless groups are incapable of manufacturing the requisite weapons-grade uranium themselves because the process requires an effort on an industrial scale. Moreover, they are unlikely to be supplied with the material by a state for the same reasons a state is unlikely to give them a workable bomb.46 Thus, they would need to steal or illicitly purchase the crucial material.

A successful armed theft is exceedingly unlikely, not only because of the resistance of guards but also because chase would be immediate. A more plausible route would be to corrupt insiders to smuggle out the necessary fissile material. However, that approach requires the terrorists to pay off a host of greedy confederates, including brokers and money transmitters, any one of whom could turn on them or — either out of guile or incompetence — furnish them with stuff that is useless.47 Moreover, because of improved safeguards and accounting practices, it is decreasingly likely that the theft would remain undetected.48 That development is important because if any missing uranium is noticed, the authorities would investigate the few people who might have been able to assist the thieves, and one who seems suddenly to have become prosperous is likely to arrest their attention right from the start. Even one initially tempted by, seduced by, or sympathetic to, the blandishments of the smooth-talking foreign terrorists might soon develop sobering second thoughts and go to the authorities. Insiders tempted to assist terrorists might also come to ruminate over the fact that, once the heist was accomplished, the terrorists would, as analyst Brian Jenkins puts it none too delicately, “have every incentive to cover their trail, beginning with eliminating their confederates.“49

It is also relevant to note that over the years, known thefts of highly enriched uranium have totaled fewer than 16 pounds. That amount is far less than that required for an atomic explosion: for a crude bomb, more than 100 pounds are necessary to produce a likely yield of one kiloton. Moreover, none of those thieves was connected to al Qaeda, and, most arrestingly, none had buyers lined up — nearly all were caught while trying to peddle their wares. Indeed, concludes analyst Robin Frost, “There appears to be no true demand, except where the buyers were government agents running a sting.” Because there appears to be no commercial market for fissile material, each sale would be a one-​time affair, not a continuing source of profit such as drugs, and there is no evidence of established underworld commercial trade in this illicit commodity.50

If terrorists were somehow successful in obtaining a sufficient mass of relevant material, they would then have to transport it out of the country over unfamiliar terrain, probably while being pursued by security forces. Then, they would need to set up a large and well-​equipped machine shop to manufacture a bomb and populate it with a select team of highly skilled scientists, technicians, and machinists. The process would also require good managers and organizers. The group would have to be assembled and retained for the monumental task without generating consequential suspicions among friends, family, and police about their curious and sudden absence from normal pursuits back home. Pakistan, for example, maintains a strict watch on many of its nuclear scientists even after retirement.51

Some observers have insisted that it would be “easy” for terrorists to assemble a crude bomb if they could get enough fissile material.52 However, Christoph Wirz and Emmanuel Egger, two senior physicists in charge of nuclear issues at Switzerland’s Spiez Laboratory, conclude that the task “could hardly be accomplished by a subnational group.” They point out that precise blueprints are required, not just sketches and general ideas, and that even with a good blueprint, the terrorist group “would most certainly be forced to redesign.” They also stress that the work, far from being “easy,” is difficult, dangerous, and extremely exacting and that the technical requirements “in several fields verge on the unfeasible.“53

Los Alamos research director Younger makes a similar argument, expressing his amazement at “self-declared ‘nuclear weapons experts,’ many of whom have never seen a real nuclear weapon,” who “hold forth on how easy it is to make a functioning nuclear explosive.” Information is available for getting the general idea behind a rudimentary nuclear explosive, but none is detailed enough for “the confident assembly of a real nuclear explosive.” Younger concludes, “To think that a terrorist group, working in isolation with an unreliable supply of electricity and little access to tools and supplies” could fabricate a bomb “is far-​fetched at best.“54

Under the best of circumstances, the process could take months or even a year or more, and it would all, of course, have to be carried out in utter secret even while local and international security police are likely to be on the intense prowl. In addition, people, or criminal gangs, in the area may observe with increasing curiosity and puzzlement the constant comings and goings of technicians unlikely to be locals.

The process of fabricating a nuclear device requires, then, the effective recruitment of people who at once have great technical skills and will remain completely devoted to the cause. In addition, a host of corrupted coconspirators, many of them foreign, must remain utterly reliable; international and local security services must be kept perpetually in the dark; and no curious outsider must get wind of the project over the months, or even years, it takes to pull off.

The finished product could weigh a ton or more. Encased in lead shielding to mask radioactive emissions, it would then have to be transported to, as well as smuggled into, the relevant target country. Then, the enormous package would have to be received within the target country by a group of collaborators who are at once totally dedicated and technically proficient at handling, maintaining, and perhaps assembling the weapon. Then, they would have to detonate it somewhere under the fervent hope that the machine shop work has been proficient, that no significant shakeups occurred in the treacherous process of transportation, and that the thing — after all that effort — doesn’t prove to be a dud.

The financial costs of the extended operation in its cumulating entirety could become monumental. There would be expensive equipment to buy, smuggle, and set up, as well as people to pay — or pay off. Some operatives might work for free out of dedication, but the vast conspiracy also requires the subversion of an array of criminals and opportunists, each of whom has every incentive to push the price for cooperation as high as possible. Any criminals who are competent and capable enough to be an effective ally in the project are likely to be both smart enough to see opportunities for extortion and psychologically equipped by their profession to be willing to exploit them.

#### Minerals scenario isn’t specific to domestic export cartels AND there’s no ev cartelization even exists in that industry

#### Renewables fail – inefficient, offsetting, resource wars

Hoffmann 16 [Ulrich Hoffmann, chief economist, sustainability issues at the Research Institute on Organic Agriculture (FIBL), and former editor-in-chief of the UNCTAD Trade and Environment Review, UNCTAD Secretariat, “Green Growth: Ideology, political economy and the alternatives | Can green growth really work? A reality check that elaborates on the true (socio-)economics of climate change,” 2016, Zed Books, pp. 28-33, EA]

Increasing the use of renewable energy – easier said than done

Much hope was put on the contribution of changes in the energy mix to reducing GHG emissions. However, evidence suggests that a complete or significant replacement of fossil fuel by renewable energy (RE) is very challenging on a number of fronts:

• There is the need for compacting RE.

• One needs a significantly modified, renewed or new transmission infrastructure.

• There is a reduced energy return on energy input (EROI).

• Certain REs have to face up to material scarcities.

• There is not yet a really sustainable alternative for conventional transport fuel.

Wind and solar, the two most promising RE sources, are variable and intermittent, and therefore cannot serve as ‘base-load’ electricity, requiring substantial conventional electricity capacity as backup. They also require significant material input into the production of solar panels and wind turbines and a major upgrading of storage capacity, transmission lines and the creation of intelligent grids, all set to drive up material consumption (and related costs), in some cases completely exhausting the supply of strategic materials.24 Furthermore, two-thirds of fossil fuel is used as transport fuel, for which there is no real substitute within sight (biofuels cannot meet more than a small fraction of the world’s transport fuel demand).25

Hänggi cautions that a change in the energy mix does often not lead to a straightforward replacement of fossil by renewable fuel.26 Rather, the new energy is likely to be used in parallel with the old one for quite some time (a phenomenon that applies to many social innovations), both for technical reasons, but also linked to the rebound effect (see below). For instance, the present global consumption of coal is higher than that before the oil age; so is the current consumption of fuel wood compared to what was used before the coal age. Also, to assure reliable electricity supply, gas-reliant power stations are likely to play an important role in backing up wind and solar power facilities.27

It should also not be overlooked that, unlike conventional fuel, renewable energy is usually only available in non-concentrated form; it has to be ‘compacted’ to generate sufficient power. This ‘compaction’ or, in technical terms, the reduction of entropy of a system, can only be achieved by increasing the entropy in other parts. In practical terms of renewable energy, this means that one can only compact wind, solar, bio or hydro energy by increasing the use of conventional fuel or raw materials.28

As a result, EROI is low and sometimes even negative (in fact, even for conventional fuels the EROI has dramatically declined in recent decades).29 According to Hall et al., it is not important to have renewable energy alternatives per se, but that they have:

• a sufficient energy density;

• an appropriate transportability;

• a relatively low environmental impact per net unit delivered to society;

• a relatively high EROI; and

• that REs are obtainable on a scale that society demands.

Hall et al. stress that ‘we must remember that usually what we want is energy services, not energy itself, which usually has little intrinsic economic utility’.30 MacKay adds that ‘for a sustainable energy plan to add up, we need both the forms and amounts of energy consumption and production to match up. Converting energy from one form to another … usually involves substantial losses of useful energy … Conversion losses (in the United Kingdom, for example – added by the author) account for about 22 per cent of total national energy consumption.’31

In sum it should be noted that low EROI, losses in storage, transmission and conversion, and less efficiency at the point of use for renewable energy can mean that the need for energy supply can increase considerably compared to the current fossil-fuel-dominated energy mix – just to keep energy utility at the point of use the same.

The efficiency illusion: the rebound effect

Enhanced energy (and related material and resource) efficiency and ample availability of cheap renewable energy will encourage a ‘rebound effect’, i.e. physical consumption is likely to increase as a result of productivity increases, which leads to lower costs and prices and the shifting of thus saved consumer money or investment funds.32

The rebound effect was first described by the English economist William Stanley Jevons in his book The Coal Question, published in 1865. Jevons observed that England’s consumption of coal soared after James Watt introduced his coal-fired steam engine, which greatly improved the efficiency of Thomas Newcomen’s earlier design. Watt’s innovations made coal a more cost-effective power source, leading to the increased use of the steam engine in a wide range of industries. This in turn increased total coal consumption, even as the amount of coal required for any particular application fell. Jevons argued that improvements in fuel efficiency tend to increase, rather than decrease, fuel use: ‘It is a confusion of ideas to suppose that the economical use of fuel is equivalent to diminished consumption. The very contrary is the truth … no one must suppose that coal thus saved is spared – it is only saved from one use to be employed in others.’33

The rebound effect reflects the causality between efficiency increases and additional demand. The definition not only includes the energy/material/resource (EMR) efficiency, but also the additional demand impact of increased labour and capital productivity.

Besides the financial rebound effect (denoting that part or all of the EMR-efficiency-induced cost savings are used for reinvestment or additional consumption) there is also a material rebound effect. In addition, there are psychological and cross-factor rebound effects. Material rebound effects are caused by higher EMR consumption resulting from the need to change fixed capital and infrastructure for increasing EMR efficiency. The psychological rebound effect provokes higher EMR consumption, because the user of more efficient technologies is under the impression that he/she has economized on EMR use and that there is thus no harm in using the concerned device a bit more (e.g. the user of a more fuel efficient or electrical vehicle increases the mileage). The cross-factor rebound effect, in turn, is triggered by enhanced labour productivity, which replaces labour by mechanization and motorization, driving material and resource consumption, but in particular energy use. In other words, labour productivity increases are bought by reduced energy efficiency. Technological developments that besides EMR efficiency also increase the capital efficiency and labour productivity are likely to cause ‘backfire effects’, i.e. ultimately increasing EMR demand.34

There is yet another, more complicated aspect of Jevons’ paradox.35 Even if higher labour productivity can make workers redundant, it also increases the remaining workers’ salaries. This creates new demands and new employment opportunities. Those that are made redundant, in turn, are mostly productive in some other trade. Even if we see a lot of unemployment globally, one must admit that the enormous gains in productivity have not resulted in widespread or mass unemployment. To some extent, workers have reduced their work hours, but certainly not at all in parity with the increase in labour productivity. Therefore, despite all efficiency improvements, our society has significantly reduced neither the number of hours worked nor the resources used, not in total and not per capita. Rather, efficiency gains have fuelled increased consumption. Against this background, Foster, Clark and York point out that ‘An economic system devoted to profits, accumulation, and economic expansion without end will tend to use any efficiency gains or cost reductions to expand the overall scale of production … Conservation in the aggregate is impossible for capitalism, however much the output/input ratio may be increased in the engineering of a given product. This is because all savings tend to spur further capital formation …’36

Rebound effects have been poorly analysed so far, with some estimates limited to the financial rebound effects. The latter alone are estimated to neutralize up to half of the total EMR efficiency gains.37 Empirical information on material and cross-factor rebound effects is not yet available. Against this background, it will be simplistic to assume that EMR efficiency gains can play the main role in reducing GHG intensity. The key dilemma is that efficiency and productivity gains tend to boost economic growth, thus ushering in more physical consumption. This is one of the key reasons that call into question the effectiveness of the ‘efficiency revolution’ as a key element in the decoupling strategy at macroeconomic and global level.

Theoretically, some rebound effects could be neutralized by eco-taxes. However, such taxes (being increased in line with higher EMR efficiency) would have to be designed in a way that does not remove the incentive for efficiency innovation and would also have to be coordinated internationally. Setting absolute EMR consumption limits would be more promising, for instance in the context of caps for emission/ pollution trading schemes. However, almost all of such trading schemes on carbon-emission reductions have not been very successful so far – the virtual collapse of the EU Emissions Trading Scheme in recent years is a case in point.38 One should also not overlook the equality challenges of emission trading schemes and the fact that there is no link between the value of the service in a free market and the total cost for society. What is more, even the smartest-designed carbon offset trading scheme cannot overcome the constraints set by the above-mentioned limits of the maths of decarbonization – as stressed by Pielke, carbon ‘markets cannot make the impossible possible’.39

Linear thinking and horizontal shifting

There is also a tendency for too much linear thinking and approaches to enhancing EMR efficiency, often resulting in an outcome that only shifts the problem. Some of the technical advances in EMR efficiency gains, for instance, rely on material that is either scarce or very energy intensive to produce or difficult to re-use, recycle or safely dispose of. According to Bleischwitz et al., ‘the upswing for eco-industries in the North may have a dark side in the South: resource-rich countries being moved into rapid extraction paths exceeding the eco-systems and socio-economic institutions of those regions and fuelling civil wars with resource rents’.40 To use a concrete example, according to Schmidt-Bleek, ‘the damages in nature caused by electrical vehicles are far bigger than the ecological savings obtained by lower emissions’.41

A considerable proportion of GHG intensity drops in developed countries has been achieved not by ‘real physical savings’, but by ‘outsourcing’ very EMR-intensive production to developing countries (almost a quarter of GHG emissions related to goods consumed in developed countries has been outsourced). A team of scientists at Oxford University, for instance, estimated that under a correct account, allowing for imports and exports, Britain’s carbon footprint is nearly twice as high as the official figure (i.e. 21 t CO2eq/person/ year instead of 11). The share of CO2 net imports to total carbon emissions of individual developed countries has recently ranged from about 15 per cent for Greece to almost 60 per cent for Switzerland.42 Against this background, EMR and carbon-efficiency gains in developed countries need to be scrutinized with care and are often far less impressive than they appear at first sight.

#### No reason US renewables solve warming globally – US is only 13% of total emissions

#### No warming impact and emissions are inevitable

Curry 19 [Judith Curry, President of Climate Forecast Applications Network (CFAN), Professor Emerita of Earth and Atmospheric Sciences at the Georgia Institute of Technology, Ph.D. in atmospheric science from the University of Chicago, 2/9/19, “Statement to the Committee on Natural Resources of the United States House of Representatives,” https://curryja.files.wordpress.com/2019/02/curry-testimony-house-natural-resources.pdf]

The urgency (?) of CO2 emissions reductions

In the decades since the 1992 UNFCCC Treaty, global CO2 emissions have continued to increase, especially in developing countries. In 2010, the world’s governments agreed that emissions need to be reduced so that global temperature increases are limited to below 2 degrees Celsius.17 The target of 2oC (and increasingly 1.5oC)18 remains the focal point of international climate agreements and negotiations.

The original rationale for the 2oC target is the idea that ‘tipping points’ − abrupt or nonlinear transition to a different climate state − become likely to occur once this threshold has been crossed, with consequences that are largely uncontrollable and beyond our management. The IPCC AR5 considered a number of potential tipping points, including ice sheet collapse, collapse of the Atlantic overturning circulation, and permafrost carbon release. Every single catastrophic scenario considered by the IPCC AR5 (WGII, Table 12.4) has a rating of very unlikely or exceptionally unlikely and/or has low confidence. The only tipping point that the IPCC considers likely in the 21st century is disappearance of Arctic summer sea ice (which is fairly reversible, since sea ice freezes every winter).

In the absence of tipping points on the timescale of the 21st century, the 2oC limit iss more usefully considered by analogy to a highway speed limit:19 driving at 10 mph under the speed limit is not automatically safe, and exceeding the limit by 10 mph is not automatically dangerous, although the faster one travels the greater the danger from an accident. Analogously, the 2oC (or 1.5oC) limit should not be taken literally as a real danger threshold. An analogy for considering the urgency of emissions reductions is your 401K account: if you begin making contributions early, it will be easier to meet your retirement goals.

Nevertheless, the 2oC and 1.5oC limits are used to motivate the urgency of action to reduce CO2 emissions. At a recent UN Climate Summit, (former) Secretary-General Ban Ki-moon warned that: “Without significant cuts in emissions by all countries, and in key sectors, the window of opportunity to stay within less than 2 degrees [of warming] will soon close forever.”20 Actually, this window of opportunity may remain open for quite some time. The implications of the lower values of climate sensitivity found by Lewis and Curry21 and other recent studies is that human caused warming is not expected to exceed the 2oC ‘danger’ level in the 21st century. Further, there is growing evidence that the RCP8.5 scenario for future greenhouse gas concentrations, which drives the largest amount of warming in climate model simulations, is impossibly high, requiring a combination of numerous borderline impossible socioeconomic scenarios.22 A slower rate of warming means there is less urgency to phase out greenhouse gas emissions now, and more time to find ways to decarbonize the economy affordably and with a minimum of unintended consequences. It also allows for the flexibility to revise our policies as further information becomes available.

Is it possible that something truly dangerous and unforeseen could happen to Earth’s climate during the 21st century? Yes it is possible, but natural climate variability (including geologic processes) may be a more likely source of possible undesirable change than manmade warming. In any event, attempting to avoid such a dangerous and unforeseen climate by reducing fossil fuel emissions will be futile if natural climate and geologic processes are dominant factors. Geologic processes are an important factor in the potential instability of the West Antarctic ice sheet that could contribute to substantial sea level rise in the 21st century.23

Under the Paris Agreement, individual countries have submitted to the UNFCCC their Nationally Determined Contributions (NDCs). Under the Obama Administration, the U.S. NDC had a goal of reducing emissions by 28% below 2005 levels by 2025. Apart from considerations of feasibility and cost, it has been estimated24 using the EPA MAGICC model that this commitment will prevent 0.03oC in warming by 2100. When combined with current commitments from other nations, only a small fraction of the projected future warming will be ameliorated by these commitments. If climate models are indeed running too hot,25 then the amount of warming prevented would be even smaller. Even if emissions immediately went to zero and the projections of climate models are to be believed, the impact on the climate would not be noticeable until the 2nd half of the 21st century. Most of the expected benefits to the climate from the UNFCCC emissions reductions policy will be realized in the 22nd century and beyond.

Attempting to use carbon dioxide as a control knob to regulate climate on decadal to century timescales is arguably futile. The UNFCCC emissions reductions policies have brought us to a point between a rock and a hard place, whereby the emissions reduction policy with its extensive costs and questions of feasibility are inadequate for making a meaningful dent in slowing down the expected warming in the 21st century. And the real societal consequences of climate change and extreme weather events (whether caused by manmade climate change or natural variability) remain largely unaddressed.

This is not to say that a transition away from burning fossil fuels doesn’t make sense over the course of the 21st century. People prefer ‘clean’ over ‘dirty’ energy – provided that all other things are equal, such as reliability, security, and economy. However, assuming that current wind and solar technologies are adequate for providing the required amount and density of electric power for an advanced economy is misguided.26

The recent record-breaking cold outbreak in the Midwest is a stark reminder of the challenges of providing a reliable power supply in the face of extreme weather events, where an inadequate power supply not only harms the economy, but jeopardizes lives and public safety. Last week, central Minnesota experienced a natural gas ‘brownout,’ as Xcel Energy advised customers to turn thermostats down to 60 degrees and avoid using hot water.27 Why? Because the wind wasn’t blowing during an exceptionally cold period. Utilities pair natural gas plants with wind farms, where the gas plants can be ramped up and down quickly when the wind isn’t blowing. With bitter cold temperatures and no wind, there wasn’t enough natural gas.

A transition to an electric power system driven solely by wind and solar would require a massive amount of energy storage. While energy storage technologies are advancing, massive deployment of cost-effective energy storage technologies is well beyond current capabilities.28 An unintended consequence of rapid deployment of wind and solar energy farms may be that natural gas power plants become increasingly entrenched in the power supply system.

Apart from energy policy, there are a number of land use practices related to croplands, grazing lands, forests and wetlands that could increase the natural sequestration of carbon and have ancillary economic and ecosystem benefits.29 These co-benefits include improved biodiversity, soil quality, agricultural productivity and wildfire behavior modification.

In evaluating the urgency of CO2 emissions reductions, we need to be realistic about what reducing emissions will actually accomplish. Drastic reductions of emissions in the U.S. will not reduce global CO2 concentrations if emissions in the developing world, particularly China and India, continue to increase. If we believe the climate model simulations, we would not expect to see any changes in extreme weather/climate events until late in the 21st century. The greatest impacts will be felt in the 22nd century and beyond, in terms of reducing sea level rise and ocean acidification.

Resilience, anti-fragility and thrivability

Given that emissions reductions policies are very costly, politically contentious and are not expected to change the climate in a meaningful way in the 21st century, adaptation strategies are receiving increasing attention in formulating responses to climate change.

The extreme damages from recent hurricanes plus the recent billion dollar disasters from floods, droughts and wildfires, emphasize that the U.S. is highly vulnerable to current weather and climate disasters. Even worse disasters were encountered in the U.S. during the 1930’s and 1950’s. Possible scenarios of incremental worsening of weather and climate extremes over the course of the 21st century don’t change the fundamental storyline that many regions of the U.S. are not well adapted to the current weather and climate variability, let alone the range that has been experienced over the past two centuries.

As a practical matter, adaptation has been driven by local crises associated with extreme weather and climate events, emphasizing the role of ‘surprises’ in shaping responses. Advocates of adaptation to climate change are not arguing for simply responding to events and changes after they occur; they are arguing for anticipatory adaptation. However, in adapting to climate change, we need to acknowledge that we cannot know how the climate will evolve in the 21st century, we are certain to be surprised and we will make mistakes along the way.

‘Resilience’ is the ability to ‘bounce back’ in the face of unexpected events. Resilience carries a connotation of returning to the original state as quickly as possible. The difference in impact and recovery from Hurricane Sandy striking New York City in 2012 versus the impact of Tropical Cyclone Nargis striking Myanmar in 200830 reflects very different vulnerabilities and capacities for bouncing back.

To increase our resilience to extreme weather and climate events, we can ‘bounce forward’ to reduce future vulnerability by evolving our infrastructures, institutions and practices. Nicholas Taleb’s concept of antifragility31 focuses on learning from adversity, and developing approaches that enable us to thrive from high levels of volatility, particularly unexpected extreme events. Anti-fragility goes beyond ‘bouncing back’ to becoming even better as a result of encountering and overcoming challenges. Anti-fragile systems are dynamic rather than static, thriving and growing in new directions rather than simply maintaining the status quo.

Strategies to increase antifragility include: economic development, reducing the downside from volatility, developing a range of options, tinkering with small experiments, and developing and testing transformative ideas. Antifragility is consistent with decentralized models of policy innovation that create flexibility and redundance in the face of volatility. This ‘innovation dividend’ is analogous to biodiversity in the natural world, enhancing resilience in the face of future shocks.32

Similar to anti-fragility, the concept of ‘thrivability’ has been articulated by Jean Russell:33 “It isn’t enough to repair the damage our progress has brought. It is also not enough to manage our risks and be more shock-resistant. Now is not only the time to course correct and be more resilient. It is a time to imagine what we can generate for the world. Not only can we work to minimize our footprint but we can also create positive handprints. It is time to strive for a world that thrives.”

A focus on policies that support resilience, anti-fragility and thrivability avoids the hubris of thinking we can predict the future climate. The relevant questions then become:

• How can we best promote the development of transformative ideas and technologies?

• How much resilience can we afford?

The threats from climate change (whether natural or human caused) are fundamentally regional, associated not only with regional changes to the weather/climate, but with local vulnerabilities and cultural values and perceptions. In the least developed countries, energy poverty and survivability is of overwhelming concern, where there are severe challenges to meeting basic needs and their idea of clean energy is something other than burning dung inside their dwelling for cooking and heating. In many less developed countries, particularly in South Asia, an overwhelming concern is vulnerability to extreme weather events such as floods and hurricanes that can set back the local economies for a generation. In the developed world, countries are relatively less vulnerable to climate change and extreme weather events and have the luxury of experimenting with new ideas: entrepreneurs not only want to make money, but also to strive for greatness and transform the infrastructure for society.

Extreme weather/climate events such as landfalling major hurricanes, floods, extreme heat waves and droughts become catastrophes through a combination of large populations, large and exposed infrastructure in vulnerable locations, and human modification of natural systems that can provide a natural safety barrier (e.g. deforestation, draining wetlands). Addressing current adaptive deficits and planning for climate compatible development will increase societal resilience to future extreme events that may possibly be more frequent or severe in the future.

Ways forward

Climate scientists have made a forceful argument for a future threat from manmade climate change. Based upon our current assessment of the science, the threat does not seem to be an existential one on the time scale of the 21st century, even in its most alarming incarnation. However, the perception of manmade climate change as a near-term apocalypse and alignment with range of other social objectives has narrowed the policy options that we’re willing to consider.

## Outreach Adv

#### Internal link is about extraterritorial antitrust – prosecuting domestic export cartels won’t suddenly cause countries to accept US imperialism

#### No backlash – comity concerns are bunk.

Ryu 16 [Jae Hyung Ryu, B.A., Yale University, New Haven, Connecticut. J.D. Candidate (2017), Washington University School of Law, St. Louis, “Deterring Foreign Component Cartels in the Age of Globalized Supply Chains,” 2016, *Wake Forest Journal of Business and Intellectual Property Law*, Vol. 17, No. 1, http://ipjournal.law.wfu.edu/files/2017/01/Ryu-V-17-I1.pdf, EA]

Common concerns, such as international comity, the indirect purchaser doctrine, endless plaintiffs, and over-deterrence, do not sufficiently justify not analyzing the importation of finished products incorporating price-fixed components under import inclusion. First, international comity concerns are minimal because the international norm is expanding extraterritoriality, other countries having already taken an expansive approach based on anticompetitive conduct’s effects on its domestic market. For one, imports necessarily affect the U.S. economy—an area that the United States is more than justified to protect. As analyzed above, the FTAIA’s drafters assumed that import commerce by definition would influence the U.S. domestic commerce.184 Anticompetitive conduct, even if it happens outsides the United States, would necessarily affect domestic commerce because its influx would affect all other parts of the market.

Empagran, the last Supreme Court case that squarely considered the issue of the extraterritorial reach of U.S. antitrust laws, based its holding primarily on the concerns of international comity. 185 Yet, international comity is not unilateral because the doctrine is based on mutuality between the United States and other countries; it is based on the silent agreement between sovereign nations not to interfere with each other’s sovereign authority.186 When other countries are more willing to punish foreign component cartels when finished products incorporating price-fixed components are imported, 187 there is little reason why the United States should sit on the sidelines and not protect the interests of its consumers and businesses. Moreover, the trend of the convergence of international regulations188 suggests that the United States would be more than justified in following the European Union’s steps in expanding the extraterritorial reach of U.S. antitrust laws.

The European Commission’s decision to fine companies for importing finished products manufactured outside the EEA189 and the Court of Justice upholding the expansive enforcement power 190 support that a similarly expansive reading of the FTAIA would not invoke international comity concerns. International comity is predicated on not infringing the sovereign regulatory and enforcement powers of other countries. 191 However, when other countries are similarly expansively regulating conduct outside its borders on the basis of effects felt within its borders, there is hardly any infringement on their sovereign authority to do the same. 192 In fact, this convergence of perspectives on the proper scope of the competitions laws focusing on the actual effects of allegedly anticompetitive conduct comports with the globalization of the world economy in which many corporations act across the borders and jurisdictions.193

#### No modeling – other countries see US antitrust as irrational, even if we get things right.

William E. Kovacic 15, Professor of Law and Policy at George Washington University, former General Counsel for the Federal Trade Commission, J.D. from Columbia University, “The United States and Its Future Influence on Global Competition Policy,” George Mason Law Review, Vol. 22, 2015, accessed via Lexis

One force that reduces the perceived legitimacy of the U.S. system is a widely accepted narrative, reflected in popular discourse and scholarly commentary, which portrays federal enforcement as irrational and unstable. 65 [\*1172] In this interpretation of modern U.S. enforcement history, antitrust policy undergoes recurring erratic shifts, with a small number of lucid intervals. For the most part, the irrationality narrative suggests that U.S. antitrust policy embraced unsupportable extremes of over-enforcement in the 1960s and 1970s, under-enforcement from 1981 to 1988 and 2001 to 2008, and achieved a sensible, balanced equilibrium only from 1993 to 2000 and 2009 to the present. 66 This accounting of antitrust history raises a troublesome question: why should any jurisdiction outside the U.S. respect a system that has lost its mind in roughly 41 of the past 55 years?

Policy-making in the irrationality narrative is sharply discontinuous, and the enforcement institutions have little evident capacity for self-assessment or correction over time. 67 Individual leaders count for everything, and institutional arrangements fail to discipline policy-making; 68 appoint a wise official and you get good results, but pick a zealot and the agency swerves toward frantic hyperactivity or utter indolence. The irrationality narrative is the public policy equivalent of an interpretation of Formula One racing that attributes the outcome in races entirely to the driver and treats the quality of the car and supporting team as largely irrelevant.

The irrationality account of U.S. enforcement history derives power from the stature of the narrators. Despite its unreliable reading of U.S. experience, the narrative's academic pedigree is daunting. Some of the greatest scholars in U.S. competition law have contributed to the story. If nonentities constructed the narrative, foreign observers would dismiss it out of hand. Instead, the narrative of irrationality and instability, often presented with the metaphor of a wildly swinging pendulum, originated and developed in the work of some of the field's most influential commentators. On many occasions outside the U.S., I have heard enforcement officials, practitioners, and scholars speak of the irrationality narrative as though it were an established truth. To these observers, the stature of the scholars who popularized the irrationality narrative invariably lends verisimilitude to the story.

As described below, the irrationality narrative of the U.S. system serves the aims of the right and the left in the debate about federal enforcement policy. For those who favor more intervention or less intervention, alike, the image of a system dangerously out of control serves to frame their own "sensible" policy proposals. By this technique, the narrator emerges as the voice of wisdom in a crazed policy environment.

[\*1173] The architecture of the modern irrationality narrative took shape in 1978 when Professor Robert Bork published the first edition of his transformative treatise, The Antitrust Paradox. 69 Professor Bork's central thesis was that "modern antitrust has so decayed that the policy is no longer intellectually respectable." 70 Each institution with a role in the implementation of the antitrust laws--the courts, the Congress, and the federal enforcement agencies--caused the decay. On antitrust matters, the Congress displayed the mentality of "the sheriff of a frontier town" who "did not sift evidence, distinguish between suspects, and solve crimes, but merely walked the main street and every so often pistol-whipped a few people." 71 With few exceptions, the courts embraced a view of antitrust law that "teaches the necessity for government intervention when no such necessity exists, and even when intervention is positively harmful." 72 Without regard to adverse economic effects, the DOJ and the FTC "must continually press on to fresh territory, seeking theories that broaden the application of the law and make violations easier to establish." 73

In Professor Bork's telling, the implementing institutions were capricious, reckless, or bent upon self-aggrandizement. 74 As a group, the institutions have gone mad, for they have no tendency or, perhaps, any capacity to reflect on their experience, identify error, and make corrections. 75 Instead, the U.S. antitrust system had "an inbuilt thrust toward greater severity or further extension." 76 Nothing, Professor Bork warned, seemed able to contain the destructive march of intervention: "This process has no obvious stopping point." 77

The image of a system out of control served Professor Bork's rhetorical aims; it showed the urgency for reform by presenting a system in shambles. The image also distorted (more mildly, misread) current trends substantially. When The Antitrust Paradox appeared in January 1978, each institution Professor Bork rebuked--the Congress, the courts, and the federal enforcement agencies--had taken steps to rebalance the antitrust system. 78 The adjustments came slowly, but they were coming, nonetheless. If Professor Bork had acknowledged that the seemingly out-of-control institutions [\*1174] were making important adjustments, his book would have lost some (maybe much) of its force.

A second decisive contribution to the irrationality narrative came in the late 1980s and early 1990s from one of Professor Bork's harshest critics, Professor Robert Pitofsky. Though Professor Pitofsky scorned Professor Bork's calls for a vast retrenchment of antitrust enforcement, he used his own version of the irrationality narrative while setting out a more interventionist agenda. 79 Describing federal merger enforcement from the early 1960s through the early 1990s, Professor Pitofsky wrote:

American antitrust policy has tried to balance possible threats to competition against merger benefits, but remarkably, has careened from one extreme to another in this balancing process. For example, the United States had by far the most stringent antimerger policy in the world in the 1960s, striking down mergers among small firms in unconcentrated markets. By the 1980s, the United States maintained an extremely lenient merger policy, regularly allowing billion dollar mergers to go through without government challenge, even when they involved direct competitors. 80

Like Professor Bork in The Antitrust Paradox, Professor Pitofsky presented a system run amok. Federal policy "careen[s] from one extreme to another," like an automobile with an impaired driver swerving across the centerline. 81 No institutional feature in the U.S. system provided needed balance. 82

In Professor Pitofsky's version of the narrative, the solution to the aberrant enforcement behavior came by way of appointments--including his own--to the federal agencies. 83 In 2002, after chairing the FTC from 1995 to 2001, Professor Pitofsky said federal merger control by the late 1990s "stopped careening from aggressive enforcement based in some part on a populist ideology to minimalist enforcement based on hostility to the core assumptions of antitrust . . . ." 84 Under the Clinton Administration's appointees, federal policy stopped "careening," avoiding the extremes of an overheated, populist-inspired activism of the 1960s and the "minimalist" program of the Reagan presidency with its "hostility to the core assumptions of antitrust." 85

For Professor Pitofsky, like Professor Bork, the narrative of a system gripped by irrational, erratic variations in behavior served an important instrumental purpose. The portrayal of a regime swinging wildly between extremes allowed Professor Pitofsky to claim the role--as suggested in the [\*1175] title of his 2002 article, Antitrust at the Turn of the Twenty-First Century: A View from the Middle--of the wise centrist. 86 Professor Pitofsky underscored the rationality of his own program by juxtaposing it against the irrationality of his predecessors. 87 Clinton Administration antitrust officials strove to claim the mantle of wise centrism. 88 As the following passage from an essay in The Economist in 2000 shows, they framed their program as a sensible middle way between the irrational interventionism of the 1960s and 1970s and the inactivity of the 1980s:

It helps that [DOJ Assistant Attorney General Joel] Klein and his counterpart at the FTC, Robert Pitofsky, have been deliberately low-key in talking about their activities, claiming that they are modest and in the legal mainstream of legal thought and economics. They concede that they have been more interventionist than the laissez-faire ideologues of the Reagan years, but they say they are nothing like the trust-busting zealots of the 1960s who saw evil in every big company or merger. 89

In reporting on the Clinton administration strategy, The Economist presents the federal enforcement policy just as the DOJ and FTC leadership wished: a "modest" and "mainstream" program standing between two eras of irrationality; one guided by "trust-busting zealots" and the other led by "laissez-faire ideologues." 90

Taken on its own terms, the irrationality interpretation of U.S. antitrust history provides a grim picture of the American system. One should be wary of a system that intermittently has lucid policymaking intervals, but its normal state is irrationality. If everything depends on the appointment of wise centrists to head the agencies, nothing good can happen when the [\*1176] choice of DOJ or FTC leadership is not so inspired. Because personalities are decisive, when the wise centrists depart, nothing in the institutions themselves can prevent the system from returning quickly to bad old habits.

#### No reason prosecuting domestic cartels causes ASEAN to change their antitrust standard – their ev is normative not predictive

#### Institutional flaws make ASEAN useless

Pham 20 [Phuong Pham, graduate student in International Relations at School of Politics and International Relations, Queen Mary University of London, “COVID-19 has revealed ASEAN’s institutional weaknesses,” 06/07/20, *Global-is-Asian*, https://lkyspp.nus.edu.sg/gia/article/covid-19-has-revealed-asean-s-institutional-weaknesse]

The COVID-19 pandemic has taken the world by storm, with more than 8 million infections and approximately 448,000 deaths recorded at the time of writing. This is due to the incoherent and uncoordinated responses to the outbreak of many international institutions around the world. In a similar vein, the pandemic has illustrated ASEAN's institutional weaknesses as Southeast Asia has been hit hard by the outbreak.

ASEAN's efforts against the pandemic have been highly fragmented to date, in terms of efficacy and responsiveness, which has undermined ASEAN's institutional criticality. Countries like Vietnam or Singapore have implemented rigorous quarantine and lockdown policies and contained the spread of the virus effectively, while other countries such as the Philippines or Indonesia downplayed the risk from COVID-19 and did not carry out stringent measures to put it under control. The policy divergence of ASEAN's members sheds light on the limited role of ASEAN-led institutions in combatting the virus. On the one hand, it proves that even without ASEAN's mechanisms, there were still states that managed to control the pandemic effectively, suggesting that ASEAN's mechanisms play a minimal role in their successful containment of the COVID-19. ASEAN also seems to be unable to provide viable solutions for those members that failed to combat the pandemic as mentioned above, which has substantially reduced its institutional centrality.

Failure to orchestrate members response

Additionally, ASEAN institutional weakness is shown by the ineffectiveness of its initiatives in fighting against COVID-19. ASEAN has been making painstaking efforts to combat the pandemic by establishing both intra and extra-regional ad-hoc agencies such as the ASEAN-China Ad-Hoc Health Ministers Joint Task Force, the Special ASEAN Summit on the COVID-19, COVID-19 ASEAN Response Fund, and the Special ASEAN Plus Three Summit on COVID-19. These mechanisms aim to facilitate senior discussions among regional actors on how to contain the pandemic’s spread and to reduce its negative impacts on the region. However, their practical implementations are still insignificant when the cooperation among member states is insubstantial, as illustrated by the polarisation of their COVID-19 policies and the high number of cases and deaths in the region.

In the most recent virtual 36th ASEAN Summit hosted by Vietnam, ASEAN leaders illustrated their commitment to implementing targeted policies to assure ASEAN’s central role in the battle against COVID-19. Nevertheless, ASEAN efficiency is still not ensured when it has yet been able to contain the spread of the pandemic in the region, evidenced by the daily increasing number of new cases. In this regard, the institutional capacity of ASEAN has been put under the question, which casts doubt on its role as a fulcrum of the regional web of institutions.

The escalation of the US-China rivalry

Next, ASEAN's role in reducing the geopolitical rivalry between the US and China is relatively weak. The already strained US-China relations have worsened following the outbreak of the COVID-19. Both sides have been relentlessly blaming each other for causing the spread of the pandemic. Moreover, the COVID-19 outbreak has once again stirred up tensions in the South China Sea (SCS). After having partially recovered from the pandemic, China has been more assertive, fortifying islands and increasing its military presence in the SCS. The US, in response, has expanded its naval presence and taken part in the diplomatic battle of diplomatic notes against China. Sitting in the regional driver's seat, ASEAN is expected to be proactive in brokering the relationship between the US and China, as they hold membership of ASEAN-led institutions, most notably the ASEAN Regional Forum (ARF). ASEAN had actually held meetings with both the US and China to call for cooperation in response to the crisis. However, ASEAN has thus far been unable to play a brokerage role between the two great powers. There has been no step forwards in their relationship to date, meaning the US-China tensions will be far from being de-escalated.

The counter-effective non-interference

Furthermore, the principle of non-interference is also worth addressing to understand the inertia of ASEAN in responding to COVID-19 outbreak. Despite being arguably the albatross for ASEAN members, non-interference has been criticised by many scholars and policymakers as the main hindrance ASEAN faces in achieving its goals, for instance in the case of the Rohingya crisis. Although the principle has never been officially defined, it can be understood to refer to the action of preventing any ASEAN member states from intervening in others domestic affairs. In this respect, the level of institutionalisation of ASEAN members actions is lowered.

Responses to the current pandemic showcase a major disadvantage of the non-interference principle. As mentioned above, ASEAN members have been dealing with the virus in a divergent number of ways. In the midst of the outbreak, ASEAN, as the major regional organisation in Southeast Asia, should play a central role in coordinating its members actions, which may assist them in tackling the crisis more harmoniously and effectively. However, due to the principle of non-interference, ASEAN has failed to orchestrate its members actions towards the COVID-19 crisis, because it does not have the authority to implement intrusive policies to make sure all members are on the same page.

#### No East Asian war – escalation is structurally limited

Bowers 18 [Ian Bowers, Associate Professor at the Institute for Military Operations, “Escalation at Sea: Stability and Instability in Maritime East Asia,” 2018, *Naval War College Review*, Vol. 71, No. 4, Article 5, https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=7672&context=nwc-review, EA]

The Potential for Escalation

Currently, available data suggest that the trend of maritime interactions in the seas of East Asia is mirroring that seen during and after the Cold War. This would indicate that sustained low-level instability will continue to characterize the strategic picture, but that escalation is unlikely.

Significant clashes did occur in the South China Sea in 1974 and 1988. However, in both cases, Chinese and Vietnamese forces clashed over the control of disputed features, not as a result of operations at sea. In 1974, China wrested control of the Paracel Islands from Vietnamese forces, and in 1988 the militaries of the two countries fought as they attempted to secure Johnson South Reef in the Spratly Islands. While this article focuses on the potential for escalation arising out of clashes resulting from incidents at sea, it also is worth noting that following both of these cases no substantial further escalation occurred. 73

However, East Asia has a unique characteristic when it comes to strategic-level interactions. Unlike during the Cold War and the case of the Korean Peninsula, in East Asia the main crucible of interaction is located at sea. China and the United States have no forces opposing each other on land, and with the exception of Taiwan there are no arenas where the United States and China could clash that have significant populated areas. This arguably reduces the risk of a clash at sea spilling over onto land; therefore, the restraining effect of devastating war that was operative during the Cold War may be weaker. This may allow Chinese or U.S. commanders the freedom to escalate a clash, given that the potential strategic costs resulting therefrom would be lessened. 74

However, while there is no existential threat, conflict between the United States and China would mean conflict between the world’s two biggest economies in some of the world’s most economically vital seas. This places pressure on both sides to manage the instability caused by conflictual interactions. As Chinese foreign minister Wang Yi stated in 2017, “There cannot be conflict between China and the United States, as both sides will lose and both sides cannot afford that.” 75

Operationally, the increasing presence and prominence of civilian law-enforcement actors such as coast guards and the role of paramilitary maritime militias are new phenomena. This introduces a variable that has not been seen previously. A clash between coast guard or militia vessels may escalate to the involvement of naval vessels. However, so far—despite substantial clashes at sea between maritime law-enforcement actors—such escalation has not occurred. 76

A further issue arising from competing maritime claims in Asia is their linkage with nationalism and history. Contested claims over the sovereign control of islands and operations in contested waters have provoked significant public reaction in countries across the region, including China, Vietnam, and the Philippines. Clashes that occur at sea increasingly are portrayed on social media, and while that might constrain maritime actors from acting aggressively, it also could stoke protests to which governments might feel the need to respond, to assuage their publics. Significant protests occurred in China following Japan’s nationalization of the Senkaku Islands and in Vietnam following China’s exploration activities near the Paracel Islands, but these did not result in escalatory processes and the governments in question eventually acted to quell public displays of dissatisfaction. 77 However, it should be acknowledged that even a single future clash at sea may act as a trigger for nationalist sentiment, which could elevate an incident beyond its objective political or strategic value and result in unforeseen escalation.

As with the Cold War, tensions have produced some positive outcomes, particularly in managing interactions at sea and reducing the risk of miscalculation. The 2014 multinational Code for Unplanned Encounters at Sea (CUES) agreement indicated a desire to manage interactions at sea. Similarly, the 2016 agreement between China and the Association of Southeast Asian Nations (ASEAN) on CUES and ongoing negotiations over a code of conduct for the South China Sea should be seen as starting points to mitigate further the potential for unintended escalation at sea. 78

Given the concerns that the Soviet Union highlighted in the 1970s regarding the escalatory potential of inexperienced officers, the rapid expansion of Asian coast guards should be noted. The circumstances of East Asia, where coast guards are taking the lead in enforcing maritime claims, suggest a need for similar agreements within this context. Such agreements should be tailored to the specific roles that coast guards undertake. 79 As with naval agreements during the Cold War, for such agreements to be successful it is vital that all sides perceive their operational and political benefits.

Hotlines also are present in Northeast Asia, most notably between the military services of South Korea and Japan and those of South Korea and China. 80 There also are moves toward a working-level hotline between China and ASEAN. Further, there is a South Korea–China coast guard hotline, which soon could be replicated between China and the Philippines. 81 However, hotlines are effective only when both sides agree to use them. There is some evidence that in times of crisis China has not used hotlines effectively. In January 2017, a fleet of Chinese military aircraft entered the South Korean air-defense identification zone. Reports suggest that the Chinese did not answer the hotline when South Korean officials attempted to contact them to clarify the fleet’s intentions. Nevertheless, Japan and China also are in the process of agreeing on a communication mechanism to de-escalate unintended incidents in the East China Sea. 82

This analysis suggests that the fear that escalation will result from an incident at sea is, by and large, overemphasized. Clashes in areas of strategic tension or contested maritime boundaries are to be expected; however, there is little evidence that such clashes lead to escalatory cycles or sustained violence.

This absence of escalatory behavior can be attributed to several factors that maritime strategic geography imposes. Historically, the strategic or political benefits of escalation at sea rarely have outweighed the potential costs. The bottom line is that what happens at sea rarely materially affects populations on land, and therefore a costly war over maritime issues is less likely to occur.

De-escalation after an incident is facilitated by the fact that the sea cannot be controlled permanently, so the costs of withdrawal are reduced, as such a move does not result automatically in the loss of territory. Further, the size of the maritime environment, coupled with the speed of clashes at sea, allows for easier de-escalation, as time is needed to concentrate often-dispersed maritime forces. Organic escalation therefore is less likely to occur, since political and military elites would be required to commit expensive assets intentionally to continue a clash. Equally, information gathering also is hindered by the nature of operations at sea. Time often is required to ascertain facts fully, and this gap allows for political and strategic tensions to cool.

#### No reason changing antitrust law gives countries the means to combat existential threats – I’ll answer this when they read an internal link

#### Reject laundry list impacts – their ev doesn’t frame any of these risks as existential

# 2NC/1NR

## Cap K

### 2NC – TL

#### 1 – Topic Education and Real-World – antitrust implementation is just the expression of assumptions underlying formal rules – any other interpretation lacks explanatory power.

Ergen 19 – Senior Researcher, Max Planck Institute for the Study of Societies [Timur Ergen and Sebastian Kohl, “Varieties of economization in competition policy: institutional change in German and American antitrust, 1960–2000,” 2019, *Review of International Political Economy*, Vol. 26, Issue 2, pp. 256-286, https://www.tandfonline.com/doi/full/10.1080/09692290.2018.1563557]

In the 1960s, Hofstadter ([1964] 1996) observed a bureaucratic routinization of antitrust enforcement in postwar embedded liberalism. While his diagnosis that competition policy had been transformed from an issue relevant for mass mobilization and contentious politics to a professional enterprise turned out to be highly accurate, the amount of policy change through processes within that routinized system was beyond his grasp. All four regimes of antitrust enforcement described above – the activist and economized US regimes and the postwar German regimes – did not just exist in states of rule-bound ‘implementation.’ They were driven by ideational fads and systems of professionally negotiated beliefs and values. In our discussion of alternative approaches to explain change in competition policy, we highlighted the fact that structural determinants of economic regulation underdetermine policy trajectories. This is what the trajectories of American and German enforcement doctrines reveal. Switches from form-based to effect-based approaches within legal regimes, from deconcentrating agendas to efficiency enhancing ones and vice versa within established Varieties of Capitalism, and diverging trajectories despite similar economic pressures are examples of how changing ideas can alter policy directions in ‘imprecise’ institutional regimes.

#### 2 – Turns clash and fairness – ideological examination of capitalism is the core of topic and the only functional limit given zero link UQ – infinite prep checks regression.

Lao 14 [Marina Lao, Professor of Law and the Maury Cartine Endowed Faculty Research Fellow, Seton Hall University School of Law, “Ideology Matters in the Antitrust Debate,” 2014, *Antitrust Law Journal*, Vol. 79, No. 2, http://awa2015.concurrences.com/IMG/pdf/ssrn-id2328329.pdf, EA]

This article has suggested that economics and empiricism do not provide answers to all questions arising in antitrust law, particularly those pertaining to dominant firm conduct and vertical restraints. The various economic theories offered to support either permissive or restrictive rules are usually inconclusive, with deficient empirical support. In that case, one’s ideology almost invariably comes into play, influencing one’s choice of economic models or of the default of intervention or non-intervention when the effects are unclear. Ideological differences are also certain to influence how one evaluates the evidence, what kinds of evidence would be considered relevant, and the quality and quantum of evidence one would demand. These differences also matter in the Schumpeter-Arrow debate on whether industry concentration or competitive markets are more conductive to innovation. And they matter in decision-theoretic analysis, where perspectives on the robustness of markets and the efficacy of government intervention drive the assumptions that underlie the analysis.

Some unease over the progression toward greater permissiveness in Section 2 enforcement seems to be percolating in the antitrust community these days. Recent discussions about the FTC’s possible use of Section 5 of the FTC Act—which prohibits unfair methods of competition—to challenge dominant firm conduct not reachable under today’s reading of the Sherman Act are probably a signal of that dissatisfaction.165 Additionally, the emergence of behavioral antitrust, which advocates a radical departure from price theory analysis in antitrust based on behavioral economics principles, could reasonably be interpreted as a pro-intervention movement.166 Pleas for treating exclusion as an important antitrust concern have also been made in recent scholarship.167 The debate about appropriate antitrust policy, particularly toward controlling dominant firm conduct, is likely to continue for some time.

It would be helpful in this discourse to bring to the fore the ideological underpinnings of the conservative and liberal divide, and to have a normative conversation based on these value differences rather than rely on economic theories as a proxy for discussion. What is needed is an honest conversation on what values should matter and why they should matter in Section 2 enforcement, and whose interests are important and how those interests should be reconciled if they conflict. For antitrust liberals, for example, instead of simply dueling with conservatives over economic theory, it may be more persuasive to set forth normative arguments as to why more vigorous enforcement against dominant firm conduct is good policy. In short, a discussion of competing ideological visions, subject to certain economic boundaries, would be informative and helpful.

#### 4 – Specifically, the imagination of alternative futures is key to shifting way from the present – try or die.

Goode 17 [Luke Goode and Michael Godhe, \* Associate Professor in Media and Communications at the University of Auckland, \*\* Associate Professor of Culture and Media Production, Linköping University, “Beyond Capitalist Realism – Why We Need Critical Future Studies,” 2017, *Culture Unbound*, Vol. 9, https://cultureunbound.ep.liu.se/article/view/123, EA]

Utopia/Dystopia – Why We Need Critical Future Studies Today

Critical reflection on our capacity to imagine potential futures is surely valuable at any point in history. Indeed, framing the future as a human project has been a recurrent theme throughout modernity. We should also be wary of assuming that our own times and current predicaments are somehow of special importance: writing about the hyperbolic contemporary fascination with the internet and comparing it with late 19th century claims about the telegraph, Tom Standage (1998) identifies the ‘chronocentrism’ to which we are always prone. Caveats aside, we do, however, want to suggest that the project of critical future studies is especially urgent at our current historical juncture. Narrating this briefly requires broad brushstrokes and simplifications but it’s important nonetheless to reflect on this context.

A number of recent global events have cast the future in a new (and radically uncertain) light. A spate of protest movements from the Arab Spring to Occupy to Black Lives Matter (Mason 2013), coupled with the rise of new forms of political populism (dominated but by no means monopolized by the variants of right wing neo-nationalism), all signal profound dissatisfaction with the institutional status quo in many parts of the world. Global capitalism and liberal democracy (as it has been traditionally practiced) still govern much of our world but their legitimacy is subject to unprecedented questioning. Meanwhile, reports of the irreversible consequences of climate change are piling up. Calls to rethink the future have reached a crescendo in recent years. Meanwhile, images of potential (most often dystopian or apocalyptic) futures proliferate in popular culture.

However, this renewed questioning of the future follows on from – and reacts against – a prolonged period in which the neoliberal mantra “there is no alternative” (infamously sloganized by Margaret Thatcher) enjoyed exceptional dominance. Alternative futures were kept largely off the agenda following the collapse of world’s second superpower and Francis Fukyama’s declaration of the “end of history”. This despite the irony that the origins of neoliberalism itself can be seen as the planned application of a utopian blueprint for an alternative society, crafted in Mont Pèlerin and Chicago, and pitted against the consensus politics of welfare capitalism prevailing in Western democracies. Politicians of Left and Right in Western (and increasingly in non-Western) societies came to accept the new neoliberal consensus, and despite the visible negative consequences (cyclical economic crises, rising inequality and environmental degradation, for example), questioning the fundamental principles was easily marginalized and debating alternatives stigmatized as naïve or dangerous utopianism: realism was the prevailing wisdom. But while overt political utopianism was successfully suppressed for the best part of two decades, a technological utopianism flourished. Where the space race faded in significance, the internet stepped in.

There is no question that utopian ideas since the 19th Century “have become closely intertwined with a belief in the blessings of science and technology”, often expressing a “sense of the sublime”, as philosopher Rein de Wilde (2000: 1-7) points out (see also Nye 1994). New technological achievements have provoked admiration and astonishment, and continue to do so. The blessings of science and technology have promised us golden futures of prosperity and sustainability, without war and poverty. Communications revolutions from the telegraph and the train to the Internet have promised us the end of geography, a future without limits or borders.

Utopian energy has, in recent decades, been most readily found among what de Wilde calls the futures industry, i.e. “various (postmodern) technocrats” who gained significant ground in the 1990s, “such as cyber gurus, digerati (prophets of digital life), management consultants, and transhumanists – who specialize in selling bright futures” (2000: 4). The information society, for example, appeared as the symbol par excellence for modernity and progress in the Western World towards the close of the 20th and through the dot.com bubble (cf. Johansson 2006). This was the era of the “digital sublime” (Mosco 2004). Dominant discourses on communications revolutions were implicitly and sometimes explicitly founded upon technological determinism – even technological fate or destiny. The view prevailed that information technologies were the sine qua non of economic, social and cultural progress.

Because the futures industry valorized technology above human agency as the object of its utopian gaze, this enabled it to enjoy a virtual monopoly on the utopian imagination during an era in which political utopias were discredited and even taboo. In fact, in the late 20th century, the apparent demise of any viable alternatives to market capitalism allowed the technocrats to smuggle in a utopia comprised of both technological salvation and unfettered markets, while disguising it as realism. As political scientist Wendy Brown argues:

This loss of conviction about the human capacity to craft and steer its existence or even to secure its future is the most profound and devastating sense in which modernity is “over”. Neoliberalism’s perverse theology of markets rests on this land of scorched belief in the modern. (cited in Vint 2016: 11)

This kind of future thinking, at once realist and utopian, has generally retained a belief in progress and a sense of the sublime but, as historian Carroll Pursell claims, “science and technology, once agents of progress, became its measure instead… Technology, after all, is not something that merely happens to us; it is something we have created for certain purposes, not always acknowledged” (2007: x; cf. Marx 1994). The future is and should be open – or at least negotiable – but the utopian belief in progress found in the futures industry make us “imagine the future only as an intensification of the present” (Vint 2016: 7).

Drawing on sociologists Barbara Adam and Chris Groves, utopian theorist Ruth Levitas extrapolates their distinction between present future and future present to utopian theory: “Present futures are imagined, planned and projected in and for the present: the future appears from the standpoint of the present. Future presents are both imagined and produced by actions in the present” (Levitas 2013: 129–130). Present futures, based on free market utopias and the technological sublime, appear in large part “inevitable” (e.g. Kelly 2016) and therein lies their realist disguise and their ideological potency.

The dominance of the present future today has, according to science fiction scholar Sherryl Vint, turned the future into “a site of crisis”, where hegemonic global liberal capitalism is narrowing our imagination:

the future is only more of the present, more of the same capitalist values and sites of invisibility – as the present in which some of us already live – while the actual present pales in comparison to the techno-product-saturated future to which we aspire. (2016: 12)

Various authors on the post-Marxist Left have produced perceptive diagnoses of our entrapment in this present future. Mark Fisher, for example, narrates the “slow cancellation of the future” (2014: 2-29), and the autonomist activist/theorist Franco Berardi (2011) has argued elegantly that the Left must now learn to live “after the future”. However, such works not only diagnose but risk reproducing a pervasive sense of pessimism or “Left melancholy” (Brown 1999). If our present course (economic, environmental, geopolitical) is indeed unsustainable, then there is no sense in which we can avoid a radically different future, be that a desirable or repugnant one. As such, “develop[ing] a positive version of the future” based on “socio-cultural ethics, wisdom, imagination and responsibility” (Levitas 2013: 130), becomes necessary in avoiding the twin pitfalls of abdicating to technocratic prescriptions or falling into political despair.

Recent years have indeed seen growing attempts to reclaim the utopian imagination from the futures industry and to challenge technocratic visions of progress which abandon political agency in the name of realism. This can be witnessed in diverse forms of activism. For example, regardless of their merits and efficacy, movements such as Occupy and Black Lives Matter have articulated an audacity (and “realist” critics would claim naivety) of ambition in calling for the end of “1% capitalism” and structural racism respectively. Of course, both movements (one now dissipated) have been characterized by tensions between those who hold to the radical goals of institutional reinvention and those who believe piecemeal reform is their best hope. We have also witnessed a resurgence of interest in utopian thinking at the interface between academia and politics. Levitas’ project to rethink sociology in terms of “utopia as method” is a notable example, as are growing interventions by progressive economists who seek to put once unthinkable issues on the agenda such as the universal basic income, radical reduction of the working week through automation, and a post-capitalist commons economy (e.g. Srnicek and Williams 2015; Bregman 2016; Frase 2016).

Levitas states that the “repression of active engagement with alternative possible futures has given way in recent decades to wider consideration of utopia in sociology and social and political theory” (2013: 127). She concedes that much of this has been ambiguous, avoiding direct use of the much-maligned concept of utopia. But, steadily, the concept of utopia is enjoying a resurgence. Vint, for example, argues for the “urgent need for genuinely open and new futures, the need to reclaim the power to imagine the future outside of industry-produced advertising images” (2016: 8). As a science fiction scholar, it’s unsurprising that Vint emphasizes the role of speculative fiction in imagining alternative futures. We would also point to the urgency of a “speculative sociology” and, more broadly, speculative and utopian cultural analysis. Glimpses of alternative (and better) futures can be found in every conceivable corner of public culture, from popular science to political activism, and these all merit our (critical) attention. Utopian thinking can – and we would argue should – be deployed in the service of opening up the field of imagined futures. Utopias, “far from providing us with blueprints of the future” (Vint 2016: 8; see also Jameson 1982), are vital insofar as they expand rather than shrink our horizons.

In fact, we suggest that both utopian and dystopian modes of imagination are important nutrients for a revitalized futural public sphere. This requires some explanation. The first point to make is that utopian thinking does not necessarily imply a singular, closed or finished model of an alternative society. Certainly, the history of utopian thought abounds with examples that aspired to be complete visions of the alternative society. This is true not only of communist and fascist political utopias but also progressive literary utopias of the 19th and early 20th centuries, such as Edward Bellamy’s Looking Backward 2000—1887 (1888), William Morris’ News from Nowhere (1890) and H.G. Wells’ A Modern Utopia (1900). Unlike the aforementioned political utopias, however, these texts – which, written before the horrors of the 20th century, now seem politically naïve, at best – can be read merely as generative thought experiments that added to the available repertoire of images of the future available to the contemporary public sphere. Of course, they could also be read as standalone manifestos: for example, Looking Backward inspired the rise of Bellamy Clubs dedicated to implementing its utopian ideas. But the aggregate impact of these works was to broaden, rather than narrow the imaginative canvas. For example, Bellamy’s utopia speculated on the then radical policy of industrial nationalization, something which would become a political norm some half-century later (not exclusively thanks to Looking Backward, of course).

In any case, literary utopias since the 1960s shifted away from holistically imagining full-fledged utopian societies towards describing the utopian impulse in, for example, human interrelations, as have been emphasized in feminist utopian studies (Godhe 2010). In one of the most famous feminist science fiction novels of the 60s, The Left Hand of Darkness (1969), Ursula K. Le Guin imagines a planet inhabited by a species without gender. The utopian energy is not found in societal perfection but in the thought experiment of a world in which interpersonal relations are not structured by prejudices of gender. Utopian thinking, in short, can disrupt common sense assumptions about what is “realistic” and challenge us to question whether and how we could rethink and reshape society. And if, as suggested earlier, garnering public engagement with the future is an affective as well as a cognitive problem (for example, fatalism is an issue of sentiment, albeit intimately connected to the availability of plausible proposals for change) then we need to consider seriously the role utopian thinking can play in countering hopelessness (cf. Bacciolini & Moylan 2003).

Within popular culture today, we are more likely to encounter dystopian than utopian thinking. But it would be a mistake to assume that images of dystopia are inherently corrosive for a futural public sphere. The appeal of recent cultural texts such as The Hunger Games novels (2008-2010) and films (2012-2015), Snowpiercer (2013) or Children of Men (2006), lies not least in the way they use futurescapes to hyperbolize our current societal trajectories and sharpen our focus on a catastrophic ‘future-to-be-averted’. This could be said also of the most famous 20th century literary dystopias: Zamyatin’s We (1921), Huxley’s Brave New World (1932) and Orwell’s 1984 (1949). But more so than their 20th century counterparts, recent fictional dystopias such as those mentioned above also run against the grain of hopelessness, featuring narratives of resistance and overcoming, offering beacons of hope against intensely bleak backdrops.

In sum, then, we suggest that dismissing utopian or dystopian thinking as exaggerated, naïve, unrealistic and therefore unhelpful in debating alternative futures misses the point. Firstly, the futural public sphere contains an important affective dimension in which hope (not to be confused with optimism – we will return to this in our conclusion) or excitement or a sense of drama about the future invites participation and public engagement, while sober realism and forbidding expert discourse, and certainly cynicism or fatalism, work in the opposite direction. Even on a cognitive level it is far from clear what it means to ‘exaggerate’ given the precarious state of today’s economics, geopolitics and ecology: the spectre of collapse and catastrophe makes radical thought experiments all the more necessary (Cf. Bradley and Hedrén 2014). As “raw ingredients” (rather than final statements), utopian and dystopian futurescapes –whether as fictions or literal scenarios – have an important role to play in a revitalized futural public sphere. Not least, they can provoke us to think in different temporalities (centuries, rather than electoral cycles, for example); they can flex our imaginative muscles; and, significantly, they can move us. To clarify, this is an argument for including and taking seriously utopian and dystopian imagination as part of the futural public sphere: it is not an argument against the ‘realistic’ or the ameliorative and it is certainly not an argument against the vital role of expert knowledge.

### 2NC – Foster Alt Overview

#### That solves the aff – socialism does innovation better – prevents economic collapse.

Smith 20 [Tony Smith, professor of philosophy at Iowa State University, “How Capitalism Stifles Innovation,” 08/30/20, *Tribune*, https://tribunemag.co.uk/2020/08/how-capitalism-stifles-innovation, Accessed: 04/05/21, EA]

The technological dynamism of capitalism has always been a powerful argument in its defence. But one of its secrets is that at the heart of this change we find neither bold entrepreneurs, venture capitalists, nor established firms. Investments pushing the frontiers of scientific knowledge are just too risky. The advances sought may not be forthcoming. Those that do occur may not ever be commercially viable. Any potentially profitable results that do arise may take decades to make any money. And when they finally do, there are no guarantees initial investors will appropriate most of the resulting windfall. There is, accordingly, a powerful tendency for private capital to systematically underinvest in long-term research and development. Despite popular perceptions that private entrepreneurs drive technological innovation, the leading regions of the global economy do not leave the most important stages of technological change to private investors. These costs are socialised. In the quarter-century after World War II, the high profits garnered by American corporations due to their exceptional place in the world market allowed corporate labs to engage in “blue-skies research” projects. But even then, public funding accounted for roughly two-thirds of all research and development expenditures in the United States, creating the foundations for the high-tech sectors of today. With the rise of competition from Japanese and European capital in the 1970s, private-sector funding of research and development increased. However, long-term projects were almost entirely abandoned in favor of product development and applied-research projects promising commercial advantages in the short-to-medium term. Basic research continued to be funded by the government, like the work in molecular biology that supported the move of agribusiness companies into biotechnology. The same was true for projects of special interest to the Pentagon — the developments associated with the Defense Advanced Research Projects Agency, for instance, which paved the way for modern global positioning systems — and other government agencies. But medium-to-long-term R&D in general was in great danger of falling into a “valley of death” between basic research and immediate development, with neither the government nor private capital providing significant funding for it. For all their rhetoric touting the “magic of the marketplace,” those in the Reagan administration recognised market failure when they saw it. They began to offer federal and publicly funded university laboratories various carrots and sticks to undertake long-term R&D for US capital. New programs were created to provide start-ups with resources to develop innovations prior to the “proof of concept” required by venture capitalists. Under Reagan, the Small Business Innovation Development Act even mandated that federal agencies set aside a percentage of their R&D budget to fund research by small firms. These and other forms of public-private partnership have granted US capital enormous competitive advantages in the world market. It’s no surprise that Apple’s tremendously successful line of products — iPads, iPhones, and iPods — incorporate twelve key innovations. All twelve (central processing units, dynamic random-access memory, hard-drive disks, liquid-crystal displays, batteries, digital single processing, the Internet, the HTTP and HTML languages, cellular networks, GPS system, and voice-user AI programs) were developed by publicly funded research and development projects. It hasn’t been the dynamics of the market so much as active state intervention that has fueled technological change. The Promised Golden Age Technology is more than just a weapon for inter-capitalist competition; it is a weapon in struggles between capital and labour. Technological changes that create unemployment, de-skill the workforce, and enable one sector of the workforce to be played against another shift the balance of power in capital’s favor. Given this asymmetry, advances in productivity that could reduce work time while expanding real wages lead instead to forced layoffs, increasing stress for those still employed and eroding real wages. Two ongoing technological developments further strengthen the power of capital. Advances in transportation and communication now enable production and distribution chains to be extended across the globe, allowing capital to implement “divide and conquer” strategies against labour to an unprecedented extent. Astounding new labour-saving machines are also becoming more and more inexpensive. An exhaustive study of over seven hundred occupations concluded that no less than 47 percent of employment in the United States is at high risk of being automated within two decades. Anything approaching this level of labour displacement will yield more misery, not progress, for ordinary workers. But the lower cost and higher capacities of machines have also led to change of a better sort. As the prices of computer hardware, software, and Internet connections have declined, many people can now create new “knowledge products” without working for big capitalists. Multitudes across the globe now freely choose to contribute to collective innovation projects of interest to them, outside the relationship of capital and wage labour. The resulting products can now be distributed as unlimited free goods to anyone who wishes to use them, rather than being scarce commodities sold for profit. It is beyond dispute that this new form of social labour has generated innovations superior in quality and scale to the output of capitalist firms. These innovations also tend to be qualitatively different. While technological developments in capitalism primarily address the wants and needs of those with disposable income, open-source projects can mobilise creative energies to address areas capital systematically neglects, such as developing seeds for poor farmers or medicines for those without the money to buy existing medications. The potential of this new form of collective social labour to address pressing social needs across the globe is historically unprecedented. In order to flourish, however, open-source innovation requires free access to existing knowledge goods. Leading capital firms, hoping to extend their ability to privately profit from publicly supported research, have used their immense political power to extend the intellectual property rights regime in scope and enforcement, severely restricting the access open-source projects require. Copyright, after all, was extended for twenty years at the turn of the century, just as internet access was starting to balloon. Despite these barriers, the success of open-source projects shows that intellectual-property rights are not required for innovation. Further evidence is provided by the fact that most scientific and technological workers engaged in innovation are forced to sign away intellectual property rights as a condition of employment. These rights actually hamper advancement by raising the cost of engaging in the production of new knowledge, and by diverting funds to unproductive legal costs. The World Is Flat? Capitalism also hampers the ability of much of the world to contribute to technological advancement. Whole regions of the global economy lack the wealth to support meaningful innovation. Today, only four countries spend over 3 percent of their GDP on research and development; a mere six others devote 2 percent or more. Capital in these advantaged regions has the opportunity to establish a virtuous circle, free-riding on the extensive public investment discussed above. Privileged access to advanced R&D enables capitalists to appropriate high returns on successful innovations; these returns allow those companies to make effective use of technological advances in the next cycle, setting the stage for future profits. At the same time, enterprises in poorer regions, lacking access to high-level R&D, find themselves trapped in a vicious cycle. Their present inability to make significant innovations that would enable them to compete successfully in world markets undercuts their future prospects. Only a handful of countries — such as South Korea and Taiwan — have ever been able to move forward from this starting disadvantage. Global disparities in technological change alone do not explain why 1 percent of people in the world own 48 percent of global wealth. But they are a major part of the story; technological change is a weapon that enables the privileged to maintain and extend their global advantages over time. Creative Non-Destruction The destructive effects examined above are not necessary features of technological change; they are necessary features of technological change in capitalism. Overcoming them requires overcoming capitalism, even if we only have a provisional sense of what that might mean. The pernicious tendencies associated with technological change in capitalist workplaces are rooted in a structure where managers are agents of the owners of the firm’s assets, with a fiduciary duty to further their private interests. But a society’s means of production are not goods for personal consumption, like a toothbrush. The material reproduction of society is an inherently public matter, as the technological development of capitalism itself, resting on public funds, confirms. Capital markets, where private claims to productive resources are bought and sold, treat public power as if it were just another item for personal use. They can, and should, be totally done away with. Large-scale productive enterprises should instead be acknowledged as a distinct type of public property, and exercises of authority within these workplaces as acts of public authority. The principle of democracy must then come into play: all exercises of this authority must be subject to the consent of those impacted by it. Though additional regulations would be needed if managers were elected and subject to recall by the workforce as a whole, technological advances in productivity would not typically result in the involuntary unemployment of some and the overwork of others, but rather in reduced work for all. We know this because workers say they want more time to spend with their families and friends, or on projects of their own choosing. With democracy in the workplace, the drive to introduce de-skilling technologies would be replaced with a search for ways to make work more interesting and creative. Suppose that decisions regarding the general level of new investment were also a matter for public debate, eventually decided by a democratic body. If there were pressing social needs, the overall rate of new investment could be increased; if this were not the case, it could be stabilised. These bodies could then set aside a portion of new investment funds to provide public goods free of charge, putting more useful goods and services outside the market’s reach. The public goods of scientific and technological knowledge resulting from basic research and long-term R&D would be decommodified, too, as would the fruits of open-source innovation. The latter could be unleashed by abolishing intellectual property rights and by providing an adequate basic income to all — enabling anyone who wished to participate in open-source projects to do so. If special incentives were required, generous prizes could be awarded to the first to solve important challenges. Remaining funds could then be distributed to other elected bodies at various geographical levels, each of which would determine what share would go to public goods in a region. The remainder would be distributed to local community banks charged with allocating them to worker enterprises. Various qualitative and quantitative measures could be employed to measure the extent to which those enterprises used technologies to meet social wants and needs effectively, with the results determining the income beyond the basic level received by their members (and the members of the community banks that allocated investment funds to them). Abolishing intellectual property rights would have the added benefit of ensuring that wealthy regions could not use technological knowledge as a weapon to create and reproduce inequality in the global economy. This danger would be all but eliminated if every region were granted a fundamental right to its per capita share of new investment funds. Finally, if workplaces used productivity advances to free up time for their workers rather than to increase the output of commodities, resources would be depleted and waste generated at a much lower rate. Abolishing capital markets and replacing them with democratic control over levels of new investment would free humanity from the “grow or die” imperative and the environmental consequences that follow from it. If enterprises were acknowledged as inherently matters of public concern, it would eliminate the obscene absurdity of having the fate of humanity rest on whether profit-driven oil companies have the political and cultural power to extract and sell an estimated $20 trillion of fossil-fuel reserves, as they clearly plan to do. If open-source innovation flourished, the creative energies of collective social labour across the planet could be mobilised to address environmental challenges. If poor regions with fragile ecologies were guaranteed their fair share of new investment funds, the pressure to sacrifice long-term sustainability for the sake of short-term growth would be overcome. Of course, all of these proposals are vague and provisional. Nonetheless, they show that the social consequences of technological change could be far different than they are today. We do not need private ownership of productive assets, or markets devoted to financial assets, to have a technologically dynamic society. With the necessary political shifts, technological change would no longer be associated with overaccumulation, financial crises, the stifling of open-source innovation, severe global inequality, or the increasingly palpable threat of environmental catastrophe. We need to unleash the full potential of human ingenuity. The way technology advances is already socialised in important, if restricted and inadequate ways. We can finish the job and make sure that its fruits are put to the benefit of ordinary people.

### AT: Decoupling

#### Their authors are wrong – prefer empirical consensus of experts

Parrique 21 [Timothée Parrique, PhD in political economy @ Université Clermont Auvergne, “A response to Bryan Walsh: The card castle of degrowth,” 03/25/21, https://timotheeparrique.com/a-response-to-bryan-walsh-the-card-castle-of-degrowth/, Accessed: 09/24/21, EA]

Is green growth really happening?

Last blow. Degrowth is not only misguided and delusional, it is also unnecessary. For Bryan Walsh, this is because “both rich and poor countries have been able to continue to grow while reducing many pollutants through more efficiency and cleaner energy.” Proof? Andrew McAfee said so.

Like many others, I disagree with McAfee’s analysis. Long story short: decoupling is fake news. This is how I summarise the findings of the first exhaustive review of the decoupling literature. Most of the time, if you read that “decoupling is happening,” then it means relative decoupling. This is a good start, and I would like to read this line more often, but it is nothing worth sabering champagne. Relative decoupling is not enough because it means environmental pressures are still on the rise.

And even when decoupling is absolute, this is not necessarily problem solved. Take one of the most optimist decoupling study from 2019. The study analyses 18 developed economies between 2005 and 2015 showing that emissions decreased by a yearly 2.4% while GDP grew by 1.1%. The gains are tiny and fall a long way short of what is needed to meet the Paris Agreement targets. Plus, these historically fast rates of decoupling are partly explained by the low growth rates during the period. It is green growth without much growth – nothing too surprising.

Saying that rich countries have “decoupled” because their emissions have decreased by a few per cent would be like me saying I have “climbed” Mount Everest just because I hiked the first few meters. Factually, not untrue, but disingenuous still. (This is especially true if this decoupling is in fact a displacement of emissions in poorer countries who manufacture the products we consume.)

Most decoupling discussions only focus on greenhouse gas emissions, ignoring other kinds of environmental pressures. For example, 80% of all decoupling studies focus on primary energy and greenhouse gases. Among the rest, only a few consider material use, water use, land change, water pollution, waste, or biodiversity loss. A “sustainable” economy in any meaningful understanding of the term must consider all the complex interactions it has with ecosystems, and not only carbon.

Here is my point: the proof of absolute and significant decoupling between GDP and all the environmental pressures that matter is nowhere to be found and it is unwise to invest all our hopes in this decoupling magically materialising in the decade to come.

The question is complex and the future always uncertain, but consider this. On the one hand, an article from Andrew McAfee in Wired and a blog post commenting on raw data without any analysis. On the other hand, the first exhaustive review of all decoupling studies ever made – 835 scientific articles. On one side, one author promoting a book written about modern decoupling efforts in the United States and a one-pager blog post about trade-related emissions. On the other side, an international cohort of sixteen scientists from seven different universities who systematically reviewed all knowledge ever produced on the topic. Who shall we trust?

## Trade Adv

### 2NC – Alt Causes

#### Antitrust not key – other factors matter more

**Brodzicki, 22** – Principal Economist at IHS Markit

[Tomasz Brodzicki, "Global Trade Outlook 2022. High global trade volume growth in 2021 and significant moderation in 2022. Supply chains disruption is likely to continue in the first half of 2022," IHS Markit, 1-12-2022, https://ihsmarkit.com/research-analysis/Global-Trade-Outlook-2022.html, accessed 2-12-2022]

Qualitative factors that could affect global trade in 2022

As of 2 November 2021, the ASEAN Secretariat has received Instruments of Ratification/Acceptance of the Regional Comprehensive Economic Partnership (RCEP) Agreement from six ASEAN Member States - Brunei Darussalam, Cambodia, Lao PDR, Singapore, Thailand, and Vietnam - as well as from four non-ASEAN signatory States - Australia, China, Japan, and New Zealand. South Korea ratified the agreement on 2 December. As provided by the RCEP Agreement, the RCEP enters into force sixty days after the date at which the minimum number of IOR/A is achieved. This means that the RCEP Agreement entered into force on 1 January 2022. Four countries haven't ratified the agreement yet: Indonesia, Malaysia, Myanmar, and the Philippines. RCEP is the world's most significant regional trade agreement regarding GDP & population. RCEP's countries currently account for about 29% (USD 25.8 trillion) of global gross domestic product and approx. 29% (2.3 billion) of the world's population. RCEP can, due to its size and intended scope, create significant quantitative and qualitative effects regionally and globally both in the short and the long run (considerable static and dynamic effects are very likely). It could strengthen the region's economic position as the primary locus of economic activity, spurring the region's growth globally. RCEP increases the likelihood of establishing the world's largest regional value chain with the growing role of intra-regional economic activity.

As was stressed last year, the block's cultural, social, economic, and political heterogeneity will challenge its functioning, and progress will depend on the balance of costs and benefits for all participating states. Realizing the potential benefits of this mega-regional FTA will crucially depend on addressing the significant challenges, in particular, divergent political and economic interests of this diverse group.

As of 15 October 2021, 350 RTAs were in force globally. These corresponded to 568 notifications from WTO members, counting goods, services, and accessions separately. Over several decades, the global trade system is likely to develop into a system of several large RIAs or mega-regional trade agreements (e.g., European, Pan-American & Asian) with a significant role in the global trading system and potentially large tensions between them. The launching of RCEP can be considered an essential step in this process.

It will also be interesting to observe the impact of RCEP and its trade rules on the multilateral system and the potential erosion of the WTO dominance in global trade governance despite the statements made by the signatories of the agreement on the complementarity of both approaches.

Recent years in global trade were affected by rising trade tensions, particularly between the US and China, due to the Trump administration's policies (America First). The new Biden administration modified the course, and in general, the US now pursues a broader, more multilateral trade policy. Nonetheless, a more assertive stance on China remained. The day President Biden took office (20 January 2021), he signed 17 executive orders, reversing many of the most unpopular actions of the Trump administration. The US policy toward China (mainland), however, has not shifted as was expected. The prior tensions have not diminished but instead escalated with more Chinese technology companies placed on the so-called "blacklist" of the US Commerce Department. In October, US Trade Representative Katherine Tai mentioned that only selective and limited in scope rollback in tariffs could be expected. Concerns on the US-China tensions (two key economies of the world are thus growing). The escalating tensions in the Taiwan Strait between China (mainland) and Taiwan, supported by the US, are not helping.

Considering the launch of RCEP, the new US administration's trade agenda is likely to gravitate towards Asia. We can thus expect a shift in US trade policy towards Asia, which is expected to bring effect in the mid to long-term.

Overall, with the arrival of Biden's administration, the US trade policy uncertainty has fallen to a long-term trend characterized by limited uncertainty.

EU-UK Trade and Cooperation Agreement (TCA), negotiated and ratified at the last possible moment, took effect provisionally from 1 January 2021, before formally entering into force on 1 May 2021, after the ratification processes were completed. According to TCA, trade in goods between the EU and UK shall not be subject to tariffs or quotas. Traders can self-certify compliance with agreed rules of origin. However, because the UK left the EU customs area, customs formalities were reintroduced between the two parties, and VAT and specific other duties started to apply upon import. TCA holds provisions intended to limit technical barriers to trade (TBT), building on the WTO TBT Agreement. Special provisions apply for Northern Ireland and Ireland-specific cases. The agreement has many imperfections and could create problems for both parties in the medium to long run.

On 8 December 2021, social Democrat Olaf Scholz was sworn in as Germany's new chancellor, thus ending 16 years of conservative rule under Angela Merkel. It paved the way for a pro-European coalition government that vowed to boost green investment.

Some countries will hold important presidential and parliamentary elections in 2021. From the EU perspective, the elections in France will be of particular significance. The French presidential elections will be held on 10 and 24 April 2022, and legislative elections on 12 and 19 June. The current president Macron is currently indicated as a winner in the polls but only in the second round. A potential loss to Le Pen or Pécresse could constitute a significant shift in French policy with global impact.

The euro-linked ERM II includes the currencies of Bulgaria, Croatia, and Denmark. The Bulgarian lev joined ERM II on 10 July 2020 and observes a central rate of 1.95583 to the euro. Bulgaria also committed unilaterally to continue its currency board arrangement within the ERM II. By mid of 2022, a decision should be made on the potential extension of the eurozone by Croatia by 1 January 2023. Croatia may introduce a double quotation upon the approval to join already in 2022. The above step could affect both the internal trade within the EU but also strengthen the position of the eurozone and EU, weakened after Brexit.

### 2NC – No Trade !

#### No impact – trade and conflict’s relationship is a wash

Goldsmith, 13 – University of Sydney international relations professor

[Benjamin E, "International Trade and The Onset and Escalation of Interstate Conflict: More to Fight About, or More Reasons Not to Fight?," Defence and Peace Economics, 2013, 24.6, t&f, accessed 6-25-2021]

Although study of the relationship between international trade and militarized conflict has become more sophisticated, whether trade reduces the chance of conflict, exacerbates it, or has no effect, remains contested. Integrating expectations from schools of thought often portrayed as incompatible, I consider two aspects of trade – volume and interdependence – and model conflict as a two-stage process involving onset and escalation. This perspective leads to robust statistical findings that trade is Janus-faced, both facilitating and inhibiting conflict at different stages, supporting the conclusion that a focus on international conflict as a communication process promises better theory in international relations.

Introduction

In this article, I present evidence that trade is Janus-faced in its relationship to international conflict: different aspects of trade alternately inhibit and exacerbate interstate disputes at different conflict stages. I integrate expectations from schools of thought often portrayed as incompatible, providing a nuanced understanding of trade-conflict dynamics which is strongly supported in empirical tests. My analysis also implies distinct dynamics for large and small states, suggesting that trade interdependence is more important for preventing conflict onset for small-state dyads, while trade volume is more important as a tool for avoiding escalation to war for major-power dyads.

Study of the trade–conflict relationship has made recent strides in analytical sophistication, for example addressing omitted variable bias (Xiang et al., 2007) and simultaneous causation (Keshk et al., 2004). But even with better methods, the debate continues over whether trade is associated with war, or peace, or whether there is no relationship (e.g. Hegre et al., 2010; Keshk et al., 2010; Li and Reuveny 2011). In this article, I suggest a theoretical rethinking by considering the process of international conflict onset and escalation. This general point has been made by others (Bearce and Fisher 2002; Crescenzi 2003; Gartzke et al., 2001), but my approach seeks to clarify the roles of different aspects of dyadic trade in different stages of conflict. The article continues the trend in analytical innovation by accounting for selection effects and examining more serious levels of conflict, including war.

#### Best data confirms

Bell, 16 -- Kansas State University political science department head and professor

[Sam R. and Andrew G. Long, "Trade Interdependence and the Use of Force: Do Issues Matter?," International Interactions, 3-22-2016, 42.5, t&f, accessed 6-25-2021]

In this project, we investigate the relationship between the use of military force and trade interdependence, suggesting that the influence of trade on militarized conflict varies based on the issue under dispute. For some issues, trade is likely to attenuate the chances that states escalate a dispute to the use of military force, while for others trade can intensify disputes so that military conflict is more likely. Specifically, we hypothesize that greater trade interdependence decreases the probability of military conflict over realpolitik issues like territory. On the other hand, greater trade interdependence increases the probability that states use military force when the issue under dispute concerns the regime, policies, and conditions in the target. To test our hypotheses, we employ new data on dyadic uses of force from the International Military Intervention data set that records the initiator’s reason(s) for using force against the target. The statistical tests support our hypotheses; trade decreases the use of force against a target for territorial and military/diplomatic reasons, which is consistent with arguments from the liberal paradigm. However, trade interdependence increases the use of force for humanitarian and economic reasons as well as to affect the regime or policy of the target. Thus, our study improves upon current research about the relationship between economic interdependence and foreign policy by specifying a conditional relationship based on the issues under contention.

Scholars of international politics continue to discuss whether economic interdependence is conducive to peace among states. Existing theoretical and empirical analyses suggest that commercial ties will decrease, increase, or have no effect on political conflict.1 Many of these studies “have an air of universality, applying to all actors in all times and places” (Mansfield and Pollins 2003:7). We propose that the trade-conflict relationship is conditional on the issues at stake between states and investigate whether trade will encourage governments to use military force over certain issues and discourage governments from using force over other issues.

Specifically, we argue that the relationship between trade interdependence and the use of military force can be positive for some issues and negative for others; when a dispute concerns realpolitik issues like territory or military-diplomatic strategy, high levels of trade interdependence decrease the chances that a dispute escalates to the use of force. In contrast, for disputes about the regime, domestic policies, or conditions in one of the states, we expect greater trade to increase the likelihood that a government uses military force against a target. Thus, trade is not an unconditional promoter of peace. Governments are both encouraged to use force to protect trade interests and reluctant to jeopardize trade by using force. Empirically, we separate uses of force by the purpose, or motivation, of the initiator of military action and find that trade is sometimes associated with peace and sometimes associated with conflict.

To evaluate the different effects of trade interdependence on the use of force, we analyze newly expanded data on overt uses of military force by all countries from 1946 to 2000 recorded in the International Military Intervention (IMI) data set (Pearson and Baumann 1993; Pickering and Kisangani 2009). The IMI data records the initiator’s motivation for using force against the target, which we utilize to separate conflicts by the issue under dispute. We find that trade decreases the use of force against a target for territorial and military/diplomatic reasons, which is consistent with arguments from the liberal paradigm. However, trade interdependence increases the use of force for humanitarian and economic reasons and in order to change the regime or key policies of the target. Overall, our results provide evidence that some military uses of force are positively related to trade interdependence and some are negatively related to trade interdependence.

Our research has important implications for those interested in the effects of increasing economic globalization on interstate violence. National governments that promote the benefits of an open global economy also employ political violence, and scholars should seek to explain how those phenomena can coexist with the liberal research paradigm (Schneider 2014). To do so, we build upon previous research that suggests that the relationship between trade and conflict varies depending on the type of conflict behavior one examines (Aydin 2008; Crescenzi 2005; Goldsmith 2013; Pevehouse 2004). In addition, we contribute to a growing body of research on the role of issues in interstate conflict that considers the effect that different issues have on the use of military force (Danilovic 2001; Hensel 2001; Mitchell and Prins 1999; Wright and Rider 2014). While economic interdependence among nation-states may reduce the probability that their disputes will escalate to militarized conflict, it does not always lead to a situation of peaceful noninterference among governments. Greater interdependence through trade may not be as benign a force on international relations as policymakers believe, and policies that promote interdependence among nations should be carefully considered for their full consequences on interstate relations.

## T

### 2AC 2 – C/I

By indicates the way the aff increases prohibitions on anticompetitive practices

**Collins Dictionary** [COBUILD English Usage © HarperCollins Publishers 1992, 2004, 2011, 2012]

**4. saying how something is done**

**By** can be used with some nouns to say how something is done. You don't usually put a determiner in front of the noun.

*Can I pay by credit card?*

*I always go to work by bus.*

*He sent the form by email.*

However, if you want to say that something is done using a particular object or tool, you often use **with**, rather than 'by'. **With** is followed by a determiner.

*Clean the mirrors with a soft cloth.*

*He brushed back his hair with his hand.*

You can use **by** with an *-ing* form to say how something is achieved.

*Make the sauce by boiling the cream and stock together in a pan.*

*We saved a lot of money by booking our holiday online.*

#### By at least implies that the plan must implement an expansion that increases prohibitions, not that all expansions *a priori* qualify as increasing prohibitions.

Hanson 02 [William H. “The Formal-Structural View of Logical Consequence: A Reply to Gila Sher”The Philosophical Review , Apr., 2002, Vol. 111, No. 2 (Apr. 2002), pp. 243-258, Duke University Press on behalf of Philosophical Review]

3. Logic, the A Priori, and the Empirical

The other major criticism I made in my 1997 of Sher's work was that FS violates the apriority criterion of my pretheoretic account of logical consequence. This is because under FS there are arguments we can know to be valid or invalid a posteriori but not a priori. As an example I gave an argument involving the quantifier 'Q\*', which I defined as behaving exactly like 'all' in models with domains of cardinality > n, but like 'at least one' in models with domains of cardinality < n, where the value of n is an integer we can know a posteriori but not a priori. (In my example n is the least number of whole seconds in which, up through the end of the twenty-first century, a human runs a mile.)9 The argument in question is:

(Q\*x) (Dog(x) -- Black(x))

(Q\*x) Dog(x)

.'. (Q\*x) Black(x)

Since we know that n > 3, we know the argument is invalid, but we can't know this a priori. Yet 'Q\*' counts as a logical term according to FS, so FS violates my apriority criterion.10 [\*\*start footnote 10\*\* 10 That the operator expressed by 'Q\*' satisfies Sher's criterion for formal operators can be seen by consulting the account given in section 1 of how that criterion applies to unary quantifiers. Specifically, since for any two models with domains of the same car- dinality the operator expressed by 'Q\*' functions either as the operator expressed by 'all' in both models or as the operator expressed by 'at least one' in both, the operator expressed by 'Q\*' is formal for the same reasons these other two operator.\*\*end footnote 10\*\*]

This violation should be of concern to Sher, since my criterion is drawn directly from Tarski, whose work is in many ways the foundation of hers. Tarski wrote:

Certain considerations of an intuitive nature will form our starting-point. Consider any class K of sentences and a sentence X which follows from the sentences of this class. From an intuitive standpoint it can never happen that both the class K consists only of true sentences and the sentence X is false. Moreover, since we are concerned here with the concept of logical, i.e., formal, consequence, and thus with a relation which is to be uniquely determined by the form of the sentences between which it holds, this rela- tion cannot be influenced in any way by empirical knowledge, and in par- ticular by knowledge of the objects to which the sentence X or the sentences of the class K refer. The consequence relation cannot be affected by replacing the designations of the objects referred to in these sentences by the designations of any other objects. (1936, 414-15)

In formulating my apriority criterion, I was influenced by this passage, especially by the last part of the penultimate sentence: "[the logical consequence] relation cannot be influenced in any way by empirical knowledge, and in particular by knowledge of the objects to which the sen- tence Xor the sentences of the class Krefer" (emphasis added). This is, of course, somewhat obscure. Still it sounds compatible with, and I think even suggests, the standard I adopted, namely, that knowledge of whether the logical consequence relation holds in any particular case is knowledge that can be had a priori, if at all. Logic has long been held to be free, in some fundamental way, of all things empirical, and I believe many logicians have thought that logic achieves this freedom by meeting this (or a similar) standard.

## Resources Adv

### 2NC – Covid Thumps

#### Covid thumps Indian food insecurity

**Tortajada, 20** – Doctoral Student at Graduate Institute of IHEID

[Andrea Biswas Tortajada, "How COVID-19 worsens hunger in India, the world’s largest food basket," Conversation, 7-28-2020, https://theconversation.com/how-covid-19-worsens-hunger-in-india-the-worlds-largest-food-basket-142300, accessed 2-12-2022]

How COVID-19 shakes food systems

Earlier this year, before the pandemic, India was readying itself to fill any potential trade vacuums that would result from countries considering trade restrictions on China that included foodstuffs like rice, onions, potatoes, vegetables, mangoes and honey.

India was also looking to export US$100 billion worth of agricultural products by 2025, tapping into new markets in Latin America and Oceania.

And it was expecting a record harvest of 295.7 million metric tons this year.

By March, when COVID-19 cases were first detected in the country, the situation took a 180-degree turn.

A hasty nationwide lockdown shook the country, including its fragmented and fragile food systems and supply chains.

The Food and Agricultural Organisation (FAO) estimates nearly 40% of the food produced in India is lost or wasted every year due to inefficient supply chains.

A lack of cooling and storage facilities in India also means 20% of the entire food production gets lost before it reaches the marketplace.

The pandemic amplified the vulnerabilities of the national food system. It has disrupted local, regional and national supply chains, adding to the impacts of the country’s food waste problem.

Small growers have had to sell their produce at a loss, if they have been able to sell it at all. Onions are rotting in containers, a consequence of plunging catering services.

The lockdown measures resulted in severe labour shortages, delaying the mid-April wheat harvest by two weeks. In the potato-producing states of Uttar Pradesh and West Bengal, increased demand from returning migrant workers pushed up prices by 9% at the wholesale level and 11% in retail.

Imports of food have also stalled due to the COVID-19 pandemic.

Partial port operations and the closure of roads and air cargo have hampered the movement of grains across the country.

COVID-19 disinformation

Disinformation amid the pandemic has now emerged as a wild card.

In big cities, chicken and mutton prices have gone up by 75%.

In places like Maharashtra, the sector has taken a US$3 billion blow as messages circulating on social media have spread rumours that COVID-19 can be transmitted through chicken meat.

To make matters worse, rice cultivation has come under threat from a locust invasion, which is causing havoc in East Africa and has already reached neighbouring Pakistan.

Changing weather conditions and local environmental degradation have created the ideal conditions for these voracious pests to breed. In hours, a 1km² swarm containing about 40 million locusts eats as much food in one day as 35,000 people. This can devastate local food supplies.

Impact to farmers

In a race against time, producers are trying to work through the rice-sowing season amid severe labour shortages. Farmers are stranded, unable to travel to the villages where they would normally be employed for the season.

These logistical constraints and partial lockdowns hampering workers’ movement have increased the pressures on already stretched food markets.

For these workers, the pandemic and the government response have shaken their food production and access to income. People working in the informal sector account for 90% of India’s labour force.

Without the prospect of earning a steady income, let alone save for uncertain times, it was clear the measures to contain the health emergency would affect those in agriculture, construction and services the hardest.

As people have lost their jobs and meagre incomes, food insecurity has skyrocketed, and nutrition security worsened among the already vulnerable. Close to 38,000 relief camps are providing basic meals to 16 million people every day in India during this pandemic.

Many people were faced with the cruel trade-off between defying the lockdown and catching the virus or remaining at home and seeing their scanty food stocks dwindle.

For most, however, the more tangible dilemma was between starving in the city or continuing to be malnourished in their home villages.

### 2NC – Renewables Fail

#### Finishing the card here

Hoffmann 16 [Ulrich Hoffmann, chief economist, sustainability issues at the Research Institute on Organic Agriculture (FIBL), and former editor-in-chief of the UNCTAD Trade and Environment Review, UNCTAD Secretariat, “Green Growth: Ideology, political economy and the alternatives | Can green growth really work? A reality check that elaborates on the true (socio-)economics of climate change,” 2016, Zed Books, pp. 28-33, EA]

There is yet another, more complicated aspect of Jevons’ paradox.35 Even if higher labour productivity can make workers redundant, it also increases the remaining workers’ salaries. This creates new demands and new employment opportunities. Those that are made redundant, in turn, are mostly productive in some other trade. Even if we see a lot of unemployment globally, one must admit that the enormous gains in productivity have not resulted in widespread or mass unemployment. To some extent, workers have reduced their work hours, but certainly not at all in parity with the increase in labour productivity. Therefore, despite all efficiency improvements, our society has significantly reduced neither the number of hours worked nor the resources used, not in total and not per capita. Rather, efficiency gains have fuelled increased consumption. Against this background, Foster, Clark and York point out that ‘An economic system devoted to profits, accumulation, and economic expansion without end will tend to use any efficiency gains or cost reductions to expand the overall scale of production … Conservation in the aggregate is impossible for capitalism, however much the output/input ratio may be increased in the engineering of a given product. This is because all savings tend to spur further capital formation …’36

Rebound effects have been poorly analysed so far, with some estimates limited to the financial rebound effects. The latter alone are estimated to neutralize up to half of the total EMR efficiency gains.37 Empirical information on material and cross-factor rebound effects is not yet available. Against this background, it will be simplistic to assume that EMR efficiency gains can play the main role in reducing GHG intensity. The key dilemma is that efficiency and productivity gains tend to boost economic growth, thus ushering in more physical consumption. This is one of the key reasons that call into question the effectiveness of the ‘efficiency revolution’ as a key element in the decoupling strategy at macroeconomic and global level.

Theoretically, some rebound effects could be neutralized by eco-taxes. However, such taxes (being increased in line with higher EMR efficiency) would have to be designed in a way that does not remove the incentive for efficiency innovation and would also have to be coordinated internationally. Setting absolute EMR consumption limits would be more promising, for instance in the context of caps for emission/ pollution trading schemes. However, almost all of such trading schemes on carbon-emission reductions have not been very successful so far – the virtual collapse of the EU Emissions Trading Scheme in recent years is a case in point.38 One should also not overlook the equality challenges of emission trading schemes and the fact that there is no link between the value of the service in a free market and the total cost for society. What is more, even the smartest-designed carbon offset trading scheme cannot overcome the constraints set by the above-mentioned limits of the maths of decarbonization – as stressed by Pielke, carbon ‘markets cannot make the impossible possible’.39

Linear thinking and horizontal shifting

There is also a tendency for too much linear thinking and approaches to enhancing EMR efficiency, often resulting in an outcome that only shifts the problem. Some of the technical advances in EMR efficiency gains, for instance, rely on material that is either scarce or very energy intensive to produce or difficult to re-use, recycle or safely dispose of. According to Bleischwitz et al., ‘the upswing for eco-industries in the North may have a dark side in the South: resource-rich countries being moved into rapid extraction paths exceeding the eco-systems and socio-economic institutions of those regions and fuelling civil wars with resource rents’.40 To use a concrete example, according to Schmidt-Bleek, ‘the damages in nature caused by electrical vehicles are far bigger than the ecological savings obtained by lower emissions’.41

A considerable proportion of GHG intensity drops in developed countries has been achieved not by ‘real physical savings’, but by ‘outsourcing’ very EMR-intensive production to developing countries (almost a quarter of GHG emissions related to goods consumed in developed countries has been outsourced). A team of scientists at Oxford University, for instance, estimated that under a correct account, allowing for imports and exports, Britain’s carbon footprint is nearly twice as high as the official figure (i.e. 21 t CO2eq/person/ year instead of 11). The share of CO2 net imports to total carbon emissions of individual developed countries has recently ranged from about 15 per cent for Greece to almost 60 per cent for Switzerland.42 Against this background, EMR and carbon-efficiency gains in developed countries need to be scrutinized with care and are often far less impressive than they appear at first sight.

## Outreach Adv

### 2NC – No ASEAN !

#### ASEAN decision making ineffective – requires lengthy consultation and consensus.

Maizland '20 [Lindsay; 11/24/20; editor at the Council on Foreign Relations, covering Asia; "What Is ASEAN?" https://www.cfr.org/backgrounder/what-asean]

ASEAN is headed by a chair—a position that rotates annually among member states—and is assisted by a secretariat based in Jakarta, Indonesia. Important decisions are usually reached through consultation and consensus guided by the principles of noninterference in internal affairs and peaceful resolution of conflicts. Some experts see this approach to decision-making as a chief drawback for the organization. “These norms of consensus and noninterference have increasingly become outdated, and they have hindered ASEAN’s influence on issues ranging from dealing with China and crises in particular ASEAN states,” says CFR’s Joshua Kurlantzick.