# 1NC – Texas 3

## Off

### 1NC – T-Scope of Antitrust Laws

#### Expand means to make greater.

Terry J. Hatter, Jr. 90, Judge, US District Court, California Central, “In re Eastport Assoc.,” 114 B.R. 686, Lexis

[\*\*10] Second, Eastport asserts that the presumption against retroactivity does not apply because the amendment was intended only as a clarification of existing law. HN7 Where an amendment to a statute is remedial in nature and merely serves to clarify existing law, no question of retroactivity is involved and the law will be applied to pending cases. City of Redlands v. Sorensen, 176 Cal. App. 3d 202, 211, 221 Cal. Rptr. 728, 732 (1985). The evidence in this case, however, does not support the conclusion that the amendment to section 66452.6(f) was simply a clarification of preexisting law. The Legislative Counsel's Digest specifically states that "the bill would expand the definition of development moratorium." Senate Bill 186, Stats. 1988, ch. 1330, at 3375 (emphasis added). Since the Legislative Counsel is a state official required by law to analyze pending legislation, it is reasonable to presume that the Legislature amended the statute with the intent and meaning expressed in the Counsel's digest. People v. Martinez, 194 Cal. App. 3d 15, 22, 239 Cal. Rptr. 272, 276 (1987). By its ordinary meaning, the term "expand" indicates a change in the law, rather than a restatement of existing [\*\*11] law. In light of the Counsel's comment, Eastport's argument is unpersuasive.

#### Violation – The “scope” of law refers to quantitative *number of types of conduct* prohibited by antitrust law. The plan shifts the rule of reason standard used to evaluate business conduct that is currently covered by antitrust law, not new categories of conduct.

Keith N. Hylton, Professor of Law, Boston University, and Fei Deng, and Consultant, NERA Economic Consulting, ‘7, “ANTITRUST AROUND THE WORLD: AN EMPIRICAL ANALYSIS OF THE SCOPE OF COMPETITION LAWS AND THEIR EFFECTS” Antitrust Law Journal [Vol. 74 2007] https://www.jstor.org/stable/pdf/27897550.pdf?refreqid=excelsior%3A424f12ccaeba1aa8d4150377ebe7192d

We turn our attention now to dominance law – or, in the language of American antitrust specialists, monopolization law. The Dominance Score is an attempt to measure the number of types of conduct specified in a country's competition law as unlawful abuse of a dominant position. For those familiar with American law, the dominance measure is an attempt to measure the scope of laws equivalent to Section 2 of the Sherman Act. One can think of the Dominance Score as the size of the net specifically designed to capture dominant firms that engage in anticompetitive con duct.3

#### Key to limits and ground – expansive definitions of scope allow any rule of reason aff or limitless tinkerings with the antitrust process

Anu Bradford, Professor of Law @ Columbia, and Adam S. Chilton, Professor of Law @ Uchicago, ’18, “COMPETITION LAW AROUND THE WORLD FROM 1889 TO 2010: THE COMPETITION LAW INDEX” Journal of Competition Law & Economics, 14(3), 393–432

Indicators for Competition Law and Policy (CLP): Finally, the CLP Indicators measure the strength and scope of competition regimes in 49 jurisdictions in 2013.53 Relying on a survey conducted among competition agencies, the CLP captures these agencies perception of whether various features of their domestic competition laws prevent anticompetitive behavior. These features include (1) the scope of action (including competences, investigative powers, sanctions/remedies, and private enforcement); (2) policy on anticompetitive behaviors (including horizontal agreements, vertical agreements, mergers, and exclusionary conducts); (3) probability of investigation (including independence, accountability, and procedural fairness); and (4) competition advocacy. Like CPI, FNI, and Four Indicators, the CLP also attempts to measure whether the competition policy reflects generally recognized “good” practices

### 1NC – Advantage CP

#### The United States federal government, in coordination with relevant international actors, should:

* increase development aid to at least $2.5 trillion per year for relevant developing countries, including in Latin America and the Middle East;
* increase funding for alleviating stress on the environment and global resource production;
* expand international food aid and at least double investments in agricultural and food research over the next 10 years.

#### Development aid solves the aff.

Gulati ’21 [Shreya; 4/26/21; Masters in Development Studies @ London School of Economics; “Priming the pump: Is development aid still relevant?”; <https://www.orfonline.org/expert-speak/priming-the-pump-is-development-aid-still-relevant/>; AS]

The past few decades have witnessed a gradual change in the purpose and nature of international development aid and assistance. Unlike in 1970s when the main purpose of aid was to solely foster economic growth, the contemporary polysemous notion of aid aims to accommodate several aspects of human well-being as enshrined in the Sustainable Development Goals (SDG) of the United Nations. The estimated ‘price tag’ for the realisation of these SDGs by 2030 would necessitate the mobilisation of US $2.5 trillion per year through Official Development Assistance (ODA) and private flows. On the other hand, the contending narratives of reducing ‘Aid Dependency’ in the Global South prompts us to evaluate the most fundamental question, ‘Is Development Aid still relevant?’ Thus, an evaluation of aid relevance becomes imperative on four accounts—aid effectiveness in terms of propelling tangible developmental outcomes, emergence of new donors in the Global South, composition of international capital flows, and change in the nature of aid from an economic to a political and security agenda.

An evaluation of the key debates in the international aid landscape

Major shifts in paradigms influence our perspective on development aid and determine its relevance. Tracing the historical evolution of aid suggests that till 1970s, the main purpose of aid was to fill resource and financial gaps and improve infrastructure to foster economic growth. This changed with the advent of the ‘basic needs’ and ‘redistribution with growth’ narratives, which informed the creation of the Millennium Development Goals (MDGs). This narrative viewed ‘human needs’ as ‘human rights’ and replaced the earlier paradigms that emphasised on the means (i.e. growth) rather than the end (i.e. well-being). Successively, the financial crises of 2007 and 2008 initiated attempts to search for a new ‘big idea’ under the umbrella of the ambitious Sustainable Development Goals (SDGs) in 2015. The estimated ‘price tag’ for the realisation of these SDGs by 2030 would necessitate the mobilisation of US $2.5 trillion per year through Official Development Assistance (ODA) and private flows. On the other hand, the contending narratives of reducing ‘Aid Dependency’ in the Global South prompts us to evaluate the most fundamental question, ‘Is Development Aid still relevant?’ This essay attempts to systematically evaluate the debates around four key issues—aid effectiveness, emergence of new donors, composition of aid, and the change in the nature of aid, from an economic to a political and security agenda in order to understand the relevance of aid in contemporary times.

The link between international aid and development

The hot debate between aid optimists and pessimists can provide a framework to evaluate aid effectiveness and relevance. There are several criticisms of aid stemming out of—the faulty architecture, mismanagement, volatile nature, opacity, high selectivity of geo-politically favorable regions, and the top-down hierarchical approach of international aid which result in context blind development projects. It is believed that aid to Africa is characterized by ‘authoritarian paternalism’ and ensures that Africa remains perpetually in an infant-like state. On the contrary, proponents of aid would suggest that aid is instrumental in uplifting the standard of living and setting economic progress into motion. Also, a ‘big-push’ is required to overcome the obstacles of poor agricultural productivity, poor health, and education, etc. to overcome the impediments to growth that capture these countries in a poverty trap. Consider Botswana, Africa’s growth miracle, it has received more aid per person than an average low- income country by eight times. More recently, the income per capita in large recipient countries like Mozambique and Uganda has doubled since 1990s. Moreover, since 1960s, the average real income of Egypt has increased by three times while the infant mortality rate has astonishingly dropped from 189 to 35 per 1,000 live births. This has been corresponded by the doubling of literacy rates in the country. Since ‘evidence beats rhetoric’, it prods us to think that aid is still relevant in terms of its positive effects on growth and poverty reduction.

The emergence of ‘new donors’

The relevance of developmental aid has increased with the emergence of new donors like- Brazil, India, and China outside the Development Assistance Committee (DAC), marking a silent revolution in the arena of development aid and assistance. Debates in this sphere highlight the contending narratives of neo-imperialism of rising powers and South-South cooperation. On one hand, it is noted that aid from new donors like Brazil and China are often decontextualized and propagate a set of alien prescriptions incongruent to the realities. In Africa, Chinese development aid upholds the principle of ‘non-interference’ and ‘non-conditionality’ in the domestic economico-politico affairs of the recipient country. However, it deploys economic restrictions by tying the contract with the exclusive use of Chinese labour and equipment. On the other hand, the misperception of China as a rogue donor stems from the inability to distinguish China’s ODA from Other Official Flows (OOF). While the former is provided at a concessional rate to advance political agendas, the latter is provided at a near market rate to promote economic interests. Moreover, China is merely pursuing a strategy of influence as opposed to conditionality and interference. The emergence of new donors has also enabled developing countries to look beyond the DAC for technical and financial assistance and questioned ideals embodied within the Washington Consensus. Therefore, on balance, the addition of new players in the development field has increased the relevance of aid by causing a shift in the global power structure, reducing dependency, and increasing the amount of aid at the developing countries’ disposal.

Composition of international capital flows

Since 1995, remittances have overtaken ODA as one of the largest sources of capital inflow to developing economies which questions the viability of development aid in light of the enormous availability of remittances (Refer to Figure 1). One school of thought suggests that remittances are more effective in fostering savings and investment, as in the case of Sub- Saharan Africa. Also, unlike remittances, aid has negative effects on growth as it weakens the capacity of the state to collect revenue (the Dutch disease) and dampens the tradable goods manufacturing sector through overvaluation of currency. The other school of thought suggests that official aid is more effective in bolstering economic growth because remittances face the problem of uncertainty due to capital restrictions and are often undocumented. The third camp indicates the complementary nature of the two where an increase in remittances could enhance the growth effect of official aid. It could be said that unlike remittances, aid channelizes funds in priority sectors and is more manageable through bureaucratic administration. It also plays an important role in pulling households above a threshold income level to ensure that additional remittances are invested productively to enhance growth, thus, hinting towards the complementary relationship of aid and remittances. Therefore, the relevance of aid is not challenged by the growing amount of remittances.

Transformation in the nature of aid

Aid is a polysemous term and has transformed from being an economic agenda to a political and security agenda. It is often suggested that economic transformative goals can be realized when seen as being embedded in political realities. However, the post-9/11 declaration of ‘war on terror’ has increasingly linked developmental problems in the Global South to security issues to the Global North, a conceptualization which can have adverse effects on global security and global poverty reduction. While securitisation of aid is highly contentious, it has led to the channelization of 67 percent of ODA to fragile contexts. This is evident from the increase of US aid to Iraq from 5 percent to 25 percent during the war and the deployment of Provincial Reconstruction Teams for improving stability, protection, and security systems. Moreover, aid under the Commander’s Emergency Reconstruction Program was used in 11,000 development projects. Therefore, while there has been a change in the nature of aid from an economic to a political and security agenda, there has also been a corresponding increase in the channelization of ODA to fragile contexts.

Can development aid be ‘made’ relevant?

Development aid can be ‘made’ relevant and effective by undertaking various political, social, and economic measures. This can be understood by the measures taken by Rwanda and South Korea. In Rwanda, the Economic Development and Poverty Reduction Strategy was devised to decrease aid dependency from 86 percent in 2000 to 43 percent in 2012. This was achieved by effective public finance management, accountability of aid use through target setting and result achievement and bureaucratic transparency. Concomitantly, there was a large decline in infant, maternal, and malaria-related mortality and increase in access to health and education. South Korea also provides a blue-print for effective aid utilisation which led to the rapid economic recovery under the Syngman Rhee regime and modernisation under General Park Chung Hee. About 87 percent of the total aid was channelized towards the industrial sector—particularly mining, transport and manufacturing. State played an important role in the military-industry nexus and military aid encouraged development in conflict-free areas. The South Korean experience resonates with the idea that aid works where there are good policies and institutional quality.

In conclusion, an attempt has been made here to establish the relevance of aid by carefully analysing four factors—aid effectiveness evaluated in terms of propelling economic growth, the emergence of new donors like Brazil, India, and China, the changing composition of international capital flows from the Global North to the Global South and the changing nature of aid- from economic to security and political terms. Aid still seems relevant because—there’s overwhelming evidence of the positive effect of aid on growth; aid from emerging economies changes the global power structure and reduces the dependency of the developing countries on the developed countries. The complementary relationship between aid and remittances can facilitate the achievement of tangible development outcomes and securitisation of aid can be helpful in providing assistance to fragile contexts. Drawing from examples of Rwanda and South Korea, it becomes clear that good policies, institutions as well as bureaucratic accountability and transparency are able to ‘make’ aid relevant and effective.

### 1NC – ICC CP

#### The President, with consent from two-thirds of the Senate, should accede to the Rome Statute. The Department of Justice should, referencing the regime of complementarity, provide jurisdiction for the prosecution of anticompetitive private cartel practices to the International Criminal Court.

#### Prosecution under the ICC competes, solves better than antirust, and spurs follow on.

Jenia Iontcheva Turner, Professor of international law @ SMU, ‘7, “Transnational Networks and International Criminal Justice” Michigan Law Review , Mar., 2007, Vol. 105, No. 5 (Mar., 2007),https://www.jstor.org/stable/pdf/40041542.pdf?refreqid=excelsior%3Ab25595013b730d3c2f1a10a412c32c35&ab\_segments=&origin=

These features of international criminal law explain why relatively few transgovernmental networks have developed so far. But this paper shows that such networks are emerging slowly, and it identifies several forces that are increasingly pushing for transgovernmental cooperation in international criminal law.

The first force is rhetorical. While international crimes often do not cre- ate externalities for powerful states, the argument that the international community must act to prevent and punish international crimes has deep moral resonance. The moral force of the argument for intervention distinguishes international crimes from less poignant regulatory issues, such as antitrust and securities regulation, and helps propel international cooperation even in the absence of cross-border effects.

The second force - which builds on the first - is the active involvement of NGOs in international criminal law. These organizations work to keep international crimes in the public consciousness and on the agenda of national governments, even in states not directly affected by international crimes. Indeed, NGOs do more than lobbying and awareness-raising cam- paigns. They actively help coordinate transgovernmental efforts in international criminal law by providing information, expertise, and logistical help in setting up war crimes tribunals, drafting domestic legislation to im- plement international criminal law, and spreading best practices through face-to-face contacts, written manuals, and training programs.6 By promot- ing domestic legal reform, NGOs empower prosecutors, investigators, and judges in post-conflict countries to apply international criminal law without undue intervention by the central government and thus to be effective par- ticipants in the emerging transnational networks.

Also important to developing international criminal law networks is the existence of several international and hybrid war crimes tribunals. The inter- action between investigators, prosecutors, and judges at these tribunals is likely to have spillover effects and spur greater cooperation at the transgov- ernmental level. For example, we can expect that prosecutors, judges, and defense attorneys who have worked on a war crimes tribunal at the interna- tional level will be eager to apply their expertise elsewhere after the at the international court ends. They are thus likely to become active partici- pants in transgovernmental networks. The International Criminal Court ("ICC") can be expected to play an even more central role in promoting such networks. The court's regime of "complementarity" - under which the court takes up cases only when states are unwilling or unable to prosecute - has already prompted national au- thorities to pass implementing legislation and create judicial structures to deal with international crimes domestically. As such structures become es- tablished, they are likely to begin cooperating with their counterparts from other states. The ICC has an incentive to promote such cooperation. The court depends on national authorities to obtain evidence and custody of sus- pects and to enforce its judgments, so it will want to ensure that the authorities are well equipped and committed to provide such assistance. Moreover, the court is unable to shoulder the full load of international crimes prosecution, so it has to rely on national courts to handle many of the trials. For these reasons, the court has an interest in promoting effective pathways of transnational cooperation. As later Sections discuss in more detail, it has already sponsored some initiatives toward that end.

Finally, cooperation in international criminal law will be advanced by al- ready-existing networks in other areas of criminal law. Transgovernmental networks have begun developing to address "transnational" crimes such as terrorism, drug-trafficking, and money laundering; it would be easy and logical for some of these networks to take on responsibilities related to war crimes and crimes against humanity. The skills required for investigating and prosecuting transnational and international crimes are similar, and in- creasingly, there are connections between the two types of crimes.7 These connections make international crimes more strategically relevant for the countries that are already cooperating in the fight against terrorism and drug- and human-trafficking. A concentration of efforts to fight both types of crimes is already occurring in Europe, where special prosecutors' offices have been created to address cross-border organized crime, war crimes, and crimes against humanity.

#### The counterplan sets a precedent for treating monopolistic behavior as a crime against humanity.

Hamilton, Rebecca J., Professor of Law, American University, 11-12-21, (Nov 12, 2021). B.C. L. Rev (forthcoming 2022), Platform-Enabled Crimes Available at SSRN: https://ssrn.com/abstract=3905351 or http://dx.doi.org/10.2139/ssrn.3905351

Against the mainstream, several scholars have raised concerns about the way ICL has struggled to square individual responsibility with the reality of crimes that routinely involve group activity.80 And my prior work in this area contributes to a growing body of critical scholarship questioning whether ICL, with its blinkered focus on the individual, should be the default response in the face of atrocities that invariably implicate state and/or corporate entities as well.81

During negotiations over the jurisdictional provisions of the Rome Statute, corporate criminal liability was extensively discussed. The debate was fraught, however, because of the varying domestic standards among the different delegations, with a number of domestic jurisdictions having no provision for corporate criminal liability.82 And a last-minute proposal by the French delegation to grant the Court jurisdiction over corporations ultimately failed.83 In light of this defeat, one might imagine that the value of ICL as a body of law through which to respond to atrocities would be treated with reasonable skepticism given that individuals do not (arguably, cannot) commit mass atrocities in isolation; state and/or corporate entities are invariably implicated. Yet the recent genocide against the Rohingya in Myanmar showed, yet again, the social power of ICL as a frame through which to respond to atrocities. 84

While accountability for principal perpetrators is vitally important, accountability for the entities that enabled their actions is also essential. With platform-enabled crimes, individuals and entities form two sides of the same coin. Prosecuting individuals, without also paying attention to the role of entities, creates a distorted account of both how such crimes are committed and where responsibility for them lies. This, in turn, hampers efforts to prevent their future recurrence, since an accurate understanding of how a crime is committed is a prerequisite to its prevention.

With such concerns in mind, scholars have continued the effort to expand the remit of ICL to cover corporate criminal liability, most recently with respect to social media companies that enable international crimes. In Move Fast and Break Societies, Shannon Raj Singh argues that in appropriate circumstances, an ICL prosecution of a social media company based on its complicity in atrocities would accurately capture a platform’s role and advance accountability.85 She acknowledges that “the prosecution of legal persons is, at present, not possible before the international criminal court” but nonetheless posits that the Rome Statute, the Court’s constitutive document, could be amended to grant such jurisdiction in the future.86

#### Establishing monopoly power as a crime against humanity reinforces global ordoliberalism – solves authoritarian S-Risks.

Christian D'Cunha, Official of the European Union, ’21, ““A State in the disguise of a Merchant”: Tech Leviathans and the rule of law” Received: 20 May 2021 Accepted: 20 May 2021

This returns us to the question of power. In the modern age, ultimate power has typically reposed in the state. The rule of law has stood as a theoretical and practical counterpoint against the abuse of state power. Capitalism, in the meantime, has served up private agglomerations of wealth and patronage to rival or even dwarf the power of many sovereign states. In 1750s Bengal, one such entity, the East India Company, actually wrested control of the government. Edmund Burke railed against the Company's colonialist greed and exploitation of the population. In his attempt to impeach Governor-General Warren Hastings, Burke turned to Natural Law. Repackaging the maxim eundem negotiatorem et dominum, he charged the East India Company with becoming “that thing which was supposed by the Roman law to be so unsuitable, the same power was a Trader, the same power was a Lord … a State in disguise of a Merchant, a great public office in disguise of a Countinghouse.” 19

Most theorists of the rule of law since Burke have not reckoned with private monopolies. However, the pioneers of modern competition law took aim deliberately at the concentration of commercial power giving providers of essential services, like the railways and telecommunications, licence to discriminate between individuals and competitors. John Sherman, defending his trailblazing antitrust bill before the United States Senate in 1890, famously declared that the country could no more accept “a king as a political power” as a “king over the production, transportation, and sale of any of the necessities of life.” After the Sherman Act, there ensued a debate that has never been resolved: was monopoly illegal and dangerous by sheer dint of its bigness, or was monopoly only illegal and dangerous where intent to unreasonably stifle competition had been proven. In one landmark case, U.S. v. Alcoa, a Federal appeal judge, citing a 1932 Supreme Court decision, ruled that “size carries with it an opportunity for abuse that is not to be ignored when the opportunity is proved to have been utilized in the past.” Judge Learned Hand dismissed the argument of the defence that specific intent remained unproven— “for no monopolist monopolizes unconscious of what he is doing.”

20 Alcoa was hardly a corporate angel. With an almost complete monopoly over aluminium production in the US market, it had been colluding with Nazi German industry and was accused of refusing to expand capacity to prevent prices falling just when manufacture of warplanes became a national imperative.21 The Nazis had declared cartels to be a virtue, hiving off to them hitherto public functions.22 By contrast, what became known as the ordo-liberal school regarded competition as essential for democracy, and the duties of the state to include preventing the creation and misuse of private economic power. This at the time fringe academic thinking found favour during the Allied occupation, one of whose priorities was breaking the monopolies that had enabled Hitler's rise and had consolidated his control of the economy.23 Germany's 1957 competition law, like Japan's 1947 antimonopoly law, fulfilled one of the conditions of the return of sovereignty from the departing occupier. In parallel, similar provisions were incorporated into the treaty establishing the European Coal and Steel Community and its successor, the Treaty of Rome, establishing the European Economic Community. Both closely resembled US law, albeit with more leniency towards concentration.24

International human rights law largely developed in parallel to anti-monopoly and competition rules. Companies are not directly bound by international law, but by the laws of the jurisdiction in which they are based. Contracting states to the International Covenant on Civil and Political Rights and the European Convention on Human Rights are indeed obliged to secure to everyone within their jurisdiction human rights and freedoms, including where actions with an impact on those rights and freedoms take place outside their territory.25 More recently, the “Ruggie Principles”, endorsed by the UN Human Rights Council in 2011,26 address the power of multinational companies. The principles recommend that states act where businesses violate human rights and that businesses avoid “causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur”. Businesses should “seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.” The principles are non-binding and lack any enforcement mechanism. Liability under international criminal law only applies to individual corporate officers. Discussions on its extension are now ongoing and could, potentially, see a company as a legal person tried domestically or before the International Criminal Court (to which neither China nor the United States is a party) for committing or assisting in the commission of a crime including human rights abuses.27

2.5 | The rule of law and wealth inequality

Sherman in his great speech of 1890 had explicitly connected the lack of constraint on monopoly to the perpetuation and exacerbation of poverty. Among all “the problems that may disturb social order”, he said, “none is more threatening than the inequality of condition, of wealth, and opportunity that has grown within a single generation out of the concentration of capital.” A few years earlier, in his influential 1885 study Railroad Transportation, Its History and Laws, Yale professor Arthur Hadley had remarked that most price discriminations “are in favor of the strong … As such they do great harm to the community by increasing inequalities of power.”

28 The danger monopolies posed to workers was also widely recognised at the time. Safeguards for unions and labour were inserted into the 1914 Clayton Act which closed loopholes in the Sherman Act that monopolists had been exploiting. The robustness of the rule of law was thus considered a function of the ability of the weakest to summon the law to their defence. By the 1970s, however, neoliberal economics incubated in the “Chicago School” began taking root in politics and the judiciary, increasingly discrediting any government intervention aimed at curbing the power or harmful behaviour of companies. Inequality and poverty were irrelevant, according to the new orthodoxy of leaving markets untrammelled, so long as “efficiency” manifested principally by low prices to the consumer was advanced. Richard Posner, doyen of the Chicago School with a senior judicial career spanning four decades, went so far as to argue that the “logic of the law might be economics”, and that “a second meaning of justice … is efficiency.”29 As this gained political traction beyond the United States, it drove a deeper wedge between abstract legal notions and concrete socio-economic justice. It was a radical deviation from the idea, gestated over centuries, that overbearing power should be checked. The results of this deliberate deregulation are to be seen now, early in the third decade of the twenty-first century, alongside globalisation of capital and concentration in digital markets. A small number of private American and Chinese companies now derive enormous profits from mediating human personal, commercial and political relations, aided by the recycling of talented personnel willing to trade loyalties between these companies and public administration. Public policy makers appeared mostly sanguine about this state of affairs, at least until two quite separate events in the US and China that happened to coincide at the turn of 2021: the ignominious climax of Donald Trump's presidency amid seditious lies about the outcome of the 2020 election, and the mysterious vanishing from public view of Jack Ma, the third richest person in China and the founder of Ant Group, on the eve of its initial public offering.30 In very different ways, these developments have resurfaced a question that has lain relatively undisturbed since the wake of the Second World War: constitutions have evolved to constrain the power of the state through checks and balances, but what can constrain a private multinational company that threatens to become more powerful than the state?

### 1NC – WTO CP

#### The US Trade Representative should launch a formal claim in the WTO DSB alleging that anticompetitive private cartel practices are organized by a foreign sovereign and violate WTO obligations under the GATT and WTO accession protocols.

#### The Congress of the United States should launch a suit applying prohibitions on anticompetitive private cartel practices under the FTAIA and other relevant statute.

#### The US judiciary should stay antitrust investigation pending resolution of trade dispute.

#### The counterplan conditions the plan on the failure of the WTO proceedings. Antitrust is worth pursuing only once the executive exhausts their diplomatic strategy.

Weimin Shen, L.L.M, J.S.D., Washington University School of Law, ’20, "The Role of Transnational Legal Process in Enforcing WTO Law and Competition Policy," Journal of Transnational Law & Policy 30 (2020-2021): 59-118

"Export cartel" refers to a collusive behavior between exporting firms "to charge a specified export price or to divide export markets among themselves."1 The purpose is often to enhance domestic firms' welfare at the expense of foreign consumers.2 Antitrust and the World Trade Organization ("WTO") are mutually exclusive remedies when dealing with an export cartel. The difference is that a successful antitrust proceeding depends on showing the absence of government involvement. In contrast, a WTO proceeding's success depends on showing the State's participation in export restraints. Lately, the lines have blurred when certain export cartels wind their way through U.S. courts. In such cases, the extent to which U.S. courts should enforce antitrust laws against foreign export cartels has been controversial, as defendants often invoke foreign-sovereignty-related defenses. This issue has become more prominent than ever with involved litigants who are at times unable to apply their antitrust laws extraterritorially to international cartels because of the difficulty of obtaining evidence that is located outside of their jurisdiction. Similarly, litigants at the WTO complained about the government's role in the administrative and judicial system, including the use of verbal demands and informal notices on export cartels. This intervention undermines the ability to show that a WTO-inconsistent measure exists. Several recent U.S. antitrust litigations involving Chinese export cartels highlight this challenge.

In In re Vitamin C Antitrust Litigation ("Vitamin C"), 3 the Chinese defendants moved to dismiss the complaint of pricefixing on the ground that Chinese law required them to fix the price and quantity of vitamin C exports, shielding them from liability under U.S. antitrust law. The defendants invoked comity, sovereign compulsion, and the act of state doctrines. 4 The Chinese Ministry of Commerce ("Ministry") took the unprecedented step of intervening as amicus curiae in the proceeding. The Ministry explained that the China Chamber of Commerce of Medicines & Health Products Importers & Exporters ("CCCMHPIE") is a "[m]inistry-supervised entity authorized by the Ministry to regulate vitamin C export prices and output levels." 5 Thus, the Chinese defendants were compelled under Chinese law to collectively set a price for vitamin C exports.6

Two similar antitrust cases were brought in the U.S. courts against Chinese export cartels. In Resco Products, Inc. v. Bosai Minerals Group, 7 private litigants alleged price-fixing and other anti-competitive behavior by certain Chinese exporters of bauxite. As the members of the China Chamber of Commerce of Metals Minerals & Chemicals Importers & Exporters ("CCCMC"), the Chinese defendants relied on the amicus brief filed by the Ministry in Vitamin C and argued that CCCMC was a government entity that directed them to coordinate their price. 8 Similarly, in Animal Science Products, Inc. v. China National Metals and Minerals Import and Export Corp, 9 private litigants alleged price-fixing and other anti-competitive behavior by certain Chinese exporters of magnesite in a separate U.S. court proceeding. The defendants asserted that their trade chamber, CCCMC, was an instrument of the Chinese government to regulate export trade.10

On June 23, 2009, with the blessings of the Obama Administration, the U.S. government requested WTO consultations with China regarding China's export restraints on several raw materials. 11 In its first written submission, the U.S. government cited the above three cases, arguing that based upon representations already made by the Chinese Ministry, "the European understands that the CCCMC's export-price related functions and responsibilities . . . are attributable to China." 12 On December 21, 2009, the Dispute Settlement Body ("DSB") established a single panel to examine the complaints. 13

The above cases fostered a perception that antitrust and WTO meet when private anticompetitive conduct is mixed with state conduct. Emblematic of this viewpoint is Professor Eleanor M. Fox and Professor Merit E. Janow's argument that "[t]rade and competition rules sympathetic to markets are important in today's world of deep economic globalization."14 Both of the scholars were astonished by the opportunities for nations to play one system (trade) against the other (competition). They also cautioned that U.S. courts involved with foreign export cartels need to flexibly interact with the international regime to form a coherent approach to legal challenges over foreign regulatory systems.

What academics and other commentators have missed is that the involved U.S. courts and the executive branch's stance in the above litigations perfectly illustrates a pervasive Transnational Legal Process. The U.S. not only represents all antitrust nations' interests when it is anti-cartel. The transnational actors generated interactions that led to WTO law and competition policy interpretations that become internalized, thereby binding under domestic law (in this Article, China law).

This Article assesses the roles of Transnational Legal Process by examining transnational actors engaged in antitrust litigation and evaluating their relationship to transnational actors participating in the WTO litigation. My central thesis is that essential synergies exist between trade and competition, in which Transnational Legal Process will largely prove a positive role in constraining state-sponsored export cartels and international cartels. To avert gaming by the litigants due to ambiguous factual evidence in cartel cases, U.S. courts and the executive branch should become active transnational actors. They therefore stimulate each other to participate in a dynamic process of Transnational Legal Process. Under the condition that cartel action is attributable to State in the antitrust proceeding, as defendants invoke foreign-sovereignty-related defenses, transnational actors in the competition system promote WTO obedience by sending a strong signal to the executive branch. Under the condition that cartel action is attributable to private parties in the WTO proceeding, transnational actors in the competition system should perform a gap-filling role that the WTO system precludes. 16 The resulting tendency is to suggest a synergistic relationship between transnational actors to play by rules of free trade (not to restrain exports) and competition (not to cartelize). Having described the most basic features of Transnational Legal Process, my Article partly confirms that Transnational Legal Process could somewhat fix the potentially worrying issue of nations' opportunities to play one system (trade) against the other (competition).

#### Solves the case – WTO will rule for the US.

Weimin Shen, L.L.M, J.S.D., Washington University School of Law, ’20, "The Role of Transnational Legal Process in Enforcing WTO Law and Competition Policy," Journal of Transnational Law & Policy 30 (2020-2021): 59-118

While export cartels are consistently outlawed in established competition law regimes, virtually every state with a meaningful competition law acknowledges export cartels either explicitly or implicitly. 19 The rules of the General Agreement on Tariffs and Trade ("GATT") generally prohibit quantitative restrictions on exports and recognize that quantitative restrictions must not be imposed through direct government action and purchases of state trading enterprises ("STEs").20 Notably, WTO rules do not prevent these entities from exerting market power in export markets through the prices they charge abroad. 21 In that regard government-sponsored export cartels might potentially breach the GATT rules generally prohibiting quantitative export restrictions. Further guidance concerning export restraints is provided in Article 11.1(b), the WTO Agreement on Safeguards, which requires WTO Members to "not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures on the export or the import side." 22 These include actions taken by a single Member as well as actions under agreements, arrangements, and understandings entered into by two or more Members. 23 In the same Article, it further requires Members not to encourage or support the adoption or maintenance by public and private enterprises of equivalent non-governmental measures, recognizing that it is sometimes difficult to establish the degree of government involvement in such measures. 24

#### USTR WTO-leadership key to maintain global non-discriminatory vaccine supply chain management.

Naotaka Matsukata, Ph.D. was a senior USTR official in the George W. Bush Administration, ‘20, "Forget the WHO — where is US leadership at the WTO?," TheHill, https://thehill.com/opinion/healthcare/504099-forget-the-who-where-is-us-leadership-at-the-wto

WTO rules are designed to protect both the exporter and importer of goods from arbitrary actions that interrupt the flow of trade. Established in 1994, the World Trade Organization organized around the principles of non-discrimination, reciprocity, binding and enforceable commitments, transparency, and safety values — all principles that must be present in any commercial distribution plan for the COVID-19 vaccine. Once already, the United States, working with the private sector and the WTO, crafted a compromise on trade-related intellectual property rights to address AIDs. The result was President George Bush’s President’s Emergency Plan for AIDS Relief (PEPFAR). The program is credited with saving millions of lives. As of now, the prospects of an encore performance — an approach to COVID that benefits from what was learned through PEPFAR — appear to be grim. The WTO has been adrift for several years, its negotiating role moribund. In May, the WTO’s director-general, Roberto Azevedo, unexpectedly resigned, leaving the WTO leader-less and searching for a replacement. Self-inflicted wounds and unilateral actions by key members have marginalized the trade body, which today is a mere shell of its former self. The question of the WTO’s relevance, as opposed to its proven potential, has unfortunately come to dominate our conversations about trade. Instead, with a diminished international trade system, the COVID crisis has ignited a “vaccine arms race”. There are 13 World Health Organization-recognized clinical evaluations underway for a COVID-19 vaccine. Over half of the trials are based outside of the United States. There is a good chance that the United States ends-up as an importer of the vaccine — instead of the world’s supplier. Under such circumstances, the specter of a dysfunctional WTO — and the lack of other international coordination mechanisms — should be of great concern to our national interest. What if another country decides to ban the export of its vaccine? The United States has taken important steps to coordinate the development of a COVID-19 vaccine, and PEPFAR’s Supply Chain Management System (SCMS) may provide a roadmap for in-country vaccine deployment. The National Institutes of Health on April 7, 2020, announced the Accelerating COVID-19 Therapeutic Interventions and Vaccines (ACTIV) partnership to coordinate and help fund the development of vaccines. The initiative includes 16 companies representing Europe, Asia, and North America. PEPFAR’s SCMS, an infrastructure delivery system, familiar to Dr. Anthony Fauci and Ambassador Deborah Birx, has for years supplied critical medicines and technical assistance to developing nations. To ensure that these efforts are successful, the United States must also develop and coordinate a non-discriminatory global distribution plan that is WTO compliant and is supported by the private sector. Whether the next president is President Trump or former U.S. vice president and presumptive Democratic nominee Joe Biden, orderly vaccine distribution will be a high and early priority for his administration. Global access and distribution of the COVID-19 vaccine may be our own lifetime’s greatest moral and ethical challenge. To avoid a Sophie’s Choice moment of who gets or doesn’t get the vaccine, the United States should immediately declare our intention to abide and enforce existing WTO rules and pledge to extinguish any form of vaccine nationalism. A strong WTO led by a committed United States is the answer to the distribution challenge. Our recovery and the world’s economic recovery depends upon non-discriminatory access to a vaccine. U.S. leadership at the WTO has never been more important.

#### Extended COVID causes multilateral meltdown – causes nuclear war, climate change, arctic and space war.

Strategic Partners Marsh McLennan SK Group Zurich Insurance Group, Academic Advisers National University of Singapore Oxford Martin School, University of Oxford Wharton Risk Management and Decision Processes Center, University of Pennsylvania, ’21, “The Global Risks Report 2021 16th Edition” “http://www3.weforum.org/docs/WEF\_The\_Global\_Risks\_Resport\_2021.pdf

Forced to choose sides, governments may face economic or diplomatic consequences, as proxy disputes play out in control over economic or geographic resources. The deepening of geopolitical fault lines and the lack of viable middle power alternatives make it harder for countries to cultivate connective tissue with a diverse set of partner countries based on mutual values and maximizing efficiencies. Instead, networks will become thick in some directions and non-existent in others. The COVID-19 crisis has amplified this dynamic, as digital interactions represent a “huge loss in efficiency for diplomacy” compared with face-to-face discussions.23 With some alliances weakening, diplomatic relationships will become more unstable at points where superpower tectonic plates meet or withdraw.

At the same time, without superpower referees or middle power enforcement, global norms may no longer govern state behaviour. Some governments will thus see the solidification of rival blocs as an opportunity to engage in regional posturing, which will have destabilizing effects.24 Across societies, domestic discord and economic crises will increase the risk of autocracy, with corresponding censorship, surveillance, restriction of movement and abrogation of rights.25 Economic crises will also amplify the challenges for middle powers as they navigate geopolitical competition. ASEAN countries, for example, had offered a potential new manufacturing base as the United States and China decouple, but the pandemic has left these countries strapped for cash to invest in the necessary infrastructure and productive capacity.26 Economic fallout is pushing many countries to debt distress (see Chapter 1, Global Risks 2021). While G20 countries are supporting debt restructure for poorer nations,27 larger economies too may be at risk of default in the longer term;28 this would leave them further stranded—and unable to exercise leadership—on the global stage.

Multilateral meltdown Middle power weaknesses will be reinforced in weakened institutions, which may translate to more uncertainty and lagging progress on shared global challenges such as climate change, health, poverty reduction and technology governance. In the absence of strong regulating institutions, the Arctic and space represent new realms for potential conflict as the superpowers and middle powers alike compete to extract resources and secure strategic advantage.29 If the global superpowers continue to accumulate economic, military and technological power in a zero-sum playing field, some middle powers could increasingly fall behind. Without cooperation nor access to important innovations, middle powers will struggle to define solutions to the world’s problems. In the long term, GRPS respondents forecasted “weapons of mass destruction” and “state collapse” as the two top critical threats: in the absence of strong institutions or clear rules, clashes— such as those in Nagorno-Karabakh or the Galwan Valley—may more frequently flare into full-fledged interstate conflicts,30 which is particularly worrisome where unresolved tensions among nuclear powers are concerned. These conflicts may lead to state collapse, with weakened middle powers less willing or less able to step in to find a peaceful solution.

### 1NC – Protectionism DA

#### Extraterritorial Sherman act application prompts blocking statutes across the globe. Ensuing uncertainty will devastate global trade.

SAMUEL F. KAVA, JD/MBA Candidate @ JHU/UofM, ’19,"The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity," Journal of Business and Technology Law 15, no. 1 (2019): 135-164,

Before the FTAIA was enacted, in 1982, many of the United States' closest allies were disgruntled by the U.S. courts' expansive extraterritorial application of the Sherman Anti-Trust Act. 152 These nations confided in the territorial principle, and believed it "axiomatic that in anti-trust matters the policy of one state may be to defend what it is the policy of another state to attack."153 The United Kingdom, one of the most outspoken allies against the United States' "attempt[] to impose [its] domestic laws on persons and corporations who are not U.S. nationals and who are acting outside the territory of the United States," viewed the extraterritorial application of the Sherman Anti-Trust Act as ironic given the fact "the United States was founded by those who took exception to little matters of taxation being imposed extraterritorially." 154 Thus, in an attempt to "protect their nationals from criminal [and civil] proceedings in foreign courts where the claims to jurisdiction [were] excessive and constitute[d] an invasion of sovereignty," foreign nations enacted blocking statutes to resist the extraterritorial application of the Sherman Act.155

The blocking statutes of each nation varied, but all served to "block the discovery of documents located in their countries and bar the enforcement of foreign judgements."156 The United Kingdom achieved these goals with the Protection of Trading Interests Act, France with the French Blocking Law, Canada with the Foreign Extraterritorial Measures Act, and Australia with the Foreign Proceedings Act.157 The conflicting laws between the United States and its foreign counterparts created tremendous uncertainty regarding what nation's laws would be applied in the event of a cross-border dispute. According to Nuno Lim o and Giovanni Maggi, economists from the University of Maryland and Yale University, "as the world becomes more integrated, the gains from decreasing trade-policy uncertainty should tend to become more important relative to the gains from reducing the levels of trade barriers."158

Essentially, for trade to prosper, it is more important to provide producers and consumers with predictability and certainty (regarding the rule of law) rather than enacting laws that focus on free trade economics. Accordingly, it is in the best interest of governments to focus on unifying its laws before negotiating for the elimination of tariffs or quotas. This is not to say that eliminating trade barriers is not vital to the health of the economy-in fact, tariffs, quotas, and other trade barriers are proven to adversely affect all parties involved in the chain of distribution-however, it is more important to unify laws before focusing on the elimination of any trade barriers.159

As mentioned in Part I.C., the complaints of U.S. exporters and foreign governments were heard, and the United States Congress enacted the FTAIA "to address the concerns of foreign governments that the effects test established in the Alcoa case had not made clear the magnitude of the U.S. effects required to support a claim under the Sherman Act." 160 Thus, the FTAIA was implemented to bring certainty to consumers and producers by requiring that "conduct must have a 'direct, substantial, and reasonably foreseeable effect"' for the Sherman Anti-Trust Act to apply extraterritorially. 161 This language provided the foreign community with temporary relief, and gave producers and consumers the certainty and predictability needed to establish confidence in the markets and continue trading. However, since the passage of the FTAIA in 1982, the world has witnessed a remarkable increase in globalization, such that most conduct that takes place today has a "direct, substantial, and reasonably foreseeable effect" 162 on the U.S. economy. Epitomizing the obscureness of the FTAIA, is the fact that U.S. enforcement agencies-i.e. the U.S. Department of Justice and the Federal Trade Commission-have taken an aggressive approach to pursuing international antitrust claims. In 2017, the U.S. Department of Justice ("DOJ") and Federal Trade Commission ("FTC") published the International Guidelines-a publication "explaining how the agencies intend to enforce U.S. antitrust laws against conduct occurring outside the United States." 163 The International Guidelines have taken the broadest approach in determining if conduct is "direct"-finding if there is a "reasonably proximate causal nexus between the conduct and the effect" conduct is "direct"-and the narrowest view that international comity bars enforcement of U.S. antitrust laws only when it is impossible for the actor to comply with both U.S. law and its foreign nation's law.164 Thus, because the FTAIA has become ineffective and there is a risk of further expansion of the extraterritorial application of the Sherman Anti-Trust Act with Apple v. Pepper, foreign nations will almost certainly strive to adopt modern and effective blocking statutes. These blocking statutes will revitalize uncertainty in the markets, and the global economy will be adversely affected.

In addition, because our world is more integrated, compared to the time when the FTAIA was implemented, the adverse economic effects may be worse if foreign nations pursue modern blocking statutes. To hedge against judicial uncertainty, corporations will likely react by hiring more robust legal teams. By re-allocating money to legal costs, with the hopes of avoiding potential litigation and ensuring compliance with all nations' laws, corporations would have foregone the opportunity to spend time and money on: (1) scaling its current line of products (which would decrease the price of goods for consumers), (2) enhancing the capabilities of its current line of products (which improve consumer capabilities and increase corporate profits), or (3) creating new and innovative products (which would benefit both consumers and producers). Thus, because corporations would be forced to spend more resources on avoiding litigation rather than research and development with the new blocking statutes, consumers, producers, distributors, and the economy as a whole will be adversely affected.

Overall, there is a significant risk that foreign nations will look towards blocking statutes to limit the extraterritorial application of the Act. The conflicting laws of the United States and international community will lead to judicial uncertainty, which will have an adverse impact on the global economy. Businesses will spend more time and money to avoid disputes; thus, undermining corporate profits, a customer's ability to purchase low cost goods, and the overall health of the global economy. The only certainty is that trade will slow down as a result of trade policy uncertainty. To avoid these adverse economic effects, it would be advantageous for the United States Congress to amend the FTAIA in a way that limits the effects of the extraterritorial application of the Sherman Anti-Trust Act. Specifically, Congress should limit the effects of the extraterritorial application of the Sherman Anti-Trust Act by expressly providing courts with a robust international comity analysis.

#### Breakdown cause nuclear war.

Kampf ’20 [David; June 16; PhD Fellow at the Center for Strategic Studies at The Fletcher School, MA in International Affairs from Columbia University; World Politics Review, “How COVID-19 Could Increase the Risk of War,” https://www.worldpoliticsreview.com/articles/28843/how-covid-19-could-increase-the-risk-of-war]

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

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

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

The Pessimists Strike Back

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

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

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

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

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

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

A Yugoslav Federal Army tank.

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

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

As Risks Increase, Deterrents Decline

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

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

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

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

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

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

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

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

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

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

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

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

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

### 1NC – Court Politics DA

#### The court has taken up a challenge to EPA climate authority under the non-delegation doctrine, but will refrain from a broad decision because of fear of public backlash

Smith 21 – Lexi Smith, former advisor to the Mayor of Boston on climate policy, currently JD candidate at Yale Law School, “Supreme Court to weigh EPA authority to regulate greenhouse pollutants,” 11/7/21, https://yaleclimateconnections.org/2021/11/supreme-court-to-weigh-epa-authority-to-regulate-greenhouse-pollutants/

The Supreme Court agreed to hear a case, West Virginia v. EPA, challenging the Environmental Protection Agency’s authority to regulate greenhouse gases as pollutants.

The case presents an opportunity for the Court to overturn key climate precedents and potentially change the relationship between federal agencies and Congress. The decision could have far-reaching consequences for federal climate policy and perhaps even for federal agencies more broadly.

How did we get here, how far might the Court go, and what consequences might the case have for climate change regulation and executive branch authority?

EPA’s authority to regulate greenhouse gases: Massachusetts v. EPA

In a groundbreaking decision in 2007, the Supreme Court held 5-4 that EPA has authority to regulate greenhouse gases under the Clean Air Act. During the Bush administration, environmentalists petitioned the agency to issue a rule on the regulation of greenhouse gases. The Bush EPA denied the petition, and environmental groups, states, and local governments challenged that decision in court. The Supreme Court’s decision turned on whether greenhouse gases like carbon dioxide fall under the definition of “air pollutants,” which the Clean Air Act authorizes EPA to regulate.

The Court concluded that carbon dioxide and other greenhouse gases are air pollutants under the Clean Air Act’s definition, and also noted that the EPA cannot refuse to regulate greenhouse gases for policy reasons outside the Clean Air Act itself, as the Bush administration had done. The Court ordered EPA to either issue a finding that greenhouse gases are dangerous to the public health and welfare, the first step toward regulation, or to give a reasoned explanation for why greenhouse gases do not meet the threshold of endangerment outlined in the Clean Air Act. The agency ultimately found that greenhouse gases are dangerous to the public health and welfare, which formed the foundation for EPA’s regulation of greenhouse gases.

That Supreme Court’s ruling in Massachusetts v. EPA was a 5-4 decision, and environmental advocates leading up to it were not at all certain that they would win the case. In fact, the case was controversial at the time because many environmentalists worried that it would result in a harmful adverse ruling. The four liberals on the Court in 2007, Justices Souter, Ginsburg, Breyer, and Stevens, were joined by Justice Kennedy to form a majority. But Chief Justice Roberts and Justices Thomas, Scalia, and Alito dissented.

Chief Justice Roberts’s dissent (joined by Justices Scalia, Thomas, and Alito) argued that the states, local governments, and environmental groups challenging the EPA should not have been allowed to sue in the first place because they lacked standing: One requirement of standing is a “concrete and particularized” injury. Chief Justice Roberts argued that harms from climate change affect everyone, so the injury in question was not sufficiently individualized and personal to support a lawsuit.

Justice Scalia’s dissent (joined by Chief Justice Roberts and Justices Thomas and Alito) focused on the Clean Air Act and argued that the Act is meant to address conventional air pollutants that harm human health directly through exposure, such as inhalation. He maintained that the Act was not meant to address the broader issue of climate change, and that greenhouse gases therefore did not fall under the definition of “air pollutants.”

Of course, the Supreme Court’s composition has changed significantly since 2007. With a 6-3 conservative-liberal divide, the conservative dissenters’ objections to Massachusetts v. EPA may now represent the majority view.

The ‘worst case scenario’: What could West Virginia v. EPA bring?

There are reasons to expect that the Court will show restraint when it hears the upcoming challenge to EPA’s authority in the West Virginia v. EPA case. But first, let’s walk through the worst potential outcomes from the perspective of climate advocates.

As suggested above, the Court could overturn its decision in Massachusetts v. EPA and effectively take away EPA’s authority to regulate greenhouse gases. With such a ruling, EPA could no longer issue rules directly regulating greenhouse gas emissions, and past greenhouse gas rules issued under its Clean Air Act authority would be invalid.

Richard Lazarus, a Harvard Law School professor who recently wrote a book about Massachusetts v. EPA, called the Court’s decision to hear West Virginia v. EPA “the equivalent of an earthquake around the country for those who care deeply about the climate issue.”

The consequences of the case could even reach far beyond climate regulation. The case presents an opportunity for the Court to revive the “nondelegation doctrine,” a mostly defunct principle that purported to limit Congress’s authority to delegate legislative power to executive branch agencies. The doctrine comes from Article I of the Constitution, which says that “[a]ll legislative powers herein granted shall be vested in a Congress of the United States.” The Supreme Court has not used the nondelegation doctrine to strike down agency action in more than 80 years.

Implications of enforcing nondelegation doctrine

The practical consequences of enforcing the nondelegation doctrine would debilitate the current system of executive branch rulemaking and regulation, subject to judicial review and congressional oversight. If Congress were to do all the rulemaking currently done by EPA, for instance, environmental regulation would become virtually impossible to enact. Congress in that case would have to make thousands of granular and technical decisions about environmental policy, even though we know it can barely pass major legislation as it is.

More broadly, nondelegation could mean that much of the work done by all federal agencies would have to be done instead by a clearly ill-equipped Congress. Even without current gridlock on Capitol Hill, the sheer volume of policy decisions Congress would have to make would be completely unworkable.

While this outcome sounds unlikely and illogical to those who support federal agency regulation, several of the current Justices at various times have expressed interest in weakening the administrative state and deregulating industry. For them, the nondelegation doctrine may be an attractive principle.

Notably, for instance, in a case called Gundy v. United States in 2019, four of the conservatives (Chief Justice Roberts and Justices Gorsuch, Thomas, and Alito) showed a willingness to revisit the nondelegation doctrine. At that time, Justice Kennedy had retired, and Justice Kavanaugh had not yet been confirmed, so the case was 4-4. With Justices Kavanaugh and Barrett now on the court, there appears to be some chance that reviving the nondelegation doctrine would garner the support of five or even six Justices.

The petitioners – West Virginia and North American Coal Corporation – that brought the appeal in West Virginia v. EPA explicitly suggested that this case could be an opportunity for the Court to reconsider nondelegation: “Nothing in the statute [the Clean Air Act] approaches the clear language Congress must use to assign such vast policymaking authority – assuming, of course, it can delegate enormous powers like these in the first place.”

In short, the worst-case scenario from the perspective of climate action advocates is that the Supreme Court takes away the EPA’s authority to regulate greenhouse gases and also revives the nondelegation doctrine, which would strip most federal agencies of much of their regulatory power.

Reasons for a less sweeping outcome

Let’s now consider some reasons the Court may be unlikely to completely overturn Massachusetts v. EPA or fully embrace the nondelegation doctrine.

First, Chief Justice Roberts, and increasingly Justices Kavanaugh and Gorsuch, appear keenly mindful and protective of the Court’s reputation and legacy. They have tended to look out for the public perception of the Court and avoid decisions that would have provoked especially strong public backlash. Recent examples include upholding the Affordable Care Act and civil rights protections for the LGBT community.

These cautious impulses may be heightened by the looming threat of court reform, which could gain more momentum if a particularly controversial conservative decision were issued. Given the strong public backlash likely to result from a decision taking away EPA authority to regulate greenhouse gases and/or reviving the nondelegation doctrine, the Court may proceed with caution.

#### The plan’s liberal ruling provides breathing room for a conservative decision on non-delegation

Bazelon 15 – Emily Bazelon, staff writer for the New York Times Magazine, Truman Capote Fellow at Yale Law School, “Marriage of Convenience,” 1/27/2015, https://www.nytimes.com/2015/02/01/magazine/marriage-of-convenience.html

More significant, if the court is seen as transcending partisan politics, Roberts will probably have more chances, over time, to accomplish what appears to be his primary long-term goal: to move the court in a more conservative direction on a range of issues. In particular, Roberts's brand of conservatism has manifested itself in two main areas. The first is in decisions that are sympathetic to corporations. A 2013 study found that he had been more likely to side with businesses than any justice in the previous 65 years, except for Samuel Alito. The second is in decisions that are antagonistic toward the idea of taking race into account in shaping law or policy. Roberts has voted repeatedly against affirmative action, writing last year that it was not hard to conclude that racial preferences may ''do more harm than good.'

When Roberts was nominated to be chief justice 10 years ago by President George W. Bush, he exuded calm neutrality at his confirmation hearing, comparing judges to umpires who call balls and strikes. At the end of his first term, he emphasized the importance of the court's ''credibility and legitimacy as an institution,'' in an interview with the George Washington University law professor Jeffrey Rosen.

But in 2010, Roberts supplied the fifth vote for the court's remarkably unpopular ruling in Citizens United. By striking limits that Congress set on campaign spending by corporations, the court was perceived as favoring the interests of the wealthy. The court's approval rating fell 10 percentage points, to barely break even, from 61 percent.

Since then, the court has fared better with the public when it pairs conservative decisions with progressive ones. And same-sex marriage is part of that equation. In 2013, the term ended with a splashy ruling in which five justices -- Roberts not among them -- struck down part of the Defense of Marriage Act, which restricted federal benefits for spouses to male-female couples. This decision came one day after the court gutted a central component of the Voting Rights Act, in a 5-to-4 decision written by Roberts.

#### Domestic U.S. climate regulations are key to avoiding dangerous climate change globally

Friedman 21 – Lisa Friedman, climate and energy reporter for the New York Times, “At Climate Talks, Biden Will Try to Sell American Leadership to Skeptics,” 10/31/21, https://www.nytimes.com/2021/10/31/climate/climate-change-biden-cop26.html

If Mr. Biden lacks a reliable plan for the United States to significantly cut its emissions this decade, it would “send a signal” to other major emitters that America is still not serious, she said. And it would be difficult for Mr. Biden to urge other countries to take more meaningful steps away from fossil fuels, others said.

“Some of these countries are saying, ‘Oh yeah, but look at what you did guys, and now you’re coming back and demanding after you were away for the past four years?’” said Andrea Meza, the environment and energy minister of Costa Rica.

Tensions were already running high ahead of the summit. China, currently the world’s top emitter, announced a new target on Thursday that was supposed to be a more ambitious plan to curb its pollution but is virtually indistinguishable from what it promised six years ago. President Xi Jinping has indicated he will not attend the summit in person, as have presidents of two other top polluting nations, Vladimir V. Putin of Russia and Jair Bolsonaro of Brazil.

Democrats close to President Biden said he is painfully aware that the credibility of the United States is on the line in Glasgow, particularly after a botched withdrawal from Afghanistan this summer and a dust-up with France over a military submarine contract.

Representative Ro Khanna, Democrat of California, met with the president recently to discuss how to salvage Mr. Biden’s legislative climate agenda.

“He indicated that many world leaders like Putin and Xi are questioning the capability of American democracy to deliver, so we need to show them that we can govern,” Mr. Khanna said.

Mr. Biden, who is accompanied in Glasgow by 13 Cabinet members, insists they have a story of success to tell, starting with his decision on his first day on the job to rejoin the 2015 Paris Agreement, an accord of nearly 200 countries to fight climate change, from which Mr. Trump had withdrawn the United States.

Since then, Mr. Biden has taken several steps to cut emissions, including restoring and slightly strengthening auto pollution regulations to levels that existed under President Barack Obama but were weakened by Mr. Trump. He has taken initial steps to allow the development of large-scale wind farms along nearly the entire coastline of the United States, and last month finalized regulations to curb the production and use of potent planet-warming chemicals called hydrofluorocarbons, which are used in air-conditioners and refrigerators.

But Mr. Biden is likely to emphasize the $555 billion that he wants Congress to approve as part of a huge spending bill. The climate provisions would promote wind and solar power, electric vehicles, climate-friendly agriculture and forestry programs, and a host of other clean energy programs. Together, those programs could cut the United States’ emissions up to a quarter from 2005 levels by 2030, analysts say.

That’s about halfway to Mr. Biden’s goal of cutting the country’s emissions 50 to 52 percent below 2005 levels. “We go in with a fact pattern that is pretty remarkable, as well as real momentum,” Ali Zaidi, the deputy White House national climate adviser, told reporters.

Mr. Biden plans to release tough new auto pollution rules designed to compel American automakers to ramp up sales of electric vehicles so that half of all new cars sold in the United States are electric by 2030, up from just 2 percent this year. His top appointees have also promised new restrictions on carbon dioxide emissions from coal and gas-fired power plants. And earlier this year, Biden administration officials said they would roll out a draft rule by September to regulate emissions of methane, a powerful planet-warming gas that leaks from existing oil and natural gas wells.

So far, the administration has not offered drafts of any of those rules. Several administration sources said that delay has been due in part to staff shortages, as well as an effort not to upset any lawmakers before they vote on Mr. Biden’s legislative agenda.

But time is running out. It can take years to complete work on such complex and controversial government policies, and several are likely to face legal challenges. On Friday, the U.S. Supreme Court, which has a conservative majority, said it would review the E.P.A.’s authority to regulate greenhouse gas emissions, potentially complicating Mr. Biden’s plans.

The U.S. track record

For three decades, American politics have complicated global climate efforts.

Former President Bill Clinton, a Democrat, joined the first global effort to tackle climate change, the 1997 Kyoto Protocol. His Republican successor, President George W. Bush, renounced the treaty. Mr. Obama, another Democrat, joined the 2015 Paris Agreement and rolled out dozens of executive orders to help meet his promises to cut emissions. His Republican successor, Mr. Trump, abandoned the accord, repealed more than 100 of Mr. Obama’s regulations and took steps to expand fossil fuel drilling and mining.

Mr. Biden is facing similar resistance. No Republicans in Congress back his current climate effort. Representative Frank Lucas of Oklahoma, the top Republican on the House science committee, said the international community should be skeptical of the Biden administration’s promises. “I think they’ll roll their eyes just as people will continue to do in the United States,” Mr. Lucas said.

The president has also struggled to win over two pivotal players within his own party. Senator Joe Manchin III, Democrat of West Virginia, has been steadfastly opposed to a central feature of Mr. Biden’s climate plan: a program that would have rapidly compelled power plants to switch from burning coal, oil and gas, to using wind, solar and other clean energy. Mr. Manchin’s state is a top coal and gas producer, and he has personal financial ties to the coal industry. He was able to kill the provision. Senator Kyrsten Sinema, Democrat of Arizona, has also withheld her support, saying she wants a more modest spending bill.

Environmental leaders said America’s past inconsistency on climate action makes it more important for Mr. Biden to succeed now.

“The U.S. has had to be dragged kicking and screaming to the climate table and has slowed down action that was needed to tackle the climate crisis,” said Mohamed Adow, director of Power Shift Africa, a Nairobi-based environmental think tank. “That is the legacy Biden has to deal with.”

What’s at stake

Average global temperatures have already risen about 1.1 degrees Celsius (2.7 degrees Fahrenheit), compared with preindustrial levels, locking in an immediate future of rising seas, destructive storms and floods, ferocious fires and more severe drought and heat.

At least 85 percent of the planet’s population has already begun to experience the effects of climate change, according to research published in the journal Nature Climate Change. This summer alone, more than 150 people died in violent flooding in Germany and Belgium. In central China, the worst flooding on record displaced 250,000 people. In Siberia, summer temperatures reached as high as 100 degrees, feeding enormous blazes that thawed what was once permanently frozen ground.

“Clearly, we are in a climate emergency. Clearly, we need to address it,” Patricia Espinosa, head of the U.N. climate agency, said Sunday as she welcomed delegates to Glasgow. “Clearly, we need to support the most vulnerable to cope. To do so successfully, greater ambition is now critical.”

If the planet heats even a half-degree more, it could lead to water and food shortages, mass extinctions of plants and animals, and more deadly heat and storms, scientists say.

#### Unchecked warming causes extinction

Peter Kareiva 18, Ph.D. in ecology and applied mathematics from Cornell University, director of the Institute of the Environment and Sustainability at UCLA, Pritzker Distinguished Professor in Environment & Sustainability at UCLA, et al., September 2018, “Existential risk due to ecosystem collapse: Nature strikes back,” Futures, Vol. 102, p. 39-50

In summary, six of the nine proposed planetary boundaries (phosphorous, nitrogen, biodiversity, land use, atmospheric aerosol loading, and chemical pollution) are unlikely to be associated with existential risks. They all correspond to a degraded environment, but in our assessment do not represent existential risks. However, the three remaining boundaries (climate change, global freshwater cycle, and ocean acidification) do pose existential risks. This is because of intrinsic positive feedback loops, substantial lag times between system change and experiencing the consequences of that change, and the fact these different boundaries interact with one another in ways that yield surprises. In addition, climate, freshwater, and ocean acidification are all directly connected to the provision of food and water, and shortages of food and water can create conflict and social unrest.

Climate change has a long history of disrupting civilizations and sometimes precipitating the collapse of cultures or mass emigrations (McMichael, 2017). For example, the 12th century drought in the North American Southwest is held responsible for the collapse of the Anasazi pueblo culture. More recently, the infamous potato famine of 1846–1849 and the large migration of Irish to the U.S. can be traced to a combination of factors, one of which was climate. Specifically, 1846 was an unusually warm and moist year in Ireland, providing the climatic conditions favorable to the fungus that caused the potato blight. As is so often the case, poor government had a role as well—as the British government forbade the import of grains from outside Britain (imports that could have helped to redress the ravaged potato yields).

Climate change intersects with freshwater resources because it is expected to exacerbate drought and water scarcity, as well as flooding. Climate change can even impair water quality because it is associated with heavy rains that overwhelm sewage treatment facilities, or because it results in higher concentrations of pollutants in groundwater as a result of enhanced evaporation and reduced groundwater recharge. Ample clean water is not a luxury—it is essential for human survival. Consequently, cities, regions and nations that lack clean freshwater are vulnerable to social disruption and disease.

Finally, ocean acidification is linked to climate change because it is driven by CO2 emissions just as global warming is. With close to 20% of the world’s protein coming from oceans (FAO, 2016), the potential for severe impacts due to acidification is obvious. Less obvious, but perhaps more insidious, is the interaction between climate change and the loss of oyster and coral reefs due to acidification. Acidification is known to interfere with oyster reef building and coral reefs. Climate change also increases storm frequency and severity. Coral reefs and oyster reefs provide protection from storm surge because they reduce wave energy (Spalding et al., 2014). If these reefs are lost due to acidification at the same time as storms become more severe and sea level rises, coastal communities will be exposed to unprecedented storm surge—and may be ravaged by recurrent storms.

A key feature of the risk associated with climate change is that mean annual temperature and mean annual rainfall are not the variables of interest. Rather it is extreme episodic events that place nations and entire regions of the world at risk. These extreme events are by definition “rare” (once every hundred years), and changes in their likelihood are challenging to detect because of their rarity, but are exactly the manifestations of climate change that we must get better at anticipating (Diffenbaugh et al., 2017). Society will have a hard time responding to shorter intervals between rare extreme events because in the lifespan of an individual human, a person might experience as few as two or three extreme events. How likely is it that you would notice a change in the interval between events that are separated by decades, especially given that the interval is not regular but varies stochastically? A concrete example of this dilemma can be found in the past and expected future changes in storm-related flooding of New York City. The highly disruptive flooding of New York City associated with Hurricane Sandy represented a flood height that occurred once every 500 years in the 18th century, and that occurs now once every 25 years, but is expected to occur once every 5 years by 2050 (Garner et al., 2017). This change in frequency of extreme floods has profound implications for the measures New York City should take to protect its infrastructure and its population, yet because of the stochastic nature of such events, this shift in flood frequency is an elevated risk that will go unnoticed by most people.

4. The combination of positive feedback loops and societal inertia is fertile ground for global environmental catastrophes.

Humans are remarkably ingenious, and have adapted to crises throughout their history. Our doom has been repeatedly predicted, only to be averted by innovation (Ridley, 2011). However, the many stories of human ingenuity successfully addressing existential risks such as global famine or extreme air pollution represent environmental challenges that are largely linear, have immediate consequences, and operate without positive feedbacks. For example, the fact that food is in short supply does not increase the rate at which humans consume food—thereby increasing the shortage. Similarly, massive air pollution episodes such as the London fog of 1952 that killed 12,000 people did not make future air pollution events more likely. In fact it was just the opposite—the London fog sent such a clear message that Britain quickly enacted pollution control measures (Stradling, 2016). Food shortages, air pollution, water pollution, etc. send immediate signals to society of harm, which then trigger a negative feedback of society seeking to reduce the harm.

In contrast, today’s great environmental crisis of climate change may cause some harm but there are generally long time delays between rising CO2 concentrations and damage to humans. The consequence of these delays are an absence of urgency; thus although 70% of Americans believe global warming is happening, only 40% think it will harm them (http://climatecommunication.yale.edu/visualizations-data/ycom-us-2016/). Secondly, unlike past environmental challenges, the Earth’s climate system is rife with positive feedback loops. In particular, as CO2 increases and the climate warms, that very warming can cause more CO2 release which further increases global warming, and then more CO2, and so on. Table 2 summarizes the best documented positive feedback loops for the Earth’s climate system. These feedbacks can be neatly categorized into carbon cycle, biogeochemical, biogeophysical, cloud, ice-albedo, and water vapor feedbacks. As important as it is to understand these feedbacks individually, it is even more essential to study the interactive nature of these feedbacks. Modeling studies show that when interactions among feedback loops are included, uncertainty increases dramatically and there is a heightened potential for perturbations to be magnified (e.g., Cox, Betts, Jones, Spall, & Totterdell, 2000; Hajima, Tachiiri, Ito, & Kawamiya, 2014; Knutti & Rugenstein, 2015; Rosenfeld, Sherwood, Wood, & Donner, 2014). This produces a wide range of future scenarios.

Positive feedbacks in the carbon cycle involves the enhancement of future carbon contributions to the atmosphere due to some initial increase in atmospheric CO2. This happens because as CO2 accumulates, it reduces the efficiency in which oceans and terrestrial ecosystems sequester carbon, which in return feeds back to exacerbate climate change (Friedlingstein et al., 2001). Warming can also increase the rate at which organic matter decays and carbon is released into the atmosphere, thereby causing more warming (Melillo et al., 2017). Increases in food shortages and lack of water is also of major concern when biogeophysical feedback mechanisms perpetuate drought conditions. The underlying mechanism here is that losses in vegetation increases the surface albedo, which suppresses rainfall, and thus enhances future vegetation loss and more suppression of rainfall—thereby initiating or prolonging a drought (Chamey, Stone, & Quirk, 1975). To top it off, overgrazing depletes the soil, leading to augmented vegetation loss (Anderies, Janssen, & Walker, 2002).

Climate change often also increases the risk of forest fires, as a result of higher temperatures and persistent drought conditions. The expectation is that forest fires will become more frequent and severe with climate warming and drought (Scholze, Knorr, Arnell, & Prentice, 2006), a trend for which we have already seen evidence (Allen et al., 2010). Tragically, the increased severity and risk of Southern California wildfires recently predicted by climate scientists (Jin et al., 2015), was realized in December 2017, with the largest fire in the history of California (the “Thomas fire” that burned 282,000 acres, https://www.vox.com/2017/12/27/16822180/thomas-fire-california-largest-wildfire). This catastrophic fire embodies the sorts of positive feedbacks and interacting factors that could catch humanity off-guard and produce a true apocalyptic event. Record-breaking rains produced an extraordinary flush of new vegetation, that then dried out as record heat waves and dry conditions took hold, coupled with stronger than normal winds, and ignition. Of course the record-fire released CO2 into the atmosphere, thereby contributing to future warming.

Out of all types of feedbacks, water vapor and the ice-albedo feedbacks are the most clearly understood mechanisms. Losses in reflective snow and ice cover drive up surface temperatures, leading to even more melting of snow and ice cover—this is known as the ice-albedo feedback (Curry, Schramm, & Ebert, 1995). As snow and ice continue to melt at a more rapid pace, millions of people may be displaced by flooding risks as a consequence of sea level rise near coastal communities (Biermann & Boas, 2010; Myers, 2002; Nicholls et al., 2011). The water vapor feedback operates when warmer atmospheric conditions strengthen the saturation vapor pressure, which creates a warming effect given water vapor’s strong greenhouse gas properties (Manabe & Wetherald, 1967).

Global warming tends to increase cloud formation because warmer temperatures lead to more evaporation of water into the atmosphere, and warmer temperature also allows the atmosphere to hold more water. The key question is whether this increase in clouds associated with global warming will result in a positive feedback loop (more warming) or a negative feedback loop (less warming). For decades, scientists have sought to answer this question and understand the net role clouds play in future climate projections (Schneider et al., 2017). Clouds are complex because they both have a cooling (reflecting incoming solar radiation) and warming (absorbing incoming solar radiation) effect (Lashof, DeAngelo, Saleska, & Harte, 1997). The type of cloud, altitude, and optical properties combine to determine how these countervailing effects balance out. Although still under debate, it appears that in most circumstances the cloud feedback is likely positive (Boucher et al., 2013). For example, models and observations show that increasing greenhouse gas concentrations reduces the low-level cloud fraction in the Northeast Pacific at decadal time scales. This then has a positive feedback effect and enhances climate warming since less solar radiation is reflected by the atmosphere (Clement, Burgman, & Norris, 2009).

The key lesson from the long list of potentially positive feedbacks and their interactions is that runaway climate change, and runaway perturbations have to be taken as a serious possibility. Table 2 is just a snapshot of the type of feedbacks that have been identified (see Supplementary material for a more thorough explanation of positive feedback loops). However, this list is not exhaustive and the possibility of undiscovered positive feedbacks portends even greater existential risks. The many environmental crises humankind has previously averted (famine, ozone depletion, London fog, water pollution, etc.) were averted because of political will based on solid scientific understanding. We cannot count on complete scientific understanding when it comes to positive feedback loops and climate change.

## Developing Economies Advantage

### Internals – 1NC

#### New rule of reason constraints are egregiously misinterpreted and result in corporate victory

Hanley 4-6 – policy analyst at Open Markets Institute (Daniel, "How Antitrust Lost Its Bite," Slate Magazine, <https://slate.com/technology/2021/04/antitrust-hearings-congress-legislation-bright-line-rules.html> APRIL 06, 2021)//gcd

In the late 1970s, however, judges began to adopt a malevolent antitrust framework, which they claimed was beneficial to consumers, while actually relishing, [praising](https://www.law.cornell.edu/supct/html/02-682.ZS.html), and [incentivizing](https://en.wikipedia.org/wiki/Brooke_Group_Ltd._v._Brown_%26_Williamson_Tobacco_Corp.) the concentration of corporate power. This new consumer welfare standard emerged in large part because of the “rule of reason.” The rule of reason was initially created by the Supreme Court [in 1911](https://en.wikipedia.org/wiki/Standard_Oil_Co._of_New_Jersey_v._United_States) to help the judiciary navigate the vast range of variance in antitrust harms. The rule of reason allows judges to determine whether ostensibly predatory or exclusionary corporate conduct is legal based on the reasonableness of the suspected violator’s behavior. Exclusionary antitrust conduct analyzed under a rule of reason analysis generally functions by allowing each side of a lawsuit to argue the predatory effects and the justifications for the conduct. Although the rule of reason is perceptually fair by giving each side of the litigation an opportunity to argue about the conduct at issue, in practice it is anything but. Judges began using the ambiguity of the rule of reason to push a standard focused on consumer welfare, one that [favors corporate concentration](https://www.yalelawjournal.org/note/amazons-antitrust-paradox) and turns away from strict antitrust rules. Courts initially only applied the rule of reason selectively. After adopting the consumer welfare framework, the Supreme Court now applies the rule of reason to most antitrust violations. Antitrust is about determining and [allocating the rights](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3337861), privileges, and duties of all economic actors. When Congress originally enacted the Sherman Act, the law was intended to [protect consumers, workers, and democracy](https://digitalcommons.law.umaryland.edu/mlr/vol78/iss4/4/) from excessive concentrations of corporate power. Because of this reality, it is an inherently political area of law. The shift toward rooting it in economics, and making its application substantially more obscure than a bright-line rule, is effectively a means by the judiciary to strip the historical foundations of antitrust from the record and instead substitute its own judgment on what the priorities are for the economy and how it should be structured. When combined with the rule of reason, the judiciary’s consumer welfare framework effectively erases Congress’ intent for the antitrust laws to operate as a “[comprehensive charter of economic liberty](https://supreme.justia.com/cases/federal/us/356/1/)” that “[does not confine its protection to consumers, or to purchasers, or to competitors, or to sellers](https://supreme.justia.com/cases/federal/us/334/219/).” Such values are best determined by members of the elected legislature rather than unelected judges, a point ironically acknowledged by the [Supreme Court in 1972](https://supreme.justia.com/cases/federal/us/405/596/). Lower federal courts today continue to push the consumer welfare standard even further by, in violation of [controlling Supreme](https://supreme.justia.com/cases/federal/us/405/596/) [Court precedent](https://supreme.justia.com/cases/federal/us/374/321/), weighing the competitive harms of a dominant firm’s conduct against one group to the benefits provided to another group. In [ongoing litigation against the NCAA](https://www.scotusblog.com/case-files/cases/national-collegiate-athletic-association-v-alston/) that was heard by the Supreme Court last week, the district court judge ruled that the NCAA’s compact with universities to set a ceiling on the amount of compensation that student-athletes can receive is legal because of the reputed benefit consumers derive from watching athletes knowing there is a cap on their compensation. The court employed the rule of reason to arrive at this result. In an alternative enforcement regime, the NCAA would be a per se illegal employer cartel that is suppressing workers’ wages. Comprehensive empirical analysis has revealed that the rule of reason has been a rubber stamp for even the most egregious antitrust conduct. A [2009 analysis](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1480440) revealed that 97 percent of cases analyzed under the rule of reason result in victories for defendants. That means corporations are effectively shielded from most antitrust violations. Part of the reason for such a skewed result in favor of antitrust defendants is that dominant firms have access to high-salaried economists that are able to manipulate analyses to mask the corporation’s conduct to look like it is operationally efficient instead of engaging in predatory practices. Such a situation also deters antitrust litigation because a plaintiff will also have to incur the cost of an economist—which can cost several thousand dollars and, [in some cases](https://www.propublica.org/article/these-professors-make-more-than-thousand-bucks-hour-peddling-mega-mergers), [several hundred thousand dollars](https://www.law.cornell.edu/supremecourt/text/12-133). Thus, the battle over the legality of a business tactic under a consumer welfare framework and rule of reason legal analysis depends on access to immense financial capital and judicial appeasement of policies that favor corporate integration rather than common notions of fairness, equity, and deconcentrated markets—which was the original purpose of the antitrust laws. Despite [controlling](https://supreme.justia.com/cases/federal/us/370/294/) Supreme Court [precedent](https://supreme.justia.com/cases/federal/us/374/321/) prohibiting the use of economics in certain antitrust violations, courts now routinely use it to justify corporate consolidation. For example, in the context of merger analysis, the economization of antitrust has led courts to believe and depend on theoretical assumptions on how mergers are beneficial for society and consumers. In the case of AT&T and its pursuit of acquiring Time Warner in 2018, the corporation [stated](https://www.courtlistener.com/recap/gov.uscourts.dcd.191339/gov.uscourts.dcd.191339.121.0_1.pdf) its merger would produce efficiencies and save customers money. District Court Judge Richard Leon was persuaded by AT&T’s statements [holding that](https://casetext.com/case/united-states-v-at-t-inc-2) vertical integration is able to shrink its costs and will “lead to lower prices for consumers.” But such assumptions have been categorically repudiated by researchers. In one example, the economist John Kwoka [found that](https://mitpress.mit.edu/books/mergers-merger-control-and-remedies) 80 percent of studied mergers led to high prices and even reduced output. [Other studies](https://www.antitrustinstitute.org/wp-content/uploads/2019/04/Carstensen-Lande-Final.pdf) have found equivalent results. In the context of AT&T, subsequent evidence showed that AT&T did [raise prices](https://arstechnica.com/information-technology/2018/07/att-promised-lower-prices-after-time-warner-merger-its-raising-them-instead/) on consumers.

#### Private antitrust suits are insufficient to deter cartels.

SHARON K. ROBERTSON, AMERICAN ANTITRUST INSTITUTE Counsel of Record ,’20, “IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT PUTNAM BANK, ET AL., PLAINTIFFS-APPELLANTS, V. INTERCONTINENTAL EXCHANGE, INC., ET AL., DEFENDANTS-APPELLEES ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, NO. 19-CV-439 HON. GEORGE B. DANIELS https://www.antitrustinstitute.org/wp-content/uploads/2020/08/2020-08-18-AAI-Amicus-Brief-FILED.pdf

This Circuit’s pleading standard for antitrust conspiracy claims is a question of exceptional importance for the U.S. economy, which is besieged by cartels. See, e.g., DOJ, Sherman Act Violations Resulting in Criminal Fines & Penalties of $10 Million or More (last updated July 24, 2020) (showing over $13 billion in fines since 1995), available at https://www.justice.gov/atr/sherman-act-violationsyielding-corporate-fine-10-million-or-more. Despite the policing efforts of the DOJ and numerous private attorneys general, cartel behavior in the United States remains heavily under-deterred Optimal cartel deterrence requires penalties that exceed ill-gotten profits, adjusted for the likelihood of getting caught. See William M. Landes, Optimal Sanctions for Antitrust Violations, 50 U. CHI. L. REV. 652, 656 (1983) (antitrust damages should be equal to violation’s expected net harm to others divided by probability of detection and proof of violation); Frank Easterbrook, Detrebling Antitrust Damages, 28 J.L. & ECON. 445, 454 (1985) (“Multiplication is essential to create optimal incentives for would-be violators when unlawful acts are not certain to be prosecuted successfully.”).

However, the collective efforts of the government and private plaintiffs do not come close to achieving this level of deterrence. Indeed, studies show that the median overcharge imposed by U.S. cartels amounts to 19% of the conspirators’ sales, yet the median combined sanctions amount to 17% of sales, for an expected value of only 4% of sales when adjusted for the low likelihood of detection. See John M. Connor & Robert H. Lande, Cartels as Rational Business Strategy: Crime Pays, 34 CARDOZO L. REV. 427, 478 (2012). In other words, despite the Clayton Act’s treble damages remedy, cartel behavior has proven to be a sound investment for aspiring white collar criminals. It is often profitable even if they are caught.

#### COVID zeroes development.

UGLC ’21 [US Global Leadership Coalition; 8/12/21; “COVID-19 Brief: Impact on the Economies of Low-Income Countries”; <https://www.usglc.org/coronavirus/economies-of-developing-countries/>; AS]

The failure to control the COVID-19 pandemic has had far reaching impacts on the global economy, with global GDP falling by 3.3 percent in 2020. Even with the global economy projected to grow by 6 percent in 2021, recovery will depend on equitable distribution of the vaccine globally. Failure to do so could cost the world economy up to $9 trillion, according to the International Chamber of Commerce, with the costs born equally by wealthy and poor countries, causing more economic devastation than the 2008 financial crisis.

The COVID-19 pandemic erased the equivalent of 255 million jobs in 2020, losses were particularly high in Latin America and the Caribbean, Southern Europe and Southern Asia.

The global economic downturn is having a disproportionate impact on low-income and emerging economies. They will take the hardest hit, according to Kristalina Georgieva, Managing Director of the International Monetary Fund, as they have “less resources to protect themselves against this dual…health and economic crisis.” World Bank President David Malpass also warned that the global recession could set back decades of progress in low-income countries, stating that the COVID-19 pandemic would lead to higher infant mortality rates and stunted growth for children.

The United Nations Development Programme (UNDP) projects that developing economies will lose at least $220 billion in income.

An additional 95 million people are expected to have entered the ranks of the extreme poor in 2020 (80 million more undernourished than before) due to the average annual loss in per capita GDP, says the IMF.

An additional 207 million people could be pushed into extreme poverty by 2030, due to the severe long-term impact of the coronavirus pandemic, bringing the total number to more than a billion, according to a new study from the UNDP.

Failure to Distribute Vaccines Around the World

Vaccine access has emerged as the leading determinate of global economic recovery, particularly for low-income and emerging economies.

Low-income countries would add $38 billion to their GDP forecast for 2021 if they had the same vaccination rate as high income countries.

Rand Corporation estimates changes in real annual GDP for four scenarios:

Graph from Rand Corporation

Differences in ongoing financial support are degrading economic growth and recovery prospects for low-income countries.

Regional Assessments

The World Bank reports that sub-Saharan Africa experienced its first economic recession in 25 years, with the economy declining by 2.0 percent in 2020. Growth in the region is forecast to rise to between 2.3 – 3.4 percent in 2021.

For the first time in 60 years, East Asia’s economic growth stalled – growing by a mere 1.2 percent in 2020 – and the pandemic could drive 19 million people into poverty.

Latin America and the Caribbean experienced the worst economic contraction in the region’s history with the economy declining by 6.7 percent in 2020, with expected growth by 4.4 percent in 2021. Unemployment is expected to reach 13.5 percent, the economic downturn could push 28 million people into extreme poverty.

Foreign direct investment flows – a critical source of financing for emerging and developing economies – fell by 42 percent in 2020, with expectations FDI will remain weak due to pandemic related uncertainty. Low-income countries saw more than $100 billion flowing out from the region in early 2020 – more than three times the amount during the global financial crisis. The dramatic capital outflow led to major emerging market currencies depreciating by 15 percent and forcing people to pay more for imported goods. UNCTAD projects a 5-10% FDI slide in 2021.

Low-income countries debt burden may soar to between $2.6 trillion and $3.4 trillion over the next two years, according to UNCTAD. A significant share of low-income country’s public debt is mainly in U.S. dollars, the depreciation makes it difficult to pay their debts.

### Impact Run – 1NC

#### Middle East war is more unlikely than ever

Mara Karlin 19, International Studies Professor at John Hopkins University, Nonresident Senior Fellow at the Brookings Institution, and U.S. Deputy Assistant Secretary of Defense for Strategy and Force Development 2015-2016, & Tamara Cofman Wittes, a Senior Fellow in Foreign Policy at the Brookings Institution and U.S. Deputy Assistant Secretary of State for Near Eastern Affairs from 2009-2012. [America’s Middle East Purgatory: The Case for Doing Less, Foreign Affairs, January/February 2019, 98(1)]

LESS RELEVANT REGION In response to the Iraq war, the United States has aimed to reduce its role in the Middle East. Three factors have made that course both more alluring and more possible. First, interstate conflicts that directly threatened U.S. interests in the past have largely been replaced by substate security threats. Second, other rising regions, especially Asia, have taken on more importance to U.S. global strategy. And third, the diversification of global energy markets has weakened oil as a driver of U.S. policy. During the Cold War, traditional state-based threats pushed the United States to play a major role in the Middle East. That role involved not only ensuring the stable supply of energy to Western markets but also working to prevent the spread of communist influence and tamping down the Arab-Israeli conflict so as to help stabilize friendly states. These efforts were largely successful. Beginning in the 1970s, the United States nudged Egypt out of the pro-Soviet camp, oversaw the first Arab-Israeli peace treaty, and solidified its hegemony in the region. Despite challenges from Iran after its 1979 revolution and from Saddam Hussein’s Iraq throughout the 1990s, U.S. dominance was never seriously in question. The United States contained the Arab-Israeli conflict, countered Saddam’s bid to gain territory through force in the 1990–91 Gulf War, and built a seemingly permanent military presence in the Gulf that deterred Iran and muffled disputes among the Gulf Arab states. Thanks to all these efforts, the chances of deliberate interstate war in the Middle East are perhaps lower now than at any time in the past 50 years.

#### Democracy solves nothing.

Doorenspleet 19 Renske Doorenspleet, Politics Professor at the University of Warwick. [Rethinking the Value of Democracy: A Comparative Perspective, Palgrave Macmillan, p. 239-243]

The value of democracy has been taken for granted until recently, but this assumption seems to be under threat now more than ever before. As was explained in Chapter 1, democracy’s claim to be valuable does not rest on just one particular merit, and scholars tend to distinguish three different types of values (Sen 1999). This book focused on the instrumental value of democracy (and hence not on the intrinsic and constructive value), and investigated the value of democracy for peace (Chapters 3 and 4), control of corruption (Chapter 5) and economic development (Chapter 6). This study was based on a search of an enormous academic database for certain keywords,6 then pruned the thousands of articles down to a few hundred articles (see Appendix) which statistically analysed the connection between the democracy and the four expected outcomes. The frst fiding is that a reverse wave away from democracy has not happened (see Chapter 2). Not yet, at least. Democracy is not doing worse than before, at least not in comparative perspective. While it is true that there is a dramatic decline in democracy in some countries,7 a general trend downwards cannot yet be detected. It would be better to talk about ‘stagnation’, as not many dictatorships have democratized recently, while democracies have not yet collapsed. Another fnding is that the instrumental value of democracy is very questionable. The feld has been deeply polarized between researchers who endorse a link between democracy and positive outcomes, and those who reject this optimistic idea and instead emphasize the negative effects of democracy. There has been ‘no consensus’ in the quantitative literature on whether democracy has instrumental value which leads some beneficial general outcomes. Some scholars claim there is a consensus, but they only do so by ignoring a huge amount of literature which rejects their own point of view. After undertaking a large-scale analysis of carefully selected articles published on the topic (see Appendix), this book can conclude that the connections between democracy and expected benefts are not as strong as they seem. Hence, we should not overstate the links between the phenomena. The overall evidence is weak. Take the expected impact of democracy on peace for example. As Chapter 3 showed, the study of democracy and interstate war has been a fourishing theme in political science, particularly since the 1970s. However, there are four reasons why democracy does not cause peace between countries, and why the empirical support for the popular idea of democratic peace is quite weak. Most statistical studies have not found a strong correlation between democracy and interstate war at the dyadic level. They show that there are other—more powerful—explanations for war and peace, and even that the impact of democracy is a spurious one (caveat 1). Moreover, the theoretical foundation of the democratic peace hypothesis is weak, and the causal mechanisms are unclear (caveat 2). In addition, democracies are not necessarily more peaceful in general, and the evidence for the democratic peace hypothesis at the monadic level is inconclusive (caveat 3). Finally, the process of democratization is dangerous. Living in a democratizing country means living in a less peaceful country (caveat 4). With regard to peace between countries, we cannot defend the idea that democracy has instrumental value. Can the (instrumental) value of democracy be found in the prevention of civil war? Or is the evidence for the opposite idea more convincing, and does democracy have a ‘dark side’ which makes civil war more likely? The findings are confusing, which is exacerbated by the fact that different aspects of civil war (prevalence, onset, duration and severity) are mixed up in some civil war studies. Moreover, defining civil war is a delicate, politically sensitive issue. Determining whether there is a civil war in a particular country is incredibly diffcult, while measurements suffer from many weaknesses (caveat 1). Moreover, there is no linear link: civil wars are just as unlikely in democracies as in dictatorships (caveat 2). Civil war is most likely in times of political change. Democratization is a very unpredictable, dangerous process, increasing the chance of civil war significantly. Hybrid systems are at risk as well: the chance of civil war is much higher compared to other political systems (caveat 3). More specifcally, both the strength and type of political institutions matter when explaining civil war. However, the type of political system (e.g. democracy or dictatorship) is not the decisive factor at all (caveat 4). Finally, democracy has only limited explanatory power (caveat 5). Economic factors are far more significant than political factors (such as having a democratic system) when explaining the onset, duration and severity of civil war. To prevent civil war, it would make more sense to make poorer countries richer, instead of promoting democracy. Helping countries to democratize would even be a very dangerous idea, as countries with changing levels of democracy are most vulnerable, making civil wars most likely. It is true that there is evidence that the chance of civil war decreases when the extent of democracy increases considerably. The problem however is that most countries do not go through big political changes but through small changes instead; those small steps—away or towards more democracy—are dangerous. Not only is the onset of civil war likely under such circumstances, but civil wars also tend to be longer, and the confict is more cruel leading to more victims, destruction and killings (see Chapter 4). A more encouraging story can be told around the value for democracy to control corruption in a country (see Chapter 5). Fighting corruption has been high on the agenda of international organizations such as the World Bank and the IMF. Moreover, the theme of corruption has been studied thoroughly in many different academic disciplines—mainly in economics, but also in sociology, political science and law. Democracy has often been suggested as one of the remedies when fghting against high levels of continuous corruption. So far, the statistical evidence has strongly supported this idea. As Chapter 5 showed, dozens of studies with broad quantitative, cross-national and comparative research have found statistically signifcant associations between (less) democracy and (more) corruption. However, there are vast problems around conceptualization (caveat 1) and measurement (caveat 2) of ‘corruption’. Another caveat is that democratizing countries are the poorest performers with regard to controlling corruption (caveat 3). Moreover, it is not democracy in general, but particular political institutions which have an impact on the control of corruption; and a free press also helps a lot in order to limit corruptive practices in a country (caveat 4). In addition, democracies seem to be less affected by corruption than dictatorships, but at the same time, there is clear evidence that economic factors have more explanatory power (caveat 5). In conclusion, more democracy means less corruption, but we need to be modest (as other factors matter more) and cautious (as there are many caveats). The perceived impact of democracy on development has been highly contested as well (see Chapter 6). Some scholars argue that democratic systems have a positive impact, while others argue that high levels of democracy actually reduce the levels of economic growth and development. Particularly since the 1990s, statistical studies have focused on this debate, and the empirical evidence is clear: there is no direct impact of democracy on development. Hence, both approaches cannot be supported (see caveat 1). The indirect impact via other factors is also questionable (caveat 2). Moreover, there is too much variation in levels of economic growth and development among the dictatorial systems, and there are huge regional differences (caveat 3). Adopting a one-size-ftsall approach would not be wise at all. In addition, in order to increase development, it would be better to focus on alternative factors such as improving institutional quality and good governance (caveat 4). There is not suffcient evidence to state that democracy has instrumental value, at least not with regard to economic growth. However, future research needs to include broader concepts and measurements of development in their models, as so far studies have mainly focused on explaining cross-national differences in growth of GDP (caveat 5). Overall, the instrumental value of democracy is—at best—tentative, or—if being less mild—simply non-existent. Democracy is not necessarily better than any alternative form of government. With regard to many of the expected benefts—such as less war, less corruption and more economic development—democracy does deliver, but so do nondemocratic systems. High or low levels of democracy do not make a distinctive difference. Mid-range democracy levels do matter though. Hybrid systems can be associated with many negative outcomes, while this is also the case for democratizing countries. Moreover, other explanations—typically certain favourable economic factors in a country—are much more powerful to explain the expected benefts, at least compared to the single fact that a country is a democracy or not. The impact of democracy fades away in the powerful shadows of the economic factors.8

#### No Latin America impact – it’s not strategically important.

MacFarquhar ’19 [Neil, Moscow bureau chief @ The New York Times, was part of the team awarded the 2017 Pulitzer Prize in international reporting for a series on Russia’s covert projection of power; 01-30-19; “For the Kremlin, Venezuela Is Not the Next Syria.”; https://www.nytimes.com/2019/01/30/world/europe/russia-venezuela-putin-maduro.html]

President Vladimir V. Putin of Russia has long made the buttressing of beleaguered despots a pillar of his foreign policy — most successfully by deploying the military in Syria — to drive home the point that outside powers should not dabble in other countries’ internal affairs. On the face of it, the upheaval in Venezuela would seem to check all his boxes. Venezuela, however, is not Syria. It is separated from Russia by thousands of miles of ocean; there is no allied regional power like Iran that Moscow can rely on to do the dirty work on the ground; and with the Russian economy suffering long-term anemia, the Kremlin does not really have the means or the domestic support for another costly overseas adventure. Nevertheless, the question “What should Russia do?” is raised daily by newspaper columnists and television pundits. So far, the answer from the Kremlin seems to be that it will mostly fulminate from the sidelines and, as in every other foreign or domestic crisis, splatter blame on the United States. “We understand that, in simple words, the United States took the bit between its teeth and openly took a course toward toppling the regime” in Venezuela, Sergey V. Lavrov, Russia’s foreign minister, said at a news conference on Tuesday. Members of the opposition, he said, “have been ordered by Washington to make no concessions until the regime surrenders its power one way or the other.” Juan Guaidó, the opposition leader who has declared himself interim president, in a protest against Mr. Maduro in Caracas, Venezuela, on Wednesday. Credit Rodrigo Abd/Associated Press Image Juan Guaidó, the opposition leader who has declared himself interim president, in a protest against Mr. Maduro in Caracas, Venezuela, on Wednesday.CreditRodrigo Abd/Associated Press Repeatedly offering to mediate the dispute, he said it was up to Russia and others to counter these efforts. “We and other responsible members of the international community will do everything we can to support the lawful government,” said Mr. Lavrov, ignoring the fact that Nicolás Maduro, Venezuela’s president, won re-election last year through what is widely regarded as massive vote fraud. Also to be found in Mr. Maduro’s camp are China, Turkey, Iran and Syria. One prominent trait they share is a fear of popular uprisings. “Politically, the Kremlin wants to insist that any political regime, even if it is catastrophically ineffective, can never be deposed by its own citizens,” said Aleksandr Morozov, a political analyst and frequent Kremlin critic. Aleksandr M. Goltz, a military analyst, echoed those sentiments while noting that the relationship with Venezuela mirrored the foreign policy of the old Soviet Union, in which the Kremlin lavished arms and money on any country that barked at Washington. “For Putin, the fight against color revolutions is a principle matter,” said Aleksandr M. Goltz, a military analyst. “It is not important where they happen, in Syria or Venezuela. Any attempt by local people to get rid of an authoritarian leader is seen by the Russian leadership as a conspiracy, masterminded by foreign intelligence.” The crisis has echoes of Cold War confrontations of old. Moscow relishes its alliance with Caracas, as Mr. Goltz put it, as “a hedgehog in America’s pants.” In December, Moscow sent two long-range bombers capable of carrying nuclear weapons to Venezuela in a show of solidarity. A handout photo released by the Venezuelan government showing Mr. Maduro speaking to members of the Bolivarian National Armed Forces on Wednesday. Credit Marcelo Garcia/Agence France-Presse — Getty Images Image A handout photo released by the Venezuelan government showing Mr. Maduro speaking to members of the Bolivarian National Armed Forces on Wednesday.CreditMarcelo Garcia/Agence France-Presse — Getty Images Vladimir Zhirinovsky, a hard-line populist and nationalist, suggested that Russia should send a whole fleet of them now to prevent outside intervention. That, in essence, would be a replay of the 1962 Cuban missile crisis, when the United States and the Soviet Union appeared on the brink of nuclear war over the installation of Soviet missiles in Cuba. In recent years, Russia’s state-owned oil giant, Rosneft, has taken a significant stake in Venezuela’s oil industry, and the Kremlin has supplied a considerable amount of arms on credit. With Venezuela generating more than $10 billion in debt over the past few years, Moscow would dearly like to be repaid. Dmitri S. Peskov, the presidential spokesman, denied that Russia was intervening in clandestine ways, such as supplying mercenaries to protect Mr. Maduro and perhaps important government assets. Of course, officials had denied that private Russian military contractors were working for the government of Sudan before reversing field, with the Foreign Ministry confirming those reports last week. Other analysts have suggested that there is no need for contract soldiers, because the Venezuelan military still supports Mr. Maduro. Russian officials have said repeatedly that there have been no official requests for assistance from Caracas. But no one expects a replay of Syria. Besides the geographical distance and the expense, there are several key reasons that Russia is unlikely to intervene. In Syria, Russia could fight from a distance, deploying its air force or firing cruise missiles from the Caspian Sea. Iran supplied the ground troops needed to defeat the anti-government militias. Sergey V. Lavrov, Russia’s foreign minister, said at a news conference on Tuesday that “the United States took the bit between its teeth and openly took a course toward toppling the regime.” Credit Andrew Harnik/Associated Press Image Sergey V. Lavrov, Russia’s foreign minister, said at a news conference on Tuesday that “the United States took the bit between its teeth and openly took a course toward toppling the regime.”CreditAndrew Harnik/Associated Press Venezuela has not reached the point of war, and strategic bombers will not help deal with demonstrators, Russian commentators have noted, stressing that the Kremlin will not deploy soldiers to fight street battles against opposition protesters in Caracas or other cities. In the Middle East, Russia has other friends besides Syria. In Latin America, apart from Cuba and Nicaragua, not a single government backs Mr. Maduro. Thus any Russian intervention risks alienating every government on the continent, not to mention provoking more American sanctions. Even among Russian hard-liners, there is a grudging admiration for the fact that the United States is likely to whack anyone who intervenes too openly in its back yard, with the Monroe Doctrine cited frequently. Russia’s main interest is mostly in seeing the confrontation drag on without resolution, suggested Vladimir Frolov, a foreign-policy analyst, in a commentary on Republic.ru. “It would demonstrate the failure of the American strategy of unlawful regime change and the success of the Russian line of supporting legitimate power,” he wrote. Should Mr. Maduro go down, however, other commentators suggested that despite the temptation to turn the crisis into yet another confrontation with the United States, it would probably be best just to cut him loose. “If Venezuela’s current political leader is destined to sink politically, let him sink by himself, without dragging us along,” wrote one commentator in the daily Moskovsky Komsomolets. As with Bashar al-Assad in Syria, however, the idea has been raised that perhaps Russia could defuse the crisis by offering Mr. Maduro asylum, even if that possibility seems remote. “For Maduro, who is used to palm trees,” as well as the sea and a year-round average temperature of 77 degrees, another commentator wrote in the same paper, “the cold Moscow winter is not the ideal option, but it is much better than a warm prison

#### Organized crime threat is inflated.

Mueller ’20 [John; Professor of Political Science and Senior Research Scientist with the Mershon Center for International Security Studies @ Ohio State University, Senior Fellow @ Cato Institute, PhD @ University of California, Los Angeles; “Assessing International Threats During and After the Cold War”; Cato Institute, 5/6/2020, https://www.cato.org/publications/study/assessing-international-threats-during-after-cold-war]

In the decade after the Cold War, a similar process of threat identification took place as problems previously considered to be of minor, or at least of secondary, concern were promoted. Anxieties about international terrorism substantially increased during the 1990s and were set into highest relief with the terrorist attacks of September 11, 2001. Extrapolating wildly from 9/11, a terrorist event ten times more destructive than any other in history, terrorism of that sort has repeatedly been taken to present a direct, even existential, threat to the United States or to the West — or even to the world system or to civilization as we know it.6 Wild extrapolations have precipitated costly antiterrorism and antiproliferation wars and huge increases in security spending. In these ventures, trillions of dollars have been squandered and well over two hundred thousand people have perished, including more than twice as many Americans as were killed on 9/11.7 There has been a tendency to see these exercises as misguided elements of a coherent plan to establish a “liberal world order” or to apply “liberal hegemony.“8 However, the overwhelming impetus was far more banal: to get the bastards responsible for 9/11.

Islamist terrorism in the United States has killed some six people per year since 9/11, and far more people in Europe perished yearly at the hands of terrorists in most years in the 1970s and 1980s.9 But there has nonetheless been a tendency to continue to inflate al-Qaeda’s importance and effectiveness.

In fact, al‐​Qaeda Central has done remarkably little since it got horribly lucky in 2001. It has served as something of an inspiration to some Muslim extremists, has done some training, seems to have contributed a bit to the Taliban’s far larger insurgency in Afghanistan, and may have participated in a few terrorist acts in Pakistan. It has also issued a considerable number of videos filled with empty, self‐​infatuated, and essentially delusional threats.10 Even isolated and under siege, it is difficult to see why al‐​Qaeda could not have perpetrated attacks at least as costly and shocking as the shooting rampages (organized by others) that took place in Mumbai in 2008, in Paris in 2015, or in Orlando and Berlin in 2016. And, although billions of foreigners have entered legally into the United States since 2001, not one of these, it appears, has been an agent smuggled in by al‐​Qaeda. The exaggeration of terrorist capacities has been greatest in the many overstated assessments of their ability to develop nuclear weapons. In this, it has been envisioned that, because al‐​Qaeda operatives used box cutters so effectively on 9/11, they would, although under siege, soon apply equal talents in science and engineering to fabricate nuclear weapons and then detonate them on American cities.11

It is possible to argue, of course, that the damage committed by jihadists in the United States since 9/11 is so low because “American defensive measures are working,” as Peter Bergen puts it.12 However, although security measures should be given some credit, it is not at all clear that they have reduced the amount of terrorism significantly. There have been scores of terrorist plots rolled up in the US by authorities but, looked at carefully, the culprits left on their own do not seem to have had the capacity to increase the death toll very much.13 As Brian Jenkins puts it, “Their numbers remain small, their determination limp, and their competence poor.“14 Nor can security measures have deterred terrorism. Some targets, such as airliners, may have been taken off the list, but potential terrorist targets remain legion.15 To a considerable degree, terrorism is rare because as Bruce Schneier puts it bluntly, “there isn’t much of a threat of terrorism to defend against.“16

## Resource Cartels Advantage

### Turn – Ag – 1NC

#### Food security is strong BUT requires maintaining large producers

Ted Nordhaus 21, Founder and Executive Director of the Breakthrough Institute and Co-Author of An Ecomodernist Manifesto, and Dan Blaustein-Rejto, Director of Food and Agriculture at the Breakthrough Institute, Conducted Research with the Environmental Defense Fund, International Center for Tropical Agriculture, and Farmers Market Coalition, “Big Agriculture Is Best”, Foreign Policy, 4/18/2021, https://foreignpolicy.com/2021/04/18/big-agriculture-is-best/

In some ways, it is not surprising that many of the best fed, most food-secure people in the history of the human species are convinced that the food system is broken. Most have never set foot on a farm or, at least, not on the sort of farm that provides the vast majority of food that people in wealthy nations like the United States consume.

In the popular bourgeois imagination, the idealized farm looks something like the ones that sell produce at local farmers markets. But while small farms like these account for close to half of all U.S. farms, they produce less than 10 percent of total output. The largest farms, by contrast, account for about 50 percent of output, relying on simplified production systems and economies of scale to feed a nation of 330 million people, vanishingly few of whom live anywhere near a farm or want to work in agriculture. It is this central role of large, corporate, and industrial-style farms that critics point to as evidence that the food system needs to be transformed.

But U.S. dependence on large farms is not a conspiracy by big corporations. Without question, the U.S. food system has many problems. But persistent misperceptions about it, most especially among affluent consumers, are a function of its spectacular success, not its failure. Any effort to address social and environmental problems associated with food production in the United States will need to first accommodate itself to the reality that, in a modern and affluent economy, the food system could not be anything other than large-scale, intensive, technological, and industrialized.

Not so long ago, farming was the principal occupation of most Americans. More than 70 percent labored in agriculture in 1800. As late as 1900, some 40 percent of the U.S. labor force still worked on farms. Today, that figure is less than 2 percent.

The consolidation of U.S. agriculture has been underway for more than 150 years. First came irrigation and ploughs, then better seeds and fertilizers, and then tractors and pesticides. With each innovation, farmers were able to produce larger harvests with fewer people and work larger plots of land. Better opportunities drew people to cities, where they could get jobs that provided higher wages and, thereby, produced greater economic surplus—that is, profits and ultimately societal wealth. The large-scale migration of labor from farms to cities pushed farmers to invest even more in labor-saving and productivity-enhancing practices and technologies in a virtuous cycle of urbanization, agricultural intensification, and economic growth that is the hallmark of all affluent societies.

It is not a stretch to say that the United States is wealthy today because most of its people work in manufacturing, services, technology, and other sectors of the economy. In this, the country is not alone. No nation has ever succeeded in moving most of its population out of poverty without most of that population leaving agriculture work.

That transition often isn’t easy. Millions of Black Americans made the difficult journey from tenant farming in the South to factory work in the North, where they faced new forms of racism even as they escaped the tyranny of sharecropping. More recently, small farmers have struggled to survive as increasingly high agricultural productivity and falling commodity prices tilted the playing field toward large farms. Rural communities have likewise suffered as dramatic improvements in labor productivity have shrunk employment in agriculture.

But over the long term, the living standards and life opportunities offered in the modern knowledge, service, and manufacturing economies have proved vastly greater than anything possible under the agrarian social and economic arrangements that most Americans over the last two centuries happily abandoned—and that too many Americans today romanticize.

Modern life required not only liberating most Americans from agrarian labor but also the development of a food system capable of getting food from farms to the cities where increasing numbers of Americans lived and worked. A food system that lost much of its harvest to pests and spoilage needed to dramatically cut losses even as its bounty needed to travel farther and farther. For this reason, the rise of modern agriculture is as much a story of railways and highways as combines and tractors, refrigeration and grain elevators as pesticides and fertilizer.

The development and growth of feedlots followed a similar path. As the historian Maureen Ogle recounts in her magnificent history of the beef industry, In Meat We Trust, the first feedlots grew out of the stockyards of Chicago and Kansas City in the late 19th century. The most efficient way to get beef to burgeoning markets in America’s cities was to drive cattle to these new rail centers, where they were finished, slaughtered, and then shipped throughout the country by rail. After World War II, beef production and feedlots expanded massively, driven not so much by corporate greed as by rising demand for beef from the United States’ newly prosperous middle class and by a scarcity of labor as ranch hands returning from the battlefields of Europe and the Pacific chose to pursue better economic opportunities in the postwar economy.

Debates about the social and environmental impacts of America’s food system cannot be disentangled from the basic reality that in a modern industrialized society, most people will live in cities and suburbs and will not work in agriculture. As a result, most food will need to be produced by large farms, with little labor, far away from the people who will consume it.

Many sustainable agriculture advocates tout the recent growth of organic agriculture as proof that an alternative food system is possible. But growing market share vastly overstates how much food is actually produced organically. In reality, organic production accounts for little more than 1 percent of total U.S. agricultural land use. Meanwhile, only a bit more than 5 percent of food sales come from organic producers, mostly because organic sales are overwhelmingly concentrated in high-value sectors of the market, namely produce and dairy, and fetch a premium from well-heeled consumers.

#### The plan’s uncertainty and disruption to capacity for tech innovation decimates growth of the ag sector

Dr. Don Racheter 17, President of the Public Interest Institute, Master's Degree and Ph.D. in Political Science from the University of Iowa, Taught at the University of Iowa and Central College, “Upcoming Mergers Benefit America's Farmers”, Des Moines Register, 8/6/2017, https://www.desmoinesregister.com/story/opinion/columnists/iowa-view/2017/08/06/upcoming-mergers-benefit-americas-farmers/537250001/

America’s farmers are being challenged to prepare for a global, growing population and a robust international trade market.

Not only has every farmer had to increase the number of people that he or she is responsible for feeding by almost 130 people since 1960, but international markets also are eager for Iowa’s soybeans and other agricultural products.

These market-based problems need specific market-centric solutions. By leaning on the power of an innovative and dynamic private sector, we can ensure our farmers have the tools to compete in any economic climate.

Industry leaders such as Bayer, Monsanto, Dow and DuPont are meeting these challenges head-on with a commitment to developing the latest technologies that make America’s farms both more efficient and effective. These efforts have filled the gap in public investment to groundbreaking agricultural research and development. According to the USDA Economic Research Service, government investment in agricultural R&D dropped to just 30 percent of total agricultural R&D funding since 2013.

Today, the private sector is responsible for many of the innovations that are currently shaping the future of farming in America, and more resources in the private sector means farmers can expect these advances in technology faster. The latest breakthroughs in precision farming techniques are helping farmers target their crop treatments, saving small farms money while also limiting their environmental footprint. For example, John Deere tractors use GPS sensors so that farmers don’t cover the same area twice, which can reduce their fuel input by up to 40 percent.

More permanent partnerships, such as the potential merger between Bayer and Monsanto, will ensure that leading ag companies are able to invest additional resources to bring advanced solutions to farmers. Farmers will be able to spend less time and resources on daily challenges, enabling them to meet the international demand for Iowa’s ag products.

As opponents to mergers pop up as frequently as weeds after a strong rain, we should examine what might possibly be driving their motivation. Rather than truly believing that these mergers harm consumers, many are driven by political motivations. Case in point is the July 21 commentary by Austin Frerick ["To save rural Iowa, oppose Monsanto-Bayer mega-merger"], a little-known former U.S. Treasury economist under the Obama Administration. One can’t help but question Mr. Frerick’s perspective given his support for greater government interference in the marketplace while government investment in R&D has continued to decline.

Cloaking a progressive agenda behind a call for consumers to reject private sector investment by two leading ag companies with a stake in America’s farming future is both disingenuous and harmful. Anyone who has spent any real time in a farmer’s field knows that what agriculture really needs is to attract, not reject, more investment in innovative agricultural technologies.

What critics fail to highlight is that the Bayer-Monsanto merger is the perfect example of bringing together two companies that operate in largely complementary fields to develop new tools and products with more capital. In fact, Bayer focuses mostly on crop protection, while Monsanto is known for seeds and traits capabilities. Alone, it can take each company more than a decade to create a new product for farmers, but together, the time could shorten significantly.

In an ever-changing free market, it is natural for businesses to seek to maintain a competitive advantage over their rivals by expanding their offerings to the consumers they serve. Bayer-Monsanto’s focus on finding the next generation of farming technology will spur their competitors to do the same to keep up.

Farmers are constantly battling uncertainty in their line of business and don’t have time for political posturing. The benefits from greater private sector investment in innovation from these upcoming mergers are clear and demonstrable and are necessary for the future of American farming.

### Impacts – 1NC

#### Warming won’t cause global conflict

Dr. Ian Cook 20, Senior Lecturer in Global Politics and Policy at Murdoch University, PhD in Political Theory from the University of Queensland, The Politics of the Final Hundred Years of Humanity (2030-2130), Springer Singapore, Kindle Edition

Yet another problem with the assumption that catastrophic human-caused environment change simply causes civil war, as Salehyan and Hendrix noted, is that violence at the scale of a civil war requires significant resources. In their view, civil wars are more likely to occur in times of relative abundance. While “riots and protests, may emerge from conditions of scarcity,” they argue, “sustaining a militant organization requires considerable planning and resources” (Salehyan and Hendrix 2014, p. 240). Reasons to fight might exist. For this to turn into civil war, however, people “also need the capability to do so, and environmental scarcity may limit such capability, thus undermining the resource base necessary for mobilizing armed violence” (Salehyan and Hendrix 2014, p. 240).

A related debate concerns what Adams and colleagues have claimed to be a sampling bias in studies of the connection between environment change and armed conflict (Adams et al. 2018). Levy accepts the existence of some sampling bias but rejects the view that this bias results in an overstatement of the connection between environment change and conflict. “Knowing that case selection is biased is useful, but not a reason to lower our estimate of the climate’s impact on conflict” (Levy 2018, p. 441).

In responding to Levy’s criticism, authors claiming bias wrote that they did not “deny a link between climate change and conflict in principal. Indeed, some of our own recent work indicates that such a link exists, but it is highly conditional.” Their problem with the research being done in this field was that “sampling biases… increase the risk that such links are overstated, that crucial world regions do not receive sufficient attention and that little knowledge is produced on peaceful adaptation” (Ide et al. 2018, p. 442– 3).

After reviewing the literature on the relationship between climate change and violent conflict, Sakaguchi, Varughese and Auld concluded that the “current literature offers mixed evidence. This makes it difficult to render a definitive statement about the climate-conflict relationship” (2017, p. 640). While they pointed out that just over 60% of the studies they reviewed found “that climate change variables are positively correlated with higher levels of violent conflict,” Sakaguchi, Varughese and Auld also argued that “many subtleties and countertrends underlie this overall pattern” (2017, p. 640). Thus, even though “a majority of reviewed studies envision climate variables influencing conflict through a causal pathway, … these pathways are often theoretically underspecified and have only weak empirical support” (Sakaguchi et al. 2017, p. 641).

As Koubi put it, the research that has been done on this question “provides some evidence that climatic changes could act as a ‘threat multiplier’ in several of the world’s regions. In particular, the extant literature shows that climatic conditions can lead to conflict in agricultural-dependent regions and in combination and interaction with other socioeconomic and political factors” (Koubi 2018, p. 200). After having claimed that, to their knowledge, “no one in the field of climate research has suggested that climate change could be the ‘sole cause’ of war, violence, unrest or migration”, Butler and Kefford recommended “viewing climate change instead as a risk multiplier, influencer or co-factor … In this way of thinking, environmental and ecological factors interact with social determinants, including those that are economic, demographic and political, to produce phenomena such as migration, conflict and famine” (2018, p. 587).

There can be no doubt that conflict will increase during the final hundred years of humanity. But it will result from a complex interaction of socio-political factors and a catastrophically changed environment. It may not go beyond conflict between different groups or between the government and opposition groups and become civil war. This depends on the capacity of those opposition groups. In many cases, they will lack the resources to conduct a civil war. The Syrian war is itself a good illustration of the problem, as the groups opposed to the Syrian government have only been able to conduct the extended civil war in which they have been engaged with the support of outside groups. (Mazzetti and Apuzzo 2016).

The question of whether civil war will break out is something that can only be answered “region by region” and the answer must be based on “knowledge of pre-conflict geographies, such as drivers of resilience and vulnerability” (Farbotko 2018). Sometimes governments may abandon territory and opposition groups can seize control of that land. But it is likely to be land that is suffering worst from the effects of catastrophic human-caused environment change and will not be habitable. To replace an existing government or take control of a region within a country through civil war is no simple thing. It may happen. But it will not happen on the scale that some people have predicted. And it will not happen just because of the weather.

#### No food wars.

Vestby ’18 [Vestby, Ida Rudolfsen, and Halvard Buhaug; 5-18-18; Doctoral Researcher at the Peace Research Institute Oslo; doctoral researcher at the Department of Peace and Conflict Research at Uppsala University and PRIO; Research Professor at the Peace Research Institute Oslo (PRIO); Professor of Political Science at the Norwegian University of Science and Technology (NTNU); and Associate Editor of the Journal of Peace Research and Political Geography; “Does hunger cause conflict?” Prio, https://blogs.prio.org/ClimateAndConflict/2018/05/does-hunger-cause-conflict/]

It is perhaps surprising, then, that there is little scholarly merit in the notion that a short-term reduction in access to food increases the probability that conflict will break out. This is because to start or participate in violent conflict requires people to have both the means and the will. Most people on the brink of starvation are not in the position to resort to violence, whether against the government or other social groups. In fact, the urban middle classes tend to be the most likely to protest against rises in food prices, since they often have the best opportunities, the most energy, and the best skills to coordinate and participate in protests.

Accordingly, there is a widespread misapprehension that social unrest in periods of high food prices relates primarily to food shortages. In reality, the sources of discontent are considerably more complex – linked to political structures, land ownership, corruption, the desire for democratic reforms and general economic problems – where the price of food is seen in the context of general increases in the cost of living. Research has shown that while the international media have a tendency to seek simple resource-related explanations – such as drought or famine – for conflicts in the Global South, debates in the local media are permeated by more complex political relationships.

# 2NC

### 2NC – AT: Perm Do both

#### Simultaneous action divests the ICC of authority – the rule of complementarity permits ICC enforcement only when the party is not prosecuting the crime on their own.

Christopher Pioch, Co-Chair, Task Force for the Independence of Lawyers & Judges, ’20, “Reaffirming Support for the International Criminal Court In Light of Recent Criticism of Current Investigations” https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/rebutting-recent-icc-criticism

Both letters allege that domestic prosecution mechanisms preclude ICC prosecutions. The Senate letter states, “ICC rules prohibit it from prosecuting cases against a country that has a robust judicial system willing and able to prosecute war crimes of its personnel. Therefore, the ICC’s mandate should not supersede Israel’s robust judicial system, including its military justice system.”[5] The House letter contains similar language claiming that Israel and the US “are both able and willing to carry out investigations and prosecute offenders.”[6]

These assertions misstate the Rome Statute’s complementarity regime. The ICC need not cede jurisdiction simply because a country “has a robust judicial system,” or merely asserts that it is “able and willing” to investigate or prosecute. The statute requires the Court to step aside only if states actually investigate and/or prosecute. If Israel were to investigate and/or prosecute the crimes under examination, that would divest the ICC of jurisdiction; the same would be true for the United States. As of yet, however, neither country appears to be doing so.

#### The counterplan can only solve in the circumstance that the US is unwilling to implement the plan – violating complementarity causes backlash.

Anna Rosario Malindog-Uy, Professor of Political Science, International Relations, Development Studies, European Studies, SEA and China Studies, ‘20, “Philippines: Weaponising The ICC Against Duterte?” https://theaseanpost.com/article/philippines-weaponising-icc-against-duterte

Likewise, Presidential Spokesperson Harry Roque cited the principle of complementarity in which the ICC can only investigate crimes against humanity if local courts are unable or unwilling to do so. Roque said he was confident that the ICC will apply the April 2019 decision of its pre-trial chamber that prevented the prosecutor from investigating allegations of war crimes in Afghanistan, which cited, among others, the lack of cooperation from parties and the need for the Court to use its resources to prioritise activities that would have a better chance of succeeding. Chief Presidential Legal Counsel Salvador Panelo complemented Roque’s statement on the complementarity principle of the ICC by saying that, the country's administrative authorities are able and willing to prosecute, as they have prosecuted any alleged crime against humanity in their jurisdiction. This means that the judicial system is “robust enough” to conduct criminal proceedings brought before the courts of justice. Roque further said, “We have no obligation to cooperate because we’re no longer a member of the ICC. Should the ICC prosecutor pursue a preliminary investigation, it would be considered interfering with Philippine sovereignty. He also reiterated that the drug war should not be considered as “crimes against humanity” because it is considered a “legitimate police action” and state forces have no intention to kill civilians. To note, the Philippines has no state-sanctioned killings, and that the country's independent courts could prosecute alleged violations by police and law enforcement agencies at any given time. Hindsight And Perspective At the preliminary examination stage, for ICC Prosecutor Fatou Bensouda to declare that there is “reasonable basis to believe” that “crimes against humanity” have been committed by President Duterte in the Philippine government’s fight against illegal drugs, despite the absence of a formal criminal investigation on the part of the ICC, is somewhat dubious and uncalled for. At the very least, it would have been more fitting if she had exercised prudence and was a bit circumspect in her statements. She should have at least explained, clarified, and specified what this “reasonable basis” consists of, how it was substantiated, and what is the standard of proof she applied in coming up with such a conclusion, despite the absence of a proper criminal investigation on the part of the ICC. Likewise, it would have been better if Bensouda had thoroughly examined and also determined if the “communications” filed at her office were politically motivated or not considering what Attorney Jude Sabio had expressed upon the withdrawal of the “communication” he filed to ensure that her investigation was free of bias. Sabio said in the letter sent to the ICC that the case had been used by opposition politicians as a “tool for propaganda” and should therefore be “thrashed and set aside”. Furthermore, the one-sided statement from Bensouda is quite demoralising to the men and women in uniform who are working hard to make the Philippines a drug free country. Such a statement also sends a wrong signal to drug syndicates, drug lords, and drug peddlers, who are a threat to the Filipino people, especially the youth. Conclusion Nevertheless, in the final analysis, what matters most, is what the people of the Philippines think. In the eyes of the majority of Filipinos, the case filed against President Duterte before the ICC by the political opposition is a vicious effort to undermine a democratically elected president. For many Filipinos, it is more than obvious that the intent in filing cases at the ICC by the political opposition is just to embarrass and shame President Duterte and to undermine the government of the Philippines.

### 2NC – AT: Do CP

#### The counterplan is textually and functionally distinct. It has the US prosecute the monopolistic practices identified in the 1AC in the ICC as a crime against humanity.

#### “Business practices” are defined by effects on competition – the counterplan does not require cost-benefit assessment of pro/anticompetitive effects.

Associate Justice Ming W. Chin, '99, Cel-Tech Communications v. La Cellular, 973 P. 2d 527 - Cal: Supreme Court 1999

Until today, no case has held or even suggested that the unfair competition law's prohibition of "any unfair ... business act or practice" was a prohibition of penumbral antitrust threats, or that it was not a prohibition of deceptive conduct that harms competitors. Without citing any evidence of legislative intent, the majority insists nonetheless that its definition of unfair business practices is correct because in its view section 3369 as amended by our Legislature in 1933 was intended to "parallel" section 5 of the Federal Trade Commission Act (15 U.S.C. § 45; hereafter the FTC Act), the federal statute that created the Federal Trade Commission (hereafter FTC). (Maj. opn., ante, at 83 Cal.Rptr.2d p. 565, 973 P.2d at p. 544.) Section 5 of the FTC Act as enacted in 1914 originally prohibited "unfair methods of competition" (38 Stat. 719). In 1938, Congress amended section 5 to include "unfair or deceptive acts or practices" in order to expand the FTC's jurisdiction to encompass deceptive and unfair conduct that injured consumers without harming competitors. (52 Statutes at Large 111, the Wheeler-Lea Act of 1938; see also FTC v. Sperry & Hutchinson Co. (1972) 405 U.S. 233, 244, 92 S.Ct. 898, 31 L.Ed.2d 170.) The FTC's jurisdiction under section 5 extends both to antitrust threats to competition and to deceptive business practices that injure competitors or consumers. (FTC v. Sperry & Hutchinson Co., supra, 405 U.S. 233, 239-246 & fn. 5, 92 S.Ct. 898, 31 L.Ed.2d 170.) There is not a shred of evidence, however, that California's section 3369 is patterned 572 \*572 after section 5 of the FTC Act, and in Landowitz, supra, 20 Cal.2d 418, 126 P.2d 609, we reached the quite different conclusion that section 3369's prohibition of any "unfair... business practice" was intended to incorporate common law unfair competition.[2]

The majority's reliance on this court's statement in Barquis v. Merchants Collection Assn., supra, 7 Cal.3d 94, 110, 101 Cal. Rptr. 745, 496 P.2d 817, characterizing the unfair competition law's prohibition of any "unlawful [or] unfair ... business practice" and section 5 of the FTC Act as "parallel broad proscription[s]" is misplaced. The parallelism to which Barquis referred was the fact that section 5 of the FTC Act and our unfair competition law both protect consumers as well as competitors, not that both prohibited penumbral antitrust threats. (See 7 Cal.3d at pp. 109-110, 101 Cal.Rptr. 745, 496 P.2d 817.)

Nothing in Barquis v. Merchants Collection Assn., supra, 7 Cal.3d 94, 101 Cal.Rptr. 745, 496 P.2d 817 even hinted that unfair business practices, however broad a concept, were to be equated with penumbral antitrust threats. To the extent Barquis might be read to suggest that the term "unfair ... business practice" has an amorphous meaning extending in some undefined fashion beyond deceptive conduct, that suggestion is entirely dictum, for the issue decided in that case was whether the business practice in question was unlawful, not whether it was unfair. The suggestion is also unsound. Not only is it contrary to the historical development of the unfair competition law explained above, but it is based on Barquis's misquotation of the unfair competition law. In substituting the word "deceptive" for the 573 \*573 word "fraudulent," Barquis suggested that unfair practices were a category distinct from deceptive practices. (Compare § 3369 [prohibiting any "unlawful, unfair or fraudulent business practice"] with Barquis, supra, at p. 111, 101 Cal.Rptr. 745, 496 P.2d 817 [quoting section 3369 as prohibiting any "`unlawful, unfair or deceptive business practice'" (italics omitted) ].)[3]

Moreover, the majority misunderstands the term "unfair methods of competition" in section 5 of the FTC Act to mean only penumbral antitrust threats. (See maj. opn., ante, 83 Cal.Rptr.2d at p. 565, fn. 11, 973 P.2d at p. 544, fn. 11; id. at p. 566, 973 P.2d at p. 544.) As interpreted by the FTC and the federal courts, that phrase covers not only the penumbral antitrust threats the majority focuses on but also actual violations of the antitrust law and in addition acts of unfair competition having nothing to do with antitrust law, including passing off and other forms of common law unfair competition and consumer deception. (See, e.g., FTC v. Sperry & Hutchinson Co., supra, 405 U.S. 233, 243, 244, 92 S.Ct. 898, 31 L.Ed.2d 170 ["unfair competitive practices were not limited to those likely to have anticompetitive consequences after the manner of the antitrust laws"]; Sears, Roebuck & Co. v. Federal Trade Commission (7th Cir.1919) 258 F. 307, 311 [the first FTC enforcement action to be judicially reviewed, a case of deceptive advertising; "The commissioners, representing the government as parens patriae, are to exercise their common sense, as informed by their knowledge of the general idea of unfair trade at common law, and stop all those trade practices that have a capacity or a tendency to injure competitors directly or through deception of purchasers...."]; FTC, Ann. Rep. (1935) 67-71 [Listing 27 "unfair methods of competition" prohibited by the FTC: "9. Passing off goods or articles for well and favorably known products of competitors through appropriation or simulation of such competitors' trade names, labels, dress of goods, etc ...."], quoted in Handler, Unfair Competition (1936) 21 Iowa L.Rev. 175, 244-248; Bailey & Pertschuk, The Law of Deception: The Past as Prologue, supra, 33 Am. U. L.Rev. 849.)

Nor is there any other sound reason for presuming that our Legislature intended section 3369 to incorporate the antitrust portion of section 5 of the FTC Act.' In amending section 3369 in 1933 to authorize injunctive relief against "[a]ny person performing or proposing to perform an act of unfair competition," the Legislature was acting in a field already well established by the common law. There is no reason to suppose that, without any express statement, the Legislature implicitly intended to reject the common law definition of unfair competition and adopt instead antitrust law as the definition of unfair competition. The majority offers no 574 \*574 explanation why, if the Legislature in 1933 had wished to expand the scope of the antitrust laws to reach penumbral antitrust threats, it would have chosen the roundabout method of using a term—"unfair competition"—with an established meaning independent of antitrust law and amending a Civil Code provision relating to the general availability of injunctive relief, rather than directly amending California's antitrust law, the Cartwright Act, in terms that clearly evidenced its intent to broaden the scope of antitrust law. This is especially so if by its reference to "the antitrust laws" the majority includes federal antitrust law. It would be most implausible for the Legislature, if it intended to incorporate the entire body of federal antitrust law, the law of another sovereign, to seek to do so implicitly simply by using the term "unfair ... business practice" without any reference to federal law. Given the absence of any evidence that the Legislature intended to vary or reject that common law understanding of unfair business practices as practices that harm competitors by deceiving customers, the only reasonable conclusion is that the Legislature intended to adopt that understanding. This is the conclusion our court reached in Landowitz, supra, 20 Cal.2d 418,126 P.2d 609.

#### “Resolved” before the colon requires legislation.

AOS 4 (5-12, “# 12, Punctuation – The Colon and Semicolon”, http://usawocc.army.mil/IMI/wg12.htm)

The colon introduces the following: a.  A list, but only after "as follows," "the following," or a noun for which the list is an appositive: Each scout will carry the following: (colon) meals for three days, a survival knife, and his sleeping bag. The company had four new officers: (colon) Bill Smith, Frank Tucker, Peter Fillmore, and Oliver Lewis. b. A long quotation (one or more paragraphs): In The Killer Angels Michael Shaara wrote: (colon) You may find it a different story from the one you learned in school. There have been many versions of that battle [Gettysburg] and that war [the Civil War]. (The quote continues for two more paragraphs.) c. A formal quotation or question: The President declared: (colon) "The only thing we have to fear is fear itself." The question is: (colon) what can we do about it? d. A second independent clause which explains the first: Potter's motive is clear: (colon) he wants the assignment. e. After the introduction of a business letter: Dear Sirs: (colon) Dear Madam: (colon) f. The details following an announcement For sale: (colon) large lakeside cabin with dock g. A formal resolution, after the word "resolved:" Resolved: (colon) That this council petition the mayor

#### ‘Antitrust law’ must be a statute passed by congress.

USC ’21 [United States Code Annotated; current as of July 2021; Westlaw, “§ 1311 Definitions,” 15 U.S.C.A. § 1311]

(a) The term “antitrust law” includes:

(1) Each provision of law defined as one of the antitrust laws by section 12 of this title; and

(2) Any statute enacted on and after September 19, 1962, by the Congress which prohibits, or makes available to the United States in any court of the United States any civil remedy with respect to any restraint upon or monopolization of interstate or foreign trade or commerce;

#### 6. Treaties are not “statutes” or legislation.

JEREMY GASTON,

Counsel of Record, ’16, WATER SPLASH, INC., Petitioner, v. TARA MENON, PETITION FOR A WRIT OF CERTIORARI https://www.scotusblog.com/wp-content/uploads/2016/09/16-254-cert-petition.pdf

Justice Tracy Christopher dissented. The crux of her reasoning was that treaties are not statutes: they are contracts between sovereigns whose interpretation is governed by different legal principles. In turn, state courts must follow these principles because they are based on controlling precedent from the Supreme Court: “[T]he majority fails to follow the United States Supreme Court’s directions on the construction of treaties and the Texas Supreme Court’s instructions on the correct approach to decisions of the federal courts. Because Texas intermediate appellate courts are bound by these authorities, I instead would follow their precepts, which lead to the conclusion that service by mail to a litigant in Canada is permitted under Article 10(a) of the Service Convention.”

#### “Core laws” are Sherman clayton and FTC.

Sonia Kuester Pfaffenroth et al, Justin Hedge and Monique N. Boyce Arnold & Porter, ‘21 “ A Comparison Of Proposed Antitrust Legislation In 2021: Federal And New York State”

At the federal level, there are three core antitrust laws: (1) the Sherman Act, in which Section 1 outlaws "every contract, combination, or conspiracy in [unreasonable] restraint of trade," and Section 2 outlaws any "monopolization, attempted monopolization, or conspiracy or combination to monopolize";1 (2) the Federal Trade Commission Act, which prohibits "unfair methods of competition" and "unfair or deceptive acts or practices";2 and (3) Section 7 of the Clayton Act, which prohibits mergers and acquisitions where the effect "may be substantially to lessen competition, or to tend to create a monopoly."3 Criminal violations of the Sherman Act carry a maximum penalty of a $100 million fine for corporations, and a maximum penalty of 10 years in prison and a $1 million fine for individuals. A prevailing plaintiff in a civil suit can recover treble damages and attorneys' fees. But federal law currently does not provide for civil penalties when the government brings an antitrust case, only injunctive relief.

### 2NC – AT: Certainty/Delay

#### The counterplan is certain and fast - the plan’s traditional litigation is uncertain and slow. Solvency takeout only applies to the aff.

Christian D'Cunha, Official of the European Union, ’21, ““A State in the disguise of a Merchant”: Tech Leviathans and the rule of law”https://ofthewedge.com/2021/04/21/a-state-in-the-disguise-of-a-merchant-tech-leviathans-and-the-rule-of-law1/

One illustrative example is the Federal Trade Commission’s settlement with Facebook for repeated violations of a 2011 consent order. Such was the scale of Facebook’s neglect of the right to privacy that, according to the Washington Post, the Federal Trade Commission could have justified a fine of $7.5 trillion – more money than there is in circulation on the planet.[66] Instead, eight years after the consent order, the Commissioners in a split 3-2 decision settled with Facebook for $5 billion – or $28 for each American affected. The majority justified themselves on grounds of the revealing hypothetical question, ‘Is the relief we would obtain through this settlement equal to or better than what we could reasonably obtain through litigation?’[67] They had calculated that Facebook would have successfully overturned any attempt to extract a sterner punishment for one of the most egregious privacy violations in history. Facebook’s share price rose when the settlement was announced.

## ADV CP

#### It incentivizes developing governments to take it seriously.

AFD ’18 [Agence Francaise de Development; 9/17/18; “SEVEN REASONS WHY DEVELOPMENT AID IS CRUCIAL FOR THE ENVIRONMENT”; https://www.afd.fr/en/actualites/seven-reasons-why-development-aid-crucial-environment; AS]

The climate situation may be worrying, but many are trying to think outside the box and start an ecological transition. Among them are actors involved in public development aid, institutions which play a fundamental role by funding social or infrastructure projects on behalf of the richest states. Here is the proof in seven points:

1. IT PUSHES COUNTRIES TO TAKE CLIMATE CHANGE MORE SERIOUSLY

The scale of the climate crisis requires a decisive and swift response by all countries. However, many countries do not treat it as a priority, either because of the costs that this would involve or simply out of a lack of interest.

Development aid helps to deal with both factors. By providing subsidies for reforestation projects, for example, by granting an attractive loan to fund the energy transition or by offering expertise in identifying areas in which greenhouse gas emissions could be reduced, it can push countries to take climate change more seriously.

More and more banks and development agencies, including AFD (Agence Française de Développement), are also choosing to adapt their funding programs to the Paris climate agreement. This is pushing countries wishing to benefit from financial aid to make their projects "low-carbon" and resistant to climate change.

#### Promotes the economic benefits of ecological transition.

AFD ’18 [Agence Francaise de Development; 9/17/18; “SEVEN REASONS WHY DEVELOPMENT AID IS CRUCIAL FOR THE ENVIRONMENT”; https://www.afd.fr/en/actualites/seven-reasons-why-development-aid-crucial-environment; AS]

2.  IT PROMOTES THE ECONOMIC BENEFITS OF AN ECOLOGICAL TRANSITION

Adapting societies to reduce their impact on the climate cannot be done without the appropriate investment. The good news is that these ecological transitions also provide excellent economic and social opportunities.

They create jobs, point businesses towards new markets and diversify sources of income. This then has an impact on education, healthcare and access to essential services. By clearing the way for innovative projects, these investments help to build a society that is not only fairer and more sustainable but also more prosperous.

### 2NC – AT: Misuse/Doesn't Boost Growth

#### Best studies flow neg.

Gisselquist ’19 [Rachel; PhD in Political Science @ MIT; June 2019; and Sam Jones; Associate Professor in the Department of Economics @ University of Copenhagen; “The vital role of aid in development”; https://www.wider.unu.edu/publication/vital-role-aid-development; AS]

Does aid have a positive impact on economic growth?

Yes. There has been lately a body of evidence produced by researchers using longer and better economic data and models. This evidence suggest that aid has promoted economic development in developing countries on average and over the long run. UNU-WIDER research has estimated that if a country were to receive aid inflows equal in value to about 10% of its national income each year for over a generation, then its average growth rate would be about 1 percentage point higher than it would have been otherwise. But of course most countries — even low-income ones — receive aid in much smaller volumes. So we need to be realistic about what aid can deliver. And we also need to understand that the benefits of aid tend to accumulate over the long term, so big impacts may not be obvious from one year to the next but rather after decades or more of stable support.

#### Numerous checks on misuse.

Ingram ’19 [George; Senior Fellow in Global Economy and Development @ Brookings Institute, PhD @ University of M\*chigan; 10/15/19; “What every American should know about US foreign aid”; https://www.brookings.edu/policy2020/votervital/what-every-american-should-know-about-us-foreign-aid/; AS]

Does foreign aid go to corrupt, wasteful governments?

NO. Only about a fifth of U.S. economic assistance goes to governments. In 2018, 21% of U.S. official development assistance went to governments, 20% to non-profit organizations, 34% to multilateral organizations, and 25% elsewhere. Typically, when the U.S. wants to support a country that is ruled by a corrupt, uncooperative, or autocratic government, U.S. assistance goes through private channels—NGOs, other private entities, or multilateral organizations. Accountability of U.S. economic assistance is high—the U.S. imposes stringent, some would say onerous, reporting and accounting requirements on recipients of U.S. assistance, and the office of the U.S. inspector general investigates misuse.

#### Results prove.

Ingram ’19 [George; Senior Fellow in Global Economy and Development @ Brookings Institute, PhD @ University of M\*chigan; 10/15/19; “What every American should know about US foreign aid”; https://www.brookings.edu/policy2020/votervital/what-every-american-should-know-about-us-foreign-aid/; AS]

Does foreign aid produce concrete results?

YES. The U.S. government requires regular monitoring and reporting on how and whether assistance programs are working, and periodic evaluations of results. There is hard evidence that development and humanitarian programs produce considerable results, less so for programs driven for foreign policy and security purposes. While U.S. assistance is by no means the sole driver, the record of global development results is impressive. These results include:

Extreme poverty has fallen dramatically over the past 30 years—from 1.9 billion people (36 percent of the world’s population) in 1990 to 592 million (8 percent) in 2019.

Maternal, infant, and child mortality rates have been cut in half.

Life expectancy globally rose from 65 years in 1990 to 72 in 2017.

Smallpox has been defeated; polio eliminated in all but two countries; and deaths from malaria cut in half from 2000 to 2017.

The U.S. PEPFAR program has saved 17 million lives from HIV/AIDS and enabled 2.4 million babies to be born HIV-free.

Assistance programs can promote national economic progress and stability, which can make it more viable for citizens to remain at home rather than migrate to other countries.

### 2NC – AT: Dependency/Corruption

#### Newest studies disprove inconclusive evidence.

Anera ’19 [American Near East Refugee Aid; 12/17/19; https://www.anera.org/blog/what-is-development-aid/; AS]

Effectiveness of Development Aid

Economic observers have long debated the effectiveness of development aid, but recent research has found that it does, in fact, work. On the one hand, the social programs and medical assistance that result from foreign aid to developing countries can have significant positive impacts on developing communities. On the other hand, development aid, especially direct monetary disbursements, can be problematic for a couple of different reasons:

Phantom aid: Sometimes, the aid money intended for good works ends up bankrolling administrative costs or sneaking into the pockets of the developing country’s political elite. “Phantom aid,” or aid that never reaches its intended recipients because it is looted, spent on consultants or administrative costs or reallocated for other purposes, does not help anyone. The country providing aid believes it has disbursed thousands of dollars in cash aid or resources, but the people who need help most see no benefits.

Increased dependence: Foreign aid to developing countries can also have a negative effect if governments remain dependent upon foreign aid rather than using the support to boost their economies and move toward self-sufficiency.

A recent working paper by professor and renowned economist Mark McGillivray, also a project director at the United Nations University’s World Institute for Development Economics Research, takes on this issue. The paper argues that the bulk of recent research shows development aid is beneficial on a macroeconomic level, marking a turnaround from previous years in which research proved inconclusive. The vast majority of recent research on the subject finds that aid is effective in promoting developing countries’ economic growth.

Steve Radelet, former senior adviser on development to Secretary of State Hillary Clinton and now an economics professor at Georgetown University, also points out that a majority of research has shown a correlation between development aid and economic growth in developing countries. Even the Economist, a longtime skeptic of the efficacy of development aid, has recently touted foreign aid as a demonstrated booster of economic growth, if not always a cost-effective one.

Medical aid has been particularly effective. Compared to three decades ago, tuberculosis infections have dropped by 25 percent, and diarrheal diseases kill four million fewer children each year, largely because of international development aid efforts. PEPFAR, the President’s Emergency Plan for AIDS relief, has been a primary reason AIDS mortality has fallen by almost 50 percent since 2005 when the United States implemented the program. Similarly, deaths from malaria have declined by nearly half, saving approximately seven million lives, since the 2005 implementation of the President’s Malaria Initiative.

#### Public-private partnerships prevent the dependency trap.

Michel ’16 [Ricardo; 1/4/16; Director of the Center for Transformational Partnerships in the U.S. Global Development Lab @ USAID; “Here’s Why Foreign Assistance is Important”; https://www.usglc.org/blog/heres-why-foreign-assistance-is-important/; AS]

Overall, USAID is pursuing a new model of development focused on partnering with a diverse array of partners to create innovative, cost-effective, and results-oriented development solutions. And we believe the private sector has a unique and growing role to play in global problem-solving, particularly when efforts are linked to a shared value approach or inclusive business approach which engages the bottom-of-the-pyramid markets as suppliers and producers in their value chains.

USAID was one of the first development agencies to embed public-private partnerships into its foreign assistance model. While private sector engagement has always been a part of USAID’s strategy, we truly integrated these partnerships in 2001 with the development of the Global Development Alliance (GDA). Since the launch of the GDA 15 years ago, USAID has executed more than 1,500 public-private partnerships with more than 3,500 partners, leveraging over $20 billion.

So, through this journey, we’ve learned a lot about what makes partnerships effective. We know from experience that our most impactful partnerships with the private sector are those which clearly align commercial interests with development objectives; tap into companies’ core capabilities; and employ models that are cost-effective, scalable, and sustainable in the long-term without the need for ongoing U.S. government assistance.

USAID’s approach to private sector partnerships is informed by the changing context of the global development sector. In the 1960s, when USAID was formed, public capital accounted for 71 percent of financial flows to the developing world. Today, it stands at only 9 percent. Ninety-one percent of financial flows from the United States to the developing world are now from private sources, so we know that working with the private sector is not a luxury; it’s a necessity.

## ADV 1

### New D

#### No Latin America impact – it’s not strategically important.

MacFarquhar ’19 [Neil, Moscow bureau chief @ The New York Times, was part of the team awarded the 2017 Pulitzer Prize in international reporting for a series on Russia’s covert projection of power; 01-30-19; “For the Kremlin, Venezuela Is Not the Next Syria.”; https://www.nytimes.com/2019/01/30/world/europe/russia-venezuela-putin-maduro.html]

President Vladimir V. Putin of Russia has long made the buttressing of beleaguered despots a pillar of his foreign policy — most successfully by deploying the military in Syria — to drive home the point that outside powers should not dabble in other countries’ internal affairs. On the face of it, the upheaval in Venezuela would seem to check all his boxes. Venezuela, however, is not Syria. It is separated from Russia by thousands of miles of ocean; there is no allied regional power like Iran that Moscow can rely on to do the dirty work on the ground; and with the Russian economy suffering long-term anemia, the Kremlin does not really have the means or the domestic support for another costly overseas adventure. Nevertheless, the question “What should Russia do?” is raised daily by newspaper columnists and television pundits. So far, the answer from the Kremlin seems to be that it will mostly fulminate from the sidelines and, as in every other foreign or domestic crisis, splatter blame on the United States. “We understand that, in simple words, the United States took the bit between its teeth and openly took a course toward toppling the regime” in Venezuela, Sergey V. Lavrov, Russia’s foreign minister, said at a news conference on Tuesday. Members of the opposition, he said, “have been ordered by Washington to make no concessions until the regime surrenders its power one way or the other.” Juan Guaidó, the opposition leader who has declared himself interim president, in a protest against Mr. Maduro in Caracas, Venezuela, on Wednesday. Credit Rodrigo Abd/Associated Press Image Juan Guaidó, the opposition leader who has declared himself interim president, in a protest against Mr. Maduro in Caracas, Venezuela, on Wednesday.CreditRodrigo Abd/Associated Press Repeatedly offering to mediate the dispute, he said it was up to Russia and others to counter these efforts. “We and other responsible members of the international community will do everything we can to support the lawful government,” said Mr. Lavrov, ignoring the fact that Nicolás Maduro, Venezuela’s president, won re-election last year through what is widely regarded as massive vote fraud. Also to be found in Mr. Maduro’s camp are China, Turkey, Iran and Syria. One prominent trait they share is a fear of popular uprisings. “Politically, the Kremlin wants to insist that any political regime, even if it is catastrophically ineffective, can never be deposed by its own citizens,” said Aleksandr Morozov, a political analyst and frequent Kremlin critic. Aleksandr M. Goltz, a military analyst, echoed those sentiments while noting that the relationship with Venezuela mirrored the foreign policy of the old Soviet Union, in which the Kremlin lavished arms and money on any country that barked at Washington. “For Putin, the fight against color revolutions is a principle matter,” said Aleksandr M. Goltz, a military analyst. “It is not important where they happen, in Syria or Venezuela. Any attempt by local people to get rid of an authoritarian leader is seen by the Russian leadership as a conspiracy, masterminded by foreign intelligence.” The crisis has echoes of Cold War confrontations of old. Moscow relishes its alliance with Caracas, as Mr. Goltz put it, as “a hedgehog in America’s pants.” In December, Moscow sent two long-range bombers capable of carrying nuclear weapons to Venezuela in a show of solidarity. A handout photo released by the Venezuelan government showing Mr. Maduro speaking to members of the Bolivarian National Armed Forces on Wednesday. Credit Marcelo Garcia/Agence France-Presse — Getty Images Image A handout photo released by the Venezuelan government showing Mr. Maduro speaking to members of the Bolivarian National Armed Forces on Wednesday.CreditMarcelo Garcia/Agence France-Presse — Getty Images Vladimir Zhirinovsky, a hard-line populist and nationalist, suggested that Russia should send a whole fleet of them now to prevent outside intervention. That, in essence, would be a replay of the 1962 Cuban missile crisis, when the United States and the Soviet Union appeared on the brink of nuclear war over the installation of Soviet missiles in Cuba. In recent years, Russia’s state-owned oil giant, Rosneft, has taken a significant stake in Venezuela’s oil industry, and the Kremlin has supplied a considerable amount of arms on credit. With Venezuela generating more than $10 billion in debt over the past few years, Moscow would dearly like to be repaid. Dmitri S. Peskov, the presidential spokesman, denied that Russia was intervening in clandestine ways, such as supplying mercenaries to protect Mr. Maduro and perhaps important government assets. Of course, officials had denied that private Russian military contractors were working for the government of Sudan before reversing field, with the Foreign Ministry confirming those reports last week. Other analysts have suggested that there is no need for contract soldiers, because the Venezuelan military still supports Mr. Maduro. Russian officials have said repeatedly that there have been no official requests for assistance from Caracas. But no one expects a replay of Syria. Besides the geographical distance and the expense, there are several key reasons that Russia is unlikely to intervene. In Syria, Russia could fight from a distance, deploying its air force or firing cruise missiles from the Caspian Sea. Iran supplied the ground troops needed to defeat the anti-government militias. Sergey V. Lavrov, Russia’s foreign minister, said at a news conference on Tuesday that “the United States took the bit between its teeth and openly took a course toward toppling the regime.” Credit Andrew Harnik/Associated Press Image Sergey V. Lavrov, Russia’s foreign minister, said at a news conference on Tuesday that “the United States took the bit between its teeth and openly took a course toward toppling the regime.”CreditAndrew Harnik/Associated Press Venezuela has not reached the point of war, and strategic bombers will not help deal with demonstrators, Russian commentators have noted, stressing that the Kremlin will not deploy soldiers to fight street battles against opposition protesters in Caracas or other cities. In the Middle East, Russia has other friends besides Syria. In Latin America, apart from Cuba and Nicaragua, not a single government backs Mr. Maduro. Thus any Russian intervention risks alienating every government on the continent, not to mention provoking more American sanctions. Even among Russian hard-liners, there is a grudging admiration for the fact that the United States is likely to whack anyone who intervenes too openly in its back yard, with the Monroe Doctrine cited frequently. Russia’s main interest is mostly in seeing the confrontation drag on without resolution, suggested Vladimir Frolov, a foreign-policy analyst, in a commentary on Republic.ru. “It would demonstrate the failure of the American strategy of unlawful regime change and the success of the Russian line of supporting legitimate power,” he wrote. Should Mr. Maduro go down, however, other commentators suggested that despite the temptation to turn the crisis into yet another confrontation with the United States, it would probably be best just to cut him loose. “If Venezuela’s current political leader is destined to sink politically, let him sink by himself, without dragging us along,” wrote one commentator in the daily Moskovsky Komsomolets. As with Bashar al-Assad in Syria, however, the idea has been raised that perhaps Russia could defuse the crisis by offering Mr. Maduro asylum, even if that possibility seems remote. “For Maduro, who is used to palm trees,” as well as the sea and a year-round average temperature of 77 degrees, another commentator wrote in the same paper, “the cold Moscow winter is not the ideal option, but it is much better than a warm prison

#### Organized crime threat is inflated.

Mueller ’20 [John; Professor of Political Science and Senior Research Scientist with the Mershon Center for International Security Studies @ Ohio State University, Senior Fellow @ Cato Institute, PhD @ University of California, Los Angeles; “Assessing International Threats During and After the Cold War”; Cato Institute, 5/6/2020, https://www.cato.org/publications/study/assessing-international-threats-during-after-cold-war]

In the decade after the Cold War, a similar process of threat identification took place as problems previously considered to be of minor, or at least of secondary, concern were promoted. Anxieties about international terrorism substantially increased during the 1990s and were set into highest relief with the terrorist attacks of September 11, 2001. Extrapolating wildly from 9/11, a terrorist event ten times more destructive than any other in history, terrorism of that sort has repeatedly been taken to present a direct, even existential, threat to the United States or to the West — or even to the world system or to civilization as we know it.6 Wild extrapolations have precipitated costly antiterrorism and antiproliferation wars and huge increases in security spending. In these ventures, trillions of dollars have been squandered and well over two hundred thousand people have perished, including more than twice as many Americans as were killed on 9/11.7 There has been a tendency to see these exercises as misguided elements of a coherent plan to establish a “liberal world order” or to apply “liberal hegemony.“8 However, the overwhelming impetus was far more banal: to get the bastards responsible for 9/11.

Islamist terrorism in the United States has killed some six people per year since 9/11, and far more people in Europe perished yearly at the hands of terrorists in most years in the 1970s and 1980s.9 But there has nonetheless been a tendency to continue to inflate al-Qaeda’s importance and effectiveness.

In fact, al‐​Qaeda Central has done remarkably little since it got horribly lucky in 2001. It has served as something of an inspiration to some Muslim extremists, has done some training, seems to have contributed a bit to the Taliban’s far larger insurgency in Afghanistan, and may have participated in a few terrorist acts in Pakistan. It has also issued a considerable number of videos filled with empty, self‐​infatuated, and essentially delusional threats.10 Even isolated and under siege, it is difficult to see why al‐​Qaeda could not have perpetrated attacks at least as costly and shocking as the shooting rampages (organized by others) that took place in Mumbai in 2008, in Paris in 2015, or in Orlando and Berlin in 2016. And, although billions of foreigners have entered legally into the United States since 2001, not one of these, it appears, has been an agent smuggled in by al‐​Qaeda. The exaggeration of terrorist capacities has been greatest in the many overstated assessments of their ability to develop nuclear weapons. In this, it has been envisioned that, because al‐​Qaeda operatives used box cutters so effectively on 9/11, they would, although under siege, soon apply equal talents in science and engineering to fabricate nuclear weapons and then detonate them on American cities.11

It is possible to argue, of course, that the damage committed by jihadists in the United States since 9/11 is so low because “American defensive measures are working,” as Peter Bergen puts it.12 However, although security measures should be given some credit, it is not at all clear that they have reduced the amount of terrorism significantly. There have been scores of terrorist plots rolled up in the US by authorities but, looked at carefully, the culprits left on their own do not seem to have had the capacity to increase the death toll very much.13 As Brian Jenkins puts it, “Their numbers remain small, their determination limp, and their competence poor.“14 Nor can security measures have deterred terrorism. Some targets, such as airliners, may have been taken off the list, but potential terrorist targets remain legion.15 To a considerable degree, terrorism is rare because as Bruce Schneier puts it bluntly, “there isn’t much of a threat of terrorism to defend against.“16

### XT 1NC 5: No MENA War

#### No Middle East war – lower relevance of energy, increased political stability, and muffled disputes prove – that’s Karlin.

#### No great power draw in.

Glaser ’17 [John; 1-9-2017; Associate Director of Foreign Policy Studies at the Cato Institute; “Does the U.S. Military Actually Protect Middle East Oil?” National Interest, https://nationalinterest.org/blog/the-skeptics/does-the-us-military-actually-protect-middle-east-oil-18995?page=0%2C1]

In addition, the balance of power globally and in the region today is favorable for energy security. First, an external power gaining a stranglehold over the Persian Gulf region is implausible. The Soviet Union is long gone and today’s Russia suffers from systemic economic problems that hinder its potential to project power in the Middle East. China, while increasingly powerful in its own sphere, lacks the political will to dominate the Gulf.

The regional balance of power is also favorable. According to Joshua Rovner, “the chance that a regional hegemon will emerge in the Persian Gulf during the next twenty years is slim to none. This is true even if the United States withdraws completely.” No state in the region possesses the capabilities necessary to conquer neighboring territories or gain a controlling influence over oil resources, and most are bogged down and distracted by internal problems. Overall the region is in a state of defense dominance: while too weak to project power beyond their borders, the major states do have the capability to deter their neighbors, making the costs of offensive action prohibitively high.

So, three of the major scenarios that have traditionally justified a forward deployed military presence in the Persian Gulf—the entrance of a hostile external power, the rise of a regional hegemon and a military clash among the major states—are exceedingly unlikely even absent the U.S. military presence.

#### **Resource states aren’t equal, and non-state actors aren’t considered.**

Baryamov ’18 [Agha; PhD candidate and lecturer in the department of International Relations and International Organization @ University of Groningen; “Review: Dubious nexus between natural resources and conflict,” *Journal of Eurasian Studies* 9(1): 72-81]

Third, the existing works consider approximately most resource states to be more or less equal entities. Although such states may have equal rights from juridical perspective, they share too many diverse features to be considered equal entities in other empirical terms. For example, while Azerbaijan and Saudi Arabia have rich natural resources, they are dissimilar in a number of other important ways. However, both qualitative and quantitative analyses neglect this factor while explaining the resource-conflict nexus. Therefore, it is unwise to lump different case studies together in the same category without considering the particular characteristics of the region or country in question. Moreover, wide part of the existing works adopts a national-level approach by portraying abundancy, scarcity and conflict at the unitary state-level. Nevertheless, natural resources are distributed inconsistently over a nation's territory. In other words, only particular places, namely cities or urban areas are affected by the abundancy or scarcity of resources. Hence, conflict more likely develops in areas which are excluded from resource wealth and development. However, the present works neglect the distinctive characteristics between resource rich cities and non-resource cities by putting them into country level analysis. Inadequate explanation of actors and players in resource governance is another weak point. The majority of the literature has surveyed the resource-conflict relationship through the lens of sovereign states or the great powers. The rest of the actors (companies, financial institutions, NGOs, and etc.) are superficially recognized because these actors represent states' national interests. Therefore, little research has focused on other players, such as the role of regional and international organizations (e.g. Hendrix & Noland, 2014;Price-Smith, 2015, Schrijver, 2010). Despite their key importance, states are not the sole actors in the sustainable management and use of natural resources. There are several actors that are involved actively in resource management and disputed areas. Although these actors are not the panaceas for global issues,

resource state cannot simply ignore their interests. Meanwhile, to protect their own interests, these actors to some extent affect the security and stability of resource rich regions. Considering, the role of multiple actors is thus crucial, in order to pursue a multi-level analysis and view the complex interdependency of these actors from different perspectives.

# 1NR

#### Externally, plan causes retaliatory litigation against U.S. *innovators* – invites a flood of suits.

Stephan ’10 [Paul; Professor @ University of Virginia School of Law; “Empagran – Empire Building or Judicial Modesty?” Public Law and Legal Theory Research Paper Series No. 2010-07, p. 1-10; AS]

Courts, the Court says, must work with tools they have and take account of the downstream implications of their decisions as precedents. They cannot carve out exceptions to general statutory rules bases solely on their particular policy judgments.

Consider how the common-law method operates in U.S. antitrust law. Section One of the Sherman Act forbids contracts, combinations or conspiracies “in restraint of trade.” Section Two outlaws efforts to “monopolize” trade or commerce. For nearly a century, the Court has understood these provisions as a delegation by the legislature of substantive lawmaking authority. By using common-law terms, the Court argued, Congress meant the judiciary to develop the substantive law of antitrust using a case-by-case methodology.13 Judges remain free to build and to prune doctrine in the face of new cases and new insights. In particular, the Court has asserted a freedom to move back and forth between different legal standards in assessing common fact patterns. Over more than thirty years, for example, it has abandoned several judicially created bright-line rules forbidding particular collusive behavior in favor of a more open-ended rule of reason that allows defendants to justify their conduct.14 In the definition of prohibited conduct, then, the Court has manifested its comfort with a case-by-case approach.

Application of the Foreign Trade Antitrust Improvements Act of 1982 is different. It specifies where the Sherman Act in it entirety does and does not apply. If conduct does not have “a direct, substantial, and reasonably foreseeable effect” on domestic commerce, then the Sherman Act does not regulate it.15 What the Act does not specify, and what the Empagran Court therefore had to decide, is a question of standing: If the Sherman Act does regulate certain conduct because it does have some impact on domestic commerce, does that mean that all persons injured by that conduct may bring a claim, even if the victim’s injury has no connection to domestic commerce? This standing question is not partial or fact-dependent: If the answer is yes for price-fixing, it also is yes for any Sherman Act theory.

The implications of expanding access of foreign victims to U.S. civil jurisdiction become clearer when one considers the kinds of claims that might arise. Imagine a claim that a monopolist has abused its power by insisting that a customer buy additional products in addition to that which the person monopolizes. (Remember that it is the abuse of monopoly power, and not the exercise of monopoly power as such, that Section Two of the Sherman Act outlaws).16 Analysis is complicated to the extent that a product reflects technological innovation and that the monopoly rests on network effects, i.e., welfare gains resulting from particular forms of standardization. Determining whether the producer is abusing its monopoly or instead searching for an extension of network effects is difficult and not readily susceptible to judicial determination. Moreover, a mistaken determination would likely generate significant welfare losses. This is likely to be exactly the kind of inquiry that should not be skewed in favor of plaintiffs through rules that exaggerate the settlement value of objectively nonmeritorious claims. Yet expanding standing of private litigants to bring such claims would produce exactly this effect.

This point would have been obvious to the Court, and to Justice Breyer in particular, at the time that it decided Empagran. Breyer, by profession an antitrust scholar and by avocation the Court’s greatest Europhile, certainly would have had in mind the ongoing battles between U.S. and European competition authorities, extending across the Clinton and Bush Administrations, over the proper standards to apply to U.S. producers in the technology sector. He would have appreciated in particular the potential for competition law to become a disguised form of protectionism and an instrument for attacking U.S. technological leadership.17 He would have understood that private suits in other jurisdictions would not have shifted the costs to high-tech companies of undertaking legally risky but potentially desirable extensions of their market power, but that private suits in the United States easily could have become a substantial tax on such actions.

Empagran, then, does not only project the Court’s indifference to the victims of core anticompetitive activity in countries encumbered by weak legal systems. It also offers yet more evidence of the modern Court’s awareness of U.S. exceptionalism in the field of civil litigation, coupled with frustration about the limited means that the Court has to respond to its concerns. Were Congress to adopt a special rule extending standing for the victims of price-fixing, the Court, one supposes, would welcome the innovation and vigorously apply it. But subjecting U.S. technological innovators to overly burdensome litigation was the necessary consequence of employing the only tool that the Court had at hand. This it would not do.

#### Extinction from emerging tech.

Jain ’20 [Ash; 2020; Senior fellow with the Scowcroft Center for Strategy and Security; Strategic Studies Quarterly; “Present at the Re-Creation: A Global Strategy for Revitalizing, Adapting, and Defending a Rules-Based International System,” <https://www.atlanticcouncil.org/wp-content/uploads/2019/10/Present-at-the-Recreation.pdf>]

The system must also be adapted to deal with new issues that were not envisioned when the existing order was designed. Foremost among these issues is emerging and disruptive technology, including AI, additive manufacturing (or 3D printing), quantum computing, genetic engineering, robotics, directed energy, the Internet of things (IOT), 5G, space, cyber, and many others. Like other disruptive technologies before them, these innovations promise great benefits, but also carry serious downside risks. For example, AI is already resulting in massive efficiencies and cost savings in the private sector. Routine tasks and other more complicated jobs, such as radiology, are already being automated. In the future, autonomous weapons systems may go to war against each other as human soldiers remain out of harm’s way.

Yet, AI is also transforming economies and societies, and generating new security challenges. Automation will lead to widespread unemployment. The final realization of driverless cars, for example, will put out of work millions of taxi, Uber, and long-haul truck drivers. Populist movements in the West have been driven by those disaffected by globalization and technology, and mass unemployment caused by automation will further grow those ranks and provide new fuel to grievance politics. Moreover, some fear that autonomous weapons systems will become “killer robots” that select and engage targets without human input, and could eventually turn on their creators, resulting in human extinction. The other technologies on this lisgt similarly balance great potential upside with great downside risk. 3D printing, for example, can be used to “make anything anywhere,” reducing costs for a wide range of manufactured goods and encouraging a return of local manufacturing industries.61 At the same time, advanced 3D printers can also be used by revisionist and rogue states to print component parts for advanced weapons systems or even WMD programs, spurring arms races and weapons proliferation.62 Genetic engineering can wipe out entire classes of disease through improved medicine, or wipe out entire classes of people through genetically engineered superbugs. Directed-energy missile defenses may defend against incoming missile attacks, while also undermining global strategic stability.

Perhaps the greatest risk to global strategic stability from new technology, however, comes from the risk that revisionist autocracies may win the new tech arms race. Throughout history, states that have dominated the commanding heights of technological progress have also dominated international relations. The United States has been the world’s innovation leader from Edison’s light bulb to nuclear weapons and the Internet. Accordingly, stability has been maintained in Europe and Asia for decades because the United States and its democratic allies possessed a favorable economic and military balance of power in those key regions. Many believe, however, that China may now have the lead in the new technologies of the twenty-first century, including AI, quantum, 5G, hypersonic missiles, and others. If China succeeds in mastering the technologies of the future before the democratic core, then this could lead to a drastic and rapid shift in the balance of power, upsetting global strategic stability, and the call for a democratic- led, rules-based system outlined in these pages.63

The United States and its democratic allies need to work with other major powers to develop a framework for harnessing emerging technology in a way that maximizes its upside potential, while mitigating against its downside risks, and also contributing to the maintenance of global stability. The existing international order contains a wide range of agreements for harnessing the technologies of the twentieth century, but they need to be updated for the twenty-first century. The world needs an entire new set of arms-control, nonproliferation, export-control, and other agreements to exploit new technology while mitigating downside risk. These agreements should seek to maintain global strategic stability among the major powers, and prevent the proliferation of dangerous weapons systems to hostile and revisionist states.

### 1 – AT: trade dead – 1nr

#### Trade rebounding now.

Inga Fechner, Rico Luman, ING Analysts 2-4-22, "Clogged supply chains won’t hold back trade," ING Think, https://think.ing.com/articles/hold-monthly-trade-outlook-2022-clogged-supply-chains-wont-hold-trade-back

World trade normalises and continues to grow despite challenges

Going into 2022, we expect trade growth rates to return to their pre-pandemic levels in line with a continued but weakened global economic recovery. 2021 was an exceptional year driven by pandemic-related catch-up effects. For this year, we pencil in a growth rate in merchandise world trade of 4.1%, while we expect world GDP growth to come in at 4.4%.

Despite ongoing supply chain frictions and average containerised transport costs expected to remain high, a shift by consumers back into services will only be moderate in 2022 because of Covid caution. They might reduce some of their increased spending on the likes of electronics and furniture while resuming spending on services, while seeing higher energy and food prices. Overall, however, the preference for goods remains elevated as recent data on consumer spending in the US or the eurozone shows.

World trade in 2022: Return to pre-crisis growth rates

Asia to remain a driving force in 2022

Trade growth remains uneven, however, when you look at different regions. Intra-Asia trade still has strong growth perspectives, following an improvement in Asian industrial production over 2021 as well as significantly higher container throughput. A slowdown of economic activity in China, however, remains a concern for northeastern Asian industrial economies. Here, less real estate construction activity could be offset by more infrastructure investment though.

On a global level, we expect larger flows of oil and oil products alongside the global recovery of road and airline traffic and we think that China should remain a major driver of growth for metals stimulated by the energy transition. We expect global automotive production to increase by up to 10% and that will create extra trade volumes although the semiconductor shortage will remain a limiting factor. Lastly, the implementation of regional trade agreements in Asia and Africa will likely affect regional trade flows positively.

Supply chain slump and elevated tariffs will drag through 2022

Yet, a combination of shipping capacity and container shortages, unforeseen incidents and ongoing labour shortfalls which contributed to spiking container rates last year, might dampen our growth outlook. And 2022 started off with new records here. Based on UNCTAD data, those costs pushed China to Europe port-to-port container costs up to some 15% of the average value of goods transported (up from 2-3%).

The effect of massive port congestion occupying 10-15% of the global fleet capacity feeds back to that disruption. After Chinese New Year we do expect things to improve. But when spot rates come down, term contract rates of large shippers are still being negotiated higher. We concluded earlier that container rates will remain under upward pressure and won’t return to pre-pandemic levels anytime soon.

Risks ahead but trade fundamentals are still solid

The pandemic remains an uncertain factor affecting the outlook for 2022. Supply chain troubles and higher shipping costs also continue to pose risks to growth. At the same time, last year also showed this doesn’t necessarily hamper the world from continuing to trade. We're optimistic given the economic outlook, a hopefully receding pandemic, and clear evidence of richly filled order books. We expect trade volume growth to hold up well this year, resulting in a more moderate but still sound growth rate for world trade.

#### International norms of free trade recovering now post-trump and COVID.

By Alessandra Migliaccio And William, Al Jazeera, 7-8-2021, "G-20 set to redefine world economic order post Trump, pandemic," No Publication, https://www.aljazeera.com/economy/2021/7/8/g-20-set-to-redefine-world-economic-order-post-trump-pandemic

Global finance chiefs this week will make their most concerted effort yet to redefine the world economic order in the era after Donald Trump and the coronavirus pandemic.

With trade tensions no longer bedevilling the Group of 20 economies in the way they did during the former US president’s tenure, the first in-person meeting of its finance ministers since the disease struck last year will attempt to forge consensus on unfinished business ranging from climate change to corporate taxation.

Alongside those issues, the July 9-10 gathering is likely to take stock of an incomplete global recovery, clouded by the persistent threat of setbacks from new variants of the coronavirus. That may focus minds on the need for continued fiscal efforts to support growth, amid mounting inflation concerns and oil prices that remain elevated following this week’s breakdown in OPEC+ talks.

“The global economies are working together again,” said Rosamaria Bitetti, an economist at Luiss University in Rome. “This is a huge opportunity for the G-20 to think about how this pandemic showed that in our interconnected world, problems are global and need to be addressed together, leaving nationalism behind.”

With Italy hosting the meeting in Venice as chair of the group, the symbolism of convening in a former hub for trade between continents won’t be lost on participants. They can also look to the name of the city’s fire-cursed opera house — La Fenice, or the Phoenix — for inspiration on what to strive for in the embers of an unprecedented global crisis.

The risk is that the scars of discord that haunted international meetings during the Trump years might persist, including echoes of his frequently touted suspicion of China.

For Bruno Le Maire, the French finance minister, the onus is now on the group to build on the consensus it achieved during early stages of the pandemic.

“The G-20 must show in Venice that it can still meet its responsibilities and be able to provide concrete, new and radical responses to the challenges ahead in a continuation of what it has succeeded in doing since February 2020,” he told reporters Tuesday.

#### Free trade norms high now.

Weimin Shen, L.L.M, J.S.D., Washington University School of Law, ’20, "The Role of Transnational Legal Process in Enforcing WTO Law and Competition Policy," Journal of Transnational Law & Policy 30 (2020-2021): 59-118

On the surface, it may appear that faith in Transnational Legal Process has collapsed in the domain of international trade. Critics argued that the world is experiencing a new situation where there is no international law to apply, or the existing WTO law may not precisely cover this new situation. I contend, however, that the influence of Transnational Legal Process is still at work, even as the world experiences its longest-ever trade tensions. Transnational Legal Process remains standing in good faith among the opportunities for the United States to strengthen free trade and competition-by translating the spirit and intent of existing law to govern it

### 2 – AT: other statutes – 1nr

#### Doesn’t rise to threshold of provokes protectionism.

#### Antitrust is unique because imposes economic, criminal, and civil costs, which oversteps bounds.

#### Pretty obviously a NEG card...? Says that the business community abroad was pissed about FATCA but that antitrust makes national governments mad.

Briggs et al. 15, John DeQ Briggs is Co-chair of the Antitrust & Competition practice at Axinn Veltrop & Harkrider LLP, Managing Partner of the firm’s Washington, DC, office, and a former Chair of the Section of Antitrust Law of the American Bar Association; Daniel S. Bitton is a partner in the Antitrust & Competition practice at Axinn Veltrop & Harkrider LLP. His practice is focused on counseling and representing clients in high-stakes international antitrust matters, including global merger clearance, government non-merger investigations, and litigation; (2015, “Heisenberg’s Uncertainty Principle, Extraterritoriality and Comity”, https://thesedonaconference.org/sites/default/files/publications/Heisenberg%27s%20Uncertainty%20Principle\_Extraterritorialty%20and%20Comity.16TSCJ327.pdf)

It is not just foreign governments who react angrily to what some call American Judicial Imperialism. Consider the reaction outside of the United States to a statute that took effect on July 1 of last year—the Foreign Account Tax Compliance Act (FATCA). It is not well known that the United States is virtually alone in the world in exercising jurisdiction over its citizens no matter where they might be. FATCA is intended to detect and deter tax evasion by U.S. citizens through the use of accounts held abroad. But the extraterritorial feature is that FATCA places the reporting burden primarily on financial institutions, wealth managers, and national tax authorities, rather than individuals. These are foreign entities. For example in the UK, information on U.S. citizens’ accounts holding more than $50,000 must be reported to HM Revenue & Customs, who will then pass details to the U.S. Internal Revenue Service (this latter step is the subject of a bilateral agreement between the U.S. and the UK).

Placing responsibility for compliance with the U.S. statute on foreign banks or other such institutions amounts to extraterritoriality writ large. The U.S. was and is able to engage in this kind of regulatory hegemony because it controls the world’s finance system, at least for now. Americans, who are mostly unconnected with the international community, probably neither know nor care much about this. But outside the U.S., and in the business and financial community especially, FATCA (and other American regulatory provisos) are controversial. As Felix Salmon put it in the Financial Times last year:

America is using its banking laws not to make its financial system safer, nor to protect its own citizens from predatory financial behaviour, but rather to advance foreign policy and national security objectives. Only in America, for instance, would citizens have to apply to the finance ministry in order to get a visa to visit Cuba.

Leadership is important, and most countries would be fine with following America’s lead for some things—cross-border rules governing stability, liquidity, and leverage, for instance. But even then the US has a tendency to ignore everybody else once the rules have been written, and decide to implement a set of entirely separate rules instead. The hegemon does whatever it wants, for its own, often inscrutable reasons, and it does not enjoy being questioned about its decisions.

No other country can get away with this: what we are seeing is unapologetic American exceptionalism, manifesting as extraterritorial powermongering. Using financial regulation as a vehicle for international power politics is extremely effective. It is also very cheap, compared with, say, declaring war.

US officials never apologise for the fact that their own domestic law always trumps everybody else’s; rather, they positively revel in it. The consequence is entirely predictable: a very high degree of resentment at the way in which the U.S. throws its weight around.35

The U.S. indictments, plea agreements and extradition requests in the Fédération Internationale de Football Association (FIFA) fraud scandal are triggering similar signs of international skepticism. The first criticism actually came from Russia,36 which does not have much credibility in complaining about extraterritorial assertion of power, much less in complaining about the FIFA investigations (since it allegedly benefitted from the bribes that are being investigated). But that does not necessarily detract from the merits of the Russian criticism. Indeed, The Economist noted that Russia was onto something, observing that “American prosecutors . . . do indeed reach much farther than their peers elsewhere—sometimes too far” and that while the crack down on FIFA is welcome “when it comes to bribery, America has sometimes been too audacious.”37 DOJ’s reliance on the RICO Act and Travel Act (rather than anti-bribery statutes) to establish jurisdiction to prosecute what essentially are bribery allegations does not help its cause.38

The extraterritorial adventures of U.S. courts in antitrust proceedings have not yet produced quite this much heat, but they are producing in their own way a great deal of heat, and one senses that the temperature is rising.

### 3 – AT: no link – 1nr

#### Here’s a card – plan is *legal imperialism*. Specific to Empagran!

Jared S. Sunshine, J.D., cum laude, Fordham University School of Law, 2008; B.A., Columbia College of Columbia University in the City of New York 20, ’21, Observations at the Quinceanero of Intel Corp v. AMD, Inc. on International Comity in Domestic Discovery for Foreign Antitrust Matters, 69 DRAKE L. REV. 295 (2021).

With much due respect, Professors Amram and Smit and the commission delegated by Congress were mistaken back in 1964 when it comes to the demesne of antitrust, albeit with the best of intentions. They imagined a glorious future of well-accepted U.S. hegemony in discovery procedures. But that brand of hegemony is fundamentally incompatible in the antitrust context with the comity of nations and the prerogatives of the numerous FCAs that exist today, as illustrated by the inglorious history of transnational disputes over competition law enforcement and discovery thereto in particular. 690

Hegemony would be easier. There is no doubt that is so, and the United States has every right to promulgate a vision of discovery in its own interests. But those interests include the insurance that international corporations that do harm to U.S. consumers within the reach of the Sherman Act cannot evade the reach of U.S. justice by sleight of hand in foreign registration or operation abroad. Nor do the United States' peers abroad have any less incentive to secure their citizens against the abuses of anticompetitive U.S.- based corporations. In our global economy, nation-states must agree on a manner of holding to task those economic interests that attack rather than advance the collective benefit of humanity. Transnational competition law enforcement is the foremost manner in which the league of credible nations accomplishes that goal. The current application of § 1782 and other discovery gambits in the antitrust context impedes that goal, for it makes enemies of the United States' natural friends. To be at odds so regularly with Brussels-not to mention London, Paris, The Hague, Bern, Seoul, Tokyo, Canberra, and elsewhere-should signal a more fundamental problem. The absence of foreign participants from U.S. proceedings supposedly undertaken to enhance comity can only lead to judicial conjecture and international friction. In May 2020, Justice Neil Gorsuch, writing for a unanimous Court, summarized parallel developments in the greatest forum of international comity, sovereign immunity:

In the mid-20th century, the State Department started to take a more restrictive and nuanced approach to foreign sovereign immunity. Sometimes, too, foreign sovereigns neglected to ask the State Department to weigh in, leaving courts to make immunity decisions on their own. "Not surprisingly" given these developments, "the governing standards" for foreign sovereign immunity determinations over time became "neither clear nor uniformly applied."691

Justice Gorsuch then narrated that the resulting diplomatic disarray was addressed by Congress's passage of the watershed Foreign Sovereign Immunities Act, laying down definitive rules and standards for comity in the immunity arena.692 Similarly definitive standards in evaluating discovery requests in antitrust matters are achievable without even congressional action, and thus a mutually agreeable solution in this vital area of international comity is not so elusive today as it seemed 40 years ago. 693 At the turn of the millennium, the Superior Court of Ontario wrote about discovery in the much-manhandled Vitapharm: "As a result of the inexorable forces of globalization and expanding international free trade and open markets, there will be an ever-increasing inter-jurisdictional presence of corporate enterprises. This is seen particularly in respect of U.S. and Canadian business activity, given the extent of cross-border trade."694 It added: "If both societies are to maximize the benefits of expanding freer trade and open markets, the legal systems of both countries must recognize and facilitate an expeditious, fair and efficient regime for the resolution of litigation that arises from disputes in either one or both countries." 695 U.S. courts considering discovery disputes have agreed: "[W]orld economic interdependence has highlighted the importance of comity, as international 691. commerce depends to a large extent on 'the ability of merchants to predict the likely consequences of their conduct in overseas markets."' 696

Justice Breyer did not merely dissent from the holding in Intel in 2004, but also wrote the majority opinion in the unanimously decided Empagran, offering a throaty defense of comity in antitrust cases. 697 Pointedly, the former quoted the latter directly: by "so ignoring the Commission, the majority undermines the comity interests § 1782 was designed to serve and disregards the maxim that we construe statutes so as to 'hel[p] the potentially conflicting laws of different nations work together in harmony -a harmony particularly needed in today's highly interdependent commercial world.' 698 It is to be hoped, for the sake of comity in antitrust discovery at least, that Empagran's principle proves the more persistent of the two in the long run.

#### Expansiveness – the plan would *literally make Canada liable* AND allow suits whenever plaintiffs were foreigners!!! It is not a reform, it is a revolution.

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The DOJ's annual review of other countries' private antitrust remedies should be more than a broad "thumbs-up, thumbs-down" review; it should distinguish the types of claims for which a country's relief is adequate from those for which it is inadequate. For example, although Canada has a strong anti-cartel regime, it also protects its domestic export cartels.280 Such protectionist policies-of which the FTAIA is one-do not enhance worldwide deterrence,28' and when implemented by foreign governments, they specifically do not deter conduct harming American consumers. Therefore, the DOJ would list Canada as a country that provides an adequate forum except in cases involving Canadian export cartels. Similarly, other countries may not permit foreign plaintiffs to sue their domestic firms for participating in an international cartel, though domestic plaintiffs can bring such actions. In these situations, the DOJ would list those countries as providing an adequate forum for domestic plaintiffs, but U.S. jurisdiction would be permitted if the plaintiffs were foreigners who also lacked an adequate forum in their home country.

The definition of "adequate" relief is an important component of this proposal. Consistent with the principles of forum non conveniens articulated in Piper, the United States should not require that countries provide treble damages. The United States should decline jurisdiction in anti-cartel actions so long as plaintiffs can recover at least compensatory damages. America's mandatory treble damages regime is based on a policy choice in the United States regarding the proper mix of public and private enforcement. The fact that other governments do not provide treble damages may reflect other aspects of their systems, such as greater public fines, the availability of punitive damages, or the cost to plaintiffs of bringing actions for damages. The United States should not require treble damages as the sole mechanism of deterrence.

Refusing jurisdiction in international antitrust suits may sacrifice some global judicial economy. The nature of international cartel activities increases the possibility that the same defendants will simultaneously face multiple lawsuits in many countries. By splitting the plaintiffs' actions, these multiple lawsuits could complicate the suits, delay them, and make them more 282 expensive. For this reason, the U.S. courts could exercise jurisdiction if the nations implicated in the case ask it to do so. Admittedly, this is only a partial solution to the issue of global judicial economy. A more comprehensive solution will require additional political solutions, such as an international agreement permitting some form of transnational transfer or consolidation of cases. Such agreement is foreseeable, as informal collaboration already occurs with respect to public lawsuits against international cartel members.

#### Champions link – unilateral application of extraterritorial antitrust law highlights US hypocrisy. Pro-development countries will backlash to the international trading system to protect national champion industry.

Waisberg, Ivo, Professor @ Catholic University of Sao Paolo, ’19, "International Antitrust Approaches and Developing Countries." Available at SSRN 3424274 (2019).

If the comity to respect or analyze the interests of other nations was an important ingredient in the extraterritorial application of antitrust laws, the harms caused by this system could be mitigated. Because of the little weight given to comity in the US, and in large extent in the EU, developing countries must seek alternative frameworks to mitigate extraterritoriality. Conversely, countries that can impose their interests through an efficient application of their laws in relation to conducts occurring elsewhere are not supporters of comity principles. This is the reason why American scholars argue in favor of abandoning comity and increasing extraterritoriality based purely on American interests.39 This makes sense from a purely unilateral point of view.

The point is that the current unilateral enforcement system, from a developing country perspective, is a one-way street. Powerful antitrust agencies can decide to enforce their laws whenever they see fit, and, like many trade measures, antitrust enforcement can be strongly influenced by political decisions. For the developing country, this will represent an overenforcement by the developed country agency. On the other hand, if the developed country underenforces its law for its national, there is nothing the developing country can do. Of course, it can be argued that underenforcement of antitrust laws by a developing country creates the need for extraterritorial measures by other agencies. Even if we agree that an underenforcement problem exists in most developing countries, it would be useful for them to fight for an international system that enables them to contest developed countries for both overenforcement and underenforcement, which is something they cannot do in the unilateral system unless a developed country decides to show some goodwill.

#### Enforcement of international antitrust requires intrusive discovery, jeopardizing reciprocal respect for US industry.

Daniel Fahrenthold, JD Candidate @ Columbia Law School, ’19, "Respectful Consideration: Foreign Sovereign Amici in U.S. Courts," Columbia Law Review 119, no. 6 : 1597-1632

2. International Discovery Rules. - Another area of U.S. law prone to draw the ire of foreign countries is discovery.193 United States discovery rules are alien to most jurisdictions, which adopt far less permissive approaches to evidence gathering by private litigants.1' Some jurisdictions resist the application of U.S. discovery rules,1 9 5 often through "blocking statutes" or secrecy laws, 196 and many governments reserve an active role for themselves in the approval or denial of discovery requests sent by U.S. litigants or courts.1 97

The United States has ratified the Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters, which the parties drafted with the purpose of harmonizing international discovery procedures among signatory states.1 98 The Supreme Court has determined, however, that U.S. courts are able to compel foreign parties to provide evidence in accordance with ordinary U.S. rules of discovery, rather than through the Convention procedures, even if this means overriding the foreign country's domestic law.1 99 Not surprisingly, foreign sovereigns have found this rule somewhat disturbing. The Swiss government, for instance, strongly opposed this interpretation of the Hague Evidence Convention and threatened that enforcement of U.S. discovery rules would jeopardize the future of Swiss compliance with the Convention.2 0 A decision to ignore a country's blocking statute or secrecy law and order discovery is subject to a balancing test, however. The Court has emphasized the importance of looking at the extent to which compliance with discovery would undermine the interests of the foreign state involved (as well as where noncompliance with discovery would under-mine important interests of the United States);201 this factor "directly addresses the relations between sovereign nations."202 Foreign sovereigns often enter amicus briefs to resist discovery orders and to underline the importance of their government interests in the litigation. 203 A court's ruling that gives weak deference to foreign sovereigns in this area risks upsetting the foreign government and jeopardizes reciprocity in international discovery rules. 204 A court's disregard of arguments pertaining to foreign criminal law might also, not unlike McNab, leave those subject to U.S. discovery orders stuck between the threat of foreign prosecution and contempt orders from U.S. courts.

### 4 – AT: no blocking – 1nr

#### Presumes status quo not the plan. Scope of the link – above.

#### Blocking yes/no irrelevant cuz all we have to win is they backlash somehow.

#### Empirics prove – the US limited the scope of the Sherman Act because of clawback legislation around the globe.

SAMUEL F. KAVA, JD/MBA Candidate @ JHU/UofM, ’19,"The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity," Journal of Business and Technology Law 15, no. 1 (2019): 135-164,

The broad application of the Sherman Anti-Trust Act, and the narrow exception to barring the Act through international comity, led many foreign nations to enact blocking statutes to "protect their nationals from criminal [and civil] proceedings in [the United States] where the claims to jurisdiction by those courts [were] excessive and constitute[d] an invasion of sovereignty." 60 Many of the United States' closest allies-the United Kingdom, Australia, Canada, France, Italy, South Africa, the Netherlands-enacted blocking statutes that:

[T]riggered the issuing of conflicting injunctions, [] given rise to a spate of foreign statutes designed to thwart discovery in the United States proceedings...[and] the most extreme example of outrage at the extraterritorial application of our anti-trust law is the United Kingdom's 'Clawback Act.' This statute goes far beyond simply denying recognition to the United States decrees and permits suits in the United Kingdom to recover any part of the judgement already paid that exceeds compensatory damages. 61

In addition, even U.S. companies opposed the broad application of the Act because they felt it "handicapped [them] in competing for off-shore business against foreign firms that were not subject to the strict antitrust constraints imposed by U.S. law." 2

To quell the concerns of both foreign nations and domestic companies, the United States Congress enacted the FTAIA. The FTAIA, which went into effect in 1982, provided protection for export transactions by "imposing additional requirements for establishing a Sherman Act claim involving foreign commerce that is not import trade or import commerce." 3 Specifically, in order to bring an antitrust claim, the FTAIA required "the conduct to have a direct, substantial, and reasonably foreseeable effect on commerce in the United States." 64 In other words, a foreign exporter would not be subject to prosecution under the Sherman Anti- Trust Act if it engaged in an anticompetitive act (i.e. price fixing) that did not "have a direct, substantial, and reasonably foreseeable effect on commerce in the United States." 65 As is apparent by the FTAIA statute, corporations that are engaged in import commerce are "unaffected by the FTAIA and remain[] subject to the Sherman Act." 66 Nevertheless, the FTAIA was a good faith effort by the legislative branch to: (1) improve the nation's international relations, (2) ensure U.S. domestic companies were not disadvantaged, and (3) provide "a unified legal standard to determine whether the U.S. antitrust law applies to foreign transactions." 67

#### low threshold for blocking statutes – globalization.

SAMUEL F. KAVA, JD/MBA Candidate @ JHU/UofM, ’19,"The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization: The Need to Amend the Foreign Trade Antitrust Improvements Act (FTAIA) & Vigorously Apply International Comity," Journal of Business and Technology Law 15, no. 1 (2019): 135-164,

While the international community has been slow to enact up-to-date and effective blocking statutes, there will certainly be a resurgence by foreign nations to adopt statutes that would limit the scope of the Sherman Anti-Trust Act. For one, with globalization making the FTAIA affectively obsolete, the international community will strive to pressure the United States to adopt a new unified standard that expressly respects international comity. Second, advances in technology, like C2C e-commerce, will exacerbate the likelihood that the international community will: (1) adopt new and effective blocking statutes, and (2) pressure Congress to amend the current FTAIA to be more restrictive in its extraterritorial application. Specifically, with Supreme Court's decision in Apple v. Pepper, the international community will look for ways to protect its e-commerce platforms from litigious activity brought in the United States under U.S. anti-trust law. 73. 15

### 5 – AT: not all trade – 1nr

#### Protectionism undermines political connections that sustain the LIO. The plan lites a fuse on global populism, igniting waves of economic nationalism. Prefer our evidence specificity – nam explicitly connects our internal link to liberal peace.

#### Norms of free investment maintains the liberal international order.

Steven S. Nam, Distinguished Practitioner, Center for East Asian Studies, Stanford University, ’18, Our Country, Right or Wrong: The FTC Act's Influence on National Silos in Antitrust Enforcement, 20 U. PA. J. Bus. L. 210 (2018).

The U.S.' rise atop the liberal international order coincided with Great Britain's early twentieth century decline, but also was precipitated by a culture of free investment that resisted strong financial institutional sway and social democratic interferences in the public firm. The Gilded Age's exponential industrial expansion, dependent on a small number of powerful trusts, gave way to large public firms with diffuse ownership and frequent differences in opinion between shareholders and managers. 129 Their eventual prevalence and sophistication largely spared U.S. antitrust regulators of concerns over the national economic consequences that discrete enforcement action or inaction against any one firm might trigger. In contrast, competition authorities in countries that were slower to industrialize and/or operate within a more coordinated variety of capitalism have had to contend with the national ramifications of penalizing national champions, many of them controlled by dominant families. Mercantilist political pressures can further obfuscate regulator responsibilities within the interdependent global economy. 30 Per Gilpin:

Nation-states are induced to enter the international system because of the promise of more rapid growth; greater benefits can be had than could be obtained by autarky or a fragmentation of the world economy. The historical record suggests, however, that the existence of mutual economic benefits is not always enough to induce nations to pay the costs of a market system or to forgo opportunities of advancing their own interests at the expense of others. There is always the danger that a nation may pursue certain short-range policies.... in order to maximize its own gains at the expense of the system as a whole.'

#### Protectionism spills over.

Weimin Shen, L.L.M, J.S.D., Washington University School of Law, ’20, "The Role of Transnational Legal Process in Enforcing WTO Law and Competition Policy," Journal of Transnational Law & Policy 30 (2020-2021): 59-118

As discussed above, most facets of competition law enforcement today have an important international dimension. For example, a large proportion of anti-cartel prosecutions, the most "hardcore" aspect of competition law enforcement, concerns price-fixing and market sharing arrangements that often spill across national borders and, in important instances, span the globe. 86 Left unchecked, these hold the potential to directly undermine the gains from trade. Therefore, in cases involving export cartels, competition policy is often entangled with trade liberalization. Consider the three following scenarios: 1) "[exporting] producers could coordinate to lower prices to gain increased global market share;" 2) "export markets already dominated by [exporting] producers . . . could [further] coordinate to raise export prices to increase profits;" and 3) "[exporting] producers could agree to divide overseas markets between themselves . . . [to downsize] unnecessary competition." 8 7