# 1NC --- NDT R1

## OFF

### OFF

#### Undisclosed plan texts and cards are a voter --- Skews neg prep, makes debate impossible, and creates a moral hazard for aff terrorism --- Disclosing 30 minutes before the round solves their argument --- Independently justifies any terrorism

#### Independently --- They didn’t tag their new cards which is sketch as fuck --- Reject the team

### OFF

#### Our interpretation is that the aff can’t be the courts ---

#### Courts cannot create “antitrust law” and cannot “increase prohibitions”

Kalbfleisch 61 – Kalbfleisch, District Court judge. [Paul M. Harrod Co. v. A. B. Dick Co., 194 F. Supp. 502 (N.D. Ohio 1961)]//babcii

Defendant asserts that the term ‘antitrust laws,’ as used in the above section and as defined in 15 U.S.C.A. § 12, does not include a judgment or decree entered in connection with an antitrust case filed by the Government. Plaintiff, on the other hand, asserts that ‘the violation of the earlier decree of this court in itself gives rise to an independent cause of action under Section 4 of the Clayton Act.’ 15 U.S.C.A. § 15. Plaintiff's Brief, p. 7. Plaintiff concedes that ‘as far as he has been able to ascertain, this contention raises issues which have never before been decided by any appellate court.’ Plaintiff's Brief, p. 5. In Nashville Milk Co. v. Carnation Co., 1958, 355 U.S. 373, 78 S.Ct. 352, 2 L.Ed.2d 340, the Supreme Court held that the Robinson-Patman Act, 15 U.S.C.A. §§ 13-13b, 21a, was not included among the ‘antitrust laws' defined in Section 1 of the Clayton Act (15 U.S.C.A. § 12) and that ‘the definition contained in § 1 of the Clayton Act is exclusive.’ Id., 355 U.S. at page 376, 78 S.Ct. at page 354. The definition of ‘antitrust laws' in 15 U.S.C.A. § 12, clearly embraces only the statutes described therein. Even without such a definition the term ‘antitrust laws' could not be construed as pertaining to a judgment or decree entered by a court in connection with an antitrust case filed by the Government. Such decrees do not necessarily reflect the **prohibitions** of the antitrust laws but may, by their terms, seek to dissipate the effects of the past conduct of the parties and, to this end, frequently enjoin performance of acts lawful in themselves. To permit a private party to recover damages for violation of any provision of such a decree is so obviously beyond the scope of the term ‘antitrust laws,’ as used in the statute, as to require no further discussion. Defendant's motion to dismiss that part of the complaint based on alleged violations of the 1948 consent decree in United States v. A.B. Dick Company will be sustained.

#### Vote neg for limits and grounds --- Multiplies the # of aff’s by 2, removes any core checks on small aff’s, and allows the aff to circumvent any public backlash

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#### The United States Federal Government should establish revokable positive incentives for and promote self-regulation that ends anticompetitive business practices immunized by application of state action immunity

#### The counterplan solves best and avoids the business confidence DA by giving firms choice. Voluntary self-regulation is more effective in creating sustained compliance

Hung Hao Chang and Daniel Sokol 20, Chang is Professor, Department of Agricultural Economics, National Taiwan University, Sokol is Professor, University of Florida Levin College of Law and Senior Advisor, White & Case LLP, “Advocacy versus Enforcement in Antitrust Compliance Programs,” Jnl of Competition Law & Economics (2020) 16(1): 36-62, March 2020, lexis.

\*ACPs=Antitrust Compliance Programs

Abstract: We focus on the question of why firms self-regulate to avoid more severe public regulation in the area of antitrust compliance. We distinguish the effects of an antitrust authority's outreach and enforcement on firms' adoption of antitrust compliance programs. Furthermore, we examine the mechanism that may drive an antitrust authority's actions on firms' decisions to adopt compliance programs. Using a 2-year survey of 432 firms drawn from the top 300 Taiwanese enterprises and applying mediation analysis, we find that "voluntary" self-regulation actions, encouraged by the antitrust authority to promote compliance programs through advocacy, significantly increase the creation of antitrust compliance programs. Moreover, "coercive" actions of the antitrust authority in terms of enforcement are less effective than voluntary actions for firms' compliance program creation. Within "coercive" actions, large fines are more likely to lead to the adoption of antitrust compliance programs relative to other forms of government prosecution. JEL: K21; L41; L13; L11 Competition Law I. Introduction Jnl of Competition Law & Economics (2020) 16(1): 36-62, Jnl of Competition Law & Economics (2020) 16(1): 36-62 Compliance plays an increasingly important role in business strategy and behavior. This paper studies the role of compliance in the field of antitrust. Antitrust compliance and the creation of antitrust compliance programs have become important for firms due to increased enforcement in Europe, the United States, and Asia 1 , for example, fines for collusion in auto parts, LIBOR, and capacitors by antitrust authorities in the United States and Europe total billions of dollars. 2 Antitrust is a form of regulation that addresses the unlawful exercise of monopoly power through exclusion, collusion, or predation. 3 These behaviors occur both ex ante, in the context of mergers, as well as ex post, in terms of conduct involving one or more firms. Much of international antitrust enforcement has focused on issues of collusion, which global norms have pushed to the forefront of enforcement 4 in addition to mergers and noncollusion conduct cases. Many of the largest penalties in terms of financial sanctions and incarceration (for some countries, most notably the United States) have been the result of collusion-price fixing, output and territorial restrictions, and bid rigging. For example, the fines per cartel average have been higher in the past fifteen years in both the European Union and the United States than any prior period. 5 It is primarily due to concerns about collusion that a number of antitrust authorities have set up compliance guidelines to assist firms in compliance efforts. This paper examines the determinants of a firm's adoption of antitrust compliance programs (ACPs). In particular, it focuses on the role of the antitrust authority's action on firms' adoption of ACPs. The specific objective of this paper is to provide answers to the following four questions: (1) does the antitrust authority's action affect a firm's adoption of ACPs?; (2) does the antitrust authority's action have effects on different types of ACPs?; (3) do the "voluntary" (through outreach and advocacy) and "coercive" (through law enforcement) actions by the antitrust authority result in different impacts on a firm's adoption of an ACP?; and (4) what is the mechanism or pathway that can link the antitrust authority's action to firms' ACPs adoption? Put another way, the final question asks how the antitrust authority's action can have an impact on a firm's decision to adopt an ACP. Although there is a sizable body of literature that has focused on a firm's adoption of corporate compliance programs, 6 to the best of our knowledge, this study is among the first to empirically answer the above questions on a firm's behavior or decisions regarding the adoption of antitrust compliance programs. To answer our research questions, we collected a sample of **432 firms** in 2012 and 2016, drawn from the top 300 Taiwanese enterprises. We estimate a mediation model to quantify the effects of the antitrust authority's actions on a firm's propensity to adopt an ACP. The mediation model can empirically test whether a proposed mediator can have statistical power to explain the program effect on the outcome of interest. 7 Moreover, how much the mediator contributes to the overall program effect can be further quantified. 8 To apply the mediation model to antitrust compliance programs, the outcome variable of interest is defined as the decision of the firm to adopt an antitrust compliance program. We consider two different types of an antitrust authority's actions: the voluntary actions, encouragement through advocacy and outreach programs, and the coercive actions through agency enforcement. The awareness or knowledge of the firm about antitrust law is used as the mediator that links the effects of antitrust authority actions to firms' adoption of ACPs. Our empirical analysis reveals some interesting findings. First, we find a positive effect of antitrust authority actions on firm adoption of ACPs. Furthermore, voluntary self-regulation actions by firms due to efforts made by the antitrust authority to promote compliance through advocacy have a stronger effect on antitrust compliance program creation than do coercive actions. Next, the awareness or knowledge of a firm of antitrust law can be seen as a mediator. That is, the antitrust authority's voluntary or coercive actions can increase the awareness or knowledge of a firm regarding antitrust law. The competition authority's actions subsequently increase a firm's likelihood to adopt an ACP. We infer a number of policy implications from our findings. To promote firms' adoption of ACPs, voluntary actions through advocacy and outreach programs may be more effective than coercive actions through antitrust case investigations. II. Contributions of this Study Our study is relevant to the specific question of why firms self-regulate to avoid more severe public regulation. 9 This line of research explores the complexity of public interest and its interrelationship with private interests. This includes how addressing policy issues such as enforcement of law may create strategies for firms. 10

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#### The United States federal government should expand the scope of its core antitrust laws to cover anticompetitive business practices immunized by application of state action immunity, enforced by applying a substantial progressive tax on rents from those practices.

#### The CP solves the case by expanding antitrust but, rather than enforcing it with a prohibition, it levies a progressive tax on anticompetitive rents---that’s an instantly effective deterrent AND creates traditional enforcement as follow-on.

Yonah ’21 [Reuven Avi; July 29; Irwin I. Cohn Professor of Law and Director of the International Tax LLM Program at the University of Michigan Law School, PhD in History from Harvard University, AM in History from Harvard University, JD from Harvard Law School; Tax Notes Federal, “A New Corporate Tax,” https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3743202]

If we can regulate our corporations simply through the medium of taxation, we can destroy every trust in a fortnight. It would be a great deal better for the Finance Committee to turn its attention to the imposition of such a tax upon corporations and the persons who actually need regulation, who are exercising powers that are injurious to the American people, destroying competition and invading our prosperity, than to attempt to levy a revenue tax upon all the little shareholders of all the little corporations throughout the length and breadth of the United States.1

I. Introduction: Why Tax Corporations?

Should the U.S. tax corporations? For many academic and political observers, the answer is no.2 The corporate tax is a strange tax because by definition it is not borne by the corporate taxpayer, because corporations are legal entities and cannot economically bear the burden of taxation. Moreover, unlike other indirect taxes (for example, consumption taxes that are passed on to consumers or the employer’s portion of the payroll tax that is passed on to employees), economists after over 50 years of debate are not sure who bears the burden of the corporate tax: shareholders, all capital providers, corporate employees, or consumers. The most likely answer is that all of the above do in varying ratios depending on the current elasticities of capital, labor, and demand in the global economy, and on the degree to which the U.S. economy is open.3

The general public, on the other hand, is convinced that the corporate tax is borne by large corporations, and politicians respond by maintaining the corporate tax as a tax paid by someone other than the voters. But this fiscal illusion, the opponents of the tax pronounce, is hardly a valid reason to maintain a very complicated tax that is the cause of significant deadweight loss (changes in behavior caused by the tax) and transaction costs (tax compliance and avoidance costs).4

This article will argue that we do need a corporate tax, but not for the traditional reason, which is that if we do not tax corporations, rich shareholders will be able to defer tax on their income. Instead, the article will argue that we should tax corporations for the same reason we originally adopted the corporate tax in 1909: to limit the power and regulate the behavior of our largest corporations, which are monopolies or quasi-monopolies that dominate their respective fields and drive their competitors out of business (the best example being Big Tech — that is, Amazon, Apple, Facebook, Google, and Microsoft). But if that is the reason to have a corporate tax, it should have a different structure from the current flat corporate tax of 21 percent. Instead, the tax should be set at zero for normal returns by allowing the expensing of physical capital, but at a sharply progressive rate for supernormal returns (rents), culminating at a rate of 80 percent for income above $10 billion a year.5 After this introduction, Section II of the article discusses and rejects the traditional reason given for taxing corporations. Section III argues that the only reason to maintain a corporate tax is as a tax on monopolistic rents. Section IV develops this proposal in some detail and Section V provides a conclusion.

II. A Tax on Shareholders?

The traditional reason for taxing corporations is that if we did not, rich shareholders would be able to earn their income through corporations and defer the tax until there is a dividend distribution or they sell the shares, or even avoid the tax altogether by holding their shares until death and having their heirs sell at a stepped-up basis.

That is not a valid reason for keeping alive a tax as complicated and costly as the corporate tax, which is why many academic observers have called for its abolition. Given that the corporate tax rate has been sharply cut to 21 percent and that the revenue from the corporate tax is at $230 billion (in 2019) and only a small fraction (below 7 percent) of total federal revenues of $3.4 trillion, it does not appear impossible that some future president could successfully argue for abolishing the corporate tax, despite its public popularity.

There are three reasons why the corporate tax is not a valid way of taxing shareholders. First, despite over 50 years of economic research, economists are still unsure of who bears the burden of the corporate tax.6 Plausible candidates are (a) the shareholders, if the corporate tax reduces corporate profits available to them as dividends or is reflected in the price of their shares (although even that assumes that the tax was not priced in when they bought the shares, in which case only the original shareholders in an initial public offering bear the burden); (b) all capital providers, if the tax causes capital to flow from the corporate to the noncorporate sector, which is influenced by the ever-changing relative tax rates on corporate versus passthrough businesses; (c) employees, if the corporations can effectively reduce wages in response to the tax by, for example, threatening to move production overseas; or (d) consumers, if corporations enjoy a monopolistic or quasimonopolistic position and therefore can raise prices to include the tax without fear of being undercut by competition. The true answer is probably that all of the above bear the burden in different ratios over time depending on the elasticities (response to the tax) of capital, labor, and demand.

Second, as economists have recently emphasized, many shareholders are tax exempt. In fact, a recent study has shown that 70 percent of U.S. equities are held by tax-exempt institutions or individuals (for example, through retirement accounts).7 The authors of the study argue that this is a reason to tax corporations because otherwise capital would not be taxed at all, but it seems to me that if we believe in the reason that we exempt these individuals and institutions from tax, there is no reason to tax them indirectly through a corporate tax (assuming that they do in fact bear the tax burden).

Third, even for taxable shareholders, there are better ways of taxing the shareholders directly, thereby eliminating the incidence issue. For closely held corporations, the answer is to tax the shareholders on their income earned through the corporation — that is, to make passthrough treatment mandatory — because there are no administrability issues for those corporations and most of them are passthroughs in any case. For publicly traded corporations and partnerships, passthrough taxation is not administratively feasible. Instead, the shareholders should be taxed on the changing value of their shares, because liquidity and valuation are not issues for publicly traded shares, and the same tax can be collected on a withholding basis on foreign shareholders and if necessary on tax-exempt domestic shareholders (the government can impose a lien on some of the shares and sell them if the tax is not paid by foreign shareholders).8 Pre-enactment unrealized appreciation can be reached by applying the tax in the year of enactment to the difference between the end-ofyear share value and original basis.

For these reasons, if the only rationale for having a corporate tax is to indirectly tax shareholders, it is not clear that it is worth fighting for against the many voices calling for its abolition. But that is in fact not the only rationale, as the next section explains.

III. A Tax on Monopolistic Rents

When the corporate tax was enacted in 1909, taxing shareholders was not the reason. In fact, taxing shareholders would in 1909 have been unconstitutional under the Supreme Court’s 1895 Pollock decision9 which both President Taft and then-Senate Majority Leader Nelson Aldrich believed precluded a tax on shareholders, although to placate the Progressives they also introduced a constitutional amendment to allow Congress to tax individual income, which neither expected to pass. Instead, the corporate tax was designated as an excise tax on the privilege of conducting business through the corporate form, since the Supreme Court had held such excise taxes on corporations to be constitutional in 1898; but neither Taft nor Aldrich thought that was a good reason to impose a federal tax on corporations, because the privileges of the corporate form derived from state, not federal, law.

Instead, as I have shown elsewhere by examining the legislative history, the corporate tax of 1909 was primarily seen as a vehicle for limiting the power of and regulating the great trusts such as John D. Rockefeller’s Standard Oil Co. or J.P. Morgan’s U.S. Steel Corp.10 The Taft administration was at the same time litigating against Standard Oil and American Tobacco (among many other trusts) to break them up under the Sherman Act of 1890, but the prospects of the litigation were uncertain (the government had lost the E.C. Knight case in the Supreme Court in 1895 and only narrowly won the Northern Securities case in 1904). Thus, as Taft said in his message to Congress, we should have a corporate tax to curb the trusts:

Another merit of this tax is the federal supervision which must be exercised in order to make the law effective over the annual accounts and business transactions of all corporations. While the faculty of assuming a corporate form has been of the utmost utility in the business world, it is also true that substantially all of the abuses and all of the evils which have aroused the public to the necessity of reform were made possible by the use of this very faculty. If now, by a perfectly legitimate and effective system of taxation, we are incidentally able to possess the Government and the stockholders and the public of the knowledge of the real business transactions and the gains and profits of every corporation in the country, we have made a long step toward that supervisory control of corporations which may prevent a further abuse of power.11

The corporate tax of 1909 had several features that were considered potentially effective as antitrust measures. First, even though the tax rate was only 1 percent, both supporters and opponents knew the rate could be increased (as it ultimately was, reaching 52.8 percent in 1968) and the threat of those changes might deter the trusts. Second, the tax returns were to be made public, thus alerting the press and the voters to which corporations were the most profitable and therefore the likeliest targets for antitrust enforcement actions. Third, while intercorporate dividends were exempt (a controversial feature, because the trusts were holding corporations), there were no tax-free reorganizations and no consolidated returns.

Unfortunately, all these antitrust features of the corporate tax were eliminated by 1928. The publicity feature was eliminated in 1910, taxexempt reorganizations were adopted in 1919, and consolidated returns were made elective in 1928. Also, various pro-corporate provisions like accelerated depreciation, percentage depletion, and the foreign tax credit were adopted in the same period. While the Franklin D. Roosevelt administration limited the dividends received deduction and tax-exempt reorganizations in the 1930s, it never eliminated them, and subsequent enactments like investment tax credits reduced the corporate tax even further. As for the rate, it never exceeded 52.8 percent (as opposed to the individual rate, which reached 94 percent during World War II and was still as high as 70 percent when Ronald Reagan was elected president). The effective corporate tax rate was much lower because of interest and depreciation deductions and investment tax credits. In 1986 the corporate rate was reduced from 46 percent to 34 percent (later raised to 35 percent), and despite various base-broadening measures, the effective corporate rate remained low. Corporate tax revenues consequently declined from 25 percent of total federal revenues in the 1960s to less than 10 percent in the 2000s. Finally, in 2017 the corporate tax rate was reduced to 21 percent, and it was a flat rate — all the previous progressivity, which applied only to small corporations with revenues below $15 million, was eliminated.

Other than the rates, we are unlikely to reverse these pro-trust features of the corporate tax, because they are old, well established, and benefit small as well as large corporations, which are not the proper subject of a corporate tax designated to limit the power of monopolies and quasi-monopolies.

Recent research by Edward Fox has shown, however, that most of the existing corporate tax falls on supernormal returns.12 Fox shows this by demonstrating from corporate tax returns for 1995-2013 that if expensing of capital expenditures were allowed before 2017, corporate tax revenues would have been almost identical to actual revenues. Because (as discussed later) expensing is equivalent to exempting the normal return, that means that the corporate tax has historically fallen primarily on supernormal returns, or rents. This finding is consistent with Laura Power and Austin Frerick’s evidence from 2016 that excess returns to corporations have been increasing over time.13 In the current environment, because expensing is in fact allowed until 2022, that finding is even more likely to be true.

In that case, and if the main reason to have a corporate tax is to tax rents and limit monopolies, then the tax should have a different rate structure than we have now. I would suggest that the effective tax rate on normal corporate profits be zero. On supernormal returns, because the main concern is monopolies and quasi-monopolies, the tax should be progressive, with a very high tax rate (for example, 80 percent) for profits above a very high threshold (for example, $10 billion). In between, there should be a series of graduated tax rates, similar to the individual rate schedule before 1980.

#### Using taxes as a new, independent regulatory tool mainstreams them as an instrument to broadly cushion societal responses to inevitable ecological, demographic, and political crises---extinction.

Bachus ’18 [Kris and Frederic Vanswijgenhoven; 2018; Research Manager Climate and Sustainability at the Research Institute for Work and Society, University of Leuven, PhD in Social Science from KU Lueven, MA in Applied Economic Science from KU Leuven, European Master’s in Labor Science from the University College, London; Research Institute for Work and Society, University of Leuven, Master’s Degree in Comparative and International Politics from KU Leuven, Master’s Degree in Applied Economic Sciences from Universiteit Hasselt; Journal of Environmental Planning and Management, “The Use of Regulatory Taxation as a Policy Instrument for Sustainability Transitions: Old Wine in New Bottles or Unexplored Potential?” vol. 61]

1. Introduction

Environmental problems are of all times. Yet, over the past two decades, climate change, air pollution, natural resource depletion and biodiversity loss have reached the status of worldwide persistent threats (Foxon, Reed, and Stringer 2009). There is increasing consensus in the literature that common policy responses, which are in the main incremental, will not provide structural solutions to those problems (Elzen and Wieczorek 2005). Transition theory links those challenges to socio-technical systems, which fulfil a societal function using technical components, infrastructure, regulations and networks of organisations (Geels and Kemp 2000). A transition is a radical and structural change with economic, cultural, ecological and institutional developments taking place at different levels of the socio-technical system (Rotmans and Loorbach 2009).

An important discussion in transition literature concerns the question of whether transitions, niches and regimes can be governed, or even steered, in a (sustainable) direction. Most transition scholars see an active role for government, but not in the classical way as the top-down commander who can steer at will using its toolbox of instruments (Paredis 2013). Rather, government is seen as just one group of actors (Geels, Elzen, and Green 2004), who are part of the regime but simultaneously shape its adaptive capacity (Smith, Stirling, and Berkhout 2005). Government actors exert a substantial influence on the functioning of the socio-technical system as they often maintain and reproduce regime functions in an intensive manner (Smith, Stirling, and Berkhout 2005).

To address the complexity and long-term focus (one to two generations) of transitions, “existing policy instruments need to be combined with new approaches” (Elzen and Wieczorek 2005, 657). In addition to command-and-control (CAC) instruments and communicative instruments, economic instruments are used in environmental policy (Howlett and Ramesh 2003; Perman et al. 2003). Geels (2012) indicates, in the context of transport systems, that economic instruments can be used to enhance pressure on an unsustainable regime. Chappin (2011) applies simulation models to study the influence of carbon taxes on energy transitions. Although these studies point at the potential of taxation, the theoretical dynamics behind the impact of a tax on the transition process are not yet well understood, and available studies on the topic are scarce. This paper aims to contribute to the growing literature of transition governance by means of an exploratory analysis of the potential of taxation as an instrument to support sustainability transitions. We will do so by combining the literature on environmental taxation with the literature on sustainability transitions, and by identifying the conditions for a tax to have that potential. In our theoretical exploration, we will combine two heuristic frameworks from transition thinking, the multi-level perspective (MLP) and the multi-phase perspective (MPP), with the neoclassical theory of Pigouvian taxation, which is the basis of environmental taxation theory.

This paper is organised as follows. The MLP and MPP are explained in Section 2, along with other transition concepts. In Section 3, an overview is provided of the theoretical foundations of regulatory taxation. Section 4 shows the results of the combination of the theoretical strands of transitions and environmental taxation. Section 5 is dedicated to the limitations and barriers to the potential of environmental taxation, and in Section 6, we draw conclusions and provide suggestions for future research.

2. Transition theory: the MLP and the MPP

The MLP on sustainability transitions distinguishes between three levels (Geels 2004; Verbong and Geels 2007). At the macro level, the landscape represents the external environment of the system. Changes at the landscape level influence the socio-technical system (Markard and Truffer 2008). Examples of such developments are global warming, global economic growth, political crises or demographic evolutions (Geels 2002). At the meso level, the regime is the dominant form of functioning in the socio-technical system (Avelino and Rotmans 2009). The regime can be a dominant technology, institution, policy, practice or culture. At the micro level, niches present alternative (sustainable) technologies, institutions, policies, practices or cultures that cause disruptions in the functioning of the socio-technical system. By experimenting and growing stronger, niches can eventually overtake the role of the regime and install a new dynamic balance in the socio-technical system (Kemp and Loorbach 2006; Loorbach and Wijsman 2013). For example, learning effects from experiments with niche technologies such as photovoltaic energy and wind power in the energy system may make those technologies increasingly successful. After the growing phase, they may also become cheaper than regime technologies such as nuclear and fossil fuel power generation. Those niches exert pressure on the regime, which could, in combination with other pressures from the landscape, policies, market developments and cultures, lead to a replacement of nuclear and fossil fuel-based power by renewables, ending up in a new equilibrium that will be more sustainable than the previous one.

A transition presents a radical and fundamental change in the dominant structure, culture and practices of a socio-technical system (Loorbach and Rotmans 2006). The structure of the system consists of institutional, infrastructure, legal and economic provisions that are inherent to the functioning of the socio-technical system (de Haan 2010). Culture is regarded as the shared values, norms and perspectives, which may be cognitive, normative or ideological in nature, and which underlie the socio-technical system (de Haan and Rotmans 2011). Practices are the routines, habits and procedures operated by the actors in the system, which interact with the structure and the culture of the system.

The change that is required for a transition will not come about in a linear way. Rather, periods of rapid and slow (or no) change can alternate (de Haan and Rotmans 2011). This implies that there are multiple phases in a transition process. Loorbach (2007) describes four phases that together depict an ideal–typical transition process, the MPP. In the first phase, the pre-development phase, actors are engaged in experiments (Kemp and Loorbach 2006). During the take-off phase, the second phase, the regime will show signs of destabilisation and niches will get an opportunity to position themselves as a viable alternative (van der Brugge and Rotmans 2007). Rapid structural and cultural changes in the socio-technical system become visible in the acceleration phase (van der Brugge 2009). In the last phase, the stabilisation phase, a new sustainable regime is established (Avelino and Rotmans 2009).

Transitions are driven by various endogenous and exogenous developments. Exogenous developments are changes at the landscape level. Endogenous developments, on the other hand, are events occurring at the meso level (regimes) and micro level (niches). According to de Haan and Rotmans (2011), there are three groups of conditions for change: tensions, stress and pressure. Tensions are changes occurring at the landscape level threatening the position of the unsustainable regime. A regime that functions inadequately or inconsistently will experience stress, which can nurture the downfall of the regime. Regime pressure or selection pressure, finally, will appear when niches impose themselves on the regime's position by becoming viable alternatives or by making the regime's functioning obsolete. Regime pressure, along with the reactions of regime and niche actors, will create patterns of change (Frantzeskaki and de Haan 2009). When tensions dominate, a reconstellation pattern will appear. Stress and pressure will result in the patterns of, respectively, adaptation and empowerment. When certain patterns chain together, they create transition paths (de Haan 2010). Choices made in the past will affect the path along which transitions will move. Actors are confronted with path dependencies, which may turn into lock-ins. For example, the choice of the authorities of some countries to invest in nuclear power plants has created path dependencies in the energy systems of these countries, which function as lock-ins that prevent a breakthrough to an energy system based on renewable energy.

Two governance approaches within transition science indicate that belief in classical policy solutions is limited. The two most well-known governance models in transition literature are transition management (Loorbach 2007; Kemp and Loorbach 2006; Loorbach and Rotmans 2010) and strategic niche management (Hoogma 2000). Both these governance approaches emphasise the difficulties in steering socio-technical change. Strategic niche management sees the main role of government in process management, creating room for niche experimentation, making sure that the process is not dominated by certain actors, and in learning and facilitating other actors’ learning possibilities (Kemp, Schot, and Hoogma 1998). The other governance approach, transition management, departs from the same view, but presents a process management method for policy-makers wishing to influence burgeoning transition processes (Loorbach and Rotmans 2006). Transition management has been criticised, mainly because the term ‘management’ seems to suggest that it is possible to steer transitions by “deliberate intervention in pursuit of specific goals” in a top-down way (Shove and Walker 2007, 764). Although transition management scholars such as Loorbach and Rotmans develop a more nuanced perspective on the ‘steerability’ of a transition than the name ‘management’ suggests, they do assert that ‘goal-oriented transitions’, in which the policy goals guide the process, exist. This view is not shared by all transition scholars. For example, Dewulf et al. (2009) think that a multiplicity of theories is needed for addressing such complex issues as sustainability. Shove and Walker (2007) question the very starting point of transition management that it is possible to deliberately steer socio-technical system change in any direction.

Both strategic niche management and transition management focus on policies that are aimed at the level of the niches. However, they largely ignore that the destabilisation of incumbent regimes can equally be a valuable strategy, because this could speed up the upscaling of niche technologies (Kivimaa and Kern 2016). Policies discouraging certain niche technologies or practices can play a role here (Turnheim and Geels 2012). Taxation will be further examined as a regime destabilisation instrument, as the main subject of this paper. In addition, ‘policy mixes for creative destruction’ will be explored in Section 4.2.

3. Regulatory and environmental taxation

A basic idea in economics is that markets allocate resources in an efficient way. However, this thesis is only valid under the condition of the presence of well-defined and enforceable private property rights (Perman et al. 2003). If that condition is not met, the market is not capable of creating or maintaining a socially optimal or desirable situation, and market failures appear (Bator 1958). One example of a market failure is the existence of external costs or environmental externalities (Perman et al. 2003). Externalities are “benefits or costs generated as an unintended by-product of an economic1 activity that do not accrue to the parties involved in the activity and where no compensation takes place” (Owen 2004, 129). Pollution resulting from production activities is a typical example of a negative externality imposed on citizens, because the victims of the pollution have no legal rights to claim any compensation for the damage suffered. To resolve this market failure, governments can create property rights for ‘an unpolluted environment’ and give them to the victims, or even to the polluter. In the latter case, the polluter receives a ‘license to pollute’ a certain amount. Following the Coase theorem (Coase 1960), depending on the specific circumstances, this situation will lead to an equally efficient outcome as compared to victim property rights. However, from an equity point of view, the two solutions generate entirely different outcomes, as in the one case it is the polluter who pays, and in the other it is the victim (Perman et al. 2003). In theory, the polluter and the victims could bargain and agree on compensation for the damage based on the victim's or polluter's property rights, in which case government intervention becomes redundant (Coase 1960). In practice, however, the large number of victims and polluters and the costs of bargaining often prevent an optimal outcome of private bargaining. In that case, government regulation, through the use of CAC instruments, economic instruments or suasion, is needed (Perman et al. 2003). In this paper, we focus on the use of taxation as a regulatory2 policy instrument in response to existing market failures. Regulatory taxes aimed at environmental improvement are called environmental taxes.3 An alternative name is Pigouvian taxation, after the twentieth-century economist Arthur C. Pigou, who developed the idea to use taxation to tackle externalities (Pigou 1920). According to Pigou, an environmental tax equal to the marginal damage at the efficient pollution level maximises allocative efficiency and welfare. The theory of Pigouvian taxation belongs to the neoclassical economic perspective, which assumes that economic agents act in a rational way according to their individual preferences in such a way that their utility (or profit for companies) is maximised (rational choice theory). Moreover, neoclassical economics assumes that preferences are fixed, as an exogenous factor, which was the dominant assumption until the 1990s (Arnsperger and Varoufakis 2006). Later, some economists regarded preferences as fixed in the short run, but subject to change in the long run (Doyle 2004). Others completely dismissed the notion of fixed preferences stating that individual preferences change as a result of past outcomes, and sometimes even rapidly and systematically (Van Boven, Loewenstein, and Dunning 2003).

In a first-best world with no uncertainty, regulatory taxes are statically efficient because the emission reductions are achieved while using a minimum amount of resources (Sandmo 2000). They are dynamically efficient because taxpayers will be inclined to seek further reduction methods due to the fact that the undesirable behaviour remains taxed (Faure and Weishaar 2012). In this theoretically ideal situation, a tax always leads to a more efficient solution than a licence or other CAC type of instrument. However, if complexity or uncertainty is introduced, many authors criticise Pigou's theory on the optimal level of an externality tax. Although a complete review of this literature exceeds the scope of this paper, we present three of the most important critiques. First, Coase (1960) dismissed the idea that a tax equal to the marginal damage cost increases total welfare in all situations. When there is uncertainty about the marginal abatement cost curves of polluting firms, the comparison changes. Taxes keep the edge over CAC instruments when the (absolute value of the) slope of the marginal abatement cost curve is greater than the slope of the marginal damage curve. Conversely, when the marginal abatement cost curve is less steep than the marginal damage curve, CAC instruments are to be preferred to taxes (Perman et al. 2003; Baumol and Oates 1988). Second, Baumol and Oates (1988) add that it is often hard to calculate the monetary value of the marginal damage of the polluting activity, in which case a standard may also be the recommended instrument choice. And third, in case of monopoly or oligopoly, the optimal tax rate may vary from lower to higher than the marginal damage (Ebert and von dem Hagen 1998).

An important element in the discussion on the optimal tax rate is the price elasticity of demand, which is not static. The absolute value of demand elasticities tends to increase over time (Lipsey and Chrystal 2007; Pindyck and Rubinfeld 2009). The reason is that demand elasticity is, in fact, mainly determined by the availability of substitutes. Investment decisions are made with a long-term perspective, and in the long run, more options are available for developing new (clean) technologies than in the short run (OECD 2000). For example, Sterner (2007) estimated that the demand elasticity of petrol and diesel in the long run is about three times higher than in the short run.

In addition to determining the correct tax rate, other tax design elements need to be decided. First, the tax base, which is the object that is taxed (Sandmo 2000), needs to be chosen. This can be input products, output products, production factors (energy), production (processes, activities or techniques), consumption or emissions (Vollebergh 2008; Weber 2011). The most effective way of eliminating externalities is by choosing the externality itself (e.g. CO2 emissions) as the tax base (OECD 2010). In practice, emission-measuring problems often hinder direct taxation of emissions. Proxies, such as petrol sold as a transport fuel, then form alternative tax bases (Dias Soares 2011). Second, tax rates can be differentiated (Määttä 2006), in which case certain products, processes or groups of taxpayers are granted a lower tax rate or are exempt from the tax. Third, a tax can be implemented at one specific moment in time or in multiple phases whereby the tax rate is raised or reduced in each phase.

4.1. (In)compatibility arguments

The transition school sees public authorities as just one group of actors in a socio-technical system. They are an important actor, but they cannot steer a transition in a top-down way (Kemp, Rotmans, and Loorbach 2007). Traditional decision-making models, including neoclassical economics, are mostly rejected based on the following four arguments. First, traditional policy-making is deemed unfit for dealing with high-complexity, long-term, wicked societal problems, because the knowledge on ecological cause–effect relations is often limited and political compromises inevitably lead to incrementalism as opposed to structural system change (Rotmans, Loorbach, and Van derBrugge 2005; Kemp, Rotmans, and Loorbach 2007; Mathijs 2008). Second, the existing policies are the result of outdated legislation, routines and institutional relations and are characterised by path dependency and technological lock-in (Rotmans, Loorbach, and Van der Brugge 2005). Third, the view of neoclassical economics on the preferences of individuals is too static, while instead a transition would require changing preferences (Kemp, Rotmans, and Loorbach 2007). Finally, steering a transition towards sustainability involves a subjective interpretation of sustainability, which “should arise from a multi-actor process, involving a balanced diversity of stakeholders” (van der Brugge, Rotmans, and Loorbach 2005, 167). Geels (2012) describes transitions as co-evolutionary processes, which require the involvement of many social groups. Network management in decision-making would be a step forward, but even those policy networks are not necessarily concerned with the long term (Kemp, Rotmans, and Loorbach 2007).

Transition management is a governance approach based on transition theory, which proposes a bottom-up approach to steer a transition, based on multi-actor involvement. However, it does not offer a full-fledged alternative to traditional policy-making, as it is “not directly solution-oriented, but explorative and design-oriented” (Rotmans, Loorbach, and Van der Brugge 2005, 6). Therefore, some transition scholars revert to other academic fields, such as evolutionary economics to analyse sustainability transitions and related policy strategies. Inspired by the field of biology, this field focuses on three central concepts: diversity, selection and innovation. Models from evolutionary economics can cope with complexity; they deviate from neoclassical economic theories by acknowledging that economic agent behaviour is explained by bounded rationality (van den Bergh, Hofkes, and Oosterhuis 2006). People's rationality is bounded because of a lack of appropriate and reliable information, limited cognitive capacities and limited decision-making time (Kahneman 2003; Simon 1955). Evolutionary economics leaves more room for environmental taxation than most transition studies, although it emphasises the need for a combination of policy instruments or policy mixes (van den Bergh et al. 2006). The role of policy mixes for sustainability transitions is further treated in Section 4.2.

So, if the neoclassical policy instrument of environmental taxation is so hard to reconcile with the bottom-up governance principles of transition theory, is it still worthwhile to study the combination? Four arguments support an affirmative answer. First, as we demonstrated in Section 3, the impact of environmental taxation is much higher in the long run than in the short run, which gives this instrument an interesting appeal considering the fundamental long-term change transition theory describes. Second, when the economy is (threatening to get) stuck in a technology that is not serving the long-run transition goal, a regulatory tax on that technology may unlock (further) lock-in, thus avoiding an important obstacle for a sustainability transition (den Butter and Hofkes 2006). Third, policy attention tends to go to supporting niches but much less to destabilising the dominant regime, which is politically more difficult. However, according to Kivimaa and Kern (2016), niche support policies will need to go hand-in-hand with regime destabilisation policies aimed at internalising externalities. A tax on the dominant regime technology is particularly suitable for that purpose (Geels and Schot 2007). Fourth, the bounded rationality concept embraced by transition theory still incorporates a level of rationality, implying that a price signal may still have an effect.

We conclude that there is no consensus on the use of regulatory taxes to enhance sustainability transitions. Some scholars see a role for taxation, but rather as one part of a more comprehensive policy mix (Geels 2006; Kemp, Schot, and Hoogma 1998; Markard and Truffer 2008).

### OFF

#### The United States judiciary should adopt a constitutional principle against parochial anticompetitive state regulations

#### Solves by using constitutional scrutiny on regulatory regimes – doesn’t expand ftc authority or antitrust law

Crane, 19 (Daniel A. Crane, Frederick Paul Furth Sr. Professor of Law, University of Michigan, "Scrutinizing Anticompetitive State Regulations Through Constitutional and Antitrust Lenses." Wm. & Mary L. Rev. 60, no. 4 (2019): 1213-1214)//babcii

CONCLUSION This Article has presented the case for heightening judicial and/or administrative scrutiny of state and local regulations that impair competition for the benefit of favored producers and to the detriment of consumers. Particularly in markets characterized by entrenched technological incumbents facing the threat of disruptive technologies, a series of structural factors makes it far too easy for the incumbents to hold off the new entrants through the force of often outdated regulation.183 The important policy question is whether—in light of this nation’s controversial, and now broadly maligned, experiment with economic substantive due process during the Lochner era—the evils of such anticompetitive regulations are simply the price of democracy, or whether steps could be taken to heighten judicial or administrative review without threatening a return to Lochnerism. This Article has compared two potential tools—a constitutional antiparochialism principle and heightened preemptive powers for the FTC. Both could potentially be effective to address anticompetitive regulations; both pose distinctive risks. On balance, relaxing state action immunity in FTC cases and thereby granting the Commission heightened preemptive powers probably raises fewer concerns about Lochernizing than does a broader promotion of the antiparochialism equal protection principle recognized in a handful of appellate decisions. On the other hand, granting the FTC expanded powers of this kind raises some other political risks—particularly backlash from state and local governments leading to a loss of support for the Commission in Washington, D.C., or excessive entanglement with state and local politics.

### OFF

#### optimism in the econ is justified – biggest indicators are up

Conerly, 22 (Bill Conerly, 3-7-2022, accessed on 4-1-2022, Forbes, "Economic Forecast 2022 And Beyond: Good Now, Scary Later", https://www.forbes.com/sites/billconerly/2022/03/07/economic-forecast-2022-and-beyond-good-now-scary-later/?sh=118b7d435353)//babcii

Where will the economy go?

The economic outlook for 2022 and 2023 in the United States is good, though inflation will remain high and storm clouds grow in later years.

The war in Ukraine raged with uncertain outcomes while this forecast was prepared. The war will play only a small role in the American economy—unless it really turns into World War III, which doesn’t seem likely.

A reporter recently asked, “What’s the most important economic statistic for business leaders to follow in 2022?” It is not an economic statistic; it’s Covid. The best working assumption for an economic forecast is that Covid has less impact, thanks to vaccinations and past infections. Assume no more lockdowns and people will dine out, travel and go to concerts. But keep your fingers crossed, as new variants are quite possible.

Economic growth will be pushed up by past stimulus, both fiscal stimulus and monetary stimulus. No additional major stimulus will come this year, but stimulus always works with time lags. So this year’s economy is mostly driven by past stimulus.

Supply constraints limit our growth no matter how much stimulus is pushed into the economy. Look for inflation-adjusted GDP to increase by 4% this year, then a little faster 2023.

The current supply constraints will ease gradually but not go away. More workers will return to the labor force as schools re-open reliably and as stimulus payments and unemployment insurance benefits are farther in the past. Most of our supply chain problems have been labor problems, and the shipping and production issues will be slowly resolved. Optimistic is justified, but gradually, not immediately.

#### Every economic indicator is up

Hilsenrath, 2-28 (Jon Hilsenrath is a senior writer for The Wall Street Journal, where he has written about economics and finance since 1997. He has worked as a writer and editor in Hong Kong, New York and Washington, D.C. Many of his stories have focused on causes and consequences of economic and financial crises. He was a Pulitzer Prize finalist in 2014 for his coverage of the Federal Reserve; part of a WSJ team that was a Pulitzer finalist in 2009 for coverage of the financial crisis; and contributed on-the-ground reporting to the WSJ’s 9/11 coverage which won a Pulitzer in 2002. He graduated from Duke University in 1989 and was a Knight-Bagehot Fellow and M.B.A. graduate from Columbia Business School in 1996. “U.S. Positioned to Withstand Economic Shock From Ukraine Crisis”, Wall Street Journal, 2-28-2022, https://www.wsj.com/amp/articles/u-s-positioned-to-withstand-economic-shock-from-ukraine-crisis-11646083994)//babcii

As Russian President [Vladimir Putin](https://www.wsj.com/topics/person/vladimir-putin) launched [a war against Ukraine](https://www.wsj.com/livecoverage/russia-ukraine-latest-news-2022-02-28?mod=article_inline), half a world away the U.S. economy appeared to be rebounding from a winter surge of Covid-19 infections.

A range of U.S. data suggests [U.S. economic activity picked up](https://www.wsj.com/articles/consumer-spending-january-2022-inflation-omicron-11645735669?mod=article_inline) in recent weeks. Many Wall Street analysts expect the Labor Department on Friday to report large job gains in February and a further decline in unemployment.

These developments suggest that the U.S. is in a position to withstand the economic shock that might emanate from battlegrounds in Ukraine. Those effects could push [U.S. inflation](https://www.wsj.com/articles/feds-preferred-inflation-measure-reaches-fastest-pace-since-1983-11645799601?mod=article_inline) higher from already elevated levels, but the economic expansion appears to be on solid ground.

“It looks like the U.S. has gotten through the Omicron variant and weathered that storm and the economy is growing solidly,” said Mickey Levy, chief U.S. economist at Berenberg Capital Markets LLC, the securities arm of a German bank.

Much could change in the days or weeks ahead. If fighting intensifies or spreads to other countries, or if sanctions and Russian reprisals to sanctions deepen, the effects could hit the U.S. economy harder.

Chart, line chart

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But for now, Mr. Levy has been watching weekly signs of rising U.S. consumer spending and output in February. OpenTable Inc., the online restaurant reservation business, reports that U.S. restaurant seating broke 6% above pre-pandemic levels in February after slumping earlier this year.

STR LLC, a research firm that tracks hotel trends, said occupancy at U.S. lodgings hit 59% in mid-February, up from 50% early in the month and 45% during the same period a year earlier.

Meantime, the Transportation Security Administration said airport checkpoint counts hit 2.15 million in late February, compared with 1.54 million at the end of January and 1.19 million at the same time a year earlier.

Mr. Levy said these are important developments because they suggest resurging life in the services side of the economy, which has been hit hardest by pandemic-driven disruptions.

U.S. Covid-19 cases and hospitalizations dropped substantially in February and deaths have fallen in recent weeks with a lag.

In all, consumer spending in the first half of February was up 7.2% from a year earlier, compared with a 2.7% increase in the first two weeks of January, according to data from Earnest Research, which tracks credit- and debit-card purchases.

Economists at Citigroup estimate the Labor Department will report Friday that U.S. payrolls grew by more than 500,000 in February and the jobless rate fell to 3.8%. [Morgan Stanley](https://www.wsj.com/market-data/quotes/MS) estimates payrolls grew 730,000 in February and the jobless rate dropped to 3.7%. In 2021, monthly payroll increases averaged 555,000. In the decade before the pandemic, monthly increases of around 150,000 to 200,000 were more normal.

The U.S. economy is exposed to Russia and Ukraine mostly through energy channels. Russia is a major supplier of oil and gas supplies to the globe—especially Europe—and also supplies commodities such as potash and palladium that are important components of goods including fertilizer and catalytic converters for cars. The war and the [Western financial sanctions](https://www.wsj.com/articles/russias-ruble-financial-markets-are-hammered-by-sanctions-11646038133?mod=article_inline) resulting from it have disrupted supplies and [pushed up prices](https://www.wsj.com/articles/oil-natural-gas-prices-vault-as-sanctions-threaten-russias-commodity-exports-11646049246?mod=article_inline) for these and other commodities, worsening global inflation.

However analysts so far aren’t forecasting a big hit to U.S. economic growth from these effects.

Moody’s Analytics, another economic advisory firm, estimates a sustained move of [oil prices up to $100 a barrel](https://www.wsj.com/articles/oil-price-surge-threatens-u-s-growth-11645709556?mod=article_inline) would slightly sap U.S. consumer spending in other markets, but not in a highly disruptive way. It estimates a shock of this kind would shave just 0.2 percentage point off the U.S. growth rate in 2022. The firm has already lowered its growth forecast to 3.5% this year, from its forecast of 3.7% before the war, said Mark Zandi, its chief economist.

“The impact of the Russian invasion on the U.S. economy will be on the margins,” Mr. Zandi said in a written assessment of the impact of an oil price spike.

One risk is that higher U.S. inflation provokes the Federal Reserve to raise interest rates aggressively, which could hit growth by restraining domestic investment and spending through more costly borrowing. Fed officials have been telegraphing for weeks that they plan to raise short-term rates in March. If inflation accelerates or persists, Fed officials might feel forced to lift rates more than otherwise.

At the same time, Russia isn’t a dominant player in the global economy outside of certain commodities markets. It produces about $1.5 trillion annually in goods and services, less than countries including India, South Korea and Italy.

Its economic output is about equal to that of Iowa, North Dakota, South Dakota, Kansas, Minnesota, Missouri and Nebraska, combined. Excluding Russia’s energy sector, its economy is more like the combined size of those states minus Missouri. Texas’s economy is nearly 25% larger than Russia’s.

Financial markets are another channel through which shocks can be transmitted from one place to another. In the late 1990s, the collapse of the Russian ruble contributed to global financial disruptions that sent a cascade of developing economies into recession and roiled U.S. markets.

So far that kind of contagion doesn’t appear to be taking place. Stock indexes in Brazil and Argentina, for example, are up 8% and 5%, respectively, so far this year. Stocks in Thailand are up 2% so far this year and they are up 5% in Indonesia and 4% in Singapore.

Mr. Levy said U.S. bond markets also are functioning normally, unlike March 2020, when Covid-19 hit and froze U.S. Treasury bond transactions, or 2008, when mortgage securities’ values tumbled and squeezed the health of many banks.

“Nothing jumps out to me that suggests unhinged stability,” Mr. Levy said. “You have more volatility but you don’t see dysfunction. You see a normal, predictable flight to quality.

#### Antitrust regs causes uncertainty and expands rent-seeking

Crews and Young 19 (Clyde Wayne Crews, Vice President for Policy and Senior Fellow @ Competitive Enterprise Institute, Ryan Young is a Senior Fellow @ Competitive Enterprise Institute, “The Case against Antitrust Law”, Competitive Enterprise Institute, 04/16/2019, <https://cei.org/studies/the-case-against-antitrust-law/>)//babcii

Uncertainty. Antitrust regulation creates an enormous amount of economic uncertainty. Nobody knows how it will be used at a given time. If antitrust statutes are interpreted literally, potentially any firm, no matter how small, can be charged with an antitrust violation—or for dominating its relevant market, however defined. If a business sells goods at a lower price than its competitors, it can be charged with predatory pricing. If it sells goods at the same price as its competitors, it can be charged with collusion. And if it sells goods at a higher price than its competitors, it can be charged with abusing market power. A century of case law has evolved some guidelines, but judicial precedents can be overturned any time a new case is brought. There are few bright-line legislative or judicial standards for antitrust enforcement. It is mostly guided by a mix of inconsistently enforced judicial precedents, regulators’ personal discretion, and political factors unrelated to market competition. Even the mere threat of antitrust enforcement can have a preemptive chilling effect on innovation, business strategies, and potential efficiency-enhancing arrangements. Rent-seeking. Neo-Brandeisians rightly want to reduce rent-seeking, but they routinely propose policies that will backfire because of a common misunderstanding of how governments work in practice. Government employees do not operate with only the public interest in mind. They are human beings, with the same incentives and flaws as other human beings. They want to increase their budgets and power and enjoy the publicity that accompanies big cases. It also makes regulators especially vulnerable to what is known as a Baptist-and-boot- legger dynamic. In Clemson University economist Bruce Yandle’s classic example, a moralizing Baptist and a profit-seeking bootlegger will both favor a law requiring liquor stores to close on Sundays, though for different reasons. A true-believing “Baptist” in Congress or at the Justice Department or the FTC would be inclined to listen seriously to the entreaties of corporate “bootleggers” who can come up with virtuous-sounding reasons for why regulators should give their businesses special favorable treatment.36 Oracle, one of Microsoft’s rivals, ran its own independent Microsoft investigation during that company’s antitrust case, for what it alleged were Baptist-style reasons. “All we did is try to take information that was hidden and bring it to light,” said Oracle CEO Larry Ellison. “I don’t think that was arrogance. I think it was a public service.”37 Former Sen. Orrin Hatch (R-UT), who counted Oracle among his constituents, was one of the loudest anti-Microsoft voices in Congress. Around that time, he also received $17,500 donations from executives at Netscape, AOL, and Sun Microsystems. Perhaps heeding Hatch’s admonition that, “If you want to get involved in business, you should get involved in politics,” Microsoft expanded its presence in Washington from a small outpost at a Bethesda, Maryland, sales office to a large downtown Washington office with a full-time staff plus multiple outside lobbyists.38 Microsoft quickly went from a virtual non-entity in Washington to the 10th-largest corporate soft money campaign donor by the 1997-1998 election cycle. Sen. Hatch’s campaign was among the beneficiaries.39 The lines between Baptist and boot- legger can be blurry, and some actors play both parts. But such ethical dynamics are an integral part of antitrust regulation in practice.

#### slow growth goes nuclear – breaks down global cooperation

**Landay 17** (Jonathan – Reuters National Security Correspondent, 1/9/17, “U.S. intelligence study warns of growing conflict risk”, <https://www.reuters.com/article/us-usa-intelligence-future-idUSKBN14T1J4>)

WASHINGTON (Reuters) - The risk of **conflicts** between and within **nations** will **increase** over the next five years to levels not seen since the Cold War as **global growth slows**, the post-World War Two order erodes and **anti-globalization** fuels **nationalism**, said a U.S. intelligence report released on Monday. “These **trends** will converge at an unprecedented pace to make governing and **cooperation** harder and to change the **nature of power** – fundamentally altering the **global landscape**,” said “Global Trends: Paradox of Progress,” the sixth in a series of quadrennial studies by the U.S. National Intelligence Council. The findings, published less than two weeks before U.S. President-elect Donald Trump takes office on Jan. 20, outlined factors shaping a “dark and difficult near future,” including a more assertive **Russia** and **China**, **regional conflicts**, **terrorism**, rising **income inequality**, **climate change** and **sluggish economic growth**. Global Trends reports deliberately avoid analyzing U.S. policies or choices, but the latest study underscored the complex difficulties Trump must address in order to fulfill his vows to improve relations with Russia, level the economic playing field with China, return jobs to the United States and defeat terrorism. The National Intelligence Council comprises the senior U.S. regional and subject-matter intelligence analysts. It oversees the drafting of National Intelligence Estimates, which often synthesize work by all 17 intelligence agencies and are the most comprehensive analytic products of U.S intelligence. The study, which included interviews with academic experts as well as financial and political leaders worldwide, examined political, social, economic and technological trends that the authors project will shape the world from the present to 2035, and their potential impact. ‘INWARD-LOOKING WEST’ It said the threat of **terrorism** would grow in coming decades as small groups and individuals harnessed “**new technologies**, ideas and relationships.” **Uncertainty** about the **U**nited **S**tates, coupled with an “inward-looking West” and the weakening of international human rights and conflict prevention standards, will encourage **China** and **Russia** to challenge **American influence**, the study added. Those challenges “will stay below the threshold of hot war but bring **profound risks** of **miscalculation**,” the study warned. “Overconfidence that material strength can manage escalation will **increase** the **risks** of **interstate conflict** to levels not seen since the Cold War.” While “hot war” may be avoided, differences in values and interests among states and drives for regional dominance “are leading to a **spheres of influence** world,” it said, The latest Global Trends, the subject of a Washington conference, added that the situation also offered opportunities to governments, societies, groups and individuals to make choices that could bring “more hopeful, secure futures.” “As the paradox of progress implies, the same trends generating near-term risks also can create opportunities for better outcomes over the long term,” the study said. THE HOME FRONT The report also said that while globalization and technological advances had “enriched the richest” and raised billions from poverty, they had also “hollowed out” Western middle classes and ignited backlashes against globalization. Those trends have been compounded by the largest migrant flows in seven decades, which are stoking “nativist, anti-elite impulses.” “**Slow growth** plus technology-induced **disruptions** in **job markets** will threaten poverty reduction and **drive tensions** within countries in the years to come, fueling the very **nationalism** that contributes to tension between counties,” it said. The trends shaping the future include contractions in the working-age populations of wealthy countries and expansions in the same group in poorer nations, especially in Africa and South Asia, increasing **economic**, employment, urbanization and welfare **pressures**, the study said. The world will also continue to experience weak **near-term growth** as governments, institutions and businesses struggle to overcome **fallout** from the Great **Recession**, the study said. “**Major economies** will confront **shrinking workforces** and **diminishing productivity** gains while recovering from the 2008-09 financial **crisis** with **high debt**, **weak demand**, and doubts about globalization,” said the study. “China will attempt to shift to a consumer-driven economy from its longstanding export and investment focus. **Lower growth** will **threaten poverty reduction** in developing counties.” **Governance** will become **more difficult** as issues, including global **climate change**, **environmental degradation** and **health threats** demand **collective action**, the study added, while such cooperation **becomes harder**.

### OFF

#### FTC’s increasing enforcement in privacy now

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 finite resources and personnel

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

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

#### Key to soft power

Sherman, 21 (Justin Sherman (@jshermcyber) is a contributor at WIRED, focused on technology and geopolitics. He has written for The Washington Post, The Atlantic, and many other outlets, “Weak US Privacy Law Hurts America’s Global Standing”, WIRED, 07.20.2021, https://www.wired.com/story/weak-us-privacy-law-hurts-americas-global-standing/)//babcii

One of the greatest foreign policy challenges posed by **weak US privacy law**, though, is that Washington **loses cred**ibility **on** democratic tech **governance** by purporting to fight digital repression globally while allowing data-enabled abuses at home. Many authoritarian governments spin this reality right into **what-about-ism**, in which everything is hypocrisy and there is no difference between democratic and authoritarian countries. The Kremlin, for example, routinely [uses problems](https://www.atlanticcouncil.org/blogs/new-atlanticist/russia-uses-us-data-policy-shortfalls-to-justify-campaign-against-internet-freedom/) in American internet policy to suggest that internet openness is nonsense and to justify the Russian state’s internet repression. So, to be clear, the weakness of US privacy law does not mean there’s no hope (there is), nor that criticisms of authoritarian technology abuses are baseless (quite the opposite). Government surveillance in the US is also not the same as that in Russia or China. But among many other digital harms allowed in the US, the lack of data controls on US firms undermines American **soft power**. As much as the US government condemns data surveillance practices overseas, American citizens are still **unprotected** from rampant corporate data hoarding and selling at home. This undermines Washington’s credibility. Politicians vaguely speak of zero controls on corporate data collection in China ([inaccurate](https://slate.com/technology/2019/02/china-consumer-data-protection-privacy-surveillance.html)), while not acknowledging that the US has virtually no corporate surveillance controls whatsoever; the US government [campaigns](https://www.wired.com/story/the-us-is-waging-war-on-digital-trade-barriers/) against Indian data localization rules and continues [labeling](https://ustr.gov/sites/default/files/files/reports/2021/2021NTE.pdf) the GDPR a trade barrier while not presenting a positive, democratic alternative for a “better” privacy law. All the while, companies and government organizations keep [teaming up](https://www.vice.com/en/topic/watching-ourselves) to surveil American communities with poor or nonexistent oversight. If the US is going to forge a realistic, attractive, democratic model of technology governance—one it can use to entice internet “[**swing states**](https://www.newamerica.org/cybersecurity-initiative/reports/digital-deciders/)” and hold up against **Beijing's** and **Moscow’s** digital **abuses**—it needs to be **privacy-proactive**. Otherwise, the US fails to live up to the democratic ideal by failing to protect its citizens, especially its most vulnerable, from unchecked corporate data collection and sale. It also risks feeding into a post-Snowden view in Europe and elsewhere that the US is merely repeating its 2010-era “internet freedom” agenda when it speaks in the language of techno-democracy. Citizens’ ability to lead a safe and **democratic life** in the digital age matters in and of itself, but it also **matters for American fo**reign **po**licy. Congress needs to investigate and hold hearings on the ways that US tech firms might also undermine US national security through their data practices. The unregulated brokering of US citizen data on the open market is one place to start. In a globally connected world, US **fo**reign **po**licy cannot succeed without **safeguarding** the **data** and the rights of American citizens at home.

#### Extinction

Joseph S. Nye 20. Harvard University Distinguished Service Professor, Emeritus. "COVID-19’s Painful Lesson About Strategy and Power". War on the Rocks. 3-26-2020. https://warontherocks.com/2020/03/covid-19s-painful-lesson-about-strategy-and-power/

In 2017, President Donald Trump announced a new National Security Strategy that focused on great-power competition with China and Russia. While the plans also note the role of alliances and cooperation, the implementation has not. Today, COVID-19 shows that the strategy is inadequate. Competition and an “America First” approach is not enough to protect the United States. Close cooperation with both allies and adversaries is also essential for American security.

Under the influence of the information revolution and globalization, world politics is changing dramatically. Even if the United States prevails in the traditional great-power competition, it cannot protect its security acting alone. COVID-19 is not the only example. Global financial stability is vital to U.S. prosperity, but Americans need the cooperation of others to ensure it. And while trade wars have set back economic globalization, there is no stopping the environmental globalization represented by pandemics and climate change. In a world where borders are becoming more porous to everything from drugs to infectious diseases to cyber terrorism, the United States must use its soft power of attraction to develop networks and institutions that address these new threats. For example, this administration proposed halving the U.S. contribution to the World Health Organization’s budget — now we need it more than ever.

A successful national security strategy should start with the fact that “America First” means America has to lead efforts at cooperation. A classic problem with public goods (like clean air, which all can share and from which none can be excluded) is that if the largest consumer does not take the lead, others will free-ride and the public goods will not be produced. As the technology expert Richard Danzig summarizes the problem:

Twenty-first century technologies are global not just in their distribution, but also in their consequences. Pathogens, AI systems, computer viruses, and radiation that others may accidentally release could become as much our problem as theirs. Agreed reporting systems, shared controls, common contingency plans, norms and treaties must be pursued as a means of moderating our numerous mutual risks.

Tariffs and border walls cannot solve these problems. While American leadership is essential because of the country’s global influence, success will require the cooperation of others.

On transnational issues like COVID-19 and climate change, power becomes a positive-sum game. It is not enough to think of American power over others. We must also think in terms of power to accomplish joint goals, which involves power with others. On many transnational issues, empowering others helps us to accomplish our own goals. The United States benefits if China improves its energy efficiency and emits less carbon dioxide, or improves its public health systems. In this world, institutional networks and connectedness are an important source of information and of national power, and the most connected states are the most powerful. Washington has some sixty treaty allies while China has few. Unfortunately, as Mira Rapp-Hooper recently argued, the United States is squandering that power resource.

In the past, the openness of the United States enhanced its capacity to build networks, maintain institutions, and sustain alliances. But will that openness and willingness to engage with the rest of the world prove sustainable in the current populist mood of American domestic politics? Even if the United States possesses more hard military and economic power than any other country, it may fail to convert those resources into effective influence on the global scene. Between the two world wars, America did not and the result was disastrous.

## Case

### Advantage 1

**no extinction – data**

**Barratt et al 17** (Owen Cotton-Barratt – University of Oxford Research Fellow, Director of Research at the Centre for Effective Altruism, Research Fellow at the University of Southampton, and Lecturer in Mathematics at Oxford, Sebastian Farquhar – Project Manager at the Future of Humanity Institute, Director of the Global Priorities Project, and Executive Director at The Centre for Effective Altruism, Stefan Schubert - Swedish Network for Evidence-Based Policy Founder, Haydn Belfield - Academic Project Administrator for the Centre for the Study of Existential Risk and Policy Associate to the University of Oxford’s Global Priorities Project, and a Senior Parliamentary Researcher to a British Shadow Cabinet Minister, Andrew Snyder-Beattie - Director of Research at the Future of Humanity Institute, University of Oxford, 1/23/2017, Global Priorities Project, “Existential Risk: Diplomacy and Governance”, <https://www.fhi.ox.ac.uk/wp-content/uploads/Existential-Risks-2017-01-23.pdf>, accessed 9/2/17, DL)

For most of human history, natural pandemics have posed the greatest risk of mass global fatalities.37 However, there are some reasons to believe that natural pandemics are **very unlikely to cause human extinction**. Analysis of the International Union for Conservation of Nature (IUCN) red list database has shown that of the 833 recorded plant and animal species extinctions known to have occurred since 1500, **less than 4%** (31 species) were ascribed to infectious disease.38 None of the mammals and amphibians on this list were globally dispersed, and other factors aside from infectious disease also contributed to their extinction. It therefore seems that our own species, which is **very numerous**, **global**ly dispersed, and capable of a **rational response to problems**, is very unlikely to be killed off by a natural pandemic. One underlying explanation for this is that highly lethal pathogens can kill their hosts before they have a chance to spread, so there is a **selective pressure for pathogens not to be highly lethal**. Therefore, pathogens are likely to co-evolve with their hosts rather than kill all possible hosts.39

#### ABR won’t get close to extinction, intervening actors solve it, their internal link can’t

Ed Cara 17, science writer for The Atlantic, Newsweek, and Vocativ, 1/27/17, “The Attack Of The Superbugs,” http://www.vocativ.com/394419/attack-of-the-superbugs/

Antibiotic-resistant infections kill at least 700,000 people worldwide a year right now, according to an exhaustive report commissioned by the UK in 2014, and without any substantial medical breakthroughs or policy changes that slow down resistance, they may claim some 10 million deaths annually by 2050 — eclipsing cancer in general as a leading cause. These deaths largely won’t come from pan-resistant infections, just tougher ones. A preventable death there, a preventable death here.

Leaving that aside, antibiotics, along with proper sanitation and nutrition, gird our entire way of living. Most every invasive surgery, pregnancy, organ transplant and chemotherapy session we go through will become riskier. Other diseases like HIV, malaria or influenza will become deadlier, since bacteria often exploit the opening in our immune system they leave behind. And already precarious populations like those living with cystic fibrosis, prisoners, and the poor will lose years off their lives.

For all the warranted gloom, though, Farewell does think there are reasons to be hopeful. “I don’t think we are doing enough, but the scientific community along with many governmental and private foundations are very actively involved in finding not only new antibiotics, but new solutions to this problem,” she said. There’s been a noticeable change in attitude and increased urgency surrounding antibiotic resistance, she said, one that she hadn’t seen even five years ago, let alone twenty.

Until recently, that attitude change could be seen from places as high up as the U.S. federal government. In 2014, former President Obama issued an executive order aimed at addressing antibiotic resistance, the first real acknowledgement of the problem from an administration, devoting funding and outlining a national action for combatting resistance. Through its federal agencies, the administration pushed to reduce antibiotic use on farms and encouraged doctors to stop using them in excess.

“There has been a lot of work done the last couple of years, much of it spurned by [Obama’s] National Action Plan,” said Dr. David Hyun, a senior officer for Pew Charitable Trusts’ Antibiotic Resistance Project. The CDC, in particular, has used its funding to open up regional labs that allow them to better detect and respond to antibiotic-resistant outbreaks like the Nevada case, he said. They ultimately hope to create an expansive surveillance system that can easily keep track of resistance rates on a national, state and regional level. A parallel system also exists for monitoring resistance in the food chain, shepherded by the CDC and the U.S. Department of Agriculture.

In fact, it was this sort of cooperation between national and local health agencies that enabled Nevada doctors to stop the worst from happening, said Dr. Lei Chen. The swift identification of a possible CRE strain by the hospital, coupled with the woman’s medical history, led to a precautionary quarantine, while also prompting Chen’s public health department and eventually the CDC into action. And it may help prevent future cases from spilling into the public. According to Chen, the CDC has allocated funding this year to all of Nevada’s state public health departments so they can better detect CRE and other dangerous resistant strains.

Under the Trump administration, there’s no telling how these small victories will hold up or whether they will advance. All references to antibiotics once found on the Whitehouse.gov site have been removed, including a link to the Obama administration’s national action plan, and the fact that they’re already tried to bar USDA scientists from discussing their work with the public while stripping funding from other public health agencies isn’t encouraging.

Even with the best public policy, however, there’s no clear light at the end of the tunnel. Antibiotic resistance has gradually been worsening, even within the last 15 to 20 years, when superbugs like methicillin-resistant Staphylococcus aureus (MRSA) first became widely known, said Hyun. The effort needed to develop new drugs has been in short supply, hamstrung by pharmaceutical companies’ inability to recoup the costs of bringing new antibiotics to market. That’s because, unlike the latest heart medication, any new antibiotics will have to be treated like the last drops of water during a drought, used as little as possible — the exact opposite way to make money off a new product. Yet, much like climate change, the financial toll of not doing anything will total in the trillions years down the road. And it already numbers in the billions now, according to the CDC.

Of course, we need bacteria to survive. And most need or pay no mind to us in return. Even pan-resistant bacteria don’t really mean harm. Some have been found in perfectly healthy people, a fact that’ll either comfort you or keep you awake at night, only causing problems when our immune system wavers. There’s no army of sentient E. coli that will rise up and someday overthrow the human race.

But barring the calvary showing up, a new fear of ours will learn to settle in, almost unnoticed. It’ll creep in when we pick our heads up from a nasty fall that scrapes our skin open or breaks our bones; when we wave goodbye to our loved ones before they enter an operating room, or when we cradle our newborns into a world teeming with the living infinitesimal, wishing there was still a way to shield them from it as our parents once could for us. A fear of naked vulnerability.

The antibiotic apocalypse will be gentle, if it fully arrives, but it won’t be any less devastating to the human spirit.

### Advantage 2

#### No impact to ai – consensus

Baum 15 Seth D., executive director of the Global Catastrophic Risk Institute and Research Scientist @ the Blue Marble Space Institute of Science and an Affiliate Researcher @ the Columbia University Center for Research on Environmental Decisions, *Environment, Systems, and Decisions*, May 4th, “Risk and Resilience For Unknown, Unquantifiable, Systemic, and Unlikely/Catastrophic Threats,” http://sethbaum.com/ac/2015\_RiskResilience.pdf

3.2 More Examples: AI and Extraterrestrials∂ Two ongoing threats that come closer to being actually unknown are AI and extraterrestrials, or∂ rather certain AI and extraterrestrials scenarios. For AI, the relevant scenarios are those in which∂ a potential future “superintelligent” AI outsmarts humanity and takes over the world (Good∂ 1965; Eden et al. 2013; Bostrom 2014). Similarly, for extraterrestrials, the relevant scenarios are∂ those in which humanity encounters extraterrestrials that are more powerful than itself, and the∂ extraterrestrials take over the world (Michaud 2007; Baum et al. 2011a). Both scenarios are∂ somewhat speculative, which makes them good examples of relatively unknown threats.∂ For both scenarios, increasing resilience is of little use. If humanity loses control of the∂ planet, then traditional means of increasing resilience—such as creating redundant networks,∂ stockpiling resources, or planning to adapt and recover—do not help humanity retain its critical∂ functionality. This holds for any reasonable definition of humanity’s critical functionality:∂ humanity’s population, its civilization, and even its very existence are all threatened. The∂ situation here is much like the situation of those many species on Earth now extinct due to their∂ encounter with the vastly more powerful human species, or the situation of those species that∂ would now be extinct except that humanity chose to keep them alive. For all such species,∂ resilience does not help. So too for humanity in the face of vastly more powerful AI or∂ extraterrestrials.∂ Both threats are poorly known, even if they are not completely unknown. At this time, it is∂ not known whether it is possible to build such an AI, let alone which AI will be built and what∂ that AI would be like. Some leading AI researchers express skepticism that such AI is possible∂ (e.g., Horvitz and Selman 2009). Expert surveys indicate widely varying and conflicting∂ 4∂ projections about if and when such an AI would occur, and what the consequences would be∂ (Baum et al. 2011b; Armstrong and Sotala 2012; Müller and Bostrom forthcoming). The threat∂ of extraterrestrials may be even less well known. It is not known whether extraterrestrials exist,∂ or, if they do exist, whether it is possible for humanity to encounter them. It is likewise not∂ known which extraterrestrials humanity would encounter and what those extraterrestrials would∂ be like. All that is known is that no extraterrestrial encounter has previously occurred. Many∂ explanations have been proposed for why no extraterrestrial encounter has previously occurred,∂ the so-called Fermi paradox (Webb 2002). Likewise, speculations abound on what would happen∂ if an extraterrestrial encounter occurs, though there is limited basis for assessing which of these∂ are most likely (Michaud 2007; Baum et al. 2011a).∂ The examples of AI and extraterrestrials are threats that are relatively unknown, yet they may∂ not warrant a response of increasing resilience. Instead, the only viable response is to decrease∂ the probability of the threat manifesting. For AI, this can be done by abstaining from building∂ potentially dangerous types of AI (Joy 2000) or by seeking to build AIs that would not harm∂ humanity (Yudkowsky 2011). For extraterrestrials, this can be done by abstaining from∂ transmitting messages towards parts of the galaxy likely to house extraterrestrials (Brin undated;∂ Haqq-Misra et al. 2013) or, eventually, by abstaining from traveling around outer space. These∂ various response options would all decrease the risk from these relatively unknown threats, even∂ though they do not increase resilience.

#### No impact to bee collapse- hype

CEI ’13 (Competitive Enterprise Institute, Economic Think-tank, “honeybee losses are manageable”, <http://www.safechemicalpolicy.org/honeybee-losses-are-manageable/>, 2013)

A 2013 Huffington Post headline exclaimed: "Honey Bees Are Dying Putting America at Risk of a Food Disaster." And the Natural Resources Defense Council claims: "Honey bees are disappearing across the country, putting $15 billion worth of fruits, nuts and vegetables at risk" Another article maintains that 70 percent of our food supply is pollinated by honeybees. These claims are all flat wrong. While they make great headlines, they create a misleading impression that periodic honeybee losses seriously threatens our food supply. It is true that hive health issues are of concern because farmers rely on honeybees for the production of many fruits, nuts, and vegetables. About one third of food production in the United States benefits from honey bee pollination, according to USDA California almond growers depend on honey bees exclusively to pollinate crops, requiring 60 percent of the commercial honey bee hives in the country to produce 80 percent of the world's supply of almonds. Almonds constitute California's highest-valued agricultural export, according to agricultural economist Hoy Carman of the University of California-Davis. While poor hive health is unlikely to completely undermine production of these foods, it could make them more expensive. In fact, according Carman, fees for pollinating almonds have increased substantially. […] High annual losses represent an expensive challenge for beekeepers and potentially consumers, but even then, we should not expect a catastrophe. Professor Jamie Ellis of the Institute of Food and Agricultural Sciences at the University of Florida notes: Yet. no one believes that honey bees will disappear altogether, even with the concerns over CCD. Instead, the average American may experience increased food prices and decreased food availability if honey bees continue to die at the current rate. The almond industry illustrates this point well. Not all food depends on honeybees, and essential grains, particularly corn, rice and wheat, constitute the largest part of our diets and these are pollinated by the wind. Researchers from the University of Minnesota and U.S Geological Survey, writing in Environmental Science and Technology , point out: "Thus the prospect of human starvation in the absence of bees IS remote, but crop declines in the most nutritious—and arguably, most interesting—parts of our diet like fruit, vegetables, and alfalfa hay for meat and dairy production, are possible" Other researchers have raised concerns that the amount of honey bee-dependent crops has increased globally and exceeds the number of honeybees produced for pollination. They concluded that one of two things must be happening: Either the current number of hives is sufficient for pollination or wild pollinators are providing an important contribution. In the latter case, they suggest that policymakers consider the impact of land use policies to ensure that wild pollinators continue to have sufficient nutrition and nesting habitat. Intensification of "monoculture" may reduce the habitat diversity these wild pollinators require. For example, government subsidies and policies that promote planting of corn for ethanol trigger land use changes that reduce diversity of crops around the nation.

#### No nuclear hacks

Green, MA, 2 (Joshua, Editor, Washington Monthly, “The Myth of Cyberterrorism”, November, http://www.washingtonmonthly.com/features/2001/0211.green.html)

When ordinary people imagine cyberterrorism, they tend to think along Hollywood plot lines, doomsday scenarios in which terrorists hijack nuclear weapons, airliners, or military computers from halfway around the world. Given the colorful history of federal boondoggles--billion-dollar weapons systems that misfire, $600 toilet seats--that's an understandable concern. But, with few exceptions, it's not one that applies to preparedness for a cyberattack. "The government is miles ahead of the private sector when it comes to cybersecurity," says Michael Cheek, director of intelligence for iDefense, a Virginia-based computer security company with government and private-sector clients. "Particularly the most sensitive military systems." Serious effort and plain good fortune have combined to bring this about. Take nuclear weapons. The biggest fallacy about their vulnerability, promoted in action thrillers like WarGames, is that they're designed for remote operation. "[The movie] is premised on the assumption that there's a modem bank hanging on the side of the computer that controls the missiles," says Martin Libicki, a defense analyst at the RAND Corporation. "I assure you, there isn't." Rather, nuclear weapons and other sensitive military systems enjoy the most basic form of Internet security: they're "air-gapped," meaning that they're not physically connected to the Internet and are therefore inaccessible to outside hackers. (Nuclear weapons also contain "permissive action links," mechanisms to prevent weapons from being armed without inputting codes carried by the president.) A retired military official was somewhat indignant at the mere suggestion: "As a general principle, we've been looking at this thing for 20 years. What cave have you been living in if you haven't considered this [threat]?" When it comes to cyberthreats, the Defense Department has been particularly vigilant to protect key systems by isolating them from the Net and even from the Pentagon's internal network. All new software must be submitted to the National Security Agency for security testing. "Terrorists could not gain control of our spacecraft, nuclear weapons, or any other type of high-consequence asset," says Air Force Chief Information Officer John Gilligan. For more than a year, Pentagon CIO John Stenbit has enforced a moratorium on new wireless networks, which are often easy to hack into, as well as common wireless devices such as PDAs, BlackBerrys, and even wireless or infrared copiers and faxes.

# 2NC

## T --- Courts

### 2NC --- O/V

#### 2. ‘Prohibitions’ must be legislative enactments

Benjamin Hill 7, Judge on the Georgia Appeals Court, “Rose v. State”, Court of Appeals of Georgia, 1 Ga. App. 596, 601-602, 58 S.E. 20, 22-23, 1907 Ga. App. LEXIS 47, 4/11/1907

The words "otherwise prohibited," relied on by the State, really mean nothing in this statute. When the legislature used the words "prohibited by law," it exhausted the subject, and the addition of the words "high license or [\*\*\*11] otherwise" was "wasteful and ridiculous excess." These general words are sometimes added to specific enumeration in statutes out of abundance of caution, but they usually mean nothing. Certainly such words must be "restricted to the same genus as the things enumerated," and the use of the word "otherwise," following the words "prohibited by law," meant that the "otherwise" prohibition of the sale of liquor was to be a legal prohibition, that is, prohibited by the law of high license, or otherwise prohibited by law. But we do not think this general word means anything in this statute. Whatever it was intended to mean, it could not by any rule of logic give to the failure of the commissioners to grant licenses the force and effect of a positive enactment prohibiting the sale. The word "prohibit" is an active, transitive verb. As defined by the Standard Dictionary, it means "to forbid, especially by authority or legal enactment; interdict; as, to prohibit liquor-selling, or a person from selling liquor." The word "prohibit," [\*\*23] in its legal sense, implies some legislative enactment forbidding something. "The laws of England, from the early Plantagenets, sternly prohibited the [\*\*\*12] conversion of malt into alcohol." "Prohibition," in the United States, specifically means "the forbidding [\*602] by legislative enactment of the manufacture and sale of alcoholic liquors for use as beverage." Giving, therefore, to the word "prohibited" its ordinary signification and its technical meaning, as applied to the particular subject-matter of the sale of spirituous liquors, it must involve some positive act done by authority.

#### 3. AND “the scope of antitrust law” is not governed by court action

**Utah Law Review, 63** (Utah Law Review, Leading law review for the university of Utah, 1963, accessed on 7-20-2021, Utah Law Review, "CASES NOTED" “GOVERNMENT CONTEMPT ORDER PROVIDES POSSIBLE PRIMA FACIE CASEFOR PRIVATE ANTITRUST ACTION", https://collections.lib.utah.edu/dl\_files/e6/34/e6346be7b172efa1c6d32d6e15d4f5094339c121.pdf)//Babcii

It does not, however, necessarily follow that the same is true for the purposes of a private litigant. It must be recognized that the private litigant's rights exist only by virtue of section 5. The term "antitrust laws" has been narrowly construed to **include only** the **statutory provisions** of the Sherman and Clayton Acts **and to exclude other** statutes which apply **broad antitrust policies** to specific segments of business. 22 If this interpretation be accepted, it is arguable that the term "antitrust laws" as used in section 5 excludes antitrust decrees on which the contempt violation was based. 23 Further, the statutory language here involved, "a final **judgment or decree** . . . rendered . . . under the antitrust laws to the effect that a defendant has violated said laws . . ." does not bear out the interpretation given the section by the instant court. From the literal language of the section it would appear that the complaint in the instant case was based upon a criminal contempt citation brought for violation of a court order and not for violation of the antitrust laws. In a similar case, another Federal District Court stated that "**the term 'antitrust laws' could not be construed as** pertaining to a judgment or decree entered by **a court** in connection with an antitrust case." 24

#### 4. AND Resolved implies a legislative instrument

LA House 5 (Lousiana House of Representatives, <http://house.louisiana.gov/house-glossary.htm>)

Resolution A legislative instrument that generally is used for making declarations, stating policies, and making decisions where some other form is not required. A bill includes the constitutionally required enacting clause; a resolution uses the term "resolved". Not subject to a time limit for introduction nor to governor's veto. ( Const. Art. III, §17(B) and House  Rules 8.11 , 13.1 , 6.8 , and 7.4)

### 2NC --- AT: by atleast

#### 2. By at least implies that the plan must expand law so as to increase prohibitions, not that all expansions of law *a priori* qualify as increased prohibitions

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

3. Logic, the A Priori, and the Empirical

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

(Q\*x) (Dog(x) → Black(x))

(Q\*x) Dog(x)

∴ (Q\*x) Black(x)

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

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

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

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

## 2NC --- crane CP

### 2NC --- AT: add-on

#### Free trade causes warming and ecological collapse – extinction

Wright 18 (Christopher Wright, BEc(Hons); PhD Sydney, Professor of Organisational Studies at the University of Sydney Business School, “Global Trade in an Era of Neoliberal Capitalism”, *The Social Effects of Global Trade*, Ed. Joy Murray, Arunima Malik, Arne Geschke, Pan Stanford Publishing Pte. Ltd, 2018)

For instance, it is no coincidence that the dramatic escalation in global greenhouse gas emissions, deforestation and species extinction has occurred at precisely the same time that global economic development and trade has undergone its Great Acceleration since the 1960s [45]. Indeed, the worsening climate crisis highlights how neoliberal economic reform and the promotion of globalised trade are fundamentally in conflict with the need for radical decarbonisation of the world’s energy system [46]. As Wright and Nyberg [47] have argued, corporate capitalism is now engaged in a process of ‘creative self-destruction’ in which the relentless pursuit of new global markets, the expansion of consumption and new forms of capital accumulation risk the demise of entire ecosystems and, indeed, a habitable climate for human civilisation. So global trade is driving the degradation of carbon sinks, such as forests and oceans, and the extinction of plant and animal species, as well as increasing the exploitation of fossil fuel reserves via new mega coal mines, tar sand processing, the fracking of shale and coal-seam gas and deepwater and Arctic oil drilling [48]. This occurs both directly through the global trade in energy commodities, such as coal, oil and gas, as well as indirectly through the ever-increasing global demand for raw materials and consumer products through increasingly complex global supply chains [49]

Despite the urgency of the unfolding climate crisis, what has been remarkable about the international response has been the wholesale rejection of any limitation upon economic growth, globalisation and free trade. For instance, while the international response to climate change has relied upon voluntary and non-binding agreements between nation states for greenhouse gas emission reductions, reinforced in the November 2015 Paris climate agreement, this stands in marked contrast to the draconian model the world’s nations have applied to international trade, where agreements are highly prescriptive and enforced with punitive legal sanction [10].

This very different standard of international regulation has been most evident in the secret negotiations surrounding the Transpacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP). As the latest multilateral free trade deals being negotiated between the United States and various Pacific and Atlantic trading nations, the TPP and TTIP are notable not only for the breadth and extent of economic activities they seek to expose to the free trade paradigm but also in the establishment of a separate legal regime of enforcement that critics argue prioritises the rights of MNCs over nation states and their citizens [50]. In particular, provisions for investor–state dispute settlements (ISDSs) create a system of private arbitration within which global corporations can sue national governments for regulations that they believe will impair their profitability [51, 52]. Examples could include actions against governments passing public health laws to discourage smoking, regulating for minimum wages or improved worker health and safety or seeking to limit environmentally harmful resource extraction or pollution. As the ultimate expression of free trade for multinational capital, critics have argued such provisions would represent a form of post-democracy in which power moves from established political systems such as the judiciary and legislature within nation states to new private, globalised arenas where ‘political elites do deals with corporate lobbies’ [53].

Indeed, many examples of such privately arbitrated corporate legal action against nation states now exist under existing trade deals. For example, global tobacco giant Philip Morris has sued Australia and Uruguay under ISDS provisions in separate trade deals for introducing plain-packaging legislation in an effort to reduce smoking, French service company Veolia is suing the Egyptian government under ISDS clauses in a French–Egyptian free trade treaty for legislating for a small increase in the Egyptian minimum wage and pharmaceutical giant Eli Lilly is suing the Canadian government for US$100 million under ISDS provisions in the NAFTA because of the government’s attempts to reduce the cost of medicines for its citizens [54].

As the latest assertions of a global free trade doctrine, critics argue the TPP and TTIP fundamentally conflict with global aspirations for improved social and environmental sustainability as enunciated in the UN’s Sustainable Development Goals and the Paris climate agreement. The neoliberal belief in the wholesale benefits of trade and economic growth to solve urgent social and environmental crises places inordinate faith in the benevolence of MNCs and market forces, while winding back any capacity for citizens and democratic institutions to have much say over their future.

In an era in which corporations and markets have increasing influence over the determination of national economic policy and, more fundamentally, threaten the future of a habitable climate on this planet, it is time to reconsider the hegemonic belief in the wholesale benefits of global trade based upon a neoliberal logic. While global trade has been central to human development both economically and socially, there is also a need for balance between the interests of capital and those of societies and environments. Our current era highlights the growing trade-offs between corporate profitability and shareholder value on the one hand and community and environmental well-being on the other. If we are to avert a crisis, we need to do more than place our faith in neoclassical economic theory.

#### Trade UNDERMINES interdependence, which causes war:

#### global trade removes bilateral interdependence

Irandoust 17 (Manuchehr Irandoust, Department of Economics and Finance, School of Business Studies, Kristianstad University, “Militarism and globalization: Is there an empirical link?” Quality and quantity, June 16, 2017, Springer Open Access)

[GLOB = globalization index, MIS = militarized spending]

The results of the bootstrap panel Granger causality test are shown in Table 2. The findings show that GLOB and MIS are causally related in most of the countries under review. There is a bi-directional causality in UK, US, Saudi Arabia, and Russia. The causality is unidirectional running from GLOB to MIS in Australia, Brazil, India, and China, and running from MIS to GLOB in Turkey. The degree of significance level varies from country to country. There is no any causal relationship between military spending and globalization in France, Italy, South Korea, Germany, and Japan. Overall, this evidence shows a relatively robust association between changes in globalization and changes in military expenditure. In other words, countries experiencing greater globalization have relatively large increases in militarization over the past 20 years.¶ However, it has been shown that globalization may not lead to more peaceful relations or demilitarization. As we discussed in Sect. 2, bilateral trade increases the opportunity cost of bilateral war and may hinder bilateral war. Globalization (equivalent to multilateral economic openness) reduces this opportunity cost with any given country and devitalize the incentive to make concessions during negotiations, and, therefore, increases the probability of war between any given pair of country. Thus, an increase in trade or openness between two countries may restore peace between those but may increase the probability of conflict with third countries.¶ 6 Conclusion¶ While previous studies mostly focused on the causal nexus between military expenditure and economic growth, those studies have not considered the role of globalization. This study uses data from the top 15 military expenditure spenders over the period 1990–2012 to examine the relationship between militarism and globalization. The bootstrap panel Granger causality that accounts for both cross-sectional dependence and heterogeneity across countries is utilized to detect the direction of causality. The results show that military expenditures and globalization are causally related in most of the countries under review. Despite the increasing role of globalization, the results show that military expenditures are growing and pointing to a strengthening in nationalist sentiments and militarism. This paper suggests that changes in domestic political and economic conditions might hinder the process of globalization. The results are consistent with those of Acemoglu and Yared (2010) who conclude that high military spending endangers globalization. This study also supports the results of Martin et al. (2008) who find that an increase in multilateral trade raises the chance of conflict between states. The policy implication of the findings is that greater military spending by a country increases the likelihood of military conflict in the future, the anticipation of which discourages globalization.

#### Turns every hotspot

**Klare 20** (Michael T. Klare, The Nation’s defense correspondent, is professor emeritus of peace and world-security studies at Hampshire College and senior visiting fellow at the Arms Control Association in Washington, D.C. Most recently, he is the author of All Hell Breaking Loose: The Pentagon’s Perspective on Climate Change. <KEN> "How Rising Temperatures Increase the Likelihood of Nuclear War," *The Nation*. January 2020. https://www.thenation.com/article/archive/nuclear-defense-climate-change/)

All things being equal, rising temperatures will increase the likelihood of nuclear war, largely because climate change will heighten the risk of social stress, the decay of nation-states, and armed violence in general, as I argue in my new book, All Hell Breaking Loose. As food and water supplies dwindle and governments come under ever-increasing pressure to meet the vital needs of their populations, disputes over critical resources are likely to become more heated and violent, whether the parties involved have nuclear arms or not. But this danger is compounded by the possibility that several nuclear-armed powers—notably India, Pakistan, and China—will break apart as a result of climate change and accompanying battles over disputed supplies of water.

Together, these three countries are projected by the UN Population Division to number approximately 3.4 billion people in 2050, or 34 percent of the world’s population. Yet they possess a much smaller share of the world’s freshwater supplies, and climate change is destined to reduce what they have even further. Warmer temperatures are also expected to diminish crop yields in these countries, adding to the desperation of farmers and very likely resulting in widespread ethnic strife and population displacement. Under these circumstances, climate-related internal turmoil would increase the risk of nuclear war in two ways: by enabling the capture of nuclear arms by rogue elements of the military and their possible use against perceived enemies and by inciting wars between these states over vital supplies of water and other critical resources.

The risk to Pakistan from climate change is thought to be particularly acute. A large part of the population is still engaged in agriculture, and much of the best land—along with access to water—is controlled by wealthy landowners (who also dominate national politics). Water scarcity and mismanagement is a perennial challenge, and climate change is bound to make the problem worse. Climate and Social Stress: Implications for Security Analysis, a 2013 report by the National Research Council for the US intelligence community, highlights the danger of chaos and conflict in that country as global warming advances. Pakistan, the report notes, is expected to suffer from inadequate water supplies during the dry season and severe flooding during the monsoon—outcomes that will devastate its agriculture and amplify the poverty and unrest already afflicting much of the country. “The Pakistan case,” the report reads, “illustrates how a highly stressed environmental system on which a tense society depends can be a source of political instability and how that source can intensify when climate events put increased stress on the system.” Thus, as global temperatures rise and agriculture declines, Pakistan could shatter along ethnic, class, and religious lines, precisely the scenario that might trigger the sort of intervention anticipated by the US Joint Special Operations Command.

Assuming that Pakistan remains intact, another great danger arising from increasing world temperatures is a conflict between it and India or between China and India over access to shared river systems. Whatever their differences, Pakistan and western India are forced by geography to share a single river system, the Indus, for much of their water requirements. Likewise, western China and eastern India also share a river, the Brahmaputra, for their vital water needs. The Indus and the Brahmaputra obtain much of their flow from periods of heavy precipitation; they also depend on meltwater from Himalayan glaciers, and these are at risk of melting because of rising temperatures. According to the IPCC, the Himalayan glaciers could lose as much as 29 percent of their total mass by 2035 and 78 percent by 2100. This would produce periodic flooding as the ice melts but would eventually result in long periods of negligible flow, with calamitous consequences for downstream agriculture. The widespread starvation and chaos that could result would prove daunting to all the governments involved and make any water-related disputes between them a potential flash point for escalation.

As in Pakistan, water supply has always played a pivotal role in the social and economic life of China and India, with both countries highly dependent on a few major river systems for civic and agricultural purposes. Excessive rainfall can lead to catastrophic flooding, and prolonged drought has often led to widespread famine and mass starvation. In such a setting, water management has always been a prime responsibility of government—and a failure to fulfill this function effectively has often resulted in civil unrest. Climate change is bound to increase this danger by causing prolonged water shortages interspersed with severe flooding. This has prompted leaders of both countries to build ever more dams on all key rivers.

India, as the upstream power on several tributaries of the Indus, and China, as the upstream power on the Brahmaputra, have considered damming these rivers and diverting their waters for exclusive national use, thereby diminishing the flow to downstream users. Three of the Indus’s principal tributaries, the Jhelum, Chenab, and Ravi rivers, flow through Indian-controlled Kashmir (now in total lockdown, with government forces suppressing all public functions). It’s possible that India seeks full control of Kashmir in order to dam the tributaries there and divert their waters from Pakistan—a move that could easily trigger a war if it occurs at a time of severe food and water stress and one that would very likely invite the use of nuclear weapons, given Pakistan’s attitude toward them.

The situation regarding the Brahmaputra could prove equally precarious. China has already installed one dam on the river, the Zangmu Dam in Tibet, and has announced plans for several more. Some Chinese hydrologists have proposed the construction of canals linking the Brahmaputra to more northerly rivers in China, allowing the diversion of its waters to drought-stricken areas of the heavily populated northeast. These plans have yet to come to fruition, but as global warming increases water scarcity across northern China, Beijing might proceed with the idea. “If China was determined to move forward with such a scheme,” the US National Intelligence Council warned in 2009, “it could become a major element in pushing China and India towards an adversarial rather than simply a competitive relationship.”

Severe water scarcity in northern China could prompt yet another move with nuclear implications: an attempted annexation by China of largely uninhabited but water-rich areas of Russian Siberia. Thousands of Chinese farmers and merchants have already taken up residence in eastern Siberia, and some commentators have spoken of a time when climate change prompts a formal Chinese takeover of those areas—which would almost certainly prompt fierce Russian resistance and the possible use of nuclear weapons.

In the Arctic, global warming is producing a wholly different sort of peril: geopolitical competition and conflict made possible by the melting of the polar ice cap. Before long, the Arctic ice cap is expected to disappear in summertime and to shrink noticeably in the winter, making the region more attractive for resource extraction. According to the US Geological Survey, an estimated 30 percent of the world’s remaining undiscovered natural gas is above the Arctic Circle; vast reserves of iron ore, uranium, and rare earth minerals are also thought to be buried there. These resources, along with the appeal of faster commercial shipping routes linking Europe and Asia, have induced all the major powers, including China, to establish or expand operations in the region. Russia has rehabilitated numerous Arctic bases abandoned after the Cold War and built others; the United States has done likewise, modernizing its radar installation at Thule in Greenland, reoccupying an airfield at Keflavík in Iceland, and establishing bases in northern Norway.

Increased economic and military competition in the Arctic has significant nuclear implications, as numerous weapons are deployed there and geography lends it a key role in many nuclear scenarios. Most of Russia’s missile-carrying submarines are based near Murmansk, on the Barents Sea (an offshoot of the Arctic Ocean), and many of its nuclear-armed bombers are also at bases in the region to take advantage of the short polar route to North America. As a counterweight, the Pentagon has deployed additional subs and antisubmarine aircraft near the Barents Sea and interceptor aircraft in Alaska, followed by further measures by Moscow. “I do not want to stoke any fears here,” Russian President Vladimir Putin declared in June 2017, “but experts are aware that US nuclear submarines remain on duty in northern Norway…. We must protect [Russia’s] shore accordingly.”

#### Turns case --- Interdependence makes catastrophic disease inevitable.

Morand & Walther 20, \*Serge Morand; PhD, disease ecologist @ Kasetsart University; \*\*Bruno A. Walther; DPhil, Taipei Medical University (4/20; “The accelerated infectious disease risk in the Anthropocene: more outbreaks and wider global spread”; pg. 3-4; Accessible at: <https://doi.org/10.1101/2020.04.20.049866>) \*”to” added to preserve grammatical integrity, brackets denote a change

We here want to draw attention to another important and noteworthy feature of the Anthropocene which greatly affects public health, human well-being, and economic performance. These findings are especially pertinent as the world reels from the health, social and economic impact of the current SARS-CoV-2 pandemic (El Zowalaty and Järhult, 2020; Ghebreyesus and Swaminathan, 2020; Lorusso et al., 2020). The increasing connectivity of human populations due to international trade and travel (Guimerà et al., 2005; Colizza et al., 2006; Brockmann and Helbing, 2013; Gabrielli et al., 2019), the rapid growth of the transport of wild and domesticated animals worldwide (Rosen and Smith, 2010; Schneider, 2012; Rohr et al., 2019; Levitt, 2020), and other factors such as the increasing encroachment of human populations on hitherto isolated wild animal populations through loss and fragmentation of wild habitats (Patz et al., 2004; Despommier et al., 2006; Pongsiri et al., 2009; Myers et al., 2013) have led to a great acceleration of infectious disease risks, e.g., the increase in emerging infectious diseases and drug-resistant microbes since 1940 (Jones et al., 2008) and the increase in the number of disease outbreaks since 1980 (Smith et al., 2014). To expand the previous analysis (Smith et al., 2014) to the beginning of the Anthropocene, we investigated whether the number of disease outbreaks has increased since the Second World War. In addition, we examined whether the global pattern of infectious disease outbreaks changed possibly due [to] the increasing connectivity of human populations. In other words, have the disease outbreaks become more globalized in the sense that these outbreaks are increasingly shared by countries worldwide? To investigate these questions, we used a the most complete, reliable, and up-to-date global dataset (GIDEON Informatics, 2020) which had already been used in the previous analysis (Smith et al., 2014). This dataset can be used to enumerated the recorded annual number of disease outbreaks. To investigate the changing global patterns of disease outbreaks, we used this dataset to calculate two measures which have been recently introduced into ecological and parasitological studies. These two measures, namely modularity and centrality, quantify the connectivity of bipartite networks. Modularity is defined as the extent to which nodes (specifically, sites and species for presenceabsence matrices) in a compartment are more likely to be connected to each other than to other nodes of the network (Thébault, 2013). The calculation of a modularity measure is useful for global phenomena because it allows the overall level of compartmentalization (or fragmentation) into compartments (or clusters, modules, subgroups, or subsets) of an entire dataset to be quantified. High modularity in a global network means that subgroups of countries and disease outbreaks interact more strongly among themselves (that is, within a compartment) than with the other subgroups (that is, among compartments) (Bordes et al., 2015). Centrality is defined as the degree of the connectedness of a node (e.g., a keystone species in ecological studies; Jordán, 2009; González et al., 2010). In the context of our study, centrality is the degree of the connectedness of a country and those countries connected to it. We estimated the countries which are the potential centres of disease outbreaks by investigating the eigenvector centrality of a given country in a network of countries which share disease outbreaks among each other. Eigenvector centrality is a generalization of degree centrality, which is the number of connections a country has to other countries in terms of sharing disease outbreaks. Eigenvector centrality considers countries to be highly central if the connected countries to them through shared outbreaks are connected to many other well-connected countries (Bonacich and Lloyd, 2001; Wells et al., 2020). Modularity and centrality analyses have been used to investigate various ecological, parasitological and epidemiological questions (e.g., Tylianakis et al., 2007; Jordán, 2009; González et al., 2010; Anderson and Sukhdeo, 2011; Bascompte and Jordano, 2014; Poisot et al., 2014; Bordes et al., 2015; Genrich et al., 2017). Using a widely used world dataset on infectious disease outbreaks, we here present results which demonstrate that the accelerated number of disease outbreaks and their increased global spread are two further threatening aspects of the accelerated infectious disease risk associated with the globalization process which characterizes the Anthropocene.

#### Trade causes deforestation.

Tetsuya and Shunsuke 11

Tsurumi Tetsuya (Nanzan University) and Managi Shunsuke (Tohuku University). “The Effect of Trade Openness on Deforestation: Empirical Analysis for 142 Countries.” December 30th, 2011. https://mpra.ub.uni-muenchen.de/35805/1/MPRA\_paper\_35805.pdf

Next, we consider the trade-induced composition effect. Table 5 shows that compared with the trade-induced scale-technique effect, the trade-induced composition effect is relatively large. In particular, we obtain relatively large elasticities for σ DTC . We are able to determine how an increase in trade intensity affects composition effects through both the KLE and the ERE by evaluating the sign of σ DTC , which is negative for OECD but positive for non-OECD countries. In the case of pollutants such as sulfur dioxide, with increases in trade intensity, a country that has a comparative advantage in capital-intensive products (i.e., pollution-intensive products) is likely to increase its 21 emissions by specializing more in these products (see Managi et al., 2009). However, in the case of the forest industry, a country that is labor-intensive is likely to have a comparative advantage, and thus, with trade intensity increased, **developing countries seem to accelerate deforestation by specializing more in such products** (i.e., the KLE). At the same time, developing countries have relatively lax environmental policies (i.e., the ERE), which seems to explain why the signs of σ DTC for non-OECD countries are positive. In the same manner, we can interpret the signs of σ DTC for OECD countries.13 Because the trade-induced composition effects dominate the trade-induced scale-technique effects for all cases in Table 5, the obtained signs of the overall trade-induced elasticities are all the same as those of trade-induced composition effects. 5.2 Robustness check We have obtained **statistically significant results** concerning trade, a finding that is inconsistent with previous studies. To check the robustness of our results, we apply semi-parametric analysis. In this study, we use generalized additive models (see Hastie 13 Because the sample averages of RS and RKL are larger than 1 in OECD countries and are less than 1 in non-OECD countries, we see that developed countries have a comparative advantage in capital-intensive production and enforce relatively strict environmental policies. Meanwhile, developing countries have a comparative advantage in labor-intensive production and have relatively lax environmental policies. 22 and Tibshirani, 1990). We use a cubic spline smoothing14 iteratively to minimize the partial residuals, which are the residuals after removing the influence of the other variables in the model. In this model, a Bayesian approach is used to derive standard errors and confidence intervals.15 The model is as follows: it it 4 1 2 3 4 4 4 ( ) / (( ) ) ( ) it i t it it D c f predicted S f K L f predicted T = + + + + + + µ ν ε , (12) where it predicted S denotes predicted values of GDP per capita (constructed using equation (2)), and Tit predicted denotes predicted values of Trade openness (constructed from the gravity equation). We use predicted values to consider simultaneous problems. f (⋅) are generic flexible functional forms that allow potentially non-linear non-monotonic relationships.16 µi is the country fixed effect, ν t is the time fixed effect, and it ε is the error term.17 Table 6 shows the results of the model fit test. We find that all terms are statistically significant. Fig. 2 shows the predicted contributions to the dependent 14 When we used the loess function in place of the cubic spline function, the results were almost the same. 15 Our estimation technique follows Wood (2004, 2008). 16 We use the normal distribution for estimation. The link function is the identity. 17 We include country dummy and year dummy to take into consideration individual and time fixed effects. 23 variable from each of the independent variables. As a result, the estimated slope of the predicted trade openness has an increasing trend. This suggests that deforestation tends to occur with increasing trade openness. Next, although the confidence interval is large, the slope of capital-labor ratio tends to be negative. This trend also corresponds to our parametric estimation results, supporting our hypothesis that the forest industry tends to be labor-intensive. Finally, we find a positive slope for GDP per capita, although the confidence interval is large. This trend also corresponds to our parametric estimation results for the scale-technique effect. 6.

#### Extinction.

Dominik Goldstein 16, “Eliminating deforestation and forest degradation in order to prevent species from extinction, especially with regard to areas in Asia, Africa and South America,” <http://www.balmun.de/fileadmin/2016/Research_Reports/RR_EC_I_Deforestation.pdf>

Deforestation and forest degradation are undoubtedly part of the largest environmental problems our world is facing today. Of the 16 million square kilometers of forest that once covered the earth’s surface, only 6.2 million remain up to date. 2.3 million have been destroyed between 2000 and 2012 alone. Not only does this threaten the balance of local important environmental factors such as water cycles and greenhouse gas decomposition and harm the economy and society of affected areas, but it also endangers many different species, as 80% of all biodiversity is found in forests. The entire planet and its population rely on the fate of forests, it is vital that the issues of deforestation and forest degradation are tackled thoroughly, however, it can only be achieved through close cooperation amongst all UN member nations.

## 2NC --- Advantage 1

### 2NC --- No disease

#### Their evidence assumes a level of virulence that has literally never occurred

Wendy Orent 15, anthropologist and freelance science writer whose work has appeared in The Washington Post, The LA Times, The New Republic, Discover, and The American Prospect, instructor in science journalism @ Emory, Ignore predictions of lethal pandemics and pay attention to what really matters, LA Times, 1/3/15, http://www.latimes.com/opinion/op-ed/la-oe-orent-pandemic-hysteria-20150104-story.html

Prophets of doom have been telling us for decades that a deadly new pandemic — of bird flu, of SARS or MERS coronavirus, and now of Ebola — is on its way. Why are we still listening? If you look back at the furor raised at many distinguished publications — Nature, Science, Scientific American, National Geographic — back in, say, 2005, about a potential bird flu (H5N1) pandemic, you wonder what planet they were on. Nature ran a special section titled — “Avian flu: Are we ready?” — that began, ominously, with the words “Trouble is brewing in the East” and went on to present a mock aftermath report detailing catastrophic civil breakdown. Robert Webster, a famous influenza virologist, told ABC News in 2006 that “society just can't accept the idea that 50% of the population could die. And I think we have to face that possibility.” Public health expert Michael T. Osterholm of the University of Minnesota, at a meeting in Washington of scientists brought together by the Institute of Medicine, warned in 2005 that a post-pandemic commission, like the post-9/11 commission, could hold “many scientists … accountable to that commission for what we did or didn't do to prevent a pandemic.” He also predicted that we could be facing “three years of a given hell” as the world struggled to right itself after the deadly pandemic. And Laurie Garrett, author of what must be the urtext for pandemic predictions, her 1994 book “The Coming Plague,” intoned in Foreign Affairs that “in short, doom may loom.” Although she followed that with “But note the may,” the article went on to paint a terrifying picture of the avian flu threat nonetheless. And such hysteria still goes on: Whether it's over the MERS coronavirus, a whole alphabet of chicken flu viruses, a real but not very deadly influenza pandemic in 2009, or a kerfuffle like the one in 2012 over a scientist-crafted ferret flu that also was supposed to be a pandemic threat. Along the way, virologist Nathan Wolfe published “The Viral Storm: the Dawn of a New Pandemic Age,” and David Quammen warned in his gripping “Spillover” that some new animal plague could arise from the jungle and sweep across the world. And now there's Ebola. Osterholm, in a widely read op-ed in the New York Times in September, wrote about the possibility that scientists were afraid to mention publicly the danger they discuss privately: that Ebola “could mutate to become transmissible through the air.” “The Ebola epidemic in West Africa has the potential to alter history as much as any plague has ever done,” he wrote. And Garrett wrote in Foreign Policy, “Attention, World: You just don't get it.” She went on to say, “Wake up, fools,” because we should be more frightened of a potential scenario like the one in the movie “Contagion,” in which a lethal, fictitious pandemic scours the world, nearly destroying civilization. But there were fewer takers this time. Osterholm's claims about Ebola going airborne were discounted by serious scientists, and Garrett seemingly retracted her earlier hysteria about Ebola by claiming that, after all, evolution made such spread unlikely. The scientific world has changed since 2005. Now, most scientists understand that there are significant physical and evolutionary barriers to a blood- and fluid-borne virus developing airborne transmission, as Garrett has acknowledged. Though Ebola virus has been detected in human alveolar cells, as Vincent Racaniello, virologist at Columbia University, explained to me, that doesn't mean it can replicate in the airways enough to allow transmission. “Maybe … the virus can get in, but can't get out. Like a roach motel,” wrote Racaniello in an email. H5N1, we understand now, never went airborne because it attached only to cell receptors located deep in human lungs, and could not, therefore, be coughed or sneezed out. SARS, or severe acute respiratory syndrome, caused local outbreaks after multiple introductions via air travel but spread only sluggishly and mostly in hospitals. Breaking its chains of transmission ended the outbreak globally. There probably will always be significant barriers preventing the easy adaptation of an animal disease to the human species. Furthermore, Racaniello insists that there are no recorded instances of viruses that have adapted to humans, changing the way they are spread. So we need to stop listening to the doomsayers, and we need to do it now. Predictions of lethal pandemics have — since the swine flu fiasco of 1976, when President Ford vowed to vaccinate “every man, woman and child in the United States” — always been wrong. Fear-mongering wastes our time and our emotions and diverts resources from where they should be directed — in the case of Ebola, to the ongoing tragedy in West Africa. Americans have all but forgotten about Ebola now, because most people realize it isn't coming to a school or a shopping mall near you. But Sierra Leoneans and Liberians go on dying.

## 2NC --- Advantage 2

### 2NC --- No AI !

#### no impact to ai – consensus

Baum 15 Seth D., executive director of the Global Catastrophic Risk Institute and Research Scientist @ the Blue Marble Space Institute of Science and an Affiliate Researcher @ the Columbia University Center for Research on Environmental Decisions, *Environment, Systems, and Decisions*, May 4th, “Risk and Resilience For Unknown, Unquantifiable, Systemic, and Unlikely/Catastrophic Threats,” http://sethbaum.com/ac/2015\_RiskResilience.pdf

3.2 More Examples: AI and Extraterrestrials∂ Two ongoing threats that come closer to being actually unknown are AI and extraterrestrials, or∂ rather certain AI and extraterrestrials scenarios. For AI, the relevant scenarios are those in which∂ a potential future “superintelligent” AI outsmarts humanity and takes over the world (Good∂ 1965; Eden et al. 2013; Bostrom 2014). Similarly, for extraterrestrials, the relevant scenarios are∂ those in which humanity encounters extraterrestrials that are more powerful than itself, and the∂ extraterrestrials take over the world (Michaud 2007; Baum et al. 2011a). Both scenarios are∂ somewhat speculative, which makes them good examples of relatively unknown threats.∂ For both scenarios, increasing resilience is of little use. If humanity loses control of the∂ planet, then traditional means of increasing resilience—such as creating redundant networks,∂ stockpiling resources, or planning to adapt and recover—do not help humanity retain its critical∂ functionality. This holds for any reasonable definition of humanity’s critical functionality:∂ humanity’s population, its civilization, and even its very existence are all threatened. The∂ situation here is much like the situation of those many species on Earth now extinct due to their∂ encounter with the vastly more powerful human species, or the situation of those species that∂ would now be extinct except that humanity chose to keep them alive. For all such species,∂ resilience does not help. So too for humanity in the face of vastly more powerful AI or∂ extraterrestrials.∂ Both threats are poorly known, even if they are not completely unknown. At this time, it is∂ not known whether it is possible to build such an AI, let alone which AI will be built and what∂ that AI would be like. Some leading AI researchers express skepticism that such AI is possible∂ (e.g., Horvitz and Selman 2009). Expert surveys indicate widely varying and conflicting∂ 4∂ projections about if and when such an AI would occur, and what the consequences would be∂ (Baum et al. 2011b; Armstrong and Sotala 2012; Müller and Bostrom forthcoming). The threat∂ of extraterrestrials may be even less well known. It is not known whether extraterrestrials exist,∂ or, if they do exist, whether it is possible for humanity to encounter them. It is likewise not∂ known which extraterrestrials humanity would encounter and what those extraterrestrials would∂ be like. All that is known is that no extraterrestrial encounter has previously occurred. Many∂ explanations have been proposed for why no extraterrestrial encounter has previously occurred,∂ the so-called Fermi paradox (Webb 2002). Likewise, speculations abound on what would happen∂ if an extraterrestrial encounter occurs, though there is limited basis for assessing which of these∂ are most likely (Michaud 2007; Baum et al. 2011a).∂ The examples of AI and extraterrestrials are threats that are relatively unknown, yet they may∂ not warrant a response of increasing resilience. Instead, the only viable response is to decrease∂ the probability of the threat manifesting. For AI, this can be done by abstaining from building∂ potentially dangerous types of AI (Joy 2000) or by seeking to build AIs that would not harm∂ humanity (Yudkowsky 2011). For extraterrestrials, this can be done by abstaining from∂ transmitting messages towards parts of the galaxy likely to house extraterrestrials (Brin undated;∂ Haqq-Misra et al. 2013) or, eventually, by abstaining from traveling around outer space. These∂ various response options would all decrease the risk from these relatively unknown threats, even∂ though they do not increase resilience.

# 1NR

### 2NC --- AT: PDB

#### The perm makes taxes and prohibitions co-dependent, denying a special status for regulatory taxation.

Kobylnik ’21 [Dmytro; January 4; PhD in Law, Associate Professor, Associate Professor of the Department of Financial Law of Yaroslav Mudryi National Law University; Law and Innovative Society, “The Impact of Tax Policy on the Implementation of the Regulatory Function of Tax Law,” <http://apir.org.ua/en/archives/1425>, translated via Google Translate]

Conclusions and prospects for the development. As we have shown, tax policy has its own meaning, it is organically linked to tax law, which by implementing the regulatory function implements the vectors indicated by the policy. Given the profound transformation of public relations that has taken place in our country in recent years, tax policy should be given a special role as a strong foundation for ensuring the effectiveness of tax and legal regulation.

Formulation of the problem. The social value, role and purpose of tax law are revealed in its functions as the main directions of its impact on public life. At the same time, the value potential of law is revealed by both general social and special legal functions. Scientists in the first group of functions through which law in general, and tax law in particular, influence the public consciousness, forming values, creating a certain dimension of social interaction, in which possible, appropriate and forbidden find their clear delineation in human actions, include the following : humanistic, organizational / organizational-managerial, epistemological / cognitive, informational / communicative, educational, orienting, evaluative / evaluative, security, economic, political, cultural [17, p. 32, 33]. As for the special legal functions of law, they usually include regulatory and protective. However, in their system, the prominent, defining place of these sciences give a regulatory function. So it is no coincidence that OS Emelyanov argues, reflecting on the functions of financial law, as follows: "expressed financial law in the form of regulations or financial planning acts, implemented in absolute or relative legal relations, or seeks to determine the legal status of participants in financial relations - in all these forms social purpose - to regulate public relations in the field of public finance "[1, p. 32]. The scientist sees specific features of this function, first of all, in the establishment of positive rules of conduct, organization of social relations, coordination of social relationships in the process of redistribution of social wealth [1,

p. 33]. At the same time, it is obvious that the implementation of the regulatory function of law is influenced by a number of factors, among which tax policy is important. Therefore, the purpose of the article is to characterize the impact of tax policy on the implementation of the regulatory function of tax law.

Analysis of recent research. Note that the question of the functions of tax law, tax policy and their interaction is not entirely new to the science of tax law, because to some extent resorted to their consideration OS Emelyanov, AA Kovalenko, MP Kucheryavenko, Yu. L. Smirnikov, VV Chaika and others. However, at present it cannot be said that they have received a proper scientific analysis, as the financial scientists did not resort to a comprehensive examination of them, but conducted fragmentary research. Thus, the purpose of the article is to consider the impact of tax policy on the implementation of the regulatory function of tax law.

Presenting main material. In the scientific literature it is noted that the content of the regulatory function of law is revealed through the separation of two aspects: static (establishment of legal norms) and dynamic (implementation of legal norms). In this regard, TM Radko argues that the regulatory function of law includes two components: regulatory-static function or the function of consolidation, stabilization of social relations and regulatory-dynamic, through which the law determines the future behavior of people [16, p. 31]. Other scientists say the same. Thus, Yu. L. Smirnikov notes that the regulatory function of financial law includes regulatory static and regulatory-dynamic subfunctions. Delimitation between them is due to the manifestation of two patterns of development of law - reflection in law and legal anticipatory reflection. From these positions, the regulatory-static function of financial law is manifested in the ability of financial law to reflect the essential properties of financial relations and to organize public relations in a particular period, which is expressed in the content of financial law. The regulatory and dynamic function of financial law provides an opportunity to predict the need for financial and legal influence on public relations, their transformation through public financial activities to ensure the public interest, finding the most effective means of legal influence based on monitoring financial legislation and its impact on society no relationship [18, p. 24].

As we can see, scholars characterizing the regulatory function of law emphasize the establishment of legal norms and the way of detecting the activity of law, calling the first aspect dynamic, and the second - static. At the same time, in our opinion, it is not entirely correct to call the corresponding phenomenon static or dynamic. First, the establishment of the rules of tax law, I and any law, is not a static phenomenon. Second, tax relationships, like any legal relationship, are hardly static in nature, but rather dynamic. They do not exist in statics as such, but are constantly in a certain motion, when in the presence of certain circumstances they arise, change and cease. Therefore, such a characteristic of the regulatory function is hardly logical.

However, there is no doubt that in any case, the tax law is able and intended precisely to regulate tax relations. "By enshrining in the sources of law the limits of the desired and permissible conduct for all subjects of law, grounds and types for the application of coercive measures to those of them that go beyond certain limits, the law (compared to other types of social norms) most effectively regulates social relations, giving them such features as organization, predictability, predictability, which ensures their stability and at the same time lays the foundation for development. This ultimately means awareness of its positive role for the individual, society, humanity in general [17, p. 32, 33].

The establishment of the norm of tax law is the most important kind of manifestation of the essence of tax law as a regulator of public relations. As VI Shcherbyna notes, the establishment of the rule of law is the definition of its content, the definition of real, adequate to social relations content of the rules of law as a guarantee of the viability of law [20, p. 55]. At the same time, the effective implementation of the considered function is possible under the condition of logical, consistent formulation of the prescriptions of tax and legal norms, which will ensure their effective implementation. Therefore, it is important to properly determine the content of the tax law, which largely depends on the tax policy that is implemented in the state. State tax policy is defined differently by scholars. For example, the activity of the state in the field of establishment, legal regulation and organization of collection of taxes and tax payments to the centralized funds of state resources [5], or systemic activities of public authorities and local governments to create and improve an effective mechanism for taxation. legal regulation aimed at mobilizing funds to public centralized funds to finance public expenditures and tasks and functions of the state, as well as based on balancing public and private tax interest [19, p. 85]. The state's tax policy covers the content of ideological, theoretical and activity-practical aspects of state management of the processes of functioning, improvement and development of the tax system of Ukraine. As a phenomenon of ideological and theoretical plan, it is a system of conceptually conscious ideas, goals, objectives, principles, programs that express the official position of the state on key issues of tax regulation and is the ideological and theoretical basis of tax activity in the state (tax policy in statics) . At the same time, tax policy is the activity of state and non-state institutions, citizens, which consists in developing, adjusting and implementing state legal strategy (tactics) in the field of tax regulation, creating conditions that ensure the state of legal protection of tax law subjects (tax politics in dynamics) [19, p. 86]. It is characteristic that scientists consider tax legislation to be the main, but not the only form of tax policy implementation [3, p. 57; 19, p. 90]. Therefore, we can talk about the corresponding dialectical dependence of tax and legal regulation and tax policy. This is manifested in two areas: (1) through the definition of the purpose, objectives, results of tax policy outlines the direction of regulation of tax relations, its subject, limits and methods, which establishes rules of conduct for taxpayers, ie the impact on lawmaking activities in the field of taxation, implementation of the regulatory function of tax law; (2) by determining the quality, effectiveness of tax legislation, assesses whether the tax policy has been fully implemented. This approach allows us to see deviations from the desired model of the tax system; establish the level of implementation of those provisions that you know strategically; identify shortcomings in both tax law and tax policy in general; to develop new approaches to ensuring the sustainable and efficient functioning of the state tax system.

Ensuring the formation and implementation of a unified state tax policy in our country is entrusted to the Ministry of Finance of Ukraine (paragraph 1 of the Regulation on the Ministry of Finance of Ukraine, approved by the Cabinet of Ministers of Ukraine dated August 20, 2014 № 375 [12]), as well as State Tax Service of Ukraine (paragraph 1 of the Regulation on the State Tax Service of Ukraine, approved by the resolution of the Cabinet of Ministers of Ukraine of March 6, 2019 № 227 [13]). The main tasks and directions of tax policy are defined in the Strategy for Reforming the Public Financial Management System for 2017-2020, which was approved by the order of the Cabinet of Ministers of Ukraine of February 8. 2017 № 142-r, which include: improving the quality and efficiency of administration of taxes and fees and the level of compliance with tax legislation; strengthening control over fiscal risks and implementing measures to minimize them, in particular with regard to state-owned enterprises, state guarantees and other contingent debt obligations, etc. [15].

Scholars rightly point out that the main contradiction of tax policy is to find a compromise between economic efficiency and social justice, the content of which long before the clear mathematical proofs of modern optimal taxation theory was formulated in the well-known aphorism of Jean-Baptiste Colbert: "Taxation goose so as to obtain the maximum number of feathers with a minimum of hissing. In modern scientific discourse, this contradiction should answer the question: what exactly should be formed tax system in terms of its composition of different taxes and elements of each individual tax, so that it provides funding for social needs and is the least harmful to economic growth [4, with. 7]. And in this context there are many problems, because on the agenda there are a number of issues, both regarding the establishment of a set of taxes and fees, their specific legal mechanisms, and control over the collection of taxes and fees, the powers of the tax administration and meetings, etc.

For example, let's look at a few aspects. Thus, one of the tasks in the Strategy for Reforming the Public Financial Management System for 2017–2020 is to increase the stability and predictability of the tax system. It is further noted that the Ministry of Finance will develop a Strategy for the development of the tax system in the medium term, which should be consistent with the strategy of economic development, reform of the budget process and the pension system. The control over the observance of the requirement to provide compensators of tax revenues or reduction of state budget expenditures in case of reduction of such revenues due to amendments to the tax legislation will be strengthened, as well as to ensure that changes to any elements of taxes and fees are not made later than six months before the start of the new budget period [15]. Taking into account the outlined direction of tax policy, this task should be implemented in tax and legal regulation. However, did it really happen? The answer is obvious, as at the end of 2020 the Strategy for the development of the tax system in the medium term has not been developed and approved. However, the report on the implementation of the action plan for the implementation of the Strategy for reforming the public financial management system for 2017–2020, approved by the order of the Cabinet of Ministers of Ukraine dated 24.05.2017 № 415-r, states that this aspect has been implemented [2]. The development of the mission and strategic goals of the State Tax Service until 2022, which was approved on December 10, can be attributed to the fulfillment of this task with a certain conditionality. 2019 by order № 205 of the State Tax Service of Ukraine [11]. However, as you can see, these are all such different regulations. As a result, we get unsystematic, frequent changes in tax legislation, because it is unlikely that a logical transformation of tax legislation can be achieved without a clear strategy, which indicates the state's chosen course for the future, aimed at solving tax issues. Therefore, the implementation of tax policy in this context has a negative impact on the implementation of the regulatory function of tax law.

#### 2. REDUNDANCE---overlapping prohibitions and taxes will be uncoordinated and duplicative.

Logue ’10 [Kyle; June 2010; Wade H. McCree Jr. Collegiate Professor of Law at the University of Michigan Law School, JD from Yale Law School, BA from Auburn University; Cardozo Law Review, “Coordinating Sanctions in Tort,” vol. 31]

Take the quintessential example of a negative externality - some activity that spews CO<2> into the atmosphere thereby contributing to the global problem of climate change. If a fully cost-internalizing Pigovian tax (say, a carbon-based tax of the sort that many commentators have recently proposed) were imposed on domestic companies by the U.S. government, there obviously need not (and, from an efficiency perspective, should not) be a state-level carbon-based tax on the same polluters for the same carbon emissions. Nor should there be any overlapping command-and-control regulations or any other sort of regulation (including tort liability) designed to regulate the same conduct. It - the external harm caused by CO<2> emission - has, by assumption, already been fully regulated. Redundant regulation represents unnecessary administrative costs and potentially excessive deterrence. The same analysis can be applied to torts. Consider automobile accidents or product-related injuries or medical malpractice harms. All are potentially affected, at least in theory, by the same problem of overlapping, uncoordinated, and thus possibly redundant sanctions; this means either over-deterrence or duplicative and therefore excessive administrative costs, or both. Again, the literature has largely neglected this subject. 7

#### Negative effects of the interaction will be blamed on taxes---that prevents mainstreaming.

Sorrell ‘5 [Steven and Jos Sijm; April 15; Professor of Energy Policy in the Science Policy Research Unit at the Centre on Innovation and Energy Demand, PhD from the University of Exeter; Ph.D., Netherlands Organisation for Applied Scientific Research; ECN-RX-05-130 Technical Report, “Carbon Trading in the Policy Mix,” https://www.osti.gov/etdeweb/biblio/20767429]

The interactions summarized in Table 1 lead to a series of examples of double regulation and double counting (Sorrell, 2003c). Unless resolved, these interactions could lead to substantial economic impacts for the affected groups, and/or threaten the overall environmental integrity of the policy mix. For example:

* organizations eligible for the energy tax will also face electricity price increases as a consequence of the generators participating in the EU ETS. Under a number of simplifying assumptions, 8 an EU ETS allowance price of €€7/ tCO2 could increase average electricity prices by some 0.7c€€ /kWh, which is approximately equivalent to the current level of the tax.
* the UK trading scheme allows a project to be awarded carbon credits for improving downstream electricity efficiency. But this action also ‘frees up’ allowances held by the electricity generators participating in the EU ETS. If the project credits are subsequently traded into the EU ETS, the cap will be breached and the environmental integrity of the scheme will be undermined.

To avoid these problems, the existing UK policy mix will need to be rationalized. But such changes are likely to create administrative costs for both government and industry. They are also likely to encounter resistance from a range of sources—particularly since none of the above instruments is more than 3 years old.

In the UK, as elsewhere, policy instruments resist replacement even when a more viable alternative is available. This inertia may derive from a number of sources. For example: a legislative framework will have been established which may be difficult to change; regulatory institutions will have been established, or responsibilities assigned to existing institutions; procedures and standards will have been established for functions such as monitoring, reporting, and verification; a network of private organizations will have become involved in implementation; and the target groups themselves will have invested substantial time and money in gaining familiarity with the policy instruments and putting the appropriate procedures in place. All these activities are separate from investment in abatement, but each will cultivate vested interests and encourage resistance to change. As a result, there is a strong possibility that many of these instruments will continue after the ETS has been introduced, whether or not this is helpful to overall government objectives. In the case of the UK, the government is reviewing the policy mix in the light of the EU ETS and is anticipated to make some small changes—such as exempting EU ETS participants from a portion of the energy tax. But a major overhaul of the policy mix does not appear likely, at least not before 2008. This means that policy interaction could have a determinate impact on the success of the EU ETS in the UK.

V. Summary and Conclusions

Policy interaction has been neglected within the economics literature, but is of central importance in determining the success of individual instruments and of the overall policy mix. This is particularly true within climate policy, where the introduction of a carbon ETS into an already overcrowded ‘policy space’ poses a particularly difficult challenge. In theory, cap-and-trade schemes should provide assurance of meeting an overall emissions target at least cost. It follows that, if we assume a perfect economy with no market failures, any instruments which directly or indirectly interact with a carbon ETS will raise overall abatement costs while providing no additional contribution to emission reductions. Hence, once a cap is in place, the rationale for introducing or retaining such instruments must rely upon either their contribution to overcoming market failures other than carbon externalities, or in delivering social objectives other than efficiency. Their contribution to emission reductions can no longer form part of their rationale.

#### 3. CONFUSION---it nukes solvency AND the effectiveness of later tax application.

Tickell ’11 [Oliver; 2011; Editor of The Ecologist, Campaigner on Health and Environment Issues; Kyoto 2: How to Manage the Global Greenhouse, Google Books]

This complex mix of taxes, levies, obligations and subsidies sends out confused signals, creates unintended interactions and opportunities for double or treble counting. In particular no consistent ‘carbon price’ emerges, and the carbon prices reflected by these different mechanisms cover a wide range, between £216/tC02 for fuel duty (on the admittedly unsustainable assumption that 100 per cent of the fuel duty reflects climate change costs) and around £100/tCO2 for the Renewables Obligation, down to -£50/tCO2 (that is, a £50 ‘carbon subsidy’) through the reduced rate of VAT on domestic fuel and electricity.

As Steven Sorrell and Jos Slim comment,

The complex, elaborate and interdependent mix of climate policies developed in the UK provides a particularly rich example of the challenges to be faced. [...] The net result may be a mix of overlapping, interacting, and conflicting instruments which lack any overall coherence. In short, a policy mix may easily become a policy mess.70

### 2NC --- AT: PDCP

#### ‘Prohibitions’ are an edict that forbids by law.

Mueller ’15 [Kimberly; February 25; Judge on the United States District Court California Eastern District; United States District Court for the Eastern District of California, “Peña v. Lindley,” Lexis]

The law does not, however, "prohibit[] the commercial sale of firearms." Marzzarella, 614 F.3d at 92 n.8; see also United States v. Barton, 633 F.3d 168, 175 (3d Cir. 2011) (noting Heller's distinction between "regulations" and "prohibitions"). Whereas the "imposi[tion] of conditions and qualifications on the commercial sale of arms" is "presumptively lawful," Heller, 554 U.S. at 627 n.26, the prohibition of commercial sale "would be untenable," Marzzarella, 614 F.3d at 92 n.8, because it would "effect[] a 'destruction of the [Second Amendment] right,'" Peruta, 742 F.3d at 1168 (quoting Heller, 554 U.S. at 629) (emphasis in original). As opposed to "conditions and qualifications," Heller, 554 U.S. at 627, "[a] 'prohibition' does more than merely alter or restrain a person's behavior; it is an edict, decree, or order which forbids, prevents, or excludes," Barton, 633 F.3d at 175 (internal quotation marks omitted); see also Jackson, 746 F.3d at 964 ("[A] ban is not merely regulatory; it prohibits . . . ." (internal quotation marks omitted, emphasis in original)). Thus, categorical prohibitions "go too far." Peruta, 742 F.3d at 1170. In Heller, for example, the Court invalidated the contested law, without subjecting it to constitutional scrutiny, because it was a "complete ban on handguns in the home . . . ." Id. at 1170 (citing Heller, 554 U.S. at 629). Similarly, in Peruta, the court summarily struck down the law in question because it was a "near-total prohibition on keeping [arms] . . . ." Id. In Silvester v. Harris, the subject of plaintiffs' second notice of supplemental authority, a fellow district judge found a ten-day waiting period to purchase a firearm an unconstitutional burden on the rights of those who already owned [\*34] firearms. 41 F. Supp. 3d 927, 2014 U.S. Dist. LEXIS 118284, 2014 WL 4209563, at \*28 (E.D. Cal. Aug. 25, 2014) (discussing longstanding presumptively lawful regulations as discussed in Heller, finding that waiting periods do not qualify, but noting laws "prohibiting the sale of certain types of firearms" may qualify).

#### Tax-based penalties are not a ‘prohibition.’

Gruodis ’16 [Povilas; June 3; Ph.D. and Lecturer at Vilnius University Faculty of Law, Attorney, JD in Law from Vilnius University; Social Transformations in Contemporary Society 2016, “Regulatory Function of the Tax Law: Methodological Origins and Specific Features,” ISSN: 2424-5631]

Abstract

It is common to think that the primary function of the tax law are fiscal which means that tax laws should be effective to collect budgetary income. Modern economics and modern tax law admit that tax law also has regulatory function which can be effectively used to regulate behavior. Every tax norm has strong regulatory impact which cannot be omitted. The regulatory function of the tax law is completely independent and cannot be originated from the fiscal function of the tax law. Tax laws can be very effective regulator and the fiscal function of the tax law is completely unnecessary for regulative purposes. The regulatory function and the regulatory impact of the tax norms are completely different from the regulatory function and regulatory impact of traditional “command and control” legal norms. In this research author analyzes the methodological origins and specific features of the regulatory function and the regulatory impact of the tax norms. As it is opposite to traditional “command and control” legal norms, tax norms can regulate behavior without setting any prohibitions or restrictions to taxpayers. That means that the regulatory function of the tax law are based on specific economically based self regulation mechanism which can be even more effective than traditional legal regulation based on sanctions and restrictions.

#### It's a disincentive but leaves the proscribed activity unprohibited.

Dagan ‘9 [Tsilly; Summer 2009; Faculty of Law at Bar Ilan University, LLM in Taxation from the New York University School of Law, LLB and JD from Tel Aviv University; Virginia Tax Review, “Itemizing Personhood,” vol. 29]

Tax liability produces powerful economic disincentives, which, in turn, entail behavioral consequences. If only commodified transactions are taxed whereas noncommodified activities go untaxed, people will have a marginal preference for the latter. Hence, perhaps paradoxically, tax law can provide an economic incentive for noncommodified activities by not taxing them. Likewise, tax law can create a disincentive for nonmarket activities by taxing them or disallowing expenses associated with them. Since taxation can encourage or discourage nonmarket activities, it can serve as a possible tool in any informed effort to commodify or decommodify certain aspects of our lives.

Unlike the "all or nothing approach" of either allowing or prohibiting exchanges, tax offers a more refined and sensitive tool for regulating commodification. Taxing only market goods, for example, affects commodification by making the relative price of market goods higher than the "price" 32 of the nonmarket benefits. Thus, tax adds a unique form of regulation - tinkering with market prices - to Radin's suggestions as to the various ways in which we might consider commodification a matter of degree. 33 Incentives and disincentives can also be generated by taking into account actual expenses that are paid to support noncommodified attributes (such as housing, childcare, and contributions to charitable associations). In other words, despite the fact that tax is well-anchored in the market realm (or, perhaps, due to this fact), the wide array of tax techniques can be used to create incentives for noncommodified interactions.

### 2NC --- AT: Intrinsic Perm

#### Specificity----the appeal of taxes cannot be proven in the abstract.

Raskolnikov ’13 [Alex; March 2013; Charles Evans Gerber Professor of Law, Columbia Law School; Cornell Law Review, “Accepting the Limits of Tax Law and Economics,” vol. 98]

The major appeal of this approach is quite obvious: in contrast with the standard optimal income tax theory, the details of the actual tax law and tax enforcement are very much in the picture. 111 If we can determine what should be a deductible business expense or a tax-free fringe benefit using Kaplow's method, we can evaluate any other tax rule as well. The same is true of the structure and magnitude of sanctions.

Yet Kaplow's approach is unlikely to help in evaluating the efficiency of actual tax provisions, let alone in reforming them with the aim of achieving the welfare-maximizing regime. The main problems are its level of generality, its information demands, and its indeterminacy.

Kaplow's approach, no doubt, is entirely consistent with welfare economics. In fact, economic analysis of any area of the law may be performed in the same way. Should a particular regulatory regime be strict liability or threshold-based? Should sanctions depend on acts or harms? Should there be something like the RCRA for managing hazardous waste and, if so, should it have the physical barrier requirement described above? To answer each question, we can plug the alternative specifications into the preferred SWF and choose the regime with the higher value. The entire law and economics enterprise may be supplanted by this approach.

The reason this has not happened is obvious: articulating more specific prescriptions has a very strong appeal. Legislators, judges, and administrators may understand the concept of externalities and transaction costs and even have intuitions about their likely magnitude in a particular setting. These policymakers may be fairly confident that in some situations an act-based regime is preferable to a harm-based regime because, for instance, many offenders will be judgment proof if the latter system is chosen. 112 Regulators may even have a reasonably good grasp of the tradeoffs involved in the basic cost-benefit analysis. But no decisionmaker would be moved by an appeal to resolve legal and policy questions by comparing the values of social welfare functions. 113

### 2NC --- AT: S/D --- Taxes Fail

#### It can be tailored to specific practices AND solves by forcing companies to internalize the costs of lost competition.

Lemley ’21 [Mark and Andrew McCreary; January 2021; William H. Neukom Professor of Law and Stanford Law School, Partner at Durie Tangri LLP; J.D./M.B.A. Candidate, Stanford Law School and Stanford Graduate School of Business; Boston University Law Review, “Exit Strategy,” vol. 101]

1. Tax Transactions

One way to discourage anticompetitive mergers and to encourage companies to continue operating is to vary the tax treatment of those two options. 359

Right now, liquidity events are generally not taxed directly. When companies go public, they generate enormous amounts of money by selling stock, and that influx of cash isn't taxed at all. 360That might make sense; we want people to create and fund public companies. The same thing happens when companies merge. They usually do so by exchanging stock, again avoiding taxation when various conditions are met. 361But here the social value of giving them a tax exemption is less clear. Merging can be a good thing that creates savings or synergies within the merging companies. But it poses enough of a threat to competition that we require costly antitrust review for mergers of a certain size. 362If we think that incumbent acquisitions are worse for society than IPOs, one way to push people towards IPOs may be a Pigouvian tax on acquisitions. 363 We might tailor the tax to particular sectors or acquisitions and base it on an adequate proxy of an acquisition's likely social cost. 364

The problem may be worse than the equal tax treatment of options that are not equally good for society. Right now, mergers that threaten to reduce social welfare by decreasing market competition not only are not taxed but may also sometimes obtain tax breaks that separately managed firms cannot. This incentivizes mergers, including anticompetitive ones. 365Some of these breaks are achieved through structures that, on paper, are available to firms reorganizing for an IPO but that, in practice, may be most easily attained by firms reorganizing through merger. 366Performance-related subsidies might be most readily exploited through acquisition. 367And agreements once formed at arm's length can be set so that revenues accrue where taxed the least and expenses where they result in the greatest tax deductions. 368This doesn't encourage the acquisition of direct competitors, but it may drive the acquisition of companies that provide complements. And mergers offer other tax benefits as well. 369

Tax incentives matter to exit decisions. Startups become increasingly sensitive to tax issues the more they generate revenue and the later they are in their lifecycle. 370And past tax reforms appear to have changed merger activity. 371Right now, however, far from rewarding firms that resist incumbent acquisition - the mergers that may reduce competition and cause social harm - the tax system equally or in some cases especially rewards these exits.

We should closely consider ways we might tax mergers to force companies to internalize the cost that the merger imposes on society. 372A firm that sells out does not bring the same benefits to society as a firm that continues to compete. We might consider not only changes to tax law designed to entice individual GPs and founders involved with companies to continue to operate the firm, which we touched on above 373but also others to directly discourage companies from merging with incumbents. This kind of tax could be aimed at mergers by particular firms in particular sectors. And its basis could be set to capture the social harm likely to result. We propose a few approaches here to prompt discussion.

A one-time merger tax on the combined market value of merging companies could discourage acquisition, especially acquisition by large rivals, by raising the cost to the acquiring firm - complementing antitrust laws to discourage anticompetitive mergers. Taxing the combined value of the merging firms rather than the value of the acquired firm alone would make it more costly to merge as firms get bigger. 374That may be desirable as a matter of social policy in general, offering a market-based alternative to antitrust law as a means of promoting competition. And it would be a particularly good way to tackle the exit strategy problem because it would encourage startups that decide not to keep operating to merge with small rather than large firms. 375

#### Substituting taxes creates an identical effect but solves better by avoiding legal blowback.

Gruodis ’17 [Povilas; June 8; Ph.D. and Lecturer at Vilnius University Faculty of Law, Attorney, JD in Law from Vilnius University; Doctoral Dissertation at Vilnius University, “Tax Norms as a Regulatory Tool of Credit Institutions’ Activities,” <http://talpykla.elaba.lt/elaba-fedora/objects/elaba:22914651/datastreams/MAIN/content>]

3. Regulatory tax laws are a suitable measure for regulation of the credit institutions. While making decisions on certain behaviour model in the credit institutions, the economic arguments usually prevail, and the activity of the credit institutions is relatively insignificantly affected by morals – values. The regulatory impact of the tax laws on the credit institutions is justified by regulation of economic conditions of decision making rather than classifying a certain behaviour as legal or illegal, therefore, the tax laws allow a legislator to regulate the decision making process itself. Certain behaviour model is forbidden by imperative administrative orders by making it illegal with the help of the laws, however, the causes (economic motives) of the illegal behaviour model are not always eliminated, and this weakens the regulatory impact of the administrative orders and reduces their effectiveness. Regulation of the credit institutions by the tax laws, unlike traditional method of legal permissions or prohibitions, allows ensuring the significantly lower extent of forced nature of legal regulation and decreasing the risk of possible legal conflicts.

4. The tax laws might be used both as individual measure for regulation of the credit institutions and as additional measure for regulation of the credit institutions together with the current legal regulation of the credit institutions. Regulation of the credit institutions by the tax laws might significantly improve the possibilities of a legislator to regulate the risky activity of the credit institutions and to ensure the stability of financial sector. The regulatory impact of the tax laws can be better directed towards all activity elements of the credit institutions than the administrative orders, prevailing in regulation of the credit institutions. More accurate regulation allows ensuring constant and easier effect on the financial condition of the credit institutions, and enables to improve the solvency, liquidity and panic resistance indicators. In case of regulating the activity of the credit institutions, the tax laws allows achieving the same regulatory effect as the administrative orders, however, by keeping the variety of the credit institutions and more freedom than in case of regulating the activity of the credit institutions by legal prohibitions and permissions, therefore, the tax laws should be considered as proportional measure of regulation of the credit institutions. What is more, the price of possible error, made by a legislator, will be significantly lower because of the features of the regulatory impact of the tax laws than in case of regulating the same relationships by prohibitions and permissions.

### 2NC --- AT: S/D --- Tanking

#### They’re value-maximizers who will instantly comply.

Riza ’13 [Limor; 2013; Senior Lecturer of Law, Faculty of Law at Ono Academic College; Houston Business and Tax Law Journal, “Should Tax Law Mind Minority and Monitor Majority: The Case of Undistributed Dividends and the Ability-To-Pay Principle,” vol. 13]

In the first alternative, the paper discussed the set of sections dealing with accumulated earnings. 217 One of the advantages of tax law is attributable to its importance in the decision-making process and in that respect, it is an efficient regulatory mechanism. 218 Tax considerations are fundamental to individuals and entities in making business decisions, and they generally react rather promptly to tax reforms. 219 Tax law is a fundamental consideration taken by taxpayers -- especially business persons -- before and in the course of their activities. 220 Thus, it is plausible to assume that the additional tax imposed on corporations for their accumulation shall induce entities to distribute their earnings. 221 Namely, corporations are induced to distribute dividends to all shareholders; otherwise, they are exposed to additional tax. 222 The accumulated earnings provision taxes corporations on undistributed earnings. 223 This can serve as a tool to minimize the conflict between minority and majority shareholders. Since agents are value maximizers and are part of their corporation, they are induced to reduce the corporation's tax burden. And since eventually corporate tax is borne by individuals (though, not necessarily shareholders), in a highly concentrated corporation a tax imposed on corporations has a larger effect on shareholders than in a corporation with dispersed ownership. As long as the majority shareholders' holdings in the corporation are substantial, they are motivated to escape this extra taxation levied on their corporation. 224 Thus, tax law and corporate law go hand in hand since agents have incentives to reduce their tax burden.

#### The result is a de facto prohibition.

Noked ’17 [Noam; November 2017; Assistant Professor in the Faculty of Law at The Chinese University of Hong Kong; William and Mary Business Law Review, “Can Taxes Mitigate Corporate Governance Inefficiencies?” vol. 9]

It is important to distinguish between corrective taxation that aims to internalize negative externalities, and tax penalties that are used to ensure compliance with a particular rule regardless of the externalities involved. 211 A sufficiently high tax penalty can be used to enforce a de facto ban or obligation. For example, the 30 percent withholding tax imposed on certain payments to non-participating foreign financial institutions under the Foreign Accounting Tax Compliance Act was adopted as a tax penalty to achieve the full cooperation of foreign financial institutions. 212 One consideration that might support using tax penalties rather than a ban is the political ability to legislate these penalties. Another consideration is institutional: which agency should enforce this rule? The IRS is likely to enforce the tax penalty, whereas the SEC is more likely to enforce a ban imposed on publicly traded firms. 213

It is possible that the intercorporate taxation in the United States is a tax penalty that operates as a de facto ban, although it still allows pyramidal structures where the benefits are large enough. A few years ago, Israel adopted a ban on a pyramidal structure with more than two levels. 214 A controlled firm can control no more than one other firm. 215 If the lower firm controls another firm, a court will appoint a trustee to sell the remaining firm. 216 The Israeli legislature considered and rejected following the American model of taxing the intercorporate dividends. 217 It is unclear which model is superior, though it seems that either a ban or a tax penalty that is high enough can achieve similar results.

A corrective tax on pyramidal structures should be set on the negative externality resulting from that structure. 218 The inefficiencies associated with pyramids increase where the gap between voting rights and cash flow rights are larger. 219 Therefore, corrective tax should increase in a similar manner. The current tax rules in the United States impose a higher tax on holdings lower than 20 percent, a lower tax on holdings between 20 and 80 percent, and no tax where the holdings exceed 80 percent. 220 This may serve as a very rough approximation of the negative externalities that increase where the controller's share is lower. One advantage of having these three categories is the simplicity of this rule. However, imposing a similar tax where the holding is 21 percent and where it is 79 percent cannot be justified on corrective grounds, as the externalities should be very different. In addition, imposing a higher tax on intercorporate dividends where there is no effective control--where the holding is lower than 20 percent--would be hard to explain as a corrective measure.

If the negative externality decreases with ownership, the tax on intercorporate dividends can track this relationship by adjusting the tax to the ownership rights. We should find the level of ownership which enables an effective control--for example, 30 percent--and the level of ownership which is high enough to provide sufficient incentives to the owner--for example, 80 percent. If the negative effects decrease linearly, the tax should follow this by decreasing from a high tax rate, where the ownership is 30 percent, to a zero tax rate, where the ownership is 80 percent.

One advantage of optimal corrective taxation over a ban or a tax penalty--that serves as a de facto ban--is that the former does not prevent efficient pyramids, where there is a value-maximizing reason to have a pyramidal structure. 221 However, assessing the accurate negative externalities associated with different pyramidal structures would be very hard. 222 A corrective tax which is too low would result in a social cost from having many inefficient pyramids, whereas a corrective tax which is too high would be a de facto ban. In addition, it may be more politically feasible to adopt a tax, including a tax penalty that is a de facto ban, rather than an outright ban. 223

### 2NC --- AT: S/D --- Certainty

#### The CP gets permanently published in the IRB---that creates a clear baseline for businesses.

Galler ’95 [Linda; 1995; Associate Professor of Law at Hofstra University, B.A., Wellesley College, J.D. Boston University, LL.M., New York University; Ohio State Law Journal, “Judicial Deference to Revenue Rulings: Reconciling Divergent Standards,” vol. 56]

2. Revenue Rulings

A revenue ruling is an interpretation or explanation of the tax laws issued by the IRS, and is designated as a "revenue ruling." 28 Revenue rulings typically describe a set of hypothetical facts, and state the IRS's legal conclusions based on those facts. 29 The same individuals who participate in the formulation of Treasury regulations draft and review revenue rulings. Attorneys in the Office of the Chief Counsel prepare the rulings for approval by the Chief Counsel, Commissioner of Internal Revenue, and Assistant Secretary (Tax Policy). 30 Because they are considered interpretive rules for purposes of the APA, 31 revenue rulings are exempt from notice and comment issuance procedures and are published without a precedent announcement. 32 Revenue rulings are published in the Internal Revenue Bulletin. 33

The IRS describes the objectives of the revenue rulings program as promoting uniform application of the tax laws and assisting taxpayers in attaining maximum voluntary compliance. 34 In 1953, when the program [\*1046] commenced, the agency identified three principal purposes. First, revenue rulings would be a vehicle through which the National Office could inform field personnel of precedents or guiding positions. 35 Second, the Internal Revenue Bulletin would provide a permanent, indexed reference to IRS positions. 36 Third, revenue rulings would enable the public to review interagency communications that the IRS uses as precedents or guides. 37

### 2NC --- Spillover

#### The shift in regulatory function spills over.

Hyman ’14 [David and William Kovacic; November 3; H. Ross and Helen Workman Chair in Law and Professor of Medicine, B.A., M.D., and J.D. from the University of Chicago; Global Competition Professor of Law and Policy, George Washington University Law School and Non-Executive Director, United Kingdom Competition and Markets Authority; GW Law Faculty Publications and Other Works, “Competition Agencies with Complex Policy Portfolios: Divide or Conquer?” no. 631]

When regulatory tasks are reallocated, or a new agency is inserted into the mix, or new powers are given to an existing agency, there is a significant potential to disrupt this regulatory ecosystem. Disruption can take a variety of forms. The new entrant may siphon off money and personnel, making it difficult for incumbent agencies to perform their existing responsibilities. Reallocation of authority may also upset longstanding understandings that formed the basis for fruitful inter-agency collaboration. The entrant may receive a substantive mandate whose formal commands resemble the language that appears in the statutes of other regulatory authorities. The interpretation of the new entrant’s mandate in one judicial could spill over into the interpretation of the mandates of other agencies in separate cases.

### 2NC --- International Spillover

#### Yes international spillover --- Unilateral regulation through corporate taxes shapes global policy.

Yonah ’15 [Reuven Avi; July 21; Irwin I. Cohn Professor of Law and Director of the International Tax LLM Program at the University of Michigan Law School, PhD in History from Harvard University, AM in History from Harvard University, JD from Harvard Law School; University of Michigan Public Law Research Paper, “Constructive Unilateralism: US Leadership and International Taxation,” no. 463]

4. Conclusion: Constructive Unilateralism or Multilateralism?

The above has been an attempt to suggest that unilateral actions by the US have historically played a positive role in constructing the international tax regime, and some suggestions for further US unilateral actions that could also be constructive.

But, it will be argued, why not try a multilateral approach, which seems to better fit 21st century multipolar realities than unilateral action by the no longer quite as hegemonic US?

The problem is that there is yet no good example of multilateralism working in tax matters. Both the MAATM and BEPS are very much works in progress. In my opinion MAATM has potential as a deterrence device and BEPS, while imperfect, has achieved some meaningful progress, especially in the treaty context. But change comes slowly, and for now I believe that constructive unilateralism is still the most promising way forward.

In the end, we should remember what our normative goals are. I believe that the individual income tax is necessary to achieve redistribution, and for that to happen each residence country should be able to effectively tax its individual residents on a global basis at its domestic rate structure. I also believe that the corporate tax is necessary to regulate corporate behavior, and for that corporations should be subject to tax on a global basis at a rate that represents the current consensus for corporate tax rates at source (in the 20-­‐30% range). Those have been the normative goals of the international tax regime since its inception close to a hundred years ago, and the above has been an attempt to suggest some ways to move it forward into its second century.

### 2NC --- NB

#### Adaptive taxation stabilizes demographic waves---nuke war AND turns every impact.

Iparraguirre ’19 [Jose; 2019; Chief Economist at Age UK and Professor of Applied Econometrics at the University of Moron, PhD in the Sociology of Demographic Change from the Universidad Nacional de Educación a Distancia; Economics and Aging: Volume II: Policy and Applied, p. 45-60]

For a given supply, the more inelastic the demand for a good, the smaller is the deadweight loss of imposing a tax. The ‘Ramsey rule’ states that more necessary goods should be taxed more heavily than goods with greater demand elasticities.11 This way the total excess burden caused by the introduction of the tax will be minimised: this tax structure would be economically efficient. ‘And extremely regressive!’, you may decry because the price-demand elasticity of a good is higher the more necessary the good, and it is the poor who tend to allocate a higher proportion of their income to ‘basic necessities’. Well, I said ‘under certain assumptions’, one of which is that the economic actor being model is a representative agent: all agents are assumed to be identical, so there are no distributional problems. If we assume there are, say, two groups of individuals—namely, the poor and the rich—and that the former have more inelastic demands because they tend to allocate a higher proportion of their lower income on necessities compared to the other group, Ramsey’s model highlights the tension between efficiency and equity that runs through much of the discussions in public finance and economic policy in general. As Mirrlees et al. (2011, p. 36) put it: ‘Optimal tax theory is all about the choice of a system of taxation that balances efficiency losses against the government’s desire for redistribution and the need to raise revenue.’

When it comes to efficient tax structures, a tailor-made tax on consumption that were able to distinguish between agents would be theoretically optimal: any two agents with different demand elasticities would be taxed differently. Butwhy restrict the analysis to the consumption of goods and services?Ramsey did not concentrate only on the demand side—after all, demand and supply are but the two blades of the same pair of scissors (Marshall 2013, V.III.7, p. 164). In fact, his basic insight was that—assuming linear and separable demand and supply schedules and the absence of income effects—the ratio between the unit tax on a good and its unit price must be equal to the sum of the inverse of the elasticity of demand and the inverse of the elasticity of supply; see Stiglitz (2015).

One key service is labour, so a tax on labour income could also be structured along Ramsey’s rule. Labour income is the product of the number of hours worked and the hourly wages, so the tax rate would be higher for agents with higher labour supply elasticity. Another important source of income, particularly for well-off individuals, is capital income; hence, in theory a tax on interest income could follow similar guidelines. Here we come to one intersection between ageing and taxation: age-adjusted optimal taxes.

2.2.2 Age-Adjusted Optimal Taxation

Ramsey was concerned about efficiency. The levying of taxes (other than lump-sum) introduces deadweight losses or inefficiencies. If the governments could observe things closely associated with efficiency such as effort or skills, they could estimate the elasticities of effort or skills and consequently levy taxes optimally. However, effort or skills cannot be observed directly—this is a key assumption: that the government (or social planner) cannot observe each individual’s labour ability or effort; hence taxes cannot be based on this characteristic, which is assumed to remain ‘private’ information.

We further assume that the government cannot even observe unit wages. Instead, only total income is observable, which conditions the fiscal instruments the government can use.More generally, time is assumed to be available solely either for labour or leisure.12 And leisure cannot be taxed directly, which, according to Erosa and Gervais (2002, p. 339), constitutes the ‘fundamental problem in setting optimal fiscal policy’. If we agree that labour income is positively and closely related to effort and skills, or inversely associated with leisure, then it could constitute an acceptable base for Ramsey-type taxation. Therefore, we need to look into the wage elasticity of labour supply.

Crucially, the elasticity of labour supply varies with age (Peterman 2016; Whalen and Reichling 2017), and the age profiles of capital income show a positive gradient, as the life-cycle hypothesis suggests—see, for example, Brugiavini and Padula (2003), Burtless (2005), and Garbinti et al. (2017). Consequently, the Ramsey model would recommend that income taxes should be adjusted by age. As we mentioned above—see also Chap. 1 in Volume III— older workers tend to exhibit a higher elasticity of labour supply with respect to changes in labour income, particularly along the extensive margin.

In labour economics, there is a distinction between the extensive and the intensive margin of labour supply: the extensive margin refers to the decision of whether to work in paid employment or not; the intensive margin refers to the decision of how many hours to allocate to paid employment, having already decided to work. For men and women the elasticity of labour supply, both at the extensive and the intensive margins, varies along their life cycle (Blundell et al. 2013). As Hemel (2010, p. 1888) explained:

If individual workers cannot make marginal adjustments to their hours, then we would expect the price elasticity of labor supply to be greater for individuals who are considering exit from the workforce than for individuals who might desire an incremental reduction in hours. In other words, we would expect the disincentive effects of taxation to be greater around the retirement decision than at midcareer.

This changing elasticity over the life cycle constitutes the main theoretical pillar of the position that proposes the adoption of age-dependent taxation: ‘The need for age-dependent taxes is a natural implication of life-cycle behavior’ (Erosa and Gervais 2002, p. 341).

Akerlof (1978) advanced the idea that if poorer groups of the population could be identified or ‘tagged’ costlessly according to relevant characteristics they could not modify, transferring subsidies to them would increase social welfare. Chronological age is an observable and non-manipulable trait and, given its association with income, a good candidate for tagging (Bastani et al. 2013).

Furthermore, unlike other observable traits which are also associated with earnings and economic behaviour in general, such as height or gender, tagging based on chronological age may be more acceptable politically given that most people are expected to reach a given chronological age at some time during their lifetimes (Banks and Diamond 2010). For example, in a US context, Hemel (2010, p. 1896) noted that the endorsement by interest groups representing older people of age-dependent tax rates, which made the policy recommendations stemming from optimal taxation theory easier to implement, was ‘a rare (and perhaps unique) congruence’ between economic theory and interest group politics.

Given that labour supply elasticity increases with chronological age, the fiscal policy conclusion (based upon a number of simplifying assumptions) is that marginal tax rates should decline with advancing chronological age (Hemel 2010). The literature on this topic, as on any other in economics, has developed from relatively simple models13 to more complex specifications, where initial assumptions are gradually relaxed. We are going to use Weinzierl (2011a,b) as a guide to reflect on the relationship between taxation and individual ageing, without going into the mathematical details. Weinzierl discussed there alternative tax policies: a labour income tax that is a function of the income but unrelated to the chronological age of the taxpayer; a labour income tax that depends on the income and the chronological age of the taxpayer; and a labour income tax that depends on the income, the chronological age, and the lifetime path of incomes of the taxpayer—termed, respectively, ‘Static Mirrlees’, ‘Partial Reform’, and ‘Full Optimum’ policies. The starting point is an individual’s utility function, which is generally assumed to depend on consumption and leisure. Instead of leisure, what in this case enters the utility function is the disutility of the labour effort. Labour effort is equal to the ratio between the labour income and the wage per unit of labour. Labour income, in turn, is the product of the wage and the labour effort. Ability or effort is not readily observable and is assumed to be distributed among the population. Economic life starts in period 1 when an individual enters the labour market and finishes in period T , when she retires. Each individual lives and works for the same number of periods: in this model there is no retirement and chronological age and period coincide. The utility of an individual of ability i and age t results from the difference between the utility derived from consumption and the disutility from labour: Each individual maximises her utility subject to the budget constraint after the taxes whose specification depends on the policy. For example, under a Static Mirrlees regime where income tax only depends on income, we have T = T (y), whereas under a Partial Reformpolicy, we have T = T (y, t) as the income tax depends on income and age; finally, in the Full Optimum case, the tax becomes T y(.)T t=1, t because it depends on the lifetime path of income and the current chronological age of the taxpayer. Finally, the model assumes the existence of a social welfare function that a benevolent policy maker or social planner seeks to maximise. The standard assumption, adopted by Weinzierl, is that this social welfare function can be represented by a weighted utilitarian function of the individual utilities—that is, as the weighted sum of the individual utilities, where the weights, known as Pareto weights (Saez and Stantcheva 2016), reflect social preferences (d’Aspremont and Gevers 2002; Sen 1986).Weinzierl (2011b) calibrated the model with data for over 10,000 people in paid employment aged 25–55 in the USA between 1968 and 2001 and obtained that age-dependent taxes generated efficiency (i.e. welfare) gains equivalent to between 0.6 per cent and 1.5 per cent of aggregate annual consumption. These efficiency gains resulted from a reduction in the marginal taxes on high-income young workers (because higher taxes on these individuals would introduce substantial the deadweight costs withmuch lower tax revenue fromthis same group of people) and from a reduction, on average, on younger workers relative to older workers under the assumption of imperfections in the capital markets such that private saving and borrowing were restricted. The conclusion was that the welfare gains under age dependence would exceed those under an age-independent tax regime. Similarly, based on US data between 1982 and 2008, Bastani et al. (2013) estimated that switching from a non-linear age-independent income tax to a non-linear age-dependent income tax would generate welfare gains equalling about four per cent of total output. The same approach has been extended to taxes on consumption and interest income: if elasticities vary with chronological age, under the same assumptions as above—particularly, the separability of the utility function—it would be optimal to levy these age-dependent taxes. However, would it be optimal to introduce age-dependent taxes on wages, consumption, and interest income at the same time? Bymeans of a similarmodel as the one described above, Alvarez et al. (1992) showed that it would not. Under the separability assumption between consumption and leisure, these authors presented the following ranking of tax (or subsidy) configurations in terms of the decreasing distortions or deadweight losses each configuration would create (Alvarez et al. 1992, Table 1, p. 119): 1. Age-conditioned wage taxes (or subsidies) and age-conditioned consumption taxes (or subsidies), or a uniform, non-aged-conditioned consumption tax (or subsidy) and age-conditioned wage taxes (or subsidies), or ageconditioned wage taxes (or subsidies) 2. Age-conditioned consumption taxes (or subsidies) and a non-agedconditioned interest income tax (or subsidy) 3. Uniform, non-aged-conditioned consumption tax (or subsidy) and a nonaged- conditioned interest income tax (or subsidy) 4. Age-conditioned consumption taxes (or subsidies) or uniform, non-agedconditioned consumption taxes (or subsidies) This ranking is not based on redistributive arguments or on consideration of the social insurance repercussions of imposing age-dependent taxes, but purely on efficiency grounds. Nevertheless, Gervais (2012) showed that agedependent tax rates on labour income and on capital income would be progressive: under age-dependent labour income tax, the tax rates would increase with labour supply and vice versa, whilst the tax rates on capital income would be negative when labour supply increased (and vice versa). The models in the optimal taxation literature have become more and more complex as authors have relaxed assumptions and explored particular conditions and situations. Different specifications have included the interplay between labour decisions and retirement—for example, the elasticity of labour supply to changes in the pension system, which we will touch upon in Volume III, Part II—or between investment in human capital and wages and productivity along the life cycle; see Volume III, Part I. Lehmann et al. (2013), using data for France between 2003 and 2006, presented the interesting finding that the elasticity of labour supply (at the extensive margin) with respect to the marginal net-of-income-tax rate would be higher than that with respect to the marginal net-of-payroll (or social security contribution) tax rates (which would not be significantly different from zero) despite both taxes affect after-tax income in exactly the same amount. Furthermore, these authors also reported that for workers aged 50 or over, the elasticity was negative, whilst it was positive for younger workers, which adds empirical clout to the recommendations that marginal income tax rates should be lower for older workers. A study looking into Swedish data for 2007 (Laun 2017) concluded that the introduction of two income tax credits—an earned income tax credit which increases for workers aged 65 or over and a reduction in social security contributions (a payroll tax credit) for workers aged 65 or above—had positive short-term effects at the extensive margin: the elasticity of labour supply to these age-related tax credits was 0.22, meaning workers aged 65 years old extended their labourmarket participation as a result of these tax credits, which contributed to a gain in welfare per dollar spent of about 1.15. Other extensions have considered the effects on capital accumulation, the uncertainty around the extension of the lifespan, decisions about planned bequests, and the stochasticity of the relationship between labour productivity and chronological age. Woodland (2016, p. 742) surveyed the literature and concluded that there seems to be an agreement that age-dependent taxes produce net welfare gains, which could ‘partially relieve’ the pressure that population ageing creates on government budgets. 2.2.3 Taxation in Dynastic Models With infinitely lived agents, life-cycle considerations cease to exist.14 However, the timing of saving decisions does matter because of the repercussions on capital accumulation, economic growth, and welfare. These distortions in inter-temporal choices lead to the conclusion that the optimal tax rate on capital or inheritance is zero (Chamley 1986; Judd 1985). Alas, it only takes the introduction of additional assumptions to, or the relaxation of, some assumptions in the most basic dynasticmodels to reach the conclusion that the optimal tax rate on wealth or assets is positive. Among other extensions that lead to tax rates on inheritance and capital income greater than zero, we can list: idiosyncratic labour income shocks—that is, shocks that affect individuals or their households rather than whole economic aggregates; accidental bequests; and the lack of government commitment over time (infinitely, in fact) to the fiscal policy (Piketty and Saez 2013). Furthermore, in their influential survey of direct taxation, Banks and Diamond concluded: The empirical evidence on the consumption patterns of parents and adult children alive at the same time is strongly contradictory of the idea that people typically behave as if there were a single dynastic utility function being jointly maximized.Moreover, taking this literally and recognizingmarriage (which links dynasties to each other) leads to absurdities. (Banks and Diamond 2010, p. 575) 2.3 Population Ageing and Fiscal Space Fiscal space has been defined as the availability of budgetary room that allows a government to provide resources for a desired purpose without any prejudice to the sustainability of a government’s financial position. (Heller 2005, p. 3) and as the financing that is available to government as a result of concrete policy actions for enhancing resource mobilization, and the reforms necessary to secure the enabling governance, institutional and economic environment for these policy actions to be effective, for a specified set of development objectives. (Roy et al. 2009, p. 33) Ostry et al. (2010, p. 17) proposed a different definition of fiscal space focused on fiscal sustainability: ‘the difference between the current level of public debt and the debt limit implied by the country’s historical record of fiscal adjustment’. These authors estimated, using data from 2015, that many developed countries needed to implement fiscal adjustment efforts that far exceeded their historical records. The concept of fiscal space is not without critics: according to Perotti (2007), it is nothing new as it merely re-states the notion of the inter-temporal government budget constraint. However, other analysts see it as a useful conceptual tool to look beyond budgetary straitjackets in the sense that fiscal space can be created and expanded. For instance, Ortiz et al. (2015, p. 1) listed eight policy options available even in the poorest countries to ‘make budgetary room’: • increasing tax revenues • expanding social security coverage and contributory revenues • lobbying for increased aid and transfers • eliminating illicit financial flows • borrowing or restructuring debt • adopting a more accommodative macroeconomic framework • reallocating public expenditures • tapping into fiscal and foreign exchange reserves Park (2012) looked into the impact of population ageing on fiscal space using yet another definition: ‘[the] distance between the current tax revenue level and the peak of Laffer curve’ (p. 3).15 Using data from 1995 to 2009 for the G-7 countries,16 this author estimated a Laffer curve under the then existing population structure and calibrated the Laffer curve for each of these countries up to 2050 using demographic projections. The idea behind the exercise was that population ageing would shrink labour supply and hence reduce revenue capacity (i.e. the tax base) and the fiscal space, but if a country was on the ‘right’ side of the Laffer curve (i.e. if the average tax rate was below its maximum revenue-generating level), the pressure from the change in the demographic structure could be offset, at least in part, by the excess room for fiscal manoeuvre. The results pointed to a smaller fiscal space for Germany, France, and Italy—the three countries in the G-7 with a relatively larger share of the public sector in the economy. These countries would be ‘more susceptible to aging shock’ (op. cit., p. 14). Bogetic et al. (2015) also looked into population ageing and fiscal space, but operationally defined the latter as debt per dependent person ‘as a measure of fiscal space to finance the aging related commitments that are no longer feasible to be financed by the contributions from the active population’ (p. 20). They defined a maximum threshold for the debt-to-GDP ratio and then estimated the policy adjustments needed to avoid exceeding that target. The authors explained that this cap showed ‘the extent to which the government can implement a transfer and expenditure system if it cannot be financed by the aging work force’ and elaborated: Typically, any age-related expenditures are financed by higher taxes or borrowing beyond a certain threshold. Because the threshold is determined by the relative size of the dependent population and the characteristics of the tax and transfer systems and of public spending, the extent to which a government can issue debt per dependent person without breaching a specified debt ceiling shows how much fiscal space it has available to accommodate the fiscal pressures of an aging society. A cap on the growth rate of debt per dependent person -a “speed rule” defined by the fiscal target- will be tighter if the dependent population grows faster than the working-age population. Similarly, an increase in the initial debtto- GDP ratio or a tightening in the fiscal target will suggest need for a downward adjustment to the speed rule. (Bogetic et al. 2015, p. 20) The authors analysed long-term fiscal policy options in 40 countries in Europe and Asia by means of one population ageing indicator—the oldage dependency ratio (see Volume I, Chap. 2)—and several fiscal variables as a percentage of gross domestic product, such as gross public expenditure, revenue, and debt, social contribution revenues, social benefit expenditure, and so on. From these simple bivariate relationships and the threshold defined as explained above, they concluded that the fiscal space in most of these countries is limited ‘for discretionary and growth-oriented public spending’ and ‘to accommodate increases in aging-related spending’ (Bogetic et al. 2015, p. 7). Fiscal space is a useful concept for macroeconomic analysis, but economists should be wary of the danger that lies within: an over-mechanistic numerical approach that does not take into account that: …decisions on financing and spending usually respond to the specific interests of stakeholders that have sufficient power to influence them. No intervention on financing or public spending is neutral in terms of which groups in society are winners or losers. Thus, the creation of fiscal space, whatever its purpose, unfolds in a context dominated by the relationships between the power groups in society. (Durán-Valverde and Pacheco 2012, p. 1) Or, in the words of (Estes et al. 2003, p. 19): …portrayals of the threatened bankruptcy of public treasuries to support the retirement of the elderly and the ‘appropriate’ policy response (such as the proposed privatisation of social security) are crisis constructions embedded in intense power struggles that are momentous in their social, political and economic consequences, including the sacrifices that are demanded.

The financial situation of the public sector in a country is a relevant variable to assess its fiscal space. However, its growth prospects, debt reduction and consolidation policies, the political commitment by policy-makers, the relative clout and effectiveness of the different interest groups, institutional characteristics and dynamics, and—for developing countries—the use of development assistance from abroad are of equal importance.

Finally, economists should be wary of the prevalent mode of political competition (Roemer 2009) in the jurisdiction under study or where they work and provide their advice or make decisions, because as Lynch (2006, pp. 67–68) correctly asserted ‘…the dominant mode of political competition is crucial for the eventual age orientation of social spending’. 2.3.1 The Global Aging Preparedness Index The Global Aging Preparedness Index (or GAP Index), compiled by the Global Aging Initiative of the Center for Strategic and International Studies in Washington, D.C., USA, is an index that seeks to assess how countries are getting ready for ‘particularly the “old-age dependency” dimension of the challenge’ (Jackson et al. 2013, p. iii) posed by population ageing (the authors of the index define old age as 60 years or over). In part, it includes the notion of fiscal space, but it extends the concept as it brings together two sub-indices: a Fiscal Sustainability Index and an Income Adequacy Index. The Fiscal Sustainability Index is composed of three ‘categories’: • the Public Burden category, which measures the level of and projected (all projections for the 2013 edition were run until 2040) growth in total public benefits to older people and is composed of two indicators: – the Benefit Level (the projected public benefits to older people as a proportion of GDP) – the Benefit Growth (the projected growth in public benefits to older people as a proportion of GDP) • the Fiscal Room category, which measures the fiscal space of a country by combining three indicators: – the Tax Room (projected government revenue as a percent of GDP if all growth in benefits to older people are paid by taxes) – the Budget Room (projected proportion of benefits as a percentage of total public spending assuming cuts in all other items finance the projected growth in benefits to older people) – the Borrowing Room (the projected net debt as a percent of GDP assuming all projected growth in benefits to older people is funded by borrowing) • the Benefit Dependency category,which measures the degree of dependence of older people on public benefits and is composed of two indicators: – the Benefit Share (average of projected benefits to older people as a per cent of the cash income of the median-income older person) – the Benefit Cut (the percentage of older people that would fall into poverty—measured as earning an income below 50 per cent of the median income of the whole population—if public benefits were cut by 10 per cent) The indicators in the first two categories of the Fiscal Sustainability Index are weighted equally, but in the Benefit Dependency category, the share indicator receives two-thirds and the cut indicator receives one-third. The Public Burden category receives a weighting factor of 40 per cent, whilst the Fiscal Room and the Benefit Dependency categories are assigned 30 per cent each. The Income Adequacy Index is also composed of three ‘categories’: • the Total Income category, which measures the ratio between the level of income of older people and younger people, and the trends, and is composed of two indicators: – the Income Level (the projected ratio of average after-tax total income per capita of older people to younger people) – the Income Trend (the projected change in the ratio of average after-tax total income per capita of older people to younger people) • the Income Vulnerability category, which measures income adequacy for middle-income older people and the extent of poverty in old age, and is composed of three indicators: – the Median Income Level (the projected ratio of median after-tax cash income per capita of older people to younger people) – the Median Income Trend (the projected change in the ratio of median after-tax cash income per capita of older people to younger people) – the Poverty Level (the percentage of older people with incomes below 50 per cent of the median income for the whole population) • the Family Support category, which measures family support networks, and is composed of two indicators: – the Family Ties (the percentage of older people livingwith adult children) – the Family Size (the projected change in the number of surviving children of older people) The indicators in the first two categories of the Income Adequacy Index are weighted equally, but in the Family Support category, the Family Ties indicator receives two-thirds and the Family Size indicator receives one-third. The Total Income and the Income Vulnerability categories receive a weighting factor of 40 per cent each, whilst the Family Support category is assigned 20 per cent. Finally, the Global Preparedness Index is calculated by assigning the Fiscal Sustainability and the Income Adequacy indices the same weights. The latest (2013) GAP index report found that fiscal sustainability would not be an important policy concern: India, Mexico, and Chile, but that countries such as Brazil, Japan, France, the Netherlands, Germany, Italy, and above all Spain would be highly vulnerable. Looking into income adequacy, Netherlands, the United States, Brazil, Australia, and Germany stand out as highly prepared; amongst the most vulnerable countries are Mexico, Russia, South Korea, and Poland.

2.4 The Fiscal Implications of Risk

Population ageing is one of the socially amplified risks (Kasperson et al. 1988, 2003) in contemporary societies, and what Taylor-Gooby (2004) identified as one of the four processes of ‘social risk’ in post-industrial societies. In fact, Taylor-Gooby understands that population ageing exerts the most important pressure on welfare states, which emerges as ‘new social risks’. These new risks translate, from the perspectives of citizens, into changes in employment relations, family life, social care, career, and so on. From the perspective of governments, the new social risks are manifested in changes in policy-making, institutional structures, power dynamics, and legitimisation.

We saw in Volume I, Chap. 1, examples of apocalyptic demography, with concerns that population ageing would bring about a ‘crisis’, a ‘time bomb’, an ‘agequake’, or a ‘silver tsunami’ and authors warning of the seismic consequences of ‘gray dawn’ and the ‘coming generational storm’. Some go even beyond this. For example, Richard Jackson, President of the Global Aging Institute based in Virginia, USA, suggested that global population ageing threatens to ‘overturn’ (Jackson 2006) or ‘shape’ (Howe and Jackson 2011) the world order. In the same vein, Heller (2003a,b) asserted that a number of major long-term risks and challenges beset almost every country and pose mounting threats to fiscal stability, including population ageing—which Heller17 placed on the same level with climate change, rapid technological change, the intensification of globalisation, increasing inequality, and bioterrorism and the proliferation of weapons of mass destruction. Such a statement may look hyperbolic, but it mirrors what Peterson (1999a,b) had previously written:

The list of major global hazards in the next century has grown long and familiar. It includes the proliferation of nuclear, biological, and chemical weapons, other types of high-tech terrorism, deadly super viruses, extreme climate change, the financial, economic, and political aftershocks of globalization, and the violent ethnic explosions waiting to be detonated in today’s unsteady new democracies. Yet there is a less-understood challenge -the graying of the developed world’s population- that may actually do more to reshape our collective future than any of the above.

(Peterson 1999b, p. 42)

# 2NR

#### There’s infinite authority to regulate via taxation --- Justified cause it was new in the 1AR

Sugin ’13 [Linda; Spring 2013; Professor of Law at Fordham Law School, Graduate of Harvard College and NYU School of Law; Brooklyn Law Review, “The Great and Mighty Tax Law: How the Roberts Court has Reduced Constitutional Scrutiny of Taxes and Tax Expenditures,” vol. 78]

Introduction

The Roberts Court has written two important tax opinions. Both endow the tax law with legal superpowers, giving it the astonishing ability to elude constitutional limits. The justices have sent Congress and state legislatures a strong and clear message: they may use their tax laws as a means to aggressively enact public objectives unrelated to the traditional revenue-raising function of taxation. The justices have also made clear that the Court will uphold policies administered through the tax law even where those same policies would be unconstitutional if administered as either direct regulation or appropriated spending.

In National Federation of Independent Business v. Sebelius (NFIB), 1 the tax law saved the Affordable Care Act (Obamacare or ACA) from death at the hands of the Commerce Clause. The case confirmed the broad reach of the taxing power under the Constitution, and showed the current high Court's willingness to treat regulatory legislation as taxation, even where Congress declined to call the legislation a "tax." The cliffhanger ending to the Obamacare challenge may have been made possible by a much-less publicized--but more legally radical--case from the previous term, Arizona Christian Schools Tuition Organization v. Winn (ACS). 2 In the ACS case, the Court adopted a novel judicial approach to targeted tax benefits for religious schools. It rejected the widely accepted treatment of tax expenditures as government spending administered through the tax law, and instead treated them as simple tax cuts. It thereby allowed tax benefits that are functional equivalents to direct government spending to bypass the constitutional scrutiny to which both taxes and direct spending are usually subject. Tax benefits are now beyond even the reach of the Bill of Rights, which prohibits government from treading on individual rights.

#### Taxing power is unlimited---the Supreme Court will overrule any obstacles.

Yonah ’21 [Reuven Avi and Yoseph Edrey; January 22; Irwin I. Cohn Professor of Law and Director of the International Tax LLM Program at the University of Michigan Law School, PhD in History from Harvard University, AM in History from Harvard University, JD from Harvard Law School; Professor of Law at the University of Haifa, PhD in Law from The Hebrew University of Jerusalem, LLM from The Hebrew University of Jerusalem; Law and Economics Working Papers, “Constitutional Review of Federal Tax Legislation,” no. 175]

The Constitution itself imposes very few limits on the taxing power, Unless it is clear that it is not possible to impose taxes that are not intended to pay the Debts and provide for the Common Defense and General Welfare of the United States ”. Goods exported from a State may not be taxed.17 Direct taxes must be apportioned among the states by population18 and indirect taxes must be uniform.19 The only significantly disputed item is the definition of “direct” tax, which in Pollock (1895) led to the Court striking down the second US income tax as unconstitutional, but this decision was reversed by the adoption of the Sixteenth Amendment in 1913.20 There is still some debate among scholars about whether an unapportioned federal wealth tax would be constitutional.21

Nor has the Supreme Court22 imposed significant limits on the power of Congress under the Taxing Clause. The Court has emphasized the sweeping character of this power by saying from time to time that it “reaches every subject,”23 that it is “exhaustive”24 or that it “embraces every conceivable power of taxation.”25 The few subject matter limitations imposed in the past have been overruled.26 Most strikingly, since 1920 the Court has refused to rule any federal income tax statute unconstitutional.27