# R3 NU

# 1nc

### 1NC – OFF

#### First off is the regulations cp.

#### The United States federal government should regulate practices and comity law by the private sector in the People’s Republic of China through non-antitrust regulations.

#### The counterplan PICs out of anti-trust legislation and the FTC and DOJ as enforcers---other agencies’ regulations solve.

Lawrence Fullerton et al. 08. Joel M Mitnick, William V Reiss, George C Karamanos and Owen H Smith. Sidley Austin LLP. Vertical Agreements The regulation of distribution practices in 34 jurisdictions worldwide. “United States.” https://www.sidley.com/-/media/files/publications/2008/03/getting-the-deal-through--vertical-agreements-2008/files/view-united-states-chapter/fileattachment/united-states-21.pdf

5 What entity or agency is responsible for enforcing prohibitions on anticompetitive vertical restraints? Do governments or ministers have a role?

The Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DoJ) are the two federal agencies responsible for the enforcement of federal antitrust laws. The FTC and the DoJ have jurisdiction to investigate many of the same types of conduct, and therefore have adopted a clearance procedure pursuant to which matters are handled by whichever agency has the most expertise in a particular area.

Additionally, other agencies, such as the Securities and Exchange Commission and Federal Communications Commission, maintain oversight authority over regulated industries pursuant to various federal statutes, and therefore may review vertical restraints for anti-competitive effects.

**FTC’s increasing enforcement in privacy now---it’s focused on algorithmic bias**

James V. **Fazio, 21** – special counsel in the Intellectual Property Practice Group at Sheppard, Mullin, Richter & Hampton LLP, with Liisa M. Thomas, 3/11. “What Is FTC’s Course Under Biden?” https://www.natlawreview.com/article/what-ftc-s-course-under-biden

The new acting FTC chair, Rebecca Kelly Slaughter, recently signaled that the FTC may **increase enforcement** and penalties in the **privacy and data security** realm. Slaughter pointed to several areas of focus for the FTC this year, which companies will want to keep in mind:

Notifying Consumers About FTC Allegations: Slaughter referred favorably to two recent cases: (1) the Everalbum biometric settlement from earlier this year (which we wrote about at the time); and (2) the Flo Health settlement over alleged deceptive data sharing practices (which we also wrote about at the time). In drawing on these two cases, Slaughter indicated that in future cases the FTC intends to include as part of any settlement a requirement to notify customers of any FTC allegations. This, she said, would allow consumers to “vote with their feet” and help them decide whether to recommend their services to others.

FTC Intent to Plead All Relevant Violations: According to Slaughter, another lesson the FTC is taking from the Flo case is to include in the cases it brings all potentially applicable violations of all relevant privacy-related laws. In the Flo case, Slaughter said the FTC should have pleaded a violation of the Health Breach Notification Rule, which requires that vendors of personal health records notify consumers of data breaches.

Focus on Ed Tech and COPPA: Given the explosive growth of education technology during COVID-19, the FTC is conducting an industry sweep of the industry. Related to this, the FTC is reviewing its Children’s Online Privacy Protection Act Rule. This goes beyond the refresh the agency did of their FAQs earlier in the pandemic (which we wrote about at the time). For now, Slaughter reminds companies that parental consent is needed before collecting information online from children under the age of 13.

Examination of Health Apps: The FTC will take a closer look at health apps, including telehealth and contact tracing apps, as more and more consumers are relying on such apps to manage their health during the pandemic.

Overlap Between Competition and Privacy: Slaughter also indicated that it is worth looking at situations where there may be not only privacy concerns, but antitrust as well. Because the FTC has a dual mission (consumer protection and competition) she notes that it has a “structural advantage” over other regulators in that it can look at these issues, especially since -she states- “many of the largest players in digital markets are as powerful as they are because of the breadth of their access to and control over consumer data.”

Racial Equality and AI/Biometrics/Geotracking: Slaughter noted that COVID-19 is exacerbating racial inequities. She pointed to the unequal access to technology, as well as algorithmic discrimination (the idea that discrimination offline becomes embedded into algorithmic system logic). The FTC intends to focus on algorithmic discrimination, as well as on the discrimination potentially embedded into facial recognition technologies. (This mirrors concerns that gave rise to the recent Portland facial recognition law, which we recently wrote about). Finally, Slaughter commented on the use of location data to identify characteristics of Black Lives Matter protesters, and said she is concerned about the misuse of location data to track Americans engaged in constitutionally protected speech.

Putting it Into Practice: Companies that operate health apps, that are in the education technology space, or that use algorithms or facial recognition tools will want to keep in mind that these are areas of focus for the FTC. And for everyone, keep in mind that the FTC has indicated it will **beef up privacy law penalties** and will ask for more notification to injured consumers.

**Antitrust enforcement saps up FTC resources and personnel, which are finite**

Tara L. **Reinhart, et al. 21**. \*\*Head of Skadden, Arps, Slate, Meagher & Flom LLP’s Antitrust/Competition Group. \*\*Steven C. Sunshine, Co-head of Skadden, Arps, Slat, Meagher & Flom LLP’s Antitrust/Competition Group. \*\*David P. Whales, antitrust lawyer with over 25 years of experience in both private and public sectors. \*\*Julia Y. York, partner at Skadden, Arps, Slat, Meagher & Flom LLP. \*\*Bre Jordan, associate at Skadden, Arps, Slat, Meagher & Flom LLP focusing on antitrust law. “Lina Khan’s Appointment as FTC Chair Reflects Biden Administration’s Aggressive Stance on Antitrust Enforcement.” 6/18/21. https://www.skadden.com/insights/publications/2021/06/lina-khans-appointment-as-ftc-chair

Second, like all antitrust enforcers, Ms. Khan and the FTC will face resource constraints. Bringing **antitrust litigation is an expensive and laborious process**, often requiring millions of dollars for expert fees and a large army of FTC staff attorneys and taking many months or even years to accomplish. Typically, the FTC can only litigate a **handful of antitrust matters** at a time. It seems likely that Congress will provide more funding to the FTC in the current environment, but even with these extra resources, the **FTC will still have to pick its cases carefully** and cannot challenge every deal or every instance of alleged unlawful conduct.

**That trades off with the necessary resources for privacy enforcement**

John O. **McGinnis**\* **and** Linda **Sun**\*\* **20** – \*George C. Dix Professor, Northwestern University, and Associate-Designate, Wilmer Pickering Hale & Dorr LLP. “Unifying Antitrust Enforcement for the Digital Age.” Northwestern Public Law Research Paper No. 20-20. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3669087

The FTC needs more **resources** to adequately address the nation’s growing privacy concerns. Currently, the FTC oversees both consumer protection—encompassing privacy—and antitrust,249 making the FTC the chief federal agency on privacy policy and enforcement250 and the nation’s de-facto privacy agency.251 The agency has long-standing experience in enforcing privacy statutes252 and also has special privacy assets, such as an internet lab capable of high-quality tech forensics to track invasions of privacy.253 The FTC, however, has failed to keep pace with the massive growth of privacy concerns—a phenomenon also driven by modern technology. Very few Americans feel conﬁdent in the privacy of their information in the digital age.254 According to a 2019 study, over 80% of Americans feel that they have little to no control over the data collected on them by companies and the government.255 To adequately address privacy concerns, the FTC needs more resources.256 The agency has been explicit that it needs more manpower to police tech companies. In requesting increased funding from Congress, FTC Director Joseph Simons said the money would allow the agency to hire additional staff and bring more privacy

cases.257 A former director of the FTC’s Bureau of Consumer Protection, which houses the

privacy unit, has called the FTC “woefully understaffed.”258

As of the spring of 2019, the FTC had only forty employees dedicated to privacy and data

security, compared to 500 and 110 employees at comparable agencies in the UK. and Ireland, respectively.259 Without more lawyers, investigators, and technologists, the FTC will be forced to conduct privacy investigations less thoroughly, and in some cases, **forgo them altogether**.260 Currently, the FT C’s resources are **spread thin across multiple missions**, to the **detriment of its privacy efforts**. Removing the agency’s antitrust responsibilities would reallocate resources from the antitrust department to its privacy unit and other areas of consumer protection. Further, it would free up the scarce time of the commissioners to oversee this essential effort.261

**Unchecked algorithmic bias risks massive inequality, suffering, and extinction**

**Thomas 20** – Quoting AI experts including MIT Physics Professors, Senior Features Writer for BuiltIn

Mike Thomas, THE FUTURE OF ARTIFICIAL INTELLIGENCE: 7 ways AI can change the world for better ... or worse, Updated: April 20, 2020, [https://builtin.com/artificial-intelligence/artificial-intelligence-future](about:blank)

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

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

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

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

But no one knows for sure.

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

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

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

### 1NC – OFF

#### Next off is the cap k.

#### Anti-trust is a capitalist psy op to pacify the working class, buy time to mystify unsustainable accumulation, and map competition onto subjectivity – homo economicus devalues life.

Lebow 19 [David Lebow – Lecturer on Social Studies at Harvard University and lawyer, “Trumpism and the Dialectic of Neoliberal Reason,” Perspectives on Politics 18(2):380-398, doi:10.1017/S1537592719000434]

I. Neoliberal Reason

As Michel Foucault and others have argued, neoliberalism entails far more than an economic doctrine favoring deregulated markets.4 It is a novel form of governmentality—a rationality linked to technologies of power that govern conduct, not just through direct state action but through liberty itself.5 Not isolated to the traditionally demarcated sphere of economics, neoliberal society entails a whole economic-juridical order.

The central program of neoliberal governmentality is the absolute generalization of competition as a universal behavioral norm. Whereas in liberal thought, the root principle of capitalism was exchange of equivalents, for neoliberal reason it is competition entailing inequality. The key result of market processes goes from specialization to selection. The competitive market is the exclusive site of rationality. It processes information, indicated by price, and is the only mechanism of producing knowledge, defined as what is profitably utilizable. Because consumers are free to refuse inferior goods or services, the price mechanism of the market system ensures optimal solutions and maximal satisfaction of preferences.

Liberal capitalism, as Karl Polanyi argued, required the construction of “fictitious” commodities like land and labor.6 These abstract, exchangeable factors of production had to be disembedded from concrete non-market social relations, norms, and values. Instead of merely disembedding commodities, neoliberalism intervenes to make competitive mechanisms regulate every moment and point in society. It strives to build an empire of market choice that invades every domain of life, and deposes all other social, political and solidaristic institutions and values.

Neoliberalism does not allege that markets are natural; competition must be constructed. Rather than endorsing laissez-faire overseen by a night watchman, it stipulates a strong state engaged in permanent vigilance, activity, and intervention to maintain artificial competition. It must not plan outcomes, which would upset the market’s innate rationality, and must be insulated from political disturbances. Economic interventionism leads down the road to serfdom; fascism and unlimited state power are its necessary results. A “minimum of economic interventionism” on the “mechanisms of the market” must be accompanied by “maximum legal interventionism” on the “conditions of the market.”7 Fixed, formal rules make up an economic constitution that inhibits planning, repulses political disruptions, and impartially safeguards competition. The state is the executor of the market and growth is the basis of public legitimacy. Governance depoliticizes public power, promotes ostensibly post-ideological technical problem-solving by experts, and relies on “best-practices” that dissolve the distinction between public and private organization.8

Unlimited generalization of competition yields an enterprise society in which calculations of supply/demand and cost/benefit become the model of all social relations. Neoliberal reason renders homo economicus, based on this model of the enterprise, the exhaustive figuration of human subjectivity. The center of economic thought shifts from labor and processes of production, exchange, and consumption to human capital and rational decision-making under conditions of scarcity. Capital is everything that can generate future income; wages are reconceived as income from capital. Labor is no longer comprehended as a commodity exchanged for a wage, but as a combination of human capital (the worker’s education and abilities) and the income stream it generates. This neoliberal subject is an aggregate of human capital who invests in his own income-generating abilities.

Neoliberalism replaces the invariant identity of the moral person as a rights-bearing citizen with a formally empty receptacle filled up through enterprising choices. It brushes aside models of freedom as self-rule achieved through moral autonomy or popular sovereignty.9 In the neoliberal “democracy of consumers,” individual consumers together constitute the sovereign that monopolizes the issuance of legitimate commands.10 Sovereign will is expressed not through political channels, but by choices in the “plebiscite of prices.”11 Whereas producers have particular interests like protectionism, consumers have a consensual and common interest; all favor the impartial functioning of market processes. In the neoliberal free society, consumers exercise their right to choose in complete independence.

II. From Keynesian State Capitalism to Neoliberal Deregulation

Situating the 2008 crisis in a historical account of American political and economic development clarifies its broader significance. The early twentieth-century Progressives were disdainful of what they took to be the chaos and waste of fin de siècle laissez-faire society. They strove to build a new American state that would replace the structural and rights-based formalisms of the nineteenth century with direct democracy and expert administration. It took the Great Depression and New Deal to bring into full bloom the Progressive commitment to pragmatic rationality. Thereafter, the “policy state” was authorized to pursue designated social goals and develop the means to accomplish them.12 The slew of New Deal innovations included state oversight of labor negotiations, invigorated antitrust, Keynesian countercyclical deficits to stimulate demand and increase purchasing power, an expansive public sector sheltered from the business cycle, aggressive banking regulation, and social insurance. Regulation and redistribution ensured the conditions necessary for an economic system based on capital accumulation, private property, and corporate profit to endure.

To many, the differences between the New Deal and Nazi political economies appeared less significant than their common response to monopoly capitalism. Both erased boundaries between state and society by politicizing the private sphere and authorizing public bureaucracies to rationalize crisis-prone economies. Frankfurt School member Friedrich Pollock suggested that this common “state capitalism” had solved the contradiction between the forces and relations of production, and thus overcome the economy’s crisis tendencies. It seemed to him that management had become merely technical and “nothing essential” had been “left to the laws of the market.”13 Worries abounded that the private law sphere of property and contract was necessary for individual freedom. Despite salient differences between Nazi and New Deal state capitalism, many feared that intervention into society was a waystation to domination. Unease about the specter of American despotism motivated development of mechanisms to ensure that interventionism did not devolve into arbitrary rule.14 Expertise was one justification and limitation of the policy state. Authority could be safely delegated to a new corps of public-spirited administrators because their scientific knowledge would not only make them effective, but also counsel restraint. Enduring misgivings led later to new laws of administrative process. The procedural state was legitimated by its defenders as being a substantively value-neutral and instrumentally rational machine serving goals set by society. Regulatory decision-making was shunted into the abstruse procedures of courtrooms and bureaucracies. Defenders of the state emphasized that its processes of allocating authority were neutral, impartial, and open to all. The balanced accommodation of all interest groups seeking to exercise influence would yield an equilibrium corresponding to the public interest.15

The intermeshing of state and society through interest groups, agencies, and professionalized parties marginalized the public. The sovereign public opinion that Progressives had hoped would rationalize government gave way to the rationality supposedly inherent in processes of public law, public-private negotiation, and regulated markets. The state was endowed with a diffuse legitimacy in exchange for a growing economy, broad distribution, and ongoing household capacity to consume.16 The Keynesian welfare settlement pacified the working class, protecting the market economy from more radical political pressures. Newly available, mass-produced commodities encouraged leveled-down notions of citizenship as welfare clientelism and privatistic consumption. As the state expanded and routinized, the initial politicization of private property relations through public intervention developed into depoliticized economic management by lawyers and social scientists organized by administrative and judicial processes.

The terms of the social contract preserving the coexistence of capitalism and democracy had been set. In exchange for a pacified citizenry and depoliticized regulatory authority, the policy state promised to deploy instrumental reason to sustain both capital accumulation and widely distributed capacity to consume (supported, always, by the exclusion of African Americans). During the decades of postwar growth, these twin responsibilities seemed attainable and compatible. Capitalism functioned smoothly enough and potentially delegitimating inequality was clipped by inflation, tax-based welfare, and collectively negotiated wages. But in the late 1960s and early 1970s, weakening growth, stagflation, trade deficits, and the collapse of Bretton Woods revealed that state capitalism had not solved the problems of economics. As the Great Depression had enabled construction of the instrumentally rational policy state, economic disturbances in the 1970s opened the breach into which neoliberal reason entered to reconfigure the political economy. Rather than shielding rational policy-making from political pressure and assuring broadly distributed welfare, neoliberalism promised growth driven by depoliticized markets freed from regulation and downwards redistribution. Believing in the optimal rationality of competitive markets, neoliberals sought to reinvigorate capital accumulation through deregulation, lowered taxes, financialization, privatization, and market expansion.

Liberating accumulation from the restrictions and obligations incurred under state capitalism might have imperiled capitalism’s peace treaty with democracy. For deregulation to proceed without impairing the system’s legitimacy, the quid pro quo—depoliticization for consumption—had to continue. Over the ensuing decades, as Wolfgang Streeck explains, the state “bought time” by finding new ways to generate illusions of widely distributed prosperity that prolonged the capacity of the lower and middle classes to consume.17 Each successive attempt exhausted itself, leading to new and escalating disturbances. In the 1970s, inflation safeguarded social peace by compensating workers for inadequate growth until stagflation ended this mode of buying time. A subsequent reliance on public debt enabled the government to pacify conflict with borrowed money. Rising debt and balking creditors delimited this phase, which was brought to a definitive close with the Clinton administration’s social spending cuts and balanced budgets. In a final stage that dawned in the 1980s but grew increasingly paramount over time, debt-based support of purchasing power was privatized. Household spending was financed through mortgages, student loans, and credit cards. This “privatized Keynesianism” buoyed consumption up through 2008, despite cuts to social spending, falling wages, and tightening employment markets.18

Each device for upholding spending maintained the legitimacy of the depoliticized political economy, even as liberalization continued to strip the wage-dependent population of regulatory and redistributive safeguards. The end of the inflation era brought structural unemployment and weakened trade unions. The passing of the public debt regime meant cuts to social rights, privatization of social services, and a trimmed public sector. Growing private debt enabled people to hold on despite lost savings, and rising under- and unemployment. At every step, the neoliberal project was “dressed up” as a consumption project.19 Continuing consumption ensured legitimacy long enough to enact total transformation of the political economy.

The state could not buy time indefinitely. The 1970s had already witnessed the beginning of the transition from a manufacturing, production-oriented economy that exported surpluses to an import-based, finance and services economy focused on consumption. As the United States went from creditor to debtor, a system of “balanced disequilibrium” took hold.20 With impunity granted as the world’s reserve currency, the United States ran mounting budget and trade deficits. To finance them, it absorbed surplus capital from abroad, much of which wended its way to Wall Street. Banks used these profits to extend credit to the working- and middle- classes. Household debt funded consumption of imported goods, returning the surplus capital abroad, and completing the circuit of global trade. This system depended on the unsustainable condition of ever-increasing debt-based consumption. Consumption was notoriously reinforced by secondary markets in what was essentially private money (securitized derivatives and collateralized debt obligation) that was much riskier than assumed. Because increasingly irresponsible lending was integral to continuing the consumption that stabilized the macroeconomic system, it became a sort of vicious collective good that progressively magnified the scale of the inevitable crash.21 When in 2008 the debt finally proved unserviceable and the housing bubble burst, the private money disappeared and the disequilibrated global economic system fell into crisis.

Consumption based on private debt had provided an unstable bridge over the yawning inequality brought about by deregulation, financialization, globalization, and the diminished welfare state. When the 2008 crisis dried up credit, it revealed a divided “dual economy.”22 On one side is the primary sector of elite, highly-educated professionals who are collected in coastal urban centers and tied in to corporate management, technological innovation and oversight of global capital flows. On the other is the secondary sector of low-skilled workers primarily fixed in the heartland, for whom deregulated competition has brought under- or unemployment, job instability, depressed wages, exploding debt, and diminished prospects.

Unable to buy more time, the state’s breach of the postwar social contract has been exposed. The neoliberal system of capital accumulation was entrenched at the expense of broad and sustainable consumption. The results have been the politicization of defrauded citizens and a political economy plunged into legitimation crisis. Time has belied the premature conclusion that contradiction and crisis potential had been overcome by state capitalism. Contradiction was relocated into cross-cutting imperatives for the state to enable capital accumulation and distribute consumption. In hindsight, we find only a window of stabilization of an enduring crisis potential built into capitalist political economy. As Nancy Fraser puts it “on the one hand, legitimate, efficacious public power is a condition of possibility for sustained capital accumulation; on the other hand, capitalism’s drive to endless accumulations tends to destabilize the very public power on which it relies.”23 The political fallout from the 2008 crisis marks the end of the postwar social contract that had established conditions ensuring the continued coexistence of capitalism and democracy.

#### Capitalism drives extinction and structural violence

Allinson et al 21 [Jamie Allinson is Senior Lecturer in Politics and International Relations at Edinburgh University and author of The Age of Counter-revolution. China Miéville is the author of a number of highly acclaimed and prize-winning novels including October: The History of the Russian Revolution. Richard Seymour is the author of numerous works of non-fiction, His writing appears in the New York Times, London Review of Books, Guardian, Prospect, Jacobin. Rosie Warren is an Editor at Verso and the Editor-in-Chief of Salvage. All are writing for the Salvage Collective. “The Tragedy of the Worker: Toward the Proletarocene.” Introduction. July 2021. Verso EBook. ISBN: 9781839762963 //shree]

This is the question that vexed us as we set out to write The Tragedy of the Worker. From the vantage point of the present, the history of capitalist development is, as Marx expected, the history of the development of a global working class, the proletarianisation of the majority of the world’s population. But the very same process of that development has brought us to the precipice of climate disaster. Our position, to recall Trotsky’s rationalisation of War Communism in 1920, is in the highest degree tragic.

It is now clear that we will pass what scientists have long warned will be a tipping point of global warming, accelerating the already catastrophic consequences of capitalist emissions. How do we imagine emancipation on an at best partially habitable planet? Where once communists imagined seizing the means of production, taking the unprecedented capacities of capitalist infrastructures and using them to build a world of plenty, what must we imagine after the apocalypse has befallen us? What does it mean that as capitalism has become truly global, the gravediggers it has created dig not only capitalism’s grave, but also that of much organic life on earth?

Our answers to these questions remain rooted in the politics of revolutionary communism. Our stance is not based on the fantasy of a homeostatic nature that must be defended but on the critique of the capitalist metabolism – the Stoffwechsel- that must be overthrown. Earth scientists are accustomed to speak in terms of ‘cycles’ by which substances circulate in different forms: the water cycle, the rock cycle, the nitrogen cycle, the glacial-interglacial cycle, the carbon cycle, and others. One way of registering the catastrophe of climate change is to see these cycles – most of all, but not solely, the carbon cycle – as disordered, under- or over-accumulating. But this is to ignore the more fundamental circuit of which these now form epicycles, like Ptolemy’s sub-orbits of the heavenly bodies: the circuit of capital accumulation, M-C-M′.

This circuit accumulates profit and produces death. Neither is accidental. It is for this reason that the debates that capitalist ruling classes permit among themselves on ‘adaptation’ versus ‘mitigation’ take place on false premises. What is to be mitigated is the impact of climate change on accumulation, rendered through the ideology of ‘growth’ as something that benefits everyone. What we are to adapt to are the parameters of accumulation, sacrificing just enough islands, eco-systems, indigenous – and non-indigenous – cultures to maintain its imperatives for a period of time until new thresholds must be crossed, and new life sacrificed to the pagan idol of capital. Already, capitalist petro-modernity builds a certain quantum of acceptable death into its predicates: at the very least, the 8.7 million killed by fossil fuels each year according to Harvard University are considered a price worth paying for the stupendous advantages of fossil capital. And the sky can only keep going up, as deforestation, polar melt, ocean acidification, soil de-fertilisation and more intense wildfires and storms tear the web of life into patches. If the necropolitical calculus of the Covid-19 pandemic appears crass, just wait until its premises are applied to climate catastrophe.

#### Vote neg for anti-capitalist commons – collectives should refuse commitments to competitive principle and the straitjacket of what’s “realistic”

Rose 21 [Nick. PhD in Political Ecology from RMIT University. Executive Director of Sustain: The Australian Food Network. From the Cancer Stage of Capitalism to the Political Principle of the Common: The Social Immune Response of “Food as Commons.” Int J Health Policy Manag 2021. 3-31-21. DOI: 10.34172/ijhpm.2021.20 //shree]

Silvia Federici provides a longer historical perspective, noting that ‘commoning is the principle by which human beings have organised their existence for thousands of years;’ and that to ‘speak of the principle of the common’ is to speak ‘not only of small-scale experiments [but] of large-scale social formations that in the past were continent-wide.’87 Hence a commons-based society is neither a utopia or reducible to fringe projects, and the commons have persisted despite the many and continuing enclosures, ‘feeding the radical imagination as well as the bodies of many commoners.’87 Federici acknowledges that commons and practices of commoning are diverse, that many are susceptible to cooptation and many are consistent with the persistence of capitalism; indeed some, such as charities providing social services (including foodbanks) during the years of austerity budgets in the United Kingdom (2010-2015), reinforce and stabilise capitalism.87 What matters to Federici is the character and intentionality of the commons as anti-capitalist, as ‘a means to the creation of an egalitarian and cooperative society…no longer built on a competitive principle, but on the principle of collective solidarity [and commitments] to the creation of collective subjects [and] fostering common interests in every aspect of our lives.’87

Federici’s analysis resonates with the political thought and proposals developed by Dardot and Laval in their 2018 work, ‘On Common: Revolution in the 21st century.’11 For Dardot and Laval, the common is likewise understood as a principle of political struggle, a demand for ‘real democracy’ and a major driving force behind the emerging articulation of a political vision and programme that transcends and overcomes the straitjacket logic of neoliberal ideological hegemony and its ‘policy grammar’ which appears to foreclose all alternatives and lock us forever into a capitalist realism in which ‘it is easier to imagine the end of the world than it is to imagine the end of capitalism.’89 Eschewing Bollier’s ‘triarchy’ of a market/state/ commons coexistence, Dardot and Laval argue for a politics of the common based on an engaged citizenry that directly participates and deliberates in all decisions which impact it, and in the process not merely transforms the institutions responsible for the management of services and allocation of resources, but creates new institutions and new ways of being in the world.11

Dardot and Laval describe this form of politics as ‘instituent praxis’: the common, they argue, is ‘not produced but instituted.’11 This acknowledges the conventional understanding of Ostrom, Bollier and others of ‘the commons’ as residing in the rules – the laws – that a community establishes for the collective management and use of shared resources, but extends it much further and in a more radical direction. The essence of the commons, they argue, is not in the goods per se such as land or a forest or a seed bank ‘held in common,’ but rather in the process of their establishment as well as the ongoing negotiation that will surround their use and governance. Hence, Dardot and Laval distinguish the commons from the ‘rights’ tradition of property, arguing that ‘the commons are above all else matters of institution and government…the use of the commons is inseparable from the right of deciding and governing. The practice that institutes the commons is the practice that maintains them and keeps them alive and takes full responsibility for their conflictuality through the coproduction of rules.’90 To ‘institute’ in this context should not be misunderstood as ‘to institutionalise [or] render official;’ rather it is ‘to recreate with, or on the basis of, what already exists.’ 90 This messy, conflictual and evolving process is what Dardot and Laval insist will ultimately bring about a revolution, not in the form of a violent uprising or insurrection, but rather through the ‘reinstitution of society’ via the transformation of politics and economy from its current state of ‘representative oligarchy’ to full participatory and deliberative democracy.11 Such a vision is premised on a mass politicisation of society; in effect a return of mass popular political contestation and a turn away from the postpolitical era of the neoliberal consumer.91-92

### 1NC – OFF

#### Next off is the Econ DA.

#### Big Tech rising now---contained antitrust is key.

Rob Lever 8-15. Writer at TechXPlore. Big Tech rolls on as investors shrug off regulatory pressure. No Publication. 8-15-2021. https://techxplore.com/news/2021-08-big-tech-investors-regulatory-pressure.html

Pressure is rising on Big Tech firms, signaling tougher regulation in Washington and elsewhere that could lead to the breakup of the largest platforms. But you'd hardly know by looking at their share prices.

Shares in Apple, Facebook, Amazon and Google parent Alphabet have hovered near record highs in recent weeks, lifted by pandemic-fueled surges in sales and profits that have helped the big firms extend their dominance of key economic sectors.

The Biden administration has given signs of more aggressive regulation with appointments of Big Tech critics at the Federal Trade Commission.

But that has failed to dent the momentum of the largest tech firms, despite tough talk and antitrust litigation in the United States and Europe, with US lawmakers eyeing moves to make antitrust enforcement easier.

Big Tech critics in the United States and the EU want Apple and Google to loosen the grip of their online app marketplaces; more competition in a digital advertising market dominated by Google and Facebook; and better access to Amazon's e-commerce platform by third-party sellers.

One lawsuit tossed out by a judge but in the process of being refiled could force Facebook to spin off its Instagram and WhatsApp platforms, and some activists and lawmakers are pressing for breakups of the four tech giants.

All four have hit market valuations above $1 trillion, with Apple over $2 trillion. Alphabet shares are up some 80 percent from a year ago, with Facebook up nearly 40 percent and Apple almost 30 percent. Amazon shares are roughly on par with last year's level after breaking records in July.

Microsoft, with a $2 trillion valuation, has largely escaped antitrust scrutiny, even as it has benefitted from the cloud computing trend.

The surging growth has stoked complaints that the strongest firms are extending their dominance and squeezing out rivals.

Yet analysts say any aggressive actions, in the legal or legislative arena, could take years to play out and face challenges.

Fast-moving environment

"Breakup is going to be nearly impossible," said analyst Daniel Newman at Futurum Research, citing the need for controversial legislative changes to antitrust laws.

Newman said a more likely outcome would be multibillion-dollar fines that the companies could easily absorb as they adjust their business models to adapt to problematic issues in a fast-moving environment.

"These companies have more resources and know-how than the regulators," he said.

Dan Ives at Wedbush Securities said any antitrust action would likely require legislative change—unlikely with a divided Congress.

"Until investors start to see some consensus on where the regulatory and law changes go from an antitrust perspective, it's a contained risk, and they see a green light to buy tech," he said.

#### Expanded antitrust causes a wave of additional expansions---tanks current Big Tech innovation and economic output.

Wayne Brough 6-15. Policy Director at R-Street, Technology & Innovation. Washington wants to weaponize antitrust law to attack “Big Tech” and it is going to backfire horribly. R Street. 6-15-2021. https://www.rstreet.org/2021/06/15/washington-wants-to-weaponize-antitrust-law-to-attack-big-tech-and-it-is-going-to-backfire-horribly/

Solutions in Search of a Problem

As with many other regulatory incursions into the digital world, the renewed push for tougher antitrust laws is a solution in search of a problem. Both Republican and Democratic criticisms of Big Tech raise a litany of issues—from an anti-conservative bias to fake news and hate speech—none of which fall within the purview of antitrust law and anticompetitive behavior. Instead, the new regulatory regime under consideration is a punitive and political attack on politically disfavored corporations. Ultimately, that is the larger battle—abandoning the consumer welfare standard and its focus on demonstrable consumer harm in favor of a politicized regime that allows those in Congress greater control over private companies.

And while tech companies may be the exclusive focus of the current reforms, the scope of the proposed legislation could easily be expanded by a future Congress. Even today, many lawmakers are openly hostile toward a growing list of American businesses. Republicans have been vocal in calling for retaliatory measures against “woke” corporations deemed too progressive in their public stances. If policymakers continue to abandon economic principles, it would not be surprising to see calls for additional antitrust enforcement for any company that makes political waves.

Prior to the adoption of the consumer welfare standard almost 50 years ago, antitrust law was often confusing, economically suspect and even contradictory. In one notorious case, the Supreme Court blocked a merger where the merged company would have had a market share of merely 7.5 percent—hardly an example of market dominance. And economists examining antitrust enforcement prior to the consumer welfare standard found no correlation between antitrust enforcement and a reduction in the welfare losses from monopoly. Further research found congressional influence to be a better predictor of enforcement activity.

The consumer welfare standard helped rationalize antitrust enforcement and the case law that has emerged since its adoption has helped curb the political abuse of antitrust policies. Abandoning the need to identify demonstrable consumer harm would return antitrust law to an era characterized by arbitrary enforcement actions that many in today’s Congress seem to have forgotten. But the increased political oversight that comes with adopting more aggressive tools for antitrust enforcement poses a real threat to consumers, to innovation and to economic growth.

Abandoning the American Way in Favor of a European One

The bills introduced in the House can be interpreted as a turn toward a European approach to competition policy. Last year, the EU passed the Digital Markets Act, and the House proposals sound eerily similar. The EU started by defining “gatekeepers,” something similar to the “covered platforms” in the House bills. Restrictions on self-preferencing, interoperability requirements and other elements introduced in the House all have direct counterparts in the EU’s law.

The EU adopted its laws with a clear target in mind—American tech companies that were dominating markets in Europe and outperforming their European rivals. Politically, it made sense to rewrite the rules of the game in favor of homegrown talent. Among other things, this meant the EU could collect billion-dollar fines from American companies, all in the name of “fair competition.”

But the performance of European companies is probably the best reason not to follow the EU’s lead in redefining how we regulate competition. By virtually every measure, U.S. companies have been more innovative, more dynamic and more profitable than their European counterparts. There are more start-ups in the United States and they have greater access to capital. While the United States and the EU have economies of similar magnitudes, in 2019, U.S. startups had a valuation of $1.37 trillion compared to EU startups with an evaluation of $240 billion.

The rise of Silicon Valley is an American success story. Today the top five companies in the United States based on market capitalization are tech companies. They have led the digital revolution, providing consumers a virtually endless stream of new products at low or even zero cost in many cases. These are signs of a robust market that serves consumers well. It is important to remember that big does not equate to bad—sometimes a firm is large because it is efficient at serving its customers what they want. The tech sector supports 12 million jobs and more than $2 trillion in economic output. Current antitrust laws grounded in the consumer welfare standard are part of the institutional framework that make this possible. Congress should ensure antitrust laws fit best into the modern U.S. economy, but the House proposals are a radical departure that shifts the focus to protecting competitors rather than consumers. They would weaponize antitrust law, provide politicians a greater say in America’s boardrooms and replace economic efficiency with political expediency and preference.

#### Big Tech drives AI innovation and R&D investments---antitrust fractures it.

Nicole Hemsoth 20. Co-Founder and Co-Editor at the Next Platform. What Could Stifle American AI Innovation?. Next Platform. 5-21-2020. https://www.nextplatform.com/2020/05/21/what-could-stifle-american-ai-innovation/

There are many things the U.S. government can do, but innovating at a rapid pace in the ever-evolving world of artificial intelligence is not necessarily one of them.

Much of the work in deep learning hardware and software comes from the private sector, which various government agencies depend upon for their various directives. However, we are in an age of complicated antitrust conversations and unfortunately, many of the companies under the gun for such action are those who supply the feds with much-needed computational and algorithmic know-how and tools.

The Center for Security and Emerging Technology (CSET) issued a detailed brief this month reviewing the role of antitrust action and what it could mean for the Pentagon’s access to AI. Indeed, there are a number of other government entities that could feel the burn if some of the most prolific tech monopolies are divvied up, but the report is narrowly focused on the Pentagon specifically.

We talked with one of the authors of the report, Dakota Foster, a visiting researcher at CSET about the multi-layered question of antitrust, AI, and what governments stand to lose (and what smaller private companies and startups might gain).

One of the most interesting questions in the wake of potential antitrust action against some of the largest tech companies (Google Microsoft, etc.) is around innovation. How might it might stifled and what will the effect be on the agencies that rely on the swift pace of progress on strategically critical technology areas like AI?

“We estimate that antitrust action will likely reduce the net amount and diversity of data held by firms that are broken up and could also reduce firms’ R&D budgets,” Foster says. “However, the effect these losses will have on innovation remains unclear. Similarly, we expect firms’ computing resources to diminish with yet undetermined consequences; shared compute resources could perhaps more than compensate for any loss.”

The R&D problem of any potential antitrust action down the pike would be most keenly felt in R&D, which spurs the innovation of many of the platforms that have tricked into use in hyperscale, HPC, and enterprise settings as open source or simply inspiration. While plenty of work comes out of national lab and developer communities, few things can beat a near-limitless well of R&D funds to innovative and iterate.

Foster and colleagues argue that If “R&D spending drives innovation, firms that can spend more on R&D— presumably large ones—will generally hold an edge in innovation.” They add that a “postbreakup AI sector could be less innovative as a result. Large tech companies do in fact spend more on R&D both in absolute and relative terms. According to PricewaterhouseCoopers, in absolute terms, Amazon and Alphabet were the world’s top two corporate R&D spenders in 2018, with Samsung, Intel, Microsoft and Apple in the top ten.

“The debate over breaking up Big Tech has profound national security implications. The Pentagon maintains that the innovation and acquisition of AI technologies is critical to America’s national security. Defense Secretary Mark Esper recently called AI the most significant emerging technology for warfare, predicting that “whoever masters it first will dominate on the battlefield for many, many, many years.” Although others within and beyond the Pentagon stress the limits of AI, its potential is widely acknowledged. In order to develop and deploy new, strategically decisive AI tools, the Pentagon must rely on an AI innovation ecosystem in which large private-sector companies play a critical role. At the same time, the Department of Justice, the Federal Trade Commission, Congress, and state attorneys general have targeted many of the private sector’s largest and most innovative AI companies in ongoing antitrust probes.” – Dakota Foster, Visiting Researcher, CSET

#### Solves Bio-D loss and conservation---extinction.

Naveen Joshi 20. Tech Expert and CEO of Allerin with 20+ years of experience in Information Technology. Conserving Biodiversity with AI. BBN Times. 10-8-2020. https://www.bbntimes.com/technology/conserving-biodiversity-with-ai

The use of AI for biodiversity conservation can help prevent the extinction of plants and animals and thus maintain a stable ecosystem.

The extinction of plants and animals such as Rhynia, Pluchea Glutinosa, Dodo, Great Auk, Tasmanian Tiger, and Western Black Rhinoceros in recent years is a matter of great concern since it adversely affects our ecosystem. Every species of plants and animals is important. Why? The existence of both plants and animals has always been vital to humans. Extinction of organisms disrupts the food chain and hence affects the ecosystem. Therefore, humans are very much dependent on plants and animals for survival. Hence precautionary measures should be taken to maintain the stability of the ecosystem. The traditional biodiversity conservation methods have not shown much impact lately. Thus, the use of technology such as ML or AI for biodiversity conservation can help prevent further extinction of plants and animals.

Using AI for Biodiversity Conservation

The use of AI can help prevent the extinction of endangered plants and animals. Let's see how AI can be used for biodiversity conservation:

AI for Animal Conservation

With the recent development of AI-powered devices for the conservation of animals, we can now prevent wildlife extinction. After the extinction of western African rhinoceros, African elephants are next on the verge of going extinct due to the involvement of extensive poaching. According to a report by HuffPost, African elephants may be extinct by the year 2020. Due to this reason, an American multinational corporation and technology company has taken a step forward to stop poachers attack African elephants. The company has come with an AI-based technology security system that promotes anti-poaching. The AI-based technology system uses a camera that detects poachers planning to attack an animal and subsequently generates an alert to the park rangers in real time. According to the Wild Heart Wildlife Foundation, one elephant is killed every 15 minutes due to illegal hunting. Hence, this AI-based system can prevent illegal hunting of animals to a great extent. The AI-based system uses a vision processor with neural network algorithms to detects an object and classify images inside the camera. According to the company that has invested in this technology the AI-based system has helped cut down poaching at Serengeti National Park in Africa. The AI-based system has detected members from over 20 different poaching gangs within the first 15 months of its installation. Similarly, a number of such AI-based devices are manufactured by technology companies that can greatly help in animal conservation.

AI for Plant Conservation

Plants are very beneficial for human lives and greatly help in fulfilling our necessities. They help fulfill our basic necessities as they can provide us with food, shelter, and medicine. The more the number of trees present in an environment, the greater is the amount of oxygen produced. Hence, plants greatly help in maintaining the stability of the ecosystem. Based on a report by Mongabay, according to scientists, one in every five plant species are on the verge of being extinct. This clearly implies how important it is to conserve plants.

The California Academy of Sciences and National Geographic Society have jointly developed an AI-based networking platform that can help in the conservation of plants globally. The AI-based platform allows its users to click and share photos of various species of plants in real time. It also allows the other community members to identify the photos of the specific plant and confirm the plant's presence, whether if such a plant already exists. In this way, the AI-based networking platform can help discover new species of plants worldwide. This technology has proved to be a sigh of relief for scientists. It used to take hundreds of years by scientists for the collection of data about various types of plants and their existence. Now, with the help of this AI-based platform, scientists can collect data much effectively and on a large scale, and thus they can suggest measures to prevent the extinction of plants.

### 1NC – OFF

#### Next off is the Japan DA.

#### Antitrust application extraterritorially ends the Japan economic alliance---they respond with diplomatic protest to new extraterritorial antitrust.

Takaaki **Kojima 02**. Fellow, Weatherhead Center for International Affairs, 2001-2002. “International Conflicts over the Extraterritorial Application of Competition Law in a Borderless Economy”. https://datascience.iq.harvard.edu/files/fellows/files/kojima.pdf

We are witnessing increasingly **widespread** and penetrating economic **globalization** today. As a result of trade liberalization, import restrictions or regulations on trade and investment have decreased substantially, and trans-border business activities face less barrier. At the same time, the role of trans-border business activities, especially those by so-called **multinational** or **global enterprises**, have become increasingly important and even dominant in some sectors.

As far as the territorial scope of business activities are concerned, state borders are more or less **diminishing** to become almost borderless; as for legal regimes, **however**, sovereign states retain in principle exclusive jurisdiction over their territories and nationals under international law. Business activities are regulated by the domestic laws of sovereign states or by international agreements concluded among sovereign states. The pertinent question is how to coordinate “borderless” business activities within the existing legal regimes governed by sovereign states. In the field of trade law, the measures of each state are restricted by international agreements, in particular under the GATT/WTO regime. In the field of competition law, such **an international regime is lacking** and the domestic laws of each state regulate private restraints of trade in the relevant markets.

Serious **jurisdictional conflicts** have transpired in the last several decades between the United States and other states over the so-called extraterritorial **application of U.S. antitrust laws on anticompetitive conducts** abroad. This problem has also caused **diplomatic frictions** between the United States and other states, as it concerns state sovereignty. In this essay, the author will review the historical development of **international conflicts** caused by the extraterritorial application of competition law and attempt to examine the options available to circumvent or solve these conflicts. The main focus will be U.S. antitrust law and its relation with other jurisdictions, mainly the European Union and **Japan**, considering the **grave implications** to competition law and policy as well as to the world economy. 2

II. Extraterritorial Application of U.S. Antitrust Laws

Problems concerning the extraterritorial application of U.S. antitrust laws have been discussed in many publications. Of the U.S. antitrust laws, the Sherman Act applies to “commerce … with foreign nations ” (Section 1) without qualifying provisions concerning its territorial scope as “within the United States” (Section 2) or “in any section of the country” (Section 3) as specified in the Clayton Act. In the past, U.S. courts interpreting the Sherman Act of 1890 and other antitrust laws commonly followed the traditional territorial principle with regard to its jurisdictional reach. In the American Banana case (213 U.S. 347 (1909)), where all the acts complained of were committed outside the territory of the United States, including the defendant’s alleged inducements of the Costa Rican government to monopolize the banana trade, the U.S. Supreme Court dismissed the complaint on the ground, inter alia, that acts committed outside of the United States are not governed by the Sherman Act. In this case, the territorial principle in the classic sense was applied.

In later decisions such as the American Tobacco case (221 U.S. 106 (1911)) and the Sisal case (274 U.S. 268 (1927)), jurisdiction was exercised over the defendants on the ground that although the agreements in question were concluded by foreigners outside the United States, jurisdiction was limited to what was performed and intended to be performed within the territory of the United States. In these cases, the territorial principle was applied more flexibly, but it has been observed that this application cannot be argued other than as a sensible and reasonable deployment of the objective territorial theory. 3

An entirely different approach was taken in the Alcoa case (148 F.2d. 416 (1944)), in which foreign companies outside the United States had concluded the agreements. The Court of Appeal for the Second Circuit held it settled law that any State may impose liabilities, even upon persons not within its allegiance, for conduct outside its borders that has consequences within its borders. It went on further to state that the agreements, although made abroad, were unlawful if they were intended to affect imports and did affect them.

This theory of the intended effect (the effects doctrine) elaborated in the Alcoa case was criticized by many as an excess of jurisdiction under public international law. For instance, R.Y. Jennings noted that “in this new guise it apparently comprehends the exercise of jurisdiction over agreements made abroad, by foreigners with foreigners provided only that the agreement was intended to have repercussions upon American imports or exports,” 4 while F.A. Mann argued that “the type of effect within the meaning of the Alcoa ruling has nothing in common with the effect which by virtue of established principles of international jurisdiction confers that right of regulation.” 5 Neverthele ss, since the Alcoa case, U.S. courts have continued to follow the new jurisdictional formula of the effects doctrine.

In response to excessive application of U.S. antitrust laws, especially with respect to courts’ orders to produce documents such as subpoena duces tecum located abroad, a considerable number of states have issued **diplomatic protests**. Australia, France, the United Kingdom, the Netherlands, and New Zealand have even enacted blocking legislation. 6 The protesting states maintain that taking evidence abroad, including an order to produce documents, is an exercise of extraterritorial enforcement of jurisdiction that, under international law, requires the consent of the state where the evidence is located. The United Kingdom has been one of the strongest opponents to U.S. claims of extraterritorial jurisdiction. The U.K. government stated for instance that “HM Government considers that in the present state of international law there is no basis for the extension of one country’s antitrust jurisdiction to activities outside of that country of the foreign national.” 7 The Protection of Trading Interest law was enacted in 1980, which provides to extensively thwart the extraterritorial application of U.S. antitrust laws. The U.K. government invoked the provisions in the Laker Airways case (1983 W.L.R. 413) in 1983.

Having faced the antagonistic reactions of other states, U.S. courts began to show some restraint in assuming extraterritorial jurisdiction. In the Timberlane case (549 F.2d. 9 th Cir. (1976)), the court concluded that it had jurisdiction over alleged anticompetitive conducts in Honduras but refrained from asserting extraterritorial jurisdiction after having applied three tests: first, whether the challenged conduct had had some effect on the commerce of the United States; second, whether the conduct in question imposed a burden on U.S. commerce; and third, whether the complaint’s interests of and links to the United States were sufficiently strong vis-à-vis those of other nations to justify an assertion of extraterritorial authority. The Foreign Trade Antitrust Improvements Act enacted in 1976 applies to foreign conduct that has a direct, substantial and reasonably foreseeable effect on U.S. commerce, The U.S. enforcement agencies, the Department of Justice (DOJ) and the Federal Trade Commission (FTC), have adopted this jurisdictional rule of reason formula since the Enforcement Guidelines for International Operations of 1988. However, divergent views exist as to whether the third test of balancing the interests of other states is a rule of international law or just a comity. 8 Furthermore, not all U.S. courts have consistently applied the test of balancing interests. 9

In 1993, the Supreme Court decision in the Hartford Fire Insurance case (113 S. Ct. 2891 (1993)) reaffirmed the effects doctrine, stating that the Sherman Act **applies to foreign conduct** that was meant to produce and did in fact produce some substantial effect in the United States. The Court then **took a restrictive view on** the test of **balancing** interests, stating that the only substantial question is whether there is a true conflict between domestic and foreign law, and held that no such conflict seemed to exist because British law did not require defendants to act in a manner prohibited by U.S. law. 10

Japan maintains the territorial principle and **rejects the effects doctrine**, stating that the effects doctrine cannot be regarded as an established rule of international law. In the view of the Government of **Japan**, the extraterritorial application **of U.S.** domestic laws (including U.S. **antitrust laws**) based on the **effects doctrine is not allowed** under general international law. 11 In the Nippon Paper case, where a Japanese company was prosecuted under the Sherman Act, the Japanese government submitted a brief of amicus curiae where it stated, inter alia, that the extraterritorial application of the Sherman Act to a conduct of a Japanese company engaged in business in Japan is unlawful under international law. 12 Nonetheless, the U.S. Supreme Court **affirmed** the Court of Appeal decision, which assumed the extraterritorial application of the Sherman Act to a criminal case for the first time (118 S. Ct. 685 (1998)).

**Japan economic alliance is key to prevent Chinese challenges to the ILO---recovering now but smooth sailing is not guaranteed.**

Shihoko **Goto 21**. deputy director for geoeconomics and senior associate for Northeast Asia at the Wilson Center. "When Trade No Longer Hampers U.S.-Japan Ties". 4-20-2021. https://www.wilsoncenter.org/blog-post/when-trade-no-longer-hampers-us-japan-ties

The April 16th meeting between President Joe Biden and Japanese Prime Minister Yoshihide Suga marked several milestones: not only was it the first foreign leader’s visit to the Biden White House, but it was also the first visit to the United States by Yoshihide Suga as the Japanese prime minister. It was also the first in-person summit meeting between the United States and Japan since the outbreak of a global pandemic. It marked a number of firsts in terms of content too, not least that it was the first time since the 1980s in which trade was not a sore point of contention between the two sides. Instead, trade relations projected as a **way forward** for further bilateral cooperation in **confronting the China threat**.

That isn’t to say trade relations between Japan and the United States are now **smooth sailing**. The U.S. trade deficit with the world’s third-largest economy runs to nearly $68 billion, and although the two sides signed a merchandise trade deal in 2019, the Japanese auto industry remains a point of contention for the United States. Indeed, Japan’s auto exports account for about $54 billion, or close to 80 percent, of the overall trade deficit. Meanwhile, the Biden administration is not expected to lift tariffs on steel and aluminum anytime soon, nor is it expected to make efforts to join the CPTPP in the near future, much to the frustration of Tokyo.

Yet instead of trying to negotiate a breakthrough on the trade front, the Biden-Suga meeting focused on **bilateral economic relations** based on their **shared threat of** dealing with **China’s ambitions to challenge the regional status quo**. Until recent months, Tokyo had aspired to maintain solid relations with China whilst furthering ties with the United States, most notably by endeavoring to decouple economic interests with Beijing from the security threat that China has increasingly been posing upon Tokyo. After the joint 2+2 joint security meeting in Tokyo in March, however, the two countries declared that China’s behavior is “**inconsistent with** the existing **international order**, presents political, economic, military, and technological challenges to the **Alliance** and to the **international community**.”

Since then, Tokyo has moved even **closer to Washington** publicly in pushing back against China, as the bilateral statement noted “the importance of peace and stability across the **Taiwan Strait**,” marking the first time since 1969 that Japan and the United States publicly referred to Taiwan which remains a core interest for China. In short, **Japan’s hedging against the United States** and maintaining a balancing act between China and the United States **is** now **over**. Not only is its security interests even more closely aligned with that of the United States, Japan’s economic interests are now more **intertwined with** that of **the United States** than ever.

Rather than focusing on the trade balance, Tokyo and Washington’s economic relations will concentrate more on economic resilience and maintaining free and fair economic rules of engagement in the Indo-Pacific. At the same time, the two countries are expected to **work** more **closely together on competing against China** in emerging technologies, from 5G to AI and information sciences.

For Japan, one of the biggest takeaways from the Biden-Suga meeting will be that **the days of Japan posing an economic threat to the United States are now over**. It will also be putting increasing pressure not only for Tokyo to be prepared to fight back against China on the **economic** as well as security **fronts** together **with Washington**, but it will also push Tokyo to step up its own efforts to compete in the innovation economy that goes beyond manufacturing.

**ILO is sustainable and prevents great power war but can’t run on autopilot---preventing Chinese aggression is key.**

Alan W. **Dowd 21**. Senior fellow with the Sagamore Institute, where he leads the Center for America’s Purpose. "Capstones: China’s Dream, the World’s Nightmare – Sagamore Institute". No Publication. 4-5-2021. https://sagamoreinstitute.org/capstones-chinas-dream-the-worlds-nightmare/

If China is indeed the future, if China is primed to “rule the world,” if China **remakes the international order** in its image, **it won’t be pretty**. A future dominated by the People’s Republic of China (PRC) will be **demonstrably worse** than the world we know. Just look at how Xi Jinping’s regime treats its own subjects—and plays its current role on the global stage.

NO RIGHTS

Those predictions aren’t outlandish. China already is the world’s top manufacturing nation, top exporting nation and second-largest economy. The PRC was the only major economy to emerge from 2020 claiming GDP growth (if we are to trust Beijing’s books). In the pandemic’s wake, China dislodged the U.S. as the world’s primary destination for foreign direct investment. PRC-backed firms are leaders in the global 5G and AI race. On the strength of a 517-percent binge in military spending since 2000, China bristles with anti-ship and anti-aircraft missiles, deploys a high-tech air force, has a growing and openly hostile presence in space, is doubling its nuclear arsenal, and boasts a 350-ship navy (now the world’s largest). Beijing’s growing cultural reach is evident in everything from its influence over Hollywood, to its puppet-master relationship with the NBA, to its 480 Confucius Institutes (designated by Washington as “part of the Chinese Communist Party’s global influence and propaganda apparatus”).

As President Joe Biden concludes, China is “the **only competitor** potentially capable of combining its economic, diplomatic, military, and technological power to mount a sustained challenge to a **stable and open international system**.”

**Xi is doing exactly that**. But the China challenge starts inside the PRC.

Xi is pursuing what he calls the “China Dream,” which enfolds goals such as sustained economic development, military power modeled after and matching that of the U.S., ideological conformity, “rejuvenation of the Chinese nation” and “**complete unification** of our country.” Making Xi’s “China Dream” come true is turning into a nightmare for his subjects.

Before leaving his State Department post, Secretary of State Mike Pompeo described what Xi is doing to Uighur Muslims as “**genocide**,” noting that Beijing has “forced more than a million people into internment camps in the Xinjiang region” and detailing “torture, sexual abuse…rape, forced labor…and unexplained deaths in custody.” As he took the baton from Pompeo, Secretary of State Antony Blinken agreed, affirming that “The forcing of men, women and children into concentration camps, trying to, in effect, re-educate them to be adherents to the ideology of the Chinese Communist Party—all of that speaks to an effort to commit genocide.”

The U.S. government isn’t alone. The Uighur Muslim region, according to a UN human-rights watchdog, “resembles a massive internment camp…a no-rights zone.” More accurately, all of China is a no-rights zone.

Xi’s China is a place where Christian churches are smashed and followers of Christ are sent to reeducation camps; Buddhist temples are bulldozed; Uighur men are packed into freight trains, Uighur women are forcibly sterilized and Uighur babies are forcibly aborted; and bishops and Nobel Peace Prize laureates die in prison. Under Xi, “Religious persecution has increased…with four communities in particular experiencing a downturn in conditions—Protestant Christians, Tibetan Buddhists, and both Hui and Uighur Muslims,” Freedom House reports. Amnesty International adds that “hundreds of thousands of people” are subjected to arbitrary arrest and detention in China, many of them for “peacefully exercising their rights to freedom of expression and freedom of belief.”

There’s a brutal logic to Xi’s brutal response to religious activity. The common denominator of most every religion is that there’s something above, something beyond, something bigger, more enduring and more important than the state. That notion represents a mortal threat to the legitimacy and durability of Xi’s regime, which is founded on the premise that people exist to serve the state—not to use their God-given gifts to serve others and God.

Xi’s capacity to control is growing ever more insidious. The PRC’s new “social credit system” is using mega-databases to monitor and catalogue every aspect of life of China’s 1.3 billion people—financial transactions, civil infractions, social-media postings, online activity—and then reward or sanction Xi’s subjects by feeding all that information to the National Development and Reform Commission, banking system and judicial system. PRC subjects with good social credit scores enjoy waived fees, lower utility bills, promotions and expedited overseas-travel approval, while those with poor social credit scores can be fired from their jobs, expelled from school, blocked from universities, or barred from accessing transportation.

An **Orwellian surveillance state**, more than a billion people denied religious freedom and other human rights, uncounted numbers tortured in reeducation camps, physicians jailed for following the Hippocratic Oath—that’s the kind of future and the kind of world Xi wants to build. As dissident leader Xu Zhangrun observed in the wake of Beijing’s criminal mishandling of COVID-19, “A polity that is blatantly incapable of treating its own people properly can hardly be expected to treat the rest of the world well.”

NO LIMITS

That idea—the notion that the PRC is incapable of treating the world any better than it treats its own—is not particularly profound. After all, this is a regime that over the decades has erased some 35 million of its subjects and tortured millions more. Regimes like this see no limits on their power. Since they believe nothing is above the state, they rationalize everything they do in the name of the state, the revolution, the Supreme Leader, the Dear Leader, the Core Leader (Xi’s new title). With no moral constraints on what they do, they believe their ends always justify their means.

That backwards worldview informs every aspect of decision-making in the PRC. This doesn’t mean Washington should refuse to talk with Beijing. But we must be ever vigilant when dealing with Xi. A regime that can justify imprisoning, torturing and killing its own people for peacefully practicing their faith can and will justify anything: **seizing foreign lands, annexing international waterways, absorbing free peoples**, stealing proprietary information, leveraging a **pandemic to gain geopolitical advantage**, breaking treaties. The godless USSR did those sorts of things, and so has the godless PRC.

“It is difficult to imagine that a government that continues to repress freedom in its own country,” President Ronald Reagan said of the USSR, “can be trusted to keep agreements with others.” And here we are yet again.

Experts in policy analysis, academia and military-security affairs conclude that Xi’s response to COVID-19 “was in breach of international law.” It pays to recall that COVID-19 was a local public-health problem that metastasized into a global pandemic due to Beijing’s incompetence or intention (either cause is reason not to entrust the future to Xi); that Xi’s regime lied about human-to-human transmission; that Xi’s regime willfully allowed millions to leave the epicenter in Wuhan for destinations around the world; that Xi’s regime carried out a premeditated plan to hoard 2.5 billion pieces of protective equipment as the virus swept the globe; that Xi’s regime blocked scientists from sharing findings about genome sequencing for weeks; that Xi’s regime continues to refuse to cooperate with international health agencies.

Xi’s intervention in Hong Kong and assertion of rule by remote-control is a brazen violation of an international treaty.

In and above the East China Sea, Beijing is constantly violating Japanese airspace and illegally loitering PRC coast guard vessels in Japanese waters. All the while, Beijing illegally claims some 90 percent of the South China Sea. Xi has backed up those claims by building 3,200 acres of illegal islands beyond PRC waters. These islands feature SAM batteries and warplanes. Xi promised the PRC wouldn’t militarize these islands. But as America and its allies learned at enormous cost last century, words don’t matter to men like Xi. Strength and the will to wield it are all that matters. Xi has both.

His goal is to **control** the resource-rich South and East China Seas, assert sovereignty claims in **fait accompli** fashion, and bring Chinese-speaking lands under his heel. Hong Kong—where only PRC-approved “patriots” are allowed to serve in government—was his first objective. **Taiwan is next**. Xi has made clear that democratic Taiwan “must and will be” absorbed by the communist Mainland. “We make no promise to abandon the use of force,” he warns. That explains Beijing’s ground-unit exercises, naval drills and bomber sorties around the island democracy.

Nor are Xi’s dreams and designs limited to his immediate neighborhood. Beijing is buying loyalty via development projects (see the Belt and Road Initiative), gaining a toehold in strategically located regions (see PRC control over ports in 18 countries), **building an authoritarian bloc** (see **Russia, Serbia, North Korea, Iran, Venezuela**), and fielding a power-projecting military capable of **challenging the Free World** across every region and every domain—land, sea, air, space and cyberspace. Xi’s relentless cybersiege of the Free World is siphoning away inventions, discoveries, technologies and wealth, penetrating defense firms, and interfering in elections.

For those with eyes to see—who know about the laogai camps and brutalization of Muslims and oppression of Tibet and assault on Christianity—none of this comes as a surprise. What’s surprising is that for 40 years, the trade über alles caucus convinced itself that such a regime could somehow be reformed by access to Buicks and Kentucky Fried Chicken.

TAKING AIM

Xi vows to build what he calls “a more just and reasonable new world order”—one that would supplant the liberal democratic order the United States and its allies began building after World War II. Importantly, the PRC not only has the intent to build a **new world**

**order**; it has the resources and capabilities to do so—which helps explain why those who designed and uphold the existing world order are answering China’s challenge.

The PRC is a country of 1.3 billion people. Its GDP is already $14.1 trillion. Its economic tendrils—trade, banking, manufacturing, logistics, shipping, technology, super-computing, artificial intelligence—stretch into every part of the globe. All of this is fueling the PRC’s relentless military modernization and buildup. The PRC’s annual military expenditure is at least $261 billion. (Beijing recently announced an increase in military spending of 6.8 percent for 2021). The PRC has a 2-million-man military, the world’s largest navy and an intense focus on its neighborhood.

None of this would be a particularly worrisome if China embraced the values of liberal democracy—the rule of law, individual freedom, religious liberty, free enterprise and free trade, majority rule with minority rights. These are the foundation stones of what Churchill and FDR envisioned when they drafted the Atlantic Charter in 1941. Their vision led to what some call the “rules-based democratic order,” others the “**l**iberal **i**nternational **o**rder,” still others the “free world order.” These terms aim to describe how the peoples of the West have tried to make the world work and indeed manage the world: They embraced and encouraged democratic governance; developed rules and norms of behavior; promoted liberal (freedom-oriented) political and economic institutions; and called upon governments to live up to the responsibilities of nationhood by respecting international borders and promoting good order within those borders. The result has been an unparalleled spread of **prosperity**, an unprecedented expansion of free government and an unexpected **remission of great-power war** (which had become an increasingly-destructive feature of the centuries leading up to 1945).

To be sure, many regimes reject the values of liberal democracy. But the PRC, like the USSR before it, not only rejects those values; it possesses the military-technological-industrial-economic assets to challenge those values, erode the liberal international order built upon those values, and forge a new international order or at least bend the existing order toward its own goals. But don’t take my word for it.

“Some seek to challenge the international order—that is, the rules, values and institutions **that reduce conflict and make cooperation possible** among nations,” Blinken and Defense Secretary Lloyd Austin warn, pointedly adding that “China in particular is all too **willing to use coercion** to get its way.”

Former national security advisor Gen H.R. McMaster concludes that PRC “leaders believe they have a narrow window of strategic opportunity to…revise the international order in their favor.”

Before he retired as Indo-Pacific commander ,Adm. Phil Davidson told the Senate Armed Services Committee that Xi and his lieutenants are “accelerating their ambitions to supplant the United States and our leadership role in the rules-based international order.”

A NATO panel noted late last year that Beijing’s “approach to human rights and international law challenges the fundamental premise of a rules-based international order.”

These political, diplomatic and military leaders recognize that the **liberal order has promoted the peace and prosperity** of the Free World for nearly 75 years. But it **doesn’t run on autopilot**. If we want the benefits of a liberal order that sustains our way of life, we need to sustain the liberal order. As Robert Kagan of the Brookings Institution observes, “The present order will last only as long as those who favor it and benefit from it retain the will and capacity to defend it.” He adds, “Every international order in history has reflected the beliefs and interests of its strongest powers, and every international order has changed when power shifted to others with different beliefs and interests.”

Indeed, the liberal order and its guarantors have arrived at a **turning point** or breaking point: Either they will marshal the means and will to update, strengthen and preserve the existing order, or Beijing will dramatically transform it. Xi’s callous treatment of his own subjects and contempt for international norms offer a glimpse of what his “more reasonable new world order” would look like.

### 1NC – OFF

#### Next off is the Trade DA.

**Trade is strong now, but the plan decreases cross-border mergers and acquisition using antitrust as the grounds. That wipes out trade**

**Allison Murray, 19**. JD Loyola Law School. “Given today's new wave of protectionism, is antitrust law the last hope for preserving free global economy or another nail in free trade's coffin,” Loyola of Los Angeles International and Comparative Law Review, 2019, 42(1), 117-146.

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences. Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders’ best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law.3 So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims. Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States (“U.S.”), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally.4 To remedy bad behavior in a specialized set of industries is **not** to instigate **a global paradigm shift**. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes.5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations. Trump is not the only high-profile leader flirting with staunch protectionism. Western *leaders* in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western *lawmakers* themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions that could counteract that progress.6 Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies. Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be **forced to rely** on existing avenues to meet protectionist aims. Again, we find ourselves relying **squarely on antitrust**

**law**, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization (“WTO”), “once formal trade barriers come down, other issues become more important.”7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures. Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause **the death of even the smallest semblance of international free trade** that remains in the international marketplace today.

#### Trade keytointernational food security

Almame A. **Tinta et al.** **2018** (\*Almame A. Tinta PhD in Applied Agricultural Economics and Policy at University of Ghana, \*Daniel B. Sarpong Associate Professor and the Chair/Head in the Department of Agricultural Economics and Agribusiness, School of Agriculture, College of Basic and Applied Sciences, University of Ghana. He was formely the Vice-Dean of the then College of Agriculture and Consumer Sciences, University of Ghana, \*Idrissa M. Ouedraogo Consultative Group on International Agricultural Research, \*Ramatu Al Hassan Associate Prof, University of Ghana, Phd Agriculture Economics , \*Akwasi Mensah-Bonsu & \*Edward Ebo Onumah “Assessing the Impact of Regional Integration and International Trade on Economic Growth and Food Security in Ecowas” Global Journal of Management and Business Research: B Economics and Commerce Volume 18 Issue 2 Version 1.0 Year 2018//

In fact, the strengthening of trade value chains among ECOWAS countries can organize the production and manufacturing of goods in chains and concentrate the retail sector, the demand for higher quality products will increase followed by the increasing of prices in international food markets. **Expansion and diversification of agricultural products generate opportunities for people in the region and raise rural incomes which will allow** rural and urban **households to access more adequate and nutritious food**. Consequently**, a joint effect of integration and value chains boosts food security.** Similarly, positive changes in economic growth and domestic investment translate into positive changes in per capita dietary energy supply while a growing of political instability in ECOWAS is seen to have a negative impact on food security. Economic growth improves food security, showing that a raise of household income directly targets the consumption of Assessing the Impact of Regional Integration And International Trade on Economic Growth and Food Security in Ecowas foods. This finding in line with Timmer (2005) confirms that food security in ECOWAS is mainly a growth challenge contrary to others developing countries where economic growth alone does not solve the problem of food security. In ECOWAS countries, economic growth is essential for food security, and strategies at regional and national level need to be investigated. The promotion of trade value chains may be the bottom line to design these strategies because of the effectiveness of per capita domestic value added on sustaining economic growth. Value chains need to be implemented across countries and across sectors and the development program of ECOWAS must only target this goal. As expected, the incidence of political instability negatively affects food security. Political instability creates unfavorable condition on food security through the decrease of investment and its impact on food supply from domestic production. Some researchers find similar results for ASEAN (Herath et al., 2014) and for developing countries (Bezuneh and Yiheyis, 2014). A growth in food production is associated with a raise in national food security. An enabling environment needs to be created by ECOWAS countries to encourage producers by increasing domestic consumption, improving the environment of the farm household, making them able to cope with risk, uncertainty and sources of technical change, and raise industrial development to make food cheaper. In addition, some measures must be taken by governments to improve market efficiency such as communications, transportation and storage facilities, legal codes to enforce contracts, credit availability to finance short-run inventories and processing operations, a market information system to keep all market participants from farmers to consumers fairly and accurately informed about market trends. Positive changes in domestic credits, population growth, foreign reserves and agricultural irrigated land are associated with positive changes in per capita dietary energy supply. Domestic credits increase the consumer purchasing power and allow to access various and qualities commodities (Baldwin, 2011b). National food security can be improved if countries allocate more domestic credits for the segment of the population who needs it. It is well established that domestic credits in most developing countries go directly to consumption and are used as an asset to smooth people’s income (Ivica, 2016). Furthermore, domestic credits act on food production and food prices which is linked to food security. The amount of foreign reserves in ECOWAS countries contributes to food security. Foreign reserves enhance the ability of food importation of countries and is a channel to buy the capital machinery to accelerate production to achieve self-sufficiency. Also, the development of industrial sector is mainly correlated to the earning of foreign exchange and the ability of people to buy food staples. The percentage of land irrigated significantly contribute to food security through its positive impact on domestic food production. The more households have access to land for growing crops the more food production and availability increase. An extension of agricultural land reduces prices and diversifies different cropping patterns that provide nutrient diversity and more stability of output. Contrary to the findings of studies (Bezuneh and Yiheyis, 2014) obtained for some region where population growth undermines food production, the results shows that for ECOWAS countries, population growth affects positively per capita dietary energy supply. These results can be explained by the fact that in African countries, most of the labour force are affected to the agricultural sector. This sector employs more than fifty percent of the workforce. Therefore, a growing population raises food production, enlarges the variety of goods and improves the competitiveness of domestic market (Xiang et al., 2012). The final result is a raise of food security due to more availability of food. However, stable population growth is better than rapid population growth which constitutes a danger. V. Conclusion International trade of agricultural products appeared very early as an enrichment factor of Nations. Through the development of exports, the precursors have demonstrated the strength of international trade to drive the economic growth of a country. On the basis of the international division of labor, international trade relies on trade liberalization. The promise of trade liberalization is that by creating incentives for producers from different States to specialize in the products or services in which they have a comparative advantage, it will benefit all the trading partners, since it will lead to efficiency gains within each country and to overall increase of world production. Therefore, comparative advantage suggests that economic growth and poverty alleviation may result. However, international trade for African countries has not bring the expected results. This study focuses on ECOWAS and attempts to responds to the inconsistency of the economic policies in African countries that turn away from the regional integration for the benefit of foreign markets. Three particular strategies are investigated in ECOWAS integration (such as each country international trade openness, each country intraregional trade openness and insertion to value chains) to identify the best way for economic development in term of economic growth and food security raising. Two models are estimated with fixed effects over the period 1995-2012. The results show that the relationship between openness and growth is not robust, while intracommunity trade and per capita domestic value added appear to positively influence economic growth. This finding supports that regional integration needs to be strengthen and better promoted in order to stimulate the potential of each country to move from discontinuous growth to sustained growth. International trade is not a solution for ECOWAS countries to boost economic growth but regional trade linked to creation of value chains among each country can be the engine of the region growth. Countries should move more to regional integration than international trade. **Furthermore, international trade positively affects per capita dietary energy supply while intraregional trade is not robust.**

This irrelevance impact of regional trade on food security can be justified by the weakness of trade among ECOWAS countries. Nevertheless, **backward integration of countries has a positive effect on food security, thereby suggesting that integration in the value chain has spillover effects on countries food security**. A joint effect of intra-regional trade and value chains trade can boost food security. This strategy optimizes economic growth and food security.

#### US ag and food security stabilize the globe—collapse greenlights *great power wars*

Castellaw 17—Lieutenant General, former President of the non-profit Crockett Policy Institute (John, “Opinion: Food Security Strategy Is Essential to Our National Security,” [https://www.agri-pulse.com/articles/9203-opinion-food-security-strategy-is-essential-to-our-national-security](about:blank))

The United States faces many threats to our National Security. These threats include continuing wars with extremist elements such as ISIS and potential wars with rogue state North Korea or regional nuclear power Iran. The heated economic and diplomatic competition with Russia and a surging China could spiral out of control. Concurrently, we face threats to our future security posed by growing civil strife, famine, and refugee and migration challenges which create incubators for extremist and anti-American government factions. Our response cannot be one dimensional but instead must be a nuanced and comprehensive National Security Strategy combining all elements of National Power including a Food Security Strategy. An American Food Security Strategy is an imperative factor in reducing the multiple threats impacting our National wellbeing. Recent history has shown that reliable food supplies and stable prices produce more stable and secure countries. Conversely, food insecurity, particularly in poorer countries, can lead to instability, unrest, and violence. Food insecurity drives mass migration around the world from the Middle East, to Africa, to Southeast Asia, destabilizing neighboring populations, generating conflicts, and threatening our own security by disrupting our economic, military, and diplomatic relationships. Food system shocks from extreme food-price volatility can be correlated with protests and riots. Food price related protests toppled governments in Haiti and Madagascar in 2007 and 2008. In 2010 and in 2011, food prices and grievances related to food policy were one of the major drivers of the Arab Spring uprisings. Repeatedly, history has taught us that a strong agricultural sector is an unquestionable requirement for inclusive and sustainable growth, broad-based development progress, and long-term stability.

The impact can be remarkable and far reaching. Rising income, in addition to reducing the opportunities for an upsurge in extremism, leads to changes in diet, producing demand for more diverse and nutritious foods provided, in many cases, from American farmers and ranchers. Emerging markets currently purchase 20 percent of U.S. agriculture exports and that figure is expected to grow as populations boom. Moving early to ensure stability in strategically significant regions requires long term planning and a disciplined, thoughtful strategy. To combat current threats and work to prevent future ones, our national leadership must employ the entire spectrum of our power including diplomatic, economic, and cultural elements. The best means to prevent future chaos and the resulting instability is positive engagement addressing the causes of instability before it occurs. This is not rocket science. We know where the instability is most likely to occur. The world population will grow by 2.5 billion people by 2050. Unfortunately, this massive population boom is projected to occur primarily in the most fragile and food insecure countries. This alarming math is not just about total numbers. Projections show that the greatest increase is in the age groups most vulnerable to extremism. There are currently 200 million people in Africa between the ages of 15 and 24, with that number expected to double in the next 30 years. Already, 60% of the unemployed in Africa are young people. Too often these situations deteriorate into shooting wars requiring the deployment of our military forces. We should be continually mindful that the price we pay for committing military forces is measured in our most precious national resource, the blood of those who serve. For those who live in rural America, this has a disproportionate impact. Fully 40% of those who serve in our military come from the farms, ranches, and non-urban communities that make up only 16% of our population. Actions taken now to increase agricultural sector jobs can provide economic opportunity and stability for those unemployed youths while helping to feed people. A recent report by the Chicago Council on Global Affairs identifies agriculture development as the core essential for providing greater food security, economic growth, and population well-being. Our active support for food security, including agriculture development, has helped stabilize key regions over the past 60 years. A robust food security strategy, as a part of our overall security strategy, can mitigate the growth of terrorism, build important relationships, and support continued American economic and agricultural prosperity while materially contributing to our Nation’s and the world’s security.

## Relations

### AT China Rise

**Integration is inevitable – international order changes Chinese domestic politics**

**Lake 14** (David, Jerri-Ann and Gary E. Jacobs Professor of Social Sciences, Distinguished Professor of Political Science, Associate Dean of Social Sciences, “Dominance and Subordination in World Politics: Authority, Liberalism, and Stability in the Modern International Order” in Power, Order, and Change in Word Politics – Edited by G. John Ikenbery, Albert G. Milbank Professor of Politics and International Affairs at Princeton University and George Eastman Visiting Professor at Balliol College, Cambridge University Press 2014 Pg. 81-82)

China is also developing – perhaps unwittingly -- its own compliance constituencies that hold out the promise of transforming Beijing over time **into a supporter of the American system**. Following the path of Japan, South Korea, and the other Asian “tigers,” China is pursuing a strategy of **export-led growth** that depends on the continued openness and health of an open world economy dominated by the **U**nited **S**tates and its subordinates and governed by rules agreed upon by those same countries. Although China is not a “small country” in absolute terms, it is still both a **“price taker” in world markets and a “policy taker” in international institutions**. To date, it is largely conforming to the existing system as it develops 52. In turn, it is also accumulating domestic interests that are **vested in the current international order** and who may, in the years ahead, become an important political force that **backs living within rather than challenging the American order** 53.

This is the promise of **cooperation rather than confrontation with China**, often left implicit and seldom linked to issues of authority by its proponents. Like postwar Germany and Japan, the more deeply China is integrated into the current world order, **the less likely it will be to challenge America’s authority in the future**, **even as its coercive capabilities grow**. The United States succeeded Britain as hegemon without undue conflict, perhaps because both were relatively liberal states that shared similar preferences over the nature of international order. As a non-liberal state, China’s preferred international order is less likely to mirror that constructed by the **U**nited **S**tates, and greater political tensions are probably inevitable in the years ahead. Nonetheless, integrating China into the open world economy is likely to **create compliance constituencies** that support the American-led order, and may actually serve to **liberalize China over time**. Future relations will be conditioned on whether China can be vested into the existing American-led international order. We may not know this for a decade or more, but the potential payoffs seem sufficiently high that it is worth running some risk that trade now will enhance the wealth and power of a possibly autonomous and antagonistic China in the future. The larger, more vibrant, and more prosperous the American order, **the larger the** incentives for China to join with rather than challenge the **U**nited **S**tates. This holds out a hope that, **while change is inevitable, hegemonic war is not.**

### AT Relations

#### No impact–US-China relations are inevitable.

Monteiro 14 (Nuno Moneiro, Dept. of Political Science, Yale University Theory of Unipolar Politics (Cambridge Studies in International Relations) (pp. 130-132). Cambridge University Press. Kindle Edition.)

Beyond mere numbers, China pursues a national security policy that is defensive in nature and regional in scope. 61 China's geostrategic goals focus on “sustaining a security environment conducive to China's national development.” 63 This aim requires avoiding a crisis over Taiwan as well as furthering Chinese maritime territorial and economic interests in the South and East China seas. China has implemented a strategy of “offshore active defense,” assuming a force posture aimed at regional anti-access area-denial (A2/ AD) goals, capable of denying U.S. access to its region for a limited time in case of a conflict. Yet, U.S.-China relations, although varying in tone, have consistently been positive, reflecting the high potential costs and risks of a competitive relationship between them. During the first two-and-a-half decades of U.S. power preponderance, Beijing's leadership has adopted an overall cooperative posture toward U.S. global leadership. 64

## Competition

### 5G Irrelevant---1NC

#### 5G is so 2020---it’s all about 6G, and the US is winning.

Shirley Zhao et al. 21. Reporter for Bloomberg, cites multiple experts, with Scott Moritz and Thomas Seal, 2/8/21. “Forget 5G, the U.S. and China Are Already Fighting for 6G Dominance.” https://www.bloomberg.com/news/features/2021-02-08/forget-5g-the-u-s-and-china-are-already-fighting-for-6g-dominance

Most of the world is yet to experience the benefits of a 5G network, but the geopolitical race for the next big thing in telecommunications technology is already heating up.

For companies and governments, the stakes couldn’t be higher. The first to develop and patent 6G will be the biggest winners in what some call the next industrial revolution. Though still at least a decade away from becoming reality, 6G — which could be up to 100 times faster than the peak speed of 5G — could deliver the kind of technology that’s long been the stuff of science fiction, from real-time holograms to flying taxis and internet-connected human bodies and brains.

The scrum for 6G is already intensifying even as it remains a theoretical proposition, and underscores how geopolitics is fueling technological rivalries, particularly between the U.S. and China.

“This endeavor is so important that it’s become an arms race to some extent,” said Peter Vetter, head of access and devices at Nokia Oyj’s research arm Bell Labs. “It will require an army of researchers on it to remain competitive.”

Years of acrimony under the Trump administration have hit Chinese technology companies hard, but that hasn’t stopped the country from emerging as the leader in 5G. It has the world’s largest 5G footprint, and — despite multiple attempts by the U.S. to take it on — Huawei Technologies Co. towers over rival 5G vendors globally, mostly by offering attractive prices.

The development of 6G could give the U.S. the opportunity to regain lost ground in wireless technology.

“Unlike 5G, North America will not let the opportunity for a generational leadership slide by so easily this time,” said Vikrant Gandhi, senior industry director of information and communications technologies at consultancy firm Frost & Sullivan in the U.S. “It is likely that the competition for 6G leadership will be fiercer than that for 5G.”

It’s clear that 6G is already on the minds of policy makers in both Washington and Beijing. Former President Donald Trump tweeted in early 2019, for example, that he wanted 6G “as soon as possible.”

China is already moving ahead. The country launched a satellite in November to test airwaves for potential 6G transmission, and Huawei has a 6G research center in Canada, according to Canadian media reports. Telecommunications equipment manufacturer ZTE Corp. has also teamed up with China Unicom Hong Kong Ltd. to develop the technology.

The U.S. has demonstrated that it has the ability to seriously handicap Chinese companies, as in the case of ZTE, which almost collapsed after the Commerce Department banned it for three months in 2018 from buying American technology. Similar moves could hamper Huawei’s 6G ambitions.

Washington has already started to sketch out the 6G battle lines. The Alliance for Telecommunications Industry Solutions, a U.S. telecom standards developer known as ATIS, launched the Next G Alliance in October to “advance North American leadership in 6G.” The alliance’s members include technology giants like Apple Inc., AT&T Inc., Qualcomm Inc., Google and Samsung Electronics Co., but not Huawei.

The alliance mirrors the way that the world has been fractured into opposing camps as a result of 5G rivalry. Led by the U.S, which identified Huawei as an espionage risk — an allegation the Chinese giant denies — countries including Japan, Australia, Sweden and the U.K. have shut the firm out of their 5G networks. However, Huawei is welcomed in Russia, the Philippines, Thailand, and other countries in Africa and the Middle East.

The European Union in December also unveiled a 6G wireless project led by Nokia, which includes companies like Ericsson AB and Telefonica SA, as well as universities.

The lack of trust in Chinese companies like Huawei is unlikely to abate with 6G. Democracies are growing increasingly worried about how 5G technology is being used by authoritarian regimes, with fears that 6G could enable technologies such as mass drone surveillance. China is already using surveillance cameras, AI, facial recognition and biometrics such as voice samples and DNA to track and control citizens.

“Currently China seems to be doing everything in terms of surveillance and suppression to make sure that they lose future markets in the U.S. and Europe,” said Paul Timmers, a senior adviser at Brussels-based think tank European Policy Centre and former director of digital society and cybersecurity at the European Commission. “This indicates that the technical approach to 6G cannot be trusted to be decoupled from state ideological objectives.”

### US Wins Now---1NC

#### US winning the 5G race now.

DAN MAHAFFEE AND JAMES KITFIELD 7/29/21. Dan Mahaffee is senior vice president at the Center for the Study of the Presidency & Congress (CSPC). James Kitfield is a senior fellow at CSPC. “Bipartisan policies put America back into the 5G race against China.” https://thehill.com/opinion/technology/565456-bipartisan-policies-put-america-back-into-the-5g-race-against-china

Fortunately, in strengthening our digital infrastructure at home and meeting the technological challenge from abroad, the United States has a successful playbook in the recent race to field fifth generation, or “5G,” mobile networks that are designed to connect virtually everyone and every electronic device, and are poised to change the way the world communicates.

Just a few years ago, China was so far ahead in deploying 5G networks that many experts believed the United States had already ceded the race. “China and other countries may be creating a 5G tsunami, making it near impossible [for America] to catch up,” analysts at the accounting firm Deloitte wrote. Analysts at Ernst & Young were equally blunt. “China is already in a leading role in the 5G development,” they wrote a few years ago, and “is poised to win the race to 5G.”

The math bore out those grim predictions. Excessive regulatory red tape meant that U.S. carriers were spending nearly three times as much as their counterparts in other countries to generate 5G network capacity. Between 2012 and 2016, the United States constructed on average three new cell sites a day when thousands are needed for 5G. At the time China was building roughly 460 new cell sites per day. As Federal Communications Commission (FCC) Commissioner Brendan Carr pointed out in a recent discussion hosted by the Center for the Study of the Presidency & Congress, “What it was taking us four years to do, China was doing every nine days.”

Fast forward to today. While the race for 5G leadership and onwards to 6G is far from over, the United States is now positioned to successfully compete thanks to measures that have empowered innovation, entrepreneurialism, and enterprise. Rather than trying to “be like China to beat China,” Carr noted, the FCC instead took steps to unleash America’s free enterprise mojo. The FCC thus moved to streamline approvals and cut the fees local governments levied on cell site construction. Freeing up spectrum across low-, mid-, and high-band frequencies allowed for U.S. carriers to innovate by using different frequencies and combinations of coverage.

Once again the numbers tell the tale. In 2019, with that more streamlined framework in place, U.S. carriers built over 46,000 new cell sites, a 65 fold increase. Meanwhile, internet speeds in the United States have more than tripled over the past four years, and more than 270 million Americans are now covered by 5G networks, helping to cut the digital divide separating the “haves” and “have nots” of this critical technology nearly in half.

In recent years both the Trump and Biden administrations have also taken a strong stand against reliance on Chinese companies such as Huawei and ZTE for 5G technology. Under China’s national intelligence law, these companies are legally required to conduct intelligence gathering when asked to by the Chinese Communist Party, which routinely engages in digital spying on dissidents, steals intellectual property, and hacks foreign governments and corporations.

With Huawei already having finalized more 5G contracts than any other telecom company, more still needs to be done to convince allies and partners of the serious risks of relying on Chinese firms for critical digital infrastructure. The Biden administration took a positive step in calling out Beijing’s digital transgressions when it recently rallied a broad and unprecedented group of allies — including the European Union and for the first time, the NATO alliance — to publicly condemn Beijing for malign activities in cyberspace that include hacking Microsoft email systems used by many governments and international corporations.

The good news is that the 5G race is afoot, and the United States is now in it to win it. That success offers clear lessons for the way forward. First, when it comes to infrastructure, we need to pair investments with streamlined deregulatory measures that ensure we are not, as Carr put it, “hitting the brake and the gas at the same time.” Thus unleashed, the American free enterprise system is more than a match for China’s centralized planning model and insistence on iron-gripped government control of the private sector.

### No China Leadership

#### No Chinese 5G dominance.

SCMP 19. South China Morning Post, citing a variety of experts, “China Experts: US Still Out Front In Tech Race Despite Pentagon Claim”, 11/3/2019, https://www.abacusnews.com/tech/china-experts-us-still-out-front-tech-race-despite-pentagon-claim/article/3036161

Chinese experts have rejected the claim by a senior Pentagon official that the US is lagging behind China in some key dual-use technologies.

Michael Brown, director of the US Department of Defence’s innovation unit, said at a seminar earlier this week that China was either competitive or catching up in the areas of hypersonics, artificial intelligence, quantum sciences, 5G mobile networks, genetic engineering, and space.

With the exception of hypersonics, these technologies had not only military applications but were also critical for long-term economic prosperity, making them important to the future of US-China competition, he said.

“I believe that national security and economic security are inextricably linked,” Brown told the think tank Centre for Strategic and International Studies in Washington.

China prepares to send its own astronauts to the moon 50 years after Apollo 11

But Chinese experts said China’s progress had been exaggerated and many of its achievements were only partial successes so far.

Hong Kong-based military commentator Song Zhongping said the US had been “unarguably more successful and experienced, far ahead of anyone” in space technology. “Look at Project Apollo and the Space Shuttle programme – decades later no other country has ever matched those achievements,” he said.

Despite breakthroughs in certain fields like 5G, there was more generally a clear gap between China’s digital information and electronics technologies and the world’s technological leaders, according to Beijing-based naval expert Li Jie.

In the field of hypersonics, China may have achieved milestones in glider vehicles, but in another important technology – ramjet engines – there was no evidence of any major breakthroughs, and the US was still far more experienced in the field, said Zhao Tong, senior fellow at the Carnegie-Tsinghua Centre for Global Policy.

China exhibited hypersonic missiles and drones at last month’s National Day parade, and has just launched a commercial 5G – fifth generation mobile network – service on Friday, which is the biggest in the world.

Huawei, China’s telecommunication giant has won contracts to construct the 5G infrastructures for many countries, despite the US campaign to ban Huawei equipment over security concerns.

Brown said China was “already ahead of the US in quantum sciences” – citing the Chinese launch in 2016 of Micius, the world’s first quantum communications satellite. China had also made more launches into space than the US in 2018 as it speeded up its space programme, he said.

Brown added the US had used Chinese equipment for genome sequencing, which meant China had more data on the genetic sequencing of the US population than the US itself, he said, and the US was also playing “a catch up game” with China in AI-based facial recognition.

5G is available now in China for just US$18

For the past 50 to 80 years, the US had led the way and set the standards in almost all important technologies and industries, he said. In doing so, the US had been able to build and shape a global ecosystem and enjoy its advantages since the end of World War II.

But, Brown warned, for China to set the pace for these technologies would be “game-changing”.

“Imagine what the world would look like if China was setting standards,” he said. “Over time, that means we have fewer levers to shape what the US wants to do, both from a global technology standpoint and also what are the values that are highlighted around the world as ones to be looked up to.”

### No Race---1NC

#### The “race” is a telecom-industry funded myth.

Nilay Patel 19. "Wait, why the hell is the ‘race to 5G’ even a race?." Verge. 5-23-2019. https://www.theverge.com/2019/5/23/18637213/5g-race-us-leadership-china-fcc-lte

This race is imaginary bullshit. It’s being foisted on us by huge telecom companies that know internet access is fundamentally a commodity and want something new to sell at high prices instead of competing to improve service and lower prices on the networks they have. After all, the United States “won” the “race” for LTE, but it bears repeating: our LTE networks are among the slowest in the world, and our prices among the highest. What did winning that race accomplish for the millions of people across the country that still can’t get a reliable LTE signal?

All I’m asking is that the next time you hear a wireless industry person talk about the “race” to 5G, stop and ask them why it’s a race. Ask who the competitors are, and what happens if we come in second place. See if you buy the answer. I suspect you won’t hear anything convincing.

## Comity

### 1NC – Circumvention

#### Expand the scope of antitrust refers exclusively to formal law not enforcement---the plan is circumvented.

Sinisa Milosevic et al. 18. Commission for Protection of Competition, The Republic of Serbia. Dejan Trifunovic, Faculty of Economics, University of Belgrade, Belgrade, The Republic of Serbia. Jelena Popovic Markopoulos, Commission for Protection of Competition, The Republic of Serbia. “The Impact of the Competition Policy on Economic Development in the Case of Developing Countries”. Economic Horizons, May - August 2018, Volume 20, Number 2, 153 – 167. http://scindeks-clanci.ceon.rs/data/pdf/1450-863X/2018/1450-863X1802157M.pdf

The paper that analyzes the impact of the competition policy on the GDP growth in developing and developed countries in the Solow growth model framework is T. C. Ma’s (2011). The presence and scope of the competition policy is captured by the SCOPE variable that is defined in the paper by K. N. Hylton and F. Deng (2007). The overall effectiveness of the government’s application of policies, not only of the competition policy, is captured by the EFFICIENCY

variable that is defined in the paper by D. Kaufmann, A. Kraay and M. Mastruzzi (2009). The results show that the SCOPE variable is not significant and the formal existence of the competition law cannot influence economic growth. The interacting variable of SCOPE x EFFICIENCY is named EFFLAW. For poor countries, the coefficient for this variable is 0.04 and is significant, whereas for rich countries the coefficient is 0.064 and is also significant. Therefore, the competition law must be complemented with the effective enforcement of this policy.

### 1NC – Clog

#### Antitrust fails---expanding scope opens the floodgates to litigation and makes enforcement impossible.

Geoffrey Manne, 18. International Center for Law & Economics president & founder, Congressional Documents and Publications, “Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing; "A Comparative Look at Competition Law Approaches to Monopoly and Abuse of Dominance in the US and EU."; Testimony by Geoffrey Manne, President and Founder, International Center for Law and Economics,” December 19, 2018. Lexis, accessed 6-1-21

II. The specious lure of excessively discretionary antitrust

Antitrust is an attractive regulatory tool for a number of reasons. As noted above, the vague, terse language of the Sherman Act readily lends itself to "interpretation" imbuing it with virtually limit-less scope. Indeed, the urge to treat antitrust as a legal Swiss Army knife capable of correcting all manner of social and economic ills is apparently difficult to resist. Conflating size with market power, and market power with political power, many recent calls for regulation of the tech indus-try are framed in antitrust terms, even though they are mostly rooted in nothing recognizable as modern, economically informed antitrust legal claims or analysis. But that attraction is precisely why we should care about the scope, process, and economics of anti-trust and the extent of its politicization. Antitrust in the US has largely resisted the relentless effort to politicize it. Despite being rooted in vague and potentially expansive statutory language, US anti-trust is economically grounded, evolutionary, and limited to a set of achievable social welfare goals. In the EU, by contrast, these sorts of constraints are far weaker. Whether or not that is suitable for the particular political and historical circumstances of the EU is a separate question. But, undoubt-edly, applying a controversial legal regime to the United States -- a markedly different jurisdiction with a unique governance structure -- and upsetting more than a century of legal, technological, and social development, is deeply problematic. This conclusion is in no way altered by the fact that US antitrust law has become the outlier of global antitrust enforcement, compared to the EU's more "consensual" approach. n26 What matters is a policy's actual results, not whether it is widely adopted; the world is full of debunked beliefs that were once widely shared. And it is far from certain that the widespread adoption of the EU model is in any way indicative of superior results. It is equally (or even more) plausible that this model has proliferated because it naturally accommodates politically useful populist narratives -- such as "big is bad," robin hood fallacies and robber baron myths -- that are constrained by the US's more evidence-based and rational antitrust decision-making. n27 America's isolation might thus be a testament to its success rather than an emblem of its failure. But even if by some chance the European approach proved to be optimal for many other countries in the world, it is still dubious that its adoption would lead to improved economic performance in the United States. As has already been alluded to, the unique features of the US legal regime make it unlikely that the best policy for the EU would also happen to be the best one for America. The EU's more aggressive pursuit of technology platforms under its antitrust laws demonstrates many of the problems with its approach in general. I urge this subcommittee to consider not just whether the EU approach seems to permit the government to reach a preconceived outcome -- i.e., placing large tech platforms under increased antitrust scrutiny -- but whether it is truly desirable at all to emulate the EU's approach and to try to reach the goals of EU competition policy under US antitrust law. Endorsing the European approach to antitrust, in a naive attempt to bring high-pro-file cases against large Internet platforms, would prioritize political expediency over the rule of law. It would open the floodgates of antitrust litigation and facilitate deleterious tendencies, such as non-economic decision-making, rent-seeking, regulatory capture, and politically motivated enforce-ment. Bringing US antitrust enforcement in line with that of the EU would thus unlock a veritable Pan-dora's box of concerns that are currently kept in check. Chief among them is the use of antitrust laws to evade democratically and judicially established rules and legal precedent. When consider-ing this question, it is important to see beyond any particular set of firms that enforcement offi-cials and politicians may currently be targeting. An antitrust law expanded to consider the full scope of soft concerns that the EU aims at will not be employed against only politically disfavored companies, companies in other jurisdictions, or in order to expediently "solve" otherwise political problems. Once antitrust is expanded beyond its economic constraints and imbued with political content, it ceases to be a uniquely valuable tool for addressing real economic harms to consumers, and becomes a tool for routing around legislative and judicial constraints**.**

# 2nc

## CP – Regs

#### 2. “Do both” is antitrust duplication---the disputes collapse resources, effectiveness, and signaling.

Carl W. Hittinger and Tyson Y. Herrold 19. Carl W. Hittinger (LAW ’79) is a senior partner and serves as BakerHostetler’s Antitrust and Competition Practice National Team Leader and the litigation group coordinator for the firm’s Philadelphia office. He concentrates his practice on complex commercial and civil rights trial and appellate litigation, with a particular emphasis on antitrust and unfair competition matters, including class actions. Tyson Y. Herrold is an associate in the firm’s Philadelphia office in its litigation group. His practice focuses on complex commercial litigation, particularly antitrust and unfair competition matters, as well as civil rights litigation. "Antitrust Agency Turf War Over Big Tech Investigations". Temple 10-Q. https://www2.law.temple.edu/10q/antitrust-agency-turf-war-over-big-tech-investigations/

Disputes over clearance can have tangible adverse effects on enforcement. First, some have commented that delays caused by clearance disputes can narrow the efficacy of remedial options, particularly with mergers. As Sen. Richard Blumenthal has commented, “The Big Tech companies are not waiting for the agencies to finish their cases. They are structuring their companies so that you can’t unscramble the egg.” Structural remedies are favored by Delrahim, who has commented that alternative, behavioral remedies should be used sparingly: “The division has a strong preference for structural remedies over behavioral ones. … The Antitrust Division is a law enforcer and, even where regulation is appropriate, it is not equipped to be the ongoing regulator.”

Second, disputes over clearance and, more so, duplicative investigations waste agency resources, threaten to blunt their effectiveness, and can lead to inconsistent and confusing governmental positions. In the Sept. 17 oversight hearing, Simons and Delrahim were both criticized for requesting an increase in funding: “As you both acknowledged, both of you could use, and desperately need, more resources. That being the case, it makes no sense to me that we should have duplication of effort, when that has a tendency inevitably to undermine the effectiveness of what you’re doing.” Duplicative investigations dilute the specialization that is a principal goal of the agencies’ clearance agreement and raise the risk that one agency will take legal positions that undercut the other. No doubt the DOJ’s amicus brief in the Qualcomm case influenced the U.S. Court of Appeals for the Ninth Circuit’s decision to issue a stay pending appeal.

So how will the FTC and DOJ resolve their latest turf war? Perhaps they will revisit their clearance agreement and decide to split their authority by company or the business practice being investigated, based on prior agency experience, rather than by industry as Appendix A currently does. Or maybe Congress will decide to consolidate civil antitrust enforcement jurisdiction under one agency. That seems like a long shot considering the political implications. However, during the Senate’s antitrust oversight hearing, Sen. Josh Hawley proposed “cleaning up the overlap in jurisdiction by removing it from one agency” and “clearly designating enforcement authority to one agency.” One thing is sure—the agencies should not be duplicating civil antitrust investigations. Stay tuned.

#### “Expanding the scope” of “anti-trust laws” must be the DOJ and FTC.

Jarod Bona 21. Bona Law PC. "Five U.S. Antitrust Law Tips for Foreign Companies". Antitrust Attorney Blog. 1-16-2021. https://www.theantitrustattorney.com/five-u-s-antitrust-tips-foreign-companies/

1. Two federal and many state agencies enforce antitrust laws in the United States

The United States government has two separate antitrust agencies—the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ). The FTC is an independent federal agency controlled by several Commissioners, while the Antitrust Division of the DOJ is part of the Executive Branch, under the President.

Both of them enforce federal antitrust laws (among other laws). Their jurisdictions technically overlaps, but they tend to have informal agreements between each other for one or the other to handle certain industries or subjects. If you are part of a major industry, your antitrust lawyer may be able to tell you whether the DOJ or FTC is likely to oversee competition issues in your field.

#### 2. Jurisdiction: the plan expands the DOJ and FTC role.

Babette E. Boliek 11. Associate Professor of Law at Pepperdine University School of Law. J.D., Columbia University School of Law; Ph.D., Economics University of California, Davis. FCC Regulation Versus Antitrust: How Net Neutrality is Defining the Boundaries, 52 B.C.L. Rev. 1627 (2011). [http://lawdigitalcommons.bc.edu/bclr/vol52/iss5/2](about:blank)

There is a crucial battle playing out in the world of Internet access provision. While the Internet is the natural home of competing business giants and warring digital avatars, the contest that will have the most sweeping ramifications for the future of the Internet is the turf war being waged between the Federal Communications Commission (FCC), on the one hand, and the Federal Trade Commission (FTC) and the Department of Justice (DOJ), on the other.1 Nothing less than jurisdiction over the development of the Internet is at stake.

Jurisdiction over Internet access provision is not the first confrontation between these particular government agencies; in fact, they have clashed many times.2 But it is the current iteration of the FCC’s “net neutrality” regulations that has generated the latest contest. Roughly defined, net neutrality encompasses principles of commercial Internet access that include equal treatment and delivery of all Internet applications and content.3 For some, net neutrality stands further for the proposition that Internet access operators should not be permitted to provide different qualities of service for certain application providers (e.g., guaranteed speeds of transmission), even if those application providers can freely choose their desired quality of service.4 Net neutrality has reinvigorated what may be described as an underlying interagency tug of war that reaches deep within, and far beyond, the communications industry.

Although the two regimes share a commonality of purpose—to protect consumers and to promote allocative efficiencies in production—the two have quite distinct, predominately opposing, means of securing social benefits. As Justice Stephen Breyer stated when serving as a judge on the U.S. Court of Appeals for the First Circuit, although regulation and the antitrust laws “typically aim at similar goals—i.e., low and economically efficient prices, innovation, and efficient production methods” —regulation looks to achieve these goals directly “through rules and regulations; [but] antitrust seeks to achieve them indirectly by promoting and preserving a process that tends to bring them about.”5 The battle between these two regimes may be broadly summarized in a single issue thusly: in the face of the industry-specific regulator, what is (or what should be) the role of antitrust law?6

Antitrust law preserves the process of competition across all industries by condemning anticompetitive conduct when it occurs. In contrast, industrial regulation by its nature is a public declaration that, in a given industry, market forces are too weak or underdeveloped to produce the consumer benefits that are realized in competitive markets— regulated industries are carved out from the rest of the economy and are subject to proactive, regulatory intervention that goes above and beyond antitrust enforcement measures.7 Not surprisingly, regulatory agencies were historically created as substitutes for market forces in the few markets that, by the nature of the product or technology, were natural monopolies or severely prone to monopoly.8 In the vast major- ity of markets, however, the antitrust law is the default government control, designed to supplement market forces to inhibit or prevent the growth of monopoly.

Again, although the goals of the two regimes may be similar, the means by which each can achieve those goals are in opposition. Therefore, the threshold determination of which industries are to be singled out for industry-specific regulation, and to what degree, is of vital importance as it simultaneously determines the predominance of the regulator versus the antitrust authority in securing the social good.

This Article sets forth a framework to identify the boundaries between FCC regulatory power and antitrust authority. The goal is to pinpoint for Congress the problematic use of regulatory discretion in defining, or redefining, those boundaries and to propose the standard by which Congress may address inappropriate use of existing FCC jurisdiction. Specifically, this Article creates a new categorization of “procedural opportunism” and “substantive opportunism” to identify problematic, regulatory assertions of jurisdiction. The central issue examined in this Article is to posit what is (or should be) the boundaries of antitrust law in relation to the FCC’s regulatory authority. This important issue has reached a point of public crises in the current net neutrality debate.9 Rather than act reflexively, this is an opportunity for Congress to act clearly to redefine the boundaries between the two regimes that have otherwise been blurred by regulatory overreach.

#### 3. Legal code---antitrust requires Title 15 of US Code.

Sanjukta M. Paul 16. David J. Epstein Fellow, UCLA School of Law. The Enduring Ambiguities of Antitrust Liability for Worker Collective Action. Loyola University Chicago Law Journal. https://www.congress.gov/116/meeting/house/110152/witnesses/HHRG-116-JU05-Wstate-PaulS-20191029-SD002.pdf

Unlike the Clayton Act, which was the first legislative attempt at a labor exemption from antitrust,202 the Norris-La Guardia Act did not grapple directly with trade regulation in subject matter—even with how trade regulation applies to labor—although it had the effect of modifying its reach. Norris-La Guardia is not an antitrust statute. Instead, it is incorporated into Title 29 (“Labor”) of the United States Code. By contrast, the Clayton Act was conceived and written as an antitrust statute, was incorporated into Title 15, the antitrust and trade regulation section of the Code, and portions of it dealt with matters other than labor.

#### Anti-trust pics are good.

#### 1. Clash, research depth, and holistic advocacy. It’s the core controversy in alliance research which makes it predictable OR aff choice solves their offense,

Erasmus School of Economics ND. The Erasmus Center for Economic and Financial Governance is an international multidisciplinary network of leading researchers and societal stakeholders initiated by researchers from Erasmus School of Economics and Erasmus School of Law. ECEFG conducts interdisciplinary research (law, economics and political science) and contributes to current debates in public and in academia on issues relating to European and global economic and financial governance. "Competition Policy." Erasmus Center for Economic and Financial Governance. xx-xx-xxxx. https://www.eur.nl/en/ese/affiliated/ecefg/research/competition-policy

Competition Policy Research in this field consists of **two broad areas**. The first area – **Theory and Implementation of Competition Law and Policy** – refers to fundamental and applied research into topics that are traditionally seen as the core of competition policy. The second area – **Scope of Competition Law and Policy** – refers to all research on the effect and desirability of including new considerations in competition law and policy in order to address the challenges of our time, such as the increasing power of big tech firms, or global warming. **Theory and Implementation of Competition Policy** This covers for instance collusion, abuse of dominance, mergers, market regulation and state aid. Some examples of research topics are: the practices firms can use to engage in collusion and its welfare consequences; the practices firms can use to abuse a dominant position and its welfare consequences; which practices can be considered proof of such activities; how to regulate access to a market; how to properly assess the effects of a particular practice or merger; the practices, by which the state and public authorities distort competition such as subisidies and tax measures the interpretation and application of EU and national competition law by Competition Authorities and Courts and the extent to which they achieve the goals of competition policy **Scope of Competition Policy** The effectiveness of European competition law and policy in combination with rapid technological changes have raised questions about its proper scope**. Which policy objectives can and should be pursued by means of competition law and policy, and which should be delegated to other legal fields and policies**? Some examples of specific research questions include: Can and should competition law be used to protect the privacy of consumers on the internet? Information gathered by firms can be used to increase their own profits. How does this affect consumers, and what does this depend on? Can and should competition law deal with market power derived from information gathering? For instance, should the big five tech giants be forced to divest activities? Should competition policy also include considerations of economic inequality or environmental effects? Can competition law remain effective if it is used for more than safeguarding fair competition?

#### Antitrust authorities will share expertise with regulators.

FTC 06. “Creating Constructive Relationships Between Competition Policy and Sectoral Regulators: Submission of the United States”. (Paper presented at the Latin American Competition Forum Fourth Annual Meeting, San Salvador, 2006). https://web.archive.org/web/20070910185812/http://www.iadb.org/europe/files/news\_and\_events/2006/LACF2006/SesI\_USA\_EN.pdf

The relationships between sectoral regulators in the United States and the two federal antitrust authorities, the Antitrust Division of the Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC”), have evolved over the past 30 years. Prior to the 1970s, the regulators and the agencies interacted with each other relatively infrequently. At that time, the antitrust agencies began to engage in competition advocacy, through which they attempted to explain how various regulatory policies impacted competition and consumer welfare and the potential benefits of deregulation. As understanding of the economics of regulation has grown, federal sectoral regulators today increasingly embrace the goals of competition policy and tend to share a common set of policy objectives with the antitrust agencies. While differences remain in the case of some regulators, the competition agencies and sectoral regulators today increasingly coordinate and cooperate with each other, sharing industry and market expertise

#### Non-antitrust regulations solve international matters better---antitrust circumvents military expertise

Noah Joshua Phillips 20. Noah Joshua Phillips was sworn in as a Commissioner on the Federal Trade Commission on May 2, 2018. Before coming to the FTC, Phillips served as Chief Counsel to U.S. Senator John Cornyn, of Texas, on the Senate Judiciary Committee. From 2011 to 2018, he advised Senator Cornyn on legal and policy matters including antitrust, constitutional law, consumer privacy, fraud, and intellectual property. “Championing Competition: The Role of National Security in Antitrust Enforcement.” The Hudson Institute. 12-8-2020. https://www.ftc.gov/system/files/documents/public\_statements/1584378/championing\_competition\_final\_12-8-20\_for\_posting.pdf

**National security best left for national security laws, not antitrust ones.** So should we use antitrust to pursue national security goals, or forbear in enforcing it because of them? As the U.S. Constitution itself makes clear, there is no responsibility more essential for a government than the protection of its citizens. My humble premise is that, like other non-competition considerations, antitrust is an imperfect tool. **And, when it comes to national security, the U.S. government has other tools**. We have, for example, separate and distinct systems requiring mergers to be notified to one set of enforcers who monitor antitrust concerns and to another set of government officials responsible for national security review. **This is not a bug, but a feature, of our government and economic policies more generally.** The Committee on Foreign Investment in the United Stated (CFIUS) is authorized to review national security implications of certain cross-border transactions.23 Note that CFIUS is not an antitrust tool, but a national security one. And a very effective one at that. Look no further than Broadcom’s recent (unsuccessful) bid for Qualcomm. Broadcom, the eighth-largest chipmaker in the world, formerly named Avago, is the product of numerous acquisitions, most notably its $37 billion acquisition of California-based Broadcom in 2016.24 Avago was incorporated in Singapore, but the majority of its personnel and facilities were in the United States.25 On November 2, 2017, Broadcom CEO Hock Tan stood in the Oval Office alongside President Trump and announced Broadcom’s plan to redomicile in the United States from Singapore.26 Within days, Broadcom disclosed a hostile bid for Qualcomm.27 Qualcomm requested that CFIUS review the bid, which CFIUS did.28 And, on March 5th, 2018, CFIUS expressed several concerns with the transaction that it believed warranted a full investigation: primarily, that (i) Broadcom would drastically cut Qualcomm’s investment in 5G wireless technology research and development, opening the door to Chinese dominance; and (ii) a potential disruption in supply to critical Department of Defense and other government contracts.29 One week later, after CFIUS had met with Broadcom, the President issued an order blocking the transaction, one of only five such orders ever and the first one in which a transaction was blocked before an agreement was even entered into.30 Even the threat of a CFIUS action can scuttle a deal that is problematic for national security, as it did in 2005, when China National Offshore Oil Company (CNOOC) proposed to acquire Unocal31; or in 2006, when Dubai Ports World considered purchasing the right to operate six major U.S. ports, including terminals in the New York/New Jersey area, Philadelphia, and New Orleans.32 CFIUS is effective and efficient, and Congress—led by my former boss, U.S. Senator John Cornyn—added to the quiver in August 2018 with the Foreign Investment Risk Review Modernization Act (FIRRMA). FIRRMA broadened CFIUS’s jurisdiction to include investment in a U.S. business that “maintains or collects personal data of United States citizens that may be exploited in a manner that threatens national security.”33 In the spring of last year, CFIUS informed the Chinese company Kunlun that its ownership of the popular gay dating app, Grindr, constituted a national security risk, prompting Kunlun to divest the app.34 CFIUS was apparently motivated by concerns that the Chinese government could blackmail individuals with security clearances or use its location data to help unmask intelligence agents.35 The U.S. government has other tools beyond CFIUS to address national security risks in the private sector. On August 6, 2020, President Trump signed an executive order banning China’s TikTok and WeChat services from mobile app stores in the U.S.36 The order relied upon the International Emergency Economic Powers Act and the National Emergencies Act.37 And earlier this year, we all saw the Defense Production Act being put into use on multiple occasions in response to the COVID-19 pandemic.38 The DPA can be used under certain circumstances to allow other-wise illegal coordination by companies, in the service of national defense.39 Critically, the DPA also provides for oversight of agreements among companies by the antitrust agencies, an important input to ensure that national security needs account for competition. **The U.S. government is equipped with tools to monitor and, if need be, take action with respect to national security goals as they arise the private sector.** I am glad it has these tools, to provide for the national defense. **I am also glad that the national security experts are in charge of these processes, and that they are politically-accountable for their decisions. Charging antitrust authorities with vindicating national security goals would undermine both.**

#### Algorithmic bias enables massive health-care inequality

Trishan Panch et al. 19 – chief medical officer and co-founder at Wellframe, with Heather Mattie and Rifat Atun, December. “Artificial intelligence and algorithmic bias: implications for health systems.” J Glob Health. 2019 Dec; 9(2): 020318. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6875681/

AI is a potentially transformative tool for improving inference from data for care and population health [1]. However, while AI has demonstrated substantial potential in clinical applications [2], few large-scale deployments exist, and there are concerns [1]. First, AI is a misleading term. In practice it is more A than I. It is a defined process applied to ‘narrow inference tasks’ where large volumes of data are present and processing power is available to find associations. It is not, yet, a “general purpose” replacement for human intelligence or ingenuity. Second, whilst there are encouraging research findings in the use of AI in health care, little of this work has been applied in practice, rigorously evaluated or exposed to peer-reviewed publications, while widely publicised positive findings have been challenged [3]. Third, where AI has been used in the broader economy, concerns have emerged regarding its negative consequences in relation to ‘bias’: where AI could amplify inequities in society. For example, in the United States more African Americans have been denied loans or granted longer prison sentences compared to their Caucasian counterparts [4]. For many, the concern is not only that “algorithms are for the most part reflecting back the bias in our world” [5], but that they are doing so at potentially massive scale and without due oversight. Collectively, these shortcomings produce ‘algorithmic bias’, which at present, is not defined in the context of health systems.

We define, for the first time, algorithmic bias in the context of AI and health systems as: “the instances when the application of an algorithm compounds existing inequities in socioeconomic status, race, ethnic background, religion, gender, disability or sexual orientation to amplify them and adversely impact inequities in health systems.”

That kills tens of thousands of people per year.

Andis Robeznieks 21. Senior News Writer, American Medical Association, 2/22/21. “Inequity’s toll for Black Americans: 74,000 more deaths a year.” https://www.ama-assn.org/delivering-care/health-equity/inequity-s-toll-black-americans-74000-more-deaths-year

The country’s pervasive health inequities were evidenced by a tragic tally of 74,402 excess deaths, on average, among Black people compared with white people each year between 2016 and 2018, according to an analysis of all-cause mortality rates in the 30 largest U.S. cities.

But rates vary widely. In Chicago, for example, racial inequities in mortality rates resulted 3,804 excess Black deaths annually, compared to just six excess deaths a year in El Paso, Texas.

“Inequities in mortality are not inevitable,” said Fernando De Maio, PhD, with DePaul University’s department of sociology, and a co-author of the study published in JAMA Network Open.

“If health equity can be achieved in some cities, why not all?” said De Maio, director of research and data use for the AMA Center for Health Equity. “Our results are an indication of the toll of structural racism in U.S. society, but they also give us hope that better, and more equitable, patterns of population health are possible.”

Another study that found a link between high levels of income inequality in a community and higher levels of COVID-19 cases and deaths was co-written by De Maio and sociologist Tim F. Liao, PhD, with the University of Illinois at Urbana-Champaign, and published the same day in JAMA Network Open.

## Competition

### No Race---1NC

#### The “race” is a telecom-industry funded myth.

Nilay Patel 19. "Wait, why the hell is the ‘race to 5G’ even a race?." Verge. 5-23-2019. https://www.theverge.com/2019/5/23/18637213/5g-race-us-leadership-china-fcc-lte

This race is imaginary bullshit. It’s being foisted on us by huge telecom companies that know internet access is fundamentally a commodity and want something new to sell at high prices instead of competing to improve service and lower prices on the networks they have. After all, the United States “won” the “race” for LTE, but it bears repeating: our LTE networks are among the slowest in the world, and our prices among the highest. What did winning that race accomplish for the millions of people across the country that still can’t get a reliable LTE signal?

All I’m asking is that the next time you hear a wireless industry person talk about the “race” to 5G, stop and ask them why it’s a race. Ask who the competitors are, and what happens if we come in second place. See if you buy the answer. I suspect you won’t hear anything convincing.

### ---XT – 6G Outweighs

#### The 5G race is over but the US is leading on 6G

Camilo Bello 21. Consultant focused on Asia Pacific studies and has experience in strategic management, 2/10/21. “6G Technology, America’s Opportunity to Recover its Leadership from China.” https://elamerican.com/6g-technology-americas-opportunity/

The bet on the development of 6G technology opens the way to leadership for the United States, after having missed the opportunity that China took advantage of with 5G. Former President Donald Trump began developing what will be a wireless network 100 times larger than 5G.

Technology experts agree that China, with its technology star, Huawei, offers the best conditions in the 5G wireless network. However, the key to the U.S. is to turn to political unity to create the conditions for a transparent network.

Chinese leader Xi Jinping has focused on measures to strengthen the Chinese Communist Party (CCP), and has put all his efforts into dominating the technological field, which in turn gives him diplomatic and economic power with a view to overtaking the United States and the free world.

The United States has balanced the scales in the development of 5G technology but is preparing to lead in 6G technology, as it has strategic allies and a strategy in diplomatic defense around information transparency, being competitive in the face of the authoritarianism of the CCP.

The United States and 5G development

The United States ceded ground to China on its own 5G wireless network development. Former President Donald Trump insisted on developing 6G technology as a way to respond to the loss of leadership in the field.

### US Wins Now---2NC

#### US leadership in 5G now.

Steven P. Bucci 20. Ph.D., visiting fellow who focuses on cybersecurity, military special operations, and defense support to civil authorities @ Heritage, 10/9/20. “Nationalizing 5G Is the Wrong Way for the U.S. to Compete With China.” https://www.heritage.org/technology/commentary/nationalizing-5g-the-wrong-way-the-us-compete-china

The U.S. is maintaining its leadership in 5G, and the nation’s carriers are already far into their respective deployments of secure 5G networks. The DOD’s recent request for information for a single, nationwide wholesale network will not lead to a tangible solution to the race to 5G, rather it will lead to a solution in search of a problem.

Driving a DOD-centric, or a DOD proxy-centric, solution is a fool’s errand. It is founded on a belief that the federal government can move faster and more effectively than the private sector. This has not been true for decades.

This assumption ignores the great strides that have been made by the existing American players on the 5G field already. These private sector companies are the repositories of the expertise and experience in the telecom field, not the government. Thinking that the government or a jerry-rigged organization with political connections will somehow pull together the expertise out of thin air is nonsense.

## Comity

### 1NC – Clog

#### Antitrust fails---expanding scope opens the floodgates to litigation and makes enforcement impossible.

Geoffrey Manne, 18. International Center for Law & Economics president & founder, Congressional Documents and Publications, “Senate Judiciary Subcommittee on Antitrust, Competition Policy and Consumer Rights Hearing; "A Comparative Look at Competition Law Approaches to Monopoly and Abuse of Dominance in the US and EU."; Testimony by Geoffrey Manne, President and Founder, International Center for Law and Economics,” December 19, 2018. Lexis, accessed 6-1-21

II. The specious lure of excessively discretionary antitrust

Antitrust is an attractive regulatory tool for a number of reasons. As noted above, the vague, terse language of the Sherman Act readily lends itself to "interpretation" imbuing it with virtually limit-less scope. Indeed, the urge to treat antitrust as a legal Swiss Army knife capable of correcting all manner of social and economic ills is apparently difficult to resist. Conflating size with market power, and market power with political power, many recent calls for regulation of the tech indus-try are framed in antitrust terms, even though they are mostly rooted in nothing recognizable as modern, economically informed antitrust legal claims or analysis. But that attraction is precisely why we should care about the scope, process, and economics of anti-trust and the extent of its politicization. Antitrust in the US has largely resisted the relentless effort to politicize it. Despite being rooted in vague and potentially expansive statutory language, US anti-trust is economically grounded, evolutionary, and limited to a set of achievable social welfare goals. In the EU, by contrast, these sorts of constraints are far weaker. Whether or not that is suitable for the particular political and historical circumstances of the EU is a separate question. But, undoubt-edly, applying a controversial legal regime to the United States -- a markedly different jurisdiction with a unique governance structure -- and upsetting more than a century of legal, technological, and social development, is deeply problematic. This conclusion is in no way altered by the fact that US antitrust law has become the outlier of global antitrust enforcement, compared to the EU's more "consensual" approach. n26 What matters is a policy's actual results, not whether it is widely adopted; the world is full of debunked beliefs that were once widely shared. And it is far from certain that the widespread adoption of the EU model is in any way indicative of superior results. It is equally (or even more) plausible that this model has proliferated because it naturally accommodates politically useful populist narratives -- such as "big is bad," robin hood fallacies and robber baron myths -- that are constrained by the US's more evidence-based and rational antitrust decision-making. n27 America's isolation might thus be a testament to its success rather than an emblem of its failure. But even if by some chance the European approach proved to be optimal for many other countries in the world, it is still dubious that its adoption would lead to improved economic performance in the United States. As has already been alluded to, the unique features of the US legal regime make it unlikely that the best policy for the EU would also happen to be the best one for America. The EU's more aggressive pursuit of technology platforms under its antitrust laws demonstrates many of the problems with its approach in general. I urge this subcommittee to consider not just whether the EU approach seems to permit the government to reach a preconceived outcome -- i.e., placing large tech platforms under increased antitrust scrutiny -- but whether it is truly desirable at all to emulate the EU's approach and to try to reach the goals of EU competition policy under US antitrust law. Endorsing the European approach to antitrust, in a naive attempt to bring high-pro-file cases against large Internet platforms, would prioritize political expediency over the rule of law. It would open the floodgates of antitrust litigation and facilitate deleterious tendencies, such as non-economic decision-making, rent-seeking, regulatory capture, and politically motivated enforce-ment. Bringing US antitrust enforcement in line with that of the EU would thus unlock a veritable Pan-dora's box of concerns that are currently kept in check. Chief among them is the use of antitrust laws to evade democratically and judicially established rules and legal precedent. When consider-ing this question, it is important to see beyond any particular set of firms that enforcement offi-cials and politicians may currently be targeting. An antitrust law expanded to consider the full scope of soft concerns that the EU aims at will not be employed against only politically disfavored companies, companies in other jurisdictions, or in order to expediently "solve" otherwise political problems. Once antitrust is expanded beyond its economic constraints and imbued with political content, it ceases to be a uniquely valuable tool for addressing real economic harms to consumers, and becomes a tool for routing around legislative and judicial constraints**.**

# 1nr

## DA – Japan

#### China led LIO outweighs---

#### 1. China takes the ECS and SCS, Taiwan, and critical trade routes, sparks regional conflict--- Asian alliances ensures draw in and a massive US-China war which outweighs---That’s Dowd.

#### 2. Relations outweigh, solve, and turn the case.

Brooke Singman 21. Political Reporter. "Biden says US, Japan 'committed to working together' on challenges from China, North Korea". Fox News. 4-16-2021. https://www.foxnews.com/politics/biden-japan

President Biden on Friday said he and Japanese Prime Minister Yoshihide Suga affirmed their "ironclad support" of the U.S.-Japanese alliance, saying the two nations committed to take on challenges posed by China and North Korea together to "ensure a future of a free and open Indo-Pacific."

Suga is the first foreign leader to meet in person with Biden, signaling strengthening ties between the United States and Japan amid diplomatic tensions with China—as intelligence officials warn that Beijing poses one of the greatest long-term threats to U.S. national security.

"The commitment to meet in person is indicative of the importance and the value we both place on this relationship between Japan and the United States," Biden said Friday during a joint press conference in the White House Rose Garden.

The president said that the two had a "very productive discussion" Friday, discussing their commitment to cooperate on shared challenges.

"We affirmed our ironclad support for the U.S.-Japanese alliance and for our shared security," Biden said. "We committed to working together to take on challenges from China, the East China Sea--South China Sea, North Korea and to ensure a future of a free and open Indo-Pacific."

Biden said that Japan and the U.S. are "two strong democracies in the region and are committed to defending and advancing our shared values, including human rights and the rule of law."

"We’re going to work together to prove that democracies can still compete and win in the 21st century, and still deliver for our people in the face of a rapidly changing world," Biden said.

Suga, during the press conference, said the two leaders committed to a "global partnership for a new era," which he said "strongly demonstrates our solidarity toward the realization of a free and open Indo-Pacific."

The two leaders, on Friday, said they would work together to get the COVID-19 pandemic "under control," ensure equitable access to vaccines, and focus on climate change and clean energy.

Biden also said that the U.S. and Japan will work together to "protect" new technologies, and "maintain and sharpen a competitive edge" based on "shared Democratic norms set by democracies—not autocracies"—in an apparent swipe at China.

Biden said that the United States and Japan will work together to promote "secure and reliable 5G networks," a secure supply chain—specifically for semiconductors, and to drive joint research in artificial intelligence, genomics, quantum computing and more.

The Biden Administration and Japan have been working to strengthen technology supply chains, in a way to ensure U.S. and Japanese independence from unreliable partnerships with China—whose trade war with the U.S. coupled with the coronavirus pandemic has led to the crippling semiconductor chip shortages.

Japan is also expected to announce an investment in 5G cellular networks, boosting alternatives to China’s network, as part of that supply chain cooperation. Biden and Suga on Friday also discussed ramping up a new trade alliance to bolster semiconductor production.

The new supply chain agreement would ensure U.S. and Japanese independence from vulnerable regions like Taiwan and unreliable partnerships with China—whose trade war with the U.S. coupled with the coronavirus pandemic has led to the crippling semiconductor chip shortages.

The focus on the U.S. supply chain comes after the president in February signed an executive order demanding a 100-day review of supply chains in four areas—computer chips, large capacity batteries, pharmaceuticals, and critical minerals and rare earth materials.

Intelligence and national security officials, as well as lawmakers on both sides of the aisle, have warned that China poses a threat to the U.S. supply chain, but the executive order did not mention China but instead focuses on other vulnerabilities.

Suga, during the press conference on Friday, said that he and Biden discussed China’s "influence" in the Indo-Pacific, and said the two leaders "agreed to oppose any attempts to change the status quo by force."

Before the press conference, the two met in the White House State Dining Room Friday, where Biden said the two nations have a "big agenda."

"We are two important democracies in the Pacific region," Biden said. "And our cooperation is vital, in my view, and I think in both our view, to meeting the challenges facing our nations and to ensuring that the future of the region remain free and prosperous."

Suga, who succeeded former Prime Minister Shinzo Abe in September, after serving as his chief Cabinet secretary, said Friday that "freedom, democracy, human rights and the rule of law are universal values that make a difference that is prevalent in the Indo-Pacific."

"This is the very foundation of prosperity and stability of the region and the globe," Suga said, highlighting the "importance of such values," while saying he wishes to "reaffirm" a strong U.S.-Japan alliance.

Suga also expressed a desire to focus on ways the U.S. and Japan can cooperate on a number of common challenges, including the COVID-19 pandemic and climate change.

#### China led order collapses the LIO.

Ely Ratner 20. Ph.D. in Political Science from the University of California, Berkeley. Executive Vice President and Director of Studies at the Center for a New American Security (CNAS), where he is a member of the executive team and responsible for managing the Center’s research and communications. Former security advisor to Vice President Joe Biden, and from 2011 to 2012 in the office of Chinese and Mongolian affairs at the State Department. “Toward a New China Debate: The Strategic Logic of Blunting China’s Illiberal Order.” The Struggle for Power U.S.-China Relations in the 21st Century. https://assets.aspeninstitute.org/content/uploads/2020/01/TheStruggleForPower.pdf

The stakes: Envisioning China-led order The United States and China are now locked in a geopolitical competition that is structural and deepening. How this contest evolves will determine the rules, norms, and institutions that govern international relations in the coming decades. Should the United States fail to rise to the China challenge, the world will likely see the emergence of an illiberal and expansive Chinese sphere of influence. This is not to suggest that Beijing should be denied a voice or sway commensurate with its position as a major power—but there’s a substantial difference between greater Chinese power (even China being the most powerful country in the region) and a situation in which Beijing exerts illiberal hegemonic control over Asia and beyond. It is incomplete to view U.S.-China dynamics as a disparate set of competitive domains. Instead, we should be principally concerned about the aggregate and mutually reinforcing consequences of a China-led order if Beijing gains dominant control of vital regions and functional domains. Core features of this order would include the People’s Liberation Army administering the South and East China Sea; regional countries sufficiently coerced into not questioning or challenging China’s preferences on military, economic, and diplomatic matters; the de facto unification of Taiwan; Beijing with agenda-setting power over regional institutions; a China-centric economic order in which Beijing sets trade and investment rules in its favor; and the gradual spread of authoritarianism in the developing world, reinforced by the proliferation of China’s high-tech surveillance state.5 For the United States, an illiberal China-led order would translate into weaker U.S. alliances, fewer security partners, and a military forced to operate at greater distances; U.S. firms without access to leading markets and disadvantaged by unique technology standards, investment rules, and trading blocs; U.S. participation in inert international and regional institutions unable to resist Chinese coercion; and a secular decline in democracy and individual freedoms around the world. Many of these effects are already occurring globally and particularly in Asia, the center of gravity in the competition. Arresting and reversing these trends stands among the most urgent and important tasks in U.S. foreign policy.

#### That’s key to solve a host of existential threats.

Hal Brands 18, Henry Kissinger Distinguished Professor at Johns Hopkins University’s School of Advanced International Studies, Scholar at the American Enterprise Institute, 8-14-2018, America’s Global Order Is Worth Fighting For, Bloomberg Opinion, Politics & Policy, https://www.bloomberg.com/opinion/articles/2018-08-14/america-s-global-order-is-worth-fighting-for

The first argument is easily disposed of. Yes, the postwar world has been thoroughly imperfect, featuring nuclear arms races, genocides, widespread poverty and other scourges. But the world has always been imperfect, and by any meaningful comparison, the last seven decades have been a veritable golden age. The liberal international economic order has led to an explosion of domestic and global prosperity: According to World Bank data, both U.S. and global per capita income have increased roughly three-fold (in inflation-adjusted terms) since 1960, with U.S. gross domestic product increasing nearly six-fold. The U.S. system of alliances and forward military deployments has contributed critically to the longest period of great-power peace in modern history, and the incidence of war and conquest more broadly have dropped dramatically. The number of democracies in the world has increased from perhaps a dozen during World War II to well over 100 today; respect for basic human rights has also reached impressive levels. As a bevy of scholarship has shown, the policies that the U.S. has pursued and the international order it has built have contributed enormously and directly to these outcomes. If the liberal international order can’t be considered a smashing success, no international order could be. The second critique is also overstated. It is true that Washington, like all great powers throughout history, has been willing to bend the rules to get its way. It is hard to reconcile Cold War-era interventions in Guatemala, Chile and other countries with a professed solicitude for human rights and democracy; the Iraq War of 2003 is only one instance in which the U.S. brushed aside the concerns of international organizations such as the U.N. Security Council. Likewise, when the U.S. government determined that the Bretton Woods system of monetary relations no longer suited its interests in the 1970s, it terminated that scheme and insisted on creating a more favorable one. But again, the proper standard here is not sainthood but reality. And the U.S. has generally enlisted its power in the service of universal values such as democracy and human rights; it has, more often than not, promoted a positive-sum international system in which like-minded nations can be secure and wealthy. This goes back to the very beginning of the liberal order: Washington did not seek to hold its defeated adversaries in subjugation after World War II; it rebuilt Japan and western Germany into thriving, democratic allies that became fierce economic competitors to the U.S. The U.S. has taken this approach not simply because it wanted to do good in the world — powerful as this motivation is — but because of a hard-headed desire to do good for itself. In an interdependent global environment, American officials have long calculated, the U.S. cannot divorce its own well-being from that of the wider world. And in contrast to how other great powers — Imperial Japan, for instance, or the Soviet Union — ruled their spheres of influence, American behavior has been positively enlightened. It is this relatively benign behavior that has convinced so many countries to tolerate American leadership — and it is the emergence of a darker form of U.S. hegemony under the Trump administration that so profoundly worries them today. As for the third critique, the premise is right, but the conclusion can easily go too far. It is always dangerous to become so enraptured by past achievements that one loses sight of the need for adaptation in the future. This is particularly true today, because the strength of the liberal order is being tested from within and without, by issues ranging from unequal burden-sharing among American allies to the ambivalence of the American people themselves. There is little evidence to suggest, however, that either American power or the liberal order it supports have eroded so dramatically that Washington’s postwar project cannot be sustained. Quite the contrary — the U.S. is likely to remain the world’s strongest power for decades to come.

#### Economic alliance solves climate change---business cooperation key to consistency.

Mary M. McCarthy and Phillip Y. Lipscy 21. Mary M. McCarthy is associate professor of politics and international relations at Drake University in Des Moines, Iowa. Phillip Y. Lipscy is associate professor in the department of political science and Munk School of Global Affairs and Public Policy at the University of Toronto, where he also directs the Centre for the Study of Global Japan. "The US and Japan Must Lead on Climate Cooperation". No Publication. xx-xx-xxxx. https://thediplomat.com/2021/04/the-us-and-japan-must-lead-on-climate-cooperation/

Last week’s bilateral meeting between Biden and Japanese Prime Minister Suga Yoshihide laid the groundwork for the climate summit, with the U.S. and Japan announcing their global climate leadership. The governments seek to use energy cooperation to address climate change, geostrategic challenges raised by China, and other issues of mutual concern. However, the two countries’ track record of volatility and inconsistency makes some countries skeptical about their reliability as partners.

An urgent task for both countries is to institutionalize climate policy through domestic, bilateral, and multilateral mechanisms that outlast any single administration. This means building partnerships that emphasize business opportunities and irreversible investments in energy sector transformation. The institutionalization of initiatives and the creation of vested interests in green technologies and green growth will be critical in preventing future backsliding on climate commitments.

U.S.-Japan Climate Partnership

The U.S.-Japan Climate Partnership on Ambition, Decarbonization, and Clean Energy, announced on April 16 while Suga was in Washington, D.C., is a natural extension of existing bilateral initiatives, but it also signals a meaningful shift from the policies of the previous governments.

The Biden and Suga governments will continue ventures such as the Japan-U.S.-Mekong Power Partnership (JUMPP) and cooperation on nuclear energy technology. But, in keeping with Biden and Suga’s stated intentions to pursue carbon neutrality by 2050, the Japan-U.S. Strategic Energy Partnership (JUSEP) has been upgraded to the Japan-U.S. Clean Energy Partnership (JUCEP), which will move beyond past cooperative activities on technology research and development, in the context of the Paris Agreement and the Free and Open Indo-Pacific strategy.

Most importantly, their joint statements and accompanying rhetoric have emphasized the role of the United States and Japan as emerging leaders in a number of areas connected with climate change mitigation. To exert true leadership, it will be critical to develop concrete measures and policies to not only deepen cooperation but also accelerate domestic decarbonization.

Green Technologies and Green Growth

The COVID-19 pandemic presents a potentially transformative opportunity for governments to overcome entrenched resistance to climate policies. This starts with a green recovery from the pandemic as the first step to sustainable green growth. Emerging green industries can be promoted and entrenched by government investment, support, and international linkages. Green growth can also address energy security challenges, such as Japan’s longstanding dependence on fossil fuel imports. The pandemic further provides a window of opportunity to design multilateral frameworks to more effectively address global dimensions of climate change like taxation, green border adjustment, and asset revaluation.

The U.S.-Japan Climate Partnership expands on existing cooperation to include “renewable energy, energy storage (such as batteries and long-duration energy storage technologies), smart grid, energy efficiency, hydrogen, Carbon Capture, Utilization and Storage/Carbon Recycling, industrial decarbonization, and advanced nuclear power.” The partnership will target both domestic and foreign needs. For example, both the United States and Japan need to upgrade their own grids and integrate renewables into the grid. And, through advancements in and transfer of smart grid technology, they can contribute to the modernization and efficiency of other countries’ energy sectors as well.

Even though Japan is a leader in research and development in clean energy technologies, it has faced impediments in transforming that into profitable ventures in the marketplace. U.S. industry had early successes with clean energy technologies, but China has come to dominate much of the commercial landscape. In partnership, Japan and the United States may be able to compete more effectively with China and reassert their market share.

Offering an Alternative to China

Japan-U.S. energy cooperation is part of a larger geostrategic and geoeconomic strategy in the region and around the world. Their collaboration presents an alternative to China’s Belt and Road Initiative in the energy infrastructure sector. Clean energy is consistent with Japan’s promotion of quality infrastructure in the Indo-Pacific as an alternative to Chinese initiatives. For Japan, committing to a decisive shift away from coal will be critical in making this strategy credible.

Although China and the U.S. will need to cooperate on climate change, they are also likely to be competing in promoting their own visions for the future. The U.S.-Japan Joint Leaders Statement presented a vision of the world where the United States and Japan are on the side of “freedom, democracy, human rights, the rule of law, international law, multilateralism, and a free and fair economic order.” Climate leadership was the missing piece in Japan’s newfound leadership in support of the liberal international order. Multilateral cooperation on green technology, green recovery, green growth, and climate partnerships will be critical areas as the U.S. and Japan seek to re-exert their global leadership and present an alternative to China.

Leading Multilateral Cooperation

The joint statements by the U.S. and Japan have called not only for domestic efforts and bilateral cooperation, but also for promoting a global goal of net zero emissions by 2050. Although the UNFCCC process has important shortcomings and may be sabotaged by future administrations, the two countries should continue to work with global partners to push the agenda forward.

Aside from global multilateral cooperation, the United States and Japan can support Southeast Asian countries to address an expected 6 percent increase in annual electricity consumption without resorting to high-carbon technologies or an overreliance on Chinese debt diplomacy. Building on JUMPP, promoting green technology investments through bilateral and multilateral partnerships can perpetuate the U.S. and Japan as climate leaders and diplomatic partners in the region. It will have the added benefit of integrating U.S. and Japanese businesses and economic interests into the energy infrastructure of the region.

The Japan-U.S. bilateral commitment to climate is a meaningful development and encompasses national security, economic development, energy security, and environmental objectives. It also reflects the domestic and foreign policy interests of Biden and Suga. For Biden, it creates a clear break from the Trump administration and promotes key pillars of his domestic and foreign policy agenda, including a recommitment to allies and multilateralism, countering China’s expanding influence, and clean energy infrastructure. For Suga, it burnishes his bona fides as a steady hand managing the Japan-U.S. relationship and signals Japan’s continued willingness to play a global leadership role.

For both leaders, it will be crucial to move ambitiously and expeditiously in the direction of decarbonization. Future policy reversals can be made more costly through institutionalization, large-scale infrastructure investments, and the growth of successful green businesses that counter vested interests tied to the fossil fuel sector. For the United States and Japan to emerge as undisputed leaders in climate change, it will be critical to expand into new areas of cooperation and overcome potential sources of backsliding at home.

#### Economic alliance is key to Indo-Pacific cyber security---only coop allows them to leverage technology.

Patrick M. Cronin 4/15/21. Asia-Pacific Security Chair @ Hudson. "U.S.-Japan Alliance in Full Bloom". https://www.hudson.org/research/16835-u-s-japan-alliance-in-full-bloom

Even if seldom mentioned by name, China is the unmistakable fulcrum around which alliance policy on all issues turns. Competition with China is primarily economic and technological, but these issues often spill over into security and human rights.

Economically, a rebounding U.S. economy and Japan will collaborate to strengthen the resilience of vital supply chains. Semiconductor chips are essential for all electronics, and Suga and Biden are determined to ensure their availability. Equally, the U.S. and Japan have an opportunity to leverage their two-year-old digital trade agreement to help negotiate a multilateral accord and establish high international standards for finance and commerce in the cyber age.

As a dominant player in semiconductor manufacturing and a member of APEC and the World Trade Organization, Taiwanshould play a part in both supply chain security and digital trading standards. Indeed, bolstering Taiwan’s place in the global economy of other democracies is a far better means of thwarting Beijing’s intimidation strategy against Taiwan than just sailing near the Taiwan Strait with an aircraft carrier.

The commanding heights of the 21st century economy center on technology. So, while the United States and Japan retain a strong interest in economic cooperation with China, those relations become considerably sharper over leading-edge technologies such as 5G telecommunications, artificial intelligence and quantum computing. Biden and Suga should showcase their commitment, not against China, but in favor of technological innovation and secure connectivity.

An excellent way for the alliance to demonstrate a commitment to practical technology cooperation would be to work together to expand investment in 5G Open Radio Access Networks (ORAN). Given the concerns surrounding allowing China to dominate fifth-generation telecommunications infrastructure, the United States and Japan need to scale up a cloud-based software alternative. The good news is that Japan’s Rakuten is already a leader in demonstrating ORAN’s feasibility, and there is bipartisan support in Congress for increasing U.S. investment in modular 5G.

The alliance also requires deeper cooperation on cybersecurity. Of five issues highlighted at the recent 2 + 2 meeting between U.S. and Japan defense and foreign ministers, cyberspace was the most traditional national security issue. Japan is inching closer toward becoming a de facto sixth member of the Five Eyes intelligence-sharing arrangement, and the Biden administration should encourage that trajectory. A stronger digital alliance can, in turn, advance cyber resilience throughout the Indo-Pacific region.

#### Economic alliance high.

Akira Igata and Brad Glosserman 7/15/21. Akira Igata is Executive Director and Visiting Professor at the Center for Rule-Making Strategies at Tama University and an adviser to the Japanese government, bureaucracy, and private sector and to international organizations on economic security issues. Brad Glosserman is Deputy Director and Visiting Professor at the Center for Rule-Making Strategies at Tama University, a Nonresident Senior Adviser at the Pacific Forum, and the author of Peak Japan: The End of Great Ambitions. "Japan Is Indispensable Again". Foreign Affairs. 7-15-2021. https://www.foreignaffairs.com/articles/united-states/2021-07-15/japan-indispensable-again

Japan has been delighted with the first months of Joe Biden’s presidency. Unlike his predecessor, whose transactional view of diplomacy rankled many in Tokyo, Biden has been at pains to rekindle the U.S.-Japanese alliance and to emphasize that Japan remains the linchpin of U.S. security policy in Asia. In February, the two nations renewed the agreement under which Japan hosts U.S. troops, and in March, Secretary of State Antony Blinken and Secretary of Defense Lloyd Austin both visited Japan on their first overseas trips. Biden hosted Japanese Prime Minister Suga Yoshihide as his first foreign guest as president.

It will surprise no one that a major focus of these early meetings has been China, whose economic and military rise has unnerved Washington and Tokyo and united them in competition with Beijing. Biden administration officials have repeatedly affirmed their readiness to defend Japan, including its claim to the disputed Senkaku Islands (known in China as the Diaoyu Islands). But in addition to military and diplomatic competition with China, which has long been central to the U.S.-Japanese relationship, both countries have placed a new and important emphasis on economic security. In their first meeting, Biden and Suga discussed ways to protect critical supply chains, intellectual property rights, and sensitive technology that should not pass into Beijing’s hands. At the March meeting of the Quadrilateral Security Dialogue, an informal strategic forum that includes Australia, India, Japan, and the United States, both leaders took a similarly expansive view of the China challenge, leading to the creation of working groups on controlling critical and emerging technologies, among other economic security issues.

That heightened economic competition with China has helped Japan reinvigorate its alliance with the United States is not an accident. Over the last several years, the Japanese government—first under Prime Minister Abe Shinzo and then under Suga—has honed a new brand of economic statecraft designed to protect the country’s economic interests, limit China’s creeping influence in Asia, and bolster Japanese soft power. Through a combination of enhanced economic intelligence, tighter trade restrictions, and better stewardship of data and emerging technologies, Japan has become a force for economic security in Asia and reinforced its position as an indispensable U.S. ally.

ABE’S ECONOMIC STATECRAFT

Japan has long thought of security in more than military terms. In part because of the military constraints imposed by its pacifist constitution, Tokyo has historically tried to win the trust of other Asian powers through aid, trade, and diplomacy. And it has largely succeeded: public opinion surveys in Southeast Asia consistently show that Japan is the most trusted major power in the region and that it has considerable soft power.

#### they say it’s non uq ---

#### Don’t run on autopilot---frictions prevent effectiveness of the alliance.

Michael J. Green 20. Senior vice president for Asia and Japan Chair at the Center for Strategic and International Studies and director of Asian Studies at the Edmund A. Walsh School of Foreign Service at Georgetown University. Jeffrey W. Hornung is a political scientist at the nonprofit, nonpartisan RAND Corporation. "Are US-Japan relations on the rocks?". TheHill. 7-17-2020. https://thehill.com/opinion/international/507880-are-us-japanese-relations-on-the-rocks

There is not cause for concern about Japan abandoning the alliance with the United States. Abe came back to power promising a stronger U.S.-Japan alliance and has given no indication that he is abandoning that promise. Nor are any of the major political figures trying to replace him challenging the alliance relationship. Moreover, the growing threat from China means that Washington and Tokyo need each other more than ever. But the growing points of friction and uncertainty in the relationship carry negative consequences, particularly given that even though polls show that the Japanese public supports the alliance, they also reveal that trust in the United States and President Trump has dropped precipitously. And it sends the wrong message to Tokyo that the next U.S. envoy is cooling his heels waiting for confirmation.

The concern is not that Japan somehow defects, but that Tokyo and Washington could let growing irritation and uncertainty distract them from the increased work that must be done to preserve a truly free and open Indo-Pacific. The White House website and the campaign website of presumptive Democratic presidential nominee Joe Biden both speak to the importance of the U.S.-Japan alliance. That is a very good thing, but alliances do not run on auto pilot. They take work. Lest the allies are prepared to let the current troublesome trends continue, more attention should be paid to what has otherwise been a reliably solid relationship.

#### Japanese businesses believe in Biden now.

Japan Times 21. "Japan business leaders welcome Biden's multilateral push". https://www.japantimes.co.jp/news/2021/01/21/business/economy-business/japan-keidanren-joe-biden/

Business leaders in Japan on Thursday welcomed the inauguration of U.S. President Joe Biden, expecting his administration to take a multilateral approach to trade policy while cooperating closely with other countries.

"We have high hopes for the new U.S. administration as it focuses on international coordination," Hiroaki Nakanishi, chairman of the Japan Business Federation, known as Keidanren, said in a statement.

The chief of the country's most powerful business lobby made clear "the power of the United States is necessary" to achieve a recovery in a global economy hit hard by the novel coronavirus pandemic, adding that it also allows for the global order to be "reconstructed."

"I hope the Biden administration will unite and revive the United States as the world's number one country," said Nakanishi.

He added that Japan has to make efforts to further develop its relationship with the United States and persuade it to return to the Trans-Pacific Partnership free trade pact, from which Washington withdrew under the administration of Biden's predecessor Donald Trump.

Akio Mimura, chairman of the Japan Chamber of Commerce and Industry, said he expects Biden to exert strong leadership "as a new U.S. president who values multilateralism and the rule of law."

He expressed hope that Biden will tackle global issues such as the coronavirus pandemic and climate change in conjunction with other countries.

"I welcome a shift to international cooperation by the Biden administration," said Kengo Sakurada, chairman of the Japan Association of Corporate Executives.

"We hope the United States will reclaim its status as a world leader in promoting democracy and market economics and again drive moves toward global peace and prosperity," Sakurada said, also stressing the importance of strengthening Japan-U.S. cooperation in various areas.

#### Current law is inoffensive---labeling new businesses practices anticompetitive is seen as adventurist.

Herbert Hovenkamp 03. Ben V. & Dorothy Willie Professor of Law and History, University of Iowa. “Antitrust as Extraterritorial Regulatory Policy,” 48 Antitrust BULL. 629 (2003).

Such assertions of extraterritorial power may be relatively inoffensive when the complaint challenges naked price fixing or some other practice widely acknowledged by every competition law authority in the world as anticompetitive. But antitrust in newly deregulated industries has given rise to many more adventuresome antitrust claims about which there is significantly less consensus, even within the United States. A principal one of these is antitrust's essential facility doctrine, which requires a dominant firm to share a facility that is "essential" in the sense that rivals cannot prosper in the market without access to it.50 For example, under the essential facility doctrine a telephone company might be required to share its wire loop or other essential network elements with smaller long-distance or local carriers that want to deliver services in the market as well, but can do so only if they can interconnect. 51

#### 1. Extraterritorial antitrust fractures diplomacy---kills relations with allies.

S. Nathan Park 17. Career in Law Teaching Fellow, Columbia Law School; Adjunct Professor of Law, Georgetown Law Center; Of Counsel, Kobre & Kim LLP. “Equity Extraterritoriality”. https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1515&context=djcil

2. Strife in Diplomatic Relations

Because Equity Extraterritoriality infringes upon a foreign sovereign’s interest, it frequently causes diplomatic strife. The Argentina bond case, litigated before a New York federal court, provided anti-American fodder to Argentina’s politicians.232 Reporters for the Restatement have noted the level of friction and acrimony caused by extraterritorial discovery orders.233 Extraterritorial orders issued pursuant to U.S. antitrust laws have “provoked the loudest and most consistent foreign protests.”234 Discussing American antitrust laws, a Canadian government official did not mince words: “For one government to seek to resolve the conflict in its favor by invoking its national law before its domestic tribunals is not the rule of law but an application, in judicial guise, of the principle that economic might is right.”235 Foreign governments would file amicus curie briefs objecting to U.S. extraterritoriality, but the U.S. court’s deference to such views is not consistent. The In re Uranium Antitrust Litigation opinion is an example of hostility, in which the Seventh Circuit called the governments of Australia, Canada, South Africa, and the United Kingdom “surrogates” of the foreign corporation defendants who “subversively presented for them their case.”236 The Uranium court’s hostility toward the foreign states prompted the State Department to inform the court that the opinion “has caused serious embarrassment to the United States in its relations with some of our closest allies.”237

It is a significant problem that the unelected judiciary, which is often a state court or a federal court applying state law, is effecting foreign policy consequences. When a court issues an extraterritorial order, it is conducting an indirect type of diplomacy against its constitutional mandate.238 The problem is worse when a state law is involved. Territoriality principles prohibit a state law from being applied beyond state borders, much less beyond U.S. borders.239 Yet under Equity Extraterritoriality, a state law may be applied anywhere in the world, causing diplomatic strife with foreign sovereigns.

#### 2. Extraterritorial antitrust shreds commerce and relations.

J. Franck Hogue 16. Recalling First Principles: The Importance of Comity in Avoiding Antitrust Imperialism, 73 Wash. & Lee L. Rev. 533 (2016), https://scholarlycommons.law.wlu.edu/wlulr/vol73/iss1/12

I would add a somewhat less apocalyptic source of conflict that may hamper the operation of global commerce: the overzealous extraterritorial application of antitrust laws. Each of the countries that supplied a part of Mr. Friedman’s computer have their own laws and regulations that govern the conduct of companies doing business within their borders, among them competition laws that delineate what is and what is not permissible.11 These regulations reflect the legal and commercial traditions unique to particular jurisdictions, and embody the differing choices made by these states. And, of course, the United States has its own innumerable laws that govern the conduct of commerce within its own borders.12 These are the product of the U.S. and Western commercial heritage. As to all of the countries, it has long been established in international law that principles of sovereignty permit these nations to apply their laws to conduct occurring within their territory.13 But conflict and friction in the international commercial system can occur when one nation seeks to apply its own laws to conduct that takes place within the borders of another nation.14

---FOOTNOTE 14 STARTS, MID PARAGRAPH---

14. See Brief for Ministry of Economy, Trade and Industry of Japan as Amici Curiae Supporting Appellees 3, Motorola Mobility LLC v. AU Optronics Corp., 775 F.3d 816 (7th Cir. 2015) (No. 14-8003) (“‘[E]xcessive’ extraterritorial application of competition law tends to bring about serious tension between the countries involved.”); Brief for Belgian Competition Authority as Amicus Curiae Supporting Appellee 6, Motorola Mobility, 775 F.3d 816 (No. 14-8003) (“The proliferation of competition law systems can contribute significantly to a better functioning of markets. But without the necessary convergence and comity, conflicting policies may well become a significant obstacle to trade and investment, as recognized by nations across the globe.”).

---FOOTNOTE 14 ENDS, PARAGRAPH RESUMES---

The extraterritorial application of antitrust regulations is a potent example. Conflict is particularly possible when it is American antitrust law that is urged to reach foreign commerce and conduct.15 While such an application can be permissible in certain circumstances, there are constraints on the extraterritorial application of American antitrust laws to alleviate such friction.16 One such constraint, but certainly not the only one, is the Foreign Trade Antitrust Improvements Act (FTAIA).17

While the FTAIA initially enjoyed little celebrity, it has taken on an increased importance in debates over how far and to what conduct American courts should extend the reach of American antitrust law.18 Increasingly, American courts have taken up the proper application of FTAIA to cases involving foreign conduct, foreign commerce, and domestic claims.19 So too has academia, producing a remarkable volume of scholarly research and shining much-needed light on a once-obscure statute.20

It is into this already-crowded field that Ms. Leonard bravely enters with her timely Note, In Need of Direction: An Evaluation of the “Direct Effect” Requirement Under the Foreign Trade Antitrust Improvements Act.21 In her Note, Ms. Leonard seeks to identify the appropriate test to allow the FTAIA to play its proper role in the modern global economy.22 Ms. Leonard focuses her analysis on a single aspect of the analysis with which courts engage when applying the FTAIA, namely the direct effect prong.23 She skillfully dissects and analyzes two differing tests that courts have used in evaluating whether there is a sufficient link between foreign conduct and an alleged harm to domestic American commerce.24 And while Ms. Leonard’s analysis is sound and her ultimate conclusion well-supported, fundamental principles of comity—a first principle when discussing foreign application of a nation’s law—plays only a supporting role in her Note.25

But notions of international comity must not be relegated to such a secondary position. Courts, including the U.S. Supreme Court, have recognized that comity concerns play a prime role as a first principle in determining whether to extend the antitrust laws to foreign conduct.26 Because, as the Court observed, “Why should American law supplant, for example, Canada’s or Great Britain’s or Japan’s own determination about how best to protect Canadian or British or Japanese customers from anticompetitive conduct engaged in significant part by Canadian or British or Japanese or other foreign companies?”27

As other countries have urged, “Greater comity is required in our modern era when international transactions involve a constant flow of products, wealth and people across the globe.”28 Greater comity leaves other countries free to organize their economies and develop their own domestic industries in accordance with the wishes of their own people.29 As the government of Japan has put it, Japan “has significant economic, political, and legal interests in ensuring that companies based in Japan shall comply with the Japanese legal system, and that Japanese companies running businesses elsewhere shall comply with ‘reasonable’ jurisdictional requirements of other nations.”30 The United Kingdom, Ireland, and the Netherlands cited the U.S. Supreme Court to renowned scholar Vaughan Lowe in making the point that a faithful adherence to notions of international comity preserve to each country the ability to conduct its domestic affairs in accordance with that nation’s own norms and priorities.31 An overzealous extraterritorial application of U.S. antitrust laws, and failure to heed comity concerns, risks “fail[ing] to give proper consideration to the legitimate choices those nations have made concerning the regulation of their own commerce and competition in their own industries.”32

#### It collapses relations---offends other governments---they’ll react with hostility

John DeQ Briggs and Daniel S. Bitton 15. Mr. 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. He is also an Adjunct professor of International Competition Law at the George Washington Law School as well as a longtime member of various advisory boards for Competition publications. Mr. 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. Before he moved from The Netherlands to the U.S. and joined Axinn in 2004, he was a legal advisor to the Netherlands Competition and Post and Telecommunications Authorities (before their operations were merged into one agency in 2013). “Heisenberg’s Uncertainty Principle, Extraterritoriality and Comity”. 16 Sedona Conf. J. 327 (2015). https://thesedonaconference.org/sites/default/files/publications/Heisenberg%27s%20Uncertainty%20Principle\_Extraterritorialty%20and%20Comity.16TSCJ327.pdf

The rampant extraterritorial application of U.S. laws has ruffled the feathers of foreign governments for a long time, beginning essentially with the cluster of private and government actions in the Uranium cartel cases back in the 1970’s and 1980’s. Close American allies, including Australia, Canada, France, South Africa, the UK, and others, reacted with hostility to the extraterritorial activism of the domestic judiciary by enacting “blocking” and “claw back” legislation.20 Such reactions included the enactment of laws by the United Kingdom and Canada that prohibit enforcement of foreign judgments awarding multiple damages21 and laws passed by the United Kingdom, France, Australia, and the Canadian provinces of Quebec and Ontario that limit or prohibit the removal of documents in response to a foreign order.22

More recently, a number of governments have expressed their concerns about the application of U.S. laws abroad through amicus briefs, including Australia, Belgium, Canada, China, France, Germany, Japan, the Netherlands, South Korea, Switzerland, Taiwan, and the United Kingdom:23 most of the United States’ top fifteen trading partners.

These foreign governments have expressed a fairly wide variety of concerns about the potential for extraterritorial application of U.S. laws to interfere with those governments’ policy decisions on such matters as liability, procedure, and damages. While most governments have regulatory regimes in place to police, for example, securities fraud and cartel behavior, these differ in many regards both from the American approach and also from each other, reflecting different cultural, social, and economic factors. These differences include the required showing for liability (e.g., definition of materiality in securities fraud cases),24 procedural protections (e.g., class-action formation and cost-shifting provisions),25 and the availability of multiple (i.e., punitive) damages.26 Applying U.S. law to actors, conduct, and effects appropriately considered under a set of foreign laws undermines a foreign government’s ability to govern its own domain and, in the end, becomes an affront to its sovereignty.

Stepping on the toes of foreign governments’ regulatory regimes also risks stymying the international development of policies and regulations beneficial to the United States. Countries without well-developed regulatory apparatuses are less likely to develop them if the behavior is already policed by private plaintiffs in the United States or if the apparatuses would see their policy choices effectively overruled by U.S. policies.27

Foreign governments have also taken the view that extraterritorial application of treble damages threatens to undermine their own enforcement efforts. For example, they claim availability of private treble damages in the United States against their national companies for local conduct may have a detrimental effect on foreign leniency programs. These programs are a key tool for them in rooting out cartel activity, which has traditionally proven difficult to detect and prosecute.28 “These leniency policies seek to balance the interests of disclosure, deterrence, and punishment,” but “disclosure and reform are greatly hindered when a company risks the imposition of treble damages in a U.S. court for confessing to another nation or authority that it has participated in an international conspiracy.”29 When that reach is expanded outside of U.S. consumers in a U.S. court, “the prospect of ruinous civil liability in U.S. courts far outweighs the benefits most companies would receive from participating in an amnesty program.”30 And as Germany and Belgium informed the Supreme Court in Empagran,31 “[h]istorically, other nations have bristled at extraterritorial applications of United States antitrust laws. These concerns have resulted in foreign governments taking a number of measures to counter what they perceive to be an illegitimate encroachment into their sovereignty.”32

The enforcement of American law against foreign enterprises for their foreign conduct has become increasingly contentious and offensive, especially quite recently. The displeasure of the PRC seems particularly acute. In the Vitamin C litigation, a substantial treble damage jury verdict was entered against companies chartered by the PRC for their involvement in an export price-fixing cartel that the PRC itself claimed was conduct directed by a foreign sovereign in order to assure compliance with U.S. antidumping laws. The District Court rejected the interpretation of Chinese law advanced by the PRC and held that, under Rule 44.1 of the Federal Rules of Civil Procedure, the construction of foreign law was a factual matter for the court itself and that only “some degree of deference” was owed to the foreign sovereign’s statement as to the meaning of its own law.33 The case is now on appeal to the Second Circuit, where the PRC, through its Ministry of Foreign Commerce (MOFCOM), has filed a strong amicus brief expressing the view that the district court’s dismissive attitude towards the foreign sovereign’s explanation of its own law was “profoundly disrespectful and wholly unfounded.” The brief further stated that “the district court’s approach and result have deeply troubled the Chinese government, which has sent a diplomatic note concerning this case to the U.S. State Department.”34

#### Extraterritorial enforcement fails AND conflict turns it.

Brendan Sweeney 07. BCom, LLB (Melbourne); PhD (Monash); Barrister and Solicitor of the Supreme Court of Victoria; Senior Lecturer, Department of Business Law and Taxation, Faculty of Business and Economics, Monash University. "Combating Foreign Anti-Competitive Conduct: What Role for Extraterritorialism?" [2007] MelbJlIntLaw 2; (2007) 8(1) Melbourne Journal of International Law 35. http://www.austlii.edu.au/au/journals/MelbJIL/2007/2.html#fn1

There are two basic, interrelated reasons why the extraterritorial use of domestic competition law is often ineffectual. First, there are obstacles inherent in the nature of domestic regulation that make extraterritoriality difficult. These include: jurisdictional limitations;[82] the availability of sovereignty defences;[83] problems in gathering evidence located abroad;[84] and problems in the execution of judgments.

Second, by its very nature, extraterritorialism introduces the problem of concurrent jurisdiction. Inevitably, this provides scope for conflict. Conflict may be driven by economic policy concerns or by legal system concerns

.[85] Thus, country A may object to the extraterritorial application of country B’s competition law because, as a matter of economic policy, country A disagrees with the substance of those laws (including remedial provisions). Additionally, or alternatively, even where there is no deep-seated conflict over the policy aspect of a rule, there may be sharp conflict over rules relating to procedural matters.[86] Systems conflict is a natural by-product of the tension between extraterritorialism and traditional notions of sovereignty.[87] Conflict reduces the effectiveness of extraterritoriality because the target state is able to exacerbate the problems already inherent in extraterritorialism. For example, the target state may retaliate by making the difficulties inherent in gathering evidence even more difficult by employing evidence-blocking laws.[88]

The factors that determine the level of effectiveness of the extraterritorial application of domestic competition laws may conveniently be discussed under the following categories:

1 Prescriptive or subject matter jurisdiction;

2 Sovereignty-related issues: a limitation inherent in extraterritorialism;

3 The problem of evidence-gathering: a problem inherent in extraterritorialism which may be exacerbated by conflict; and

4 The problem of enforcing judgments: also an inherent problem which may be exacerbated by conflict.