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## Off

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#### Climate-solvent infrastructure funding will pass now

Collinson 10-29-2021, analyst @ CNN (Stephen, “Democrats fight one another in Washington as Americans struggle,” *CNN*, <https://www.cnn.com/2021/10/29/politics/congress-spending-bill-president-joe-biden-italy-g20-democrats/index.html>)

Changing millions of lives

There is no doubt that if it passes, the social spending package, which makes housing, education, health care and home care more affordable, has the potential to change millions of lives. The climate proposals could unleash a new green economy as well as help save the planet. And Biden will probably eventually get his Washington victory lap. His domestic policy chief Susan Rice told CNN's Anderson Cooper Thursday the White House was "very confident" a framework accepted by House progressives would be the basis of the spending bill that would now be able to pass both chambers. The two holdout moderate Democrats, Joe Manchin of West Virginia and Kyrsten Sinema of Arizona, are yet to publicly and unreservedly endorse the framework. The question now, after another missed deadline, is when the situation will change. In the last few days, the spectacle of Democrats ditching multi-billion dollar programs and hurriedly trying to come up with new ways to fund the bill has left an impression of chaos that hardly enhances the reputation of one of the biggest social spending bills in generations. The longer the impasse lingers, the greater the risk that moderate Senate Democrats will get cold feet. Or that progressives will sour on a framework for a deal that cuts out many of their favorite programs, including paid family leave and free community college. Biden's departure for the G20 summit in Italy and the UN climate conference in Scotland was set by Democratic leaders as the latest deadline to pass the infrastructure and spending bills. On Thursday, it also became the latest must-pass date to be missed, reflecting a growing habit for the White House to set deadlines that are not met and frazzle the President's credibility. As a result of the latest miss, Biden showed up in Rome looking like a President who cannot get his own house in order before he meets world leaders to reaffirm US leadership. Biden had particularly wanted climate programs in the spending bill sent to his desk before he left, to pressure other nations to make significant cuts to carbon emissions at the climate summit. Progressives believe that the social spending bill, which offers universal pre-school, home health care for the sick and the elderly and $500 billion in spending to combat climate change, is a once-in-a-generation chance to overhaul the economy to alleviate the burden on working Americans.

#### Antitrust reform trades off with other legislative priorities

Carstensen 21, JD and MA @ Yale, Former Chair of U-W Law School, Senior Fellow of the American Antitrust Institute (Peter, “THE “OUGHT” AND “IS LIKELY” OF BIDEN ANTITRUST,” <https://www.concurrences.com/en/review/issues/no-1-2021/on-topic/the-new-us-antitrust-administration-en>)

14. Similarly, despite bipartisan murmurs about competitive issues, the potential in a closely divided Congress that any major initiatives will survive is limited at best. In part the challenge here is how the Biden administration will rank its commitments. If it were to make reform of competition law a major and primary commitment, it would have to trade off other goals, which might include health care reform or increases in the minimum wage. It is likely in this circumstance the new administration, like the Obama administration’s abandonment of the pro-competitive rules proposed under the PSA, would elect to give up stricter competition rules in order to achieve other legislative priorities. 15. Another key to a robust commitment to workable competition is the choice of cabinet and other key administrative positions. Here as well, the early signs are not entirely encouraging. In selecting Tom Vilsack to return as secretary of agriculture, the president has embraced a friend of the large corporate interests dominating agriculture who has spent the last four years in a highly lucrative position advancing their interests. Given the desperate need for pro-competitive rules to implement the PSA and control exploitation of dairy farmers through milk-market orders, the return of Vilsack is not good news. Who will head the FTC and who will be the attorney general and assistant attorney general for antitrust is still unknown, but if those picks are also centrists with strong links to corporate America the hope for robust enforcement of competition law will further attenuate! 16. In sum, this is a pessimistic prognostication for the likely Biden antitrust enforcement agenda. There is much that ought to be done. But this requires a willingness to take major enforcement risks, to invest significant political capital in the legislative process, and to select leaders who are committed to advancing the public interest in fair, efficient and dynamically competitive markets. The early signs are that the new administration will be no more committed to robust competition policy than the Obama administration. Events may force a more vigorous policy—I will cling to that hope as the Biden administration takes shape.

#### Warming is existential

Ng ’19 [Yew-Kwang; May 2019; Professor of Economics at Nanyang Technology University, Fellow of the Academy of Social Sciences in Australia and Member of the Advisory Board at the Global Priorities Institute at Oxford University, Ph.D. in Economics from Sydney University; Global Policy, “Keynote: Global Extinction and Animal Welfare: Two Priorities for Effective Altruism,” vol. 10, no. 2, p. 258-266; RP]

Catastrophic climate change

Though by no means certain, CCC causing global extinction is possible due to interrelated factors of non‐linearity, cascading effects, positive feedbacks, multiplicative factors, critical thresholds and tipping points (e.g. Barnosky and Hadly, 2016; Belaia et al., 2017; Buldyrev et al., 2010; Grainger, 2017; Hansen and Sato, 2012; IPCC 2014; Kareiva and Carranza, 2018; Osmond and Klausmeier, 2017; Rothman, 2017; Schuur et al., 2015; Sims and Finnoff, 2016; Van Aalst, 2006).7

A possibly imminent tipping point could be in the form of ‘an abrupt ice sheet collapse [that] could cause a rapid sea level rise’ (Baum et al., 2011, p. 399). There are many avenues for positive feedback in global warming, including:

* the replacement of an ice sea by a liquid ocean surface from melting reduces the reflection and increases the absorption of sunlight, leading to faster warming;
* the drying of forests from warming increases forest fires and the release of more carbon; and
* higher ocean temperatures may lead to the release of methane trapped under the ocean floor, producing runaway global warming.

Though there are also avenues for negative feedback, the scientific consensus is for an overall net positive feedback (Roe and Baker, 2007). Thus, the Global Challenges Foundation (2017, p. 25) concludes, ‘The world is currently completely unprepared to envisage, and even less deal with, the consequences of CCC’.

The threat of sea‐level rising from global warming is well known, but there are also other likely and more imminent threats to the survivability of mankind and other living things. For example, Sherwood and Huber (2010) emphasize the adaptability limit to climate change due to heat stress from high environmental wet‐bulb temperature. They show that ‘even modest global warming could … expose large fractions of the [world] population to unprecedented heat stress’ p. 9552 and that with substantial global warming, ‘the area of land rendered uninhabitable by heat stress would dwarf that affected by rising sea level’ p. 9555, making extinction much more likely and the relatively moderate damages estimated by most integrated assessment models unreliably low.

While imminent extinction is very unlikely and may not come for a long time even under business as usual, the main point is that we cannot rule it out. Annan and Hargreaves (2011, pp. 434–435) may be right that there is ‘an upper 95 per cent probability limit for S [temperature increase] … to lie close to 4°C, and certainly well below 6°C’. However, probabilities of 5 per cent, 0.5 per cent, 0.05 per cent or even 0.005 per cent of excessive warming and the resulting extinction probabilities cannot be ruled out and are unacceptable. Even if there is only a 1 per cent probability that there is a time bomb in the airplane, you probably want to change your flight. Extinction of the whole world is more important to avoid by literally a trillion times.

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#### Next off is T private sector

#### Private sector means all non-governmental persons or entities, including non-profits

Senate Report 95 (Senate Report. 104-1, “UNFUNDED MANDATE REFORM ACT OF 1995,” <https://www.congress.gov/congressional-report/104th-congress/senate-report/1> , date accessed 9/10/21)

"Private sector" is defined to cover all persons or entities in the United States except for State, local or tribal governments. It includes individuals, partnerships, associations, corporations, and educational and nonprofit institutions.

#### Violation: the aff applies exclusively to conduct in a specific segment of the private sector.

#### Vote neg:

#### FIRST---limits and ground---the number of potential subsets is infinite---any industry, product, single companies, individuals---undermines clash. Only big affs have link uniqueness.

#### SECOND----precision---our interp has intent to define, exclude and is in legislative context.

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#### The United States federal government should substantially increase prohibitions on anticompetitive business practices by the private sector by expanding regulatory constraints on mergers and acquisitions among agribusiness firms.

#### The counterplan solves and competes

Shelanski 18, Professor of Law @ Georgetown (Howard, “Antitrust and Deregulation,” Yale Law Journal)

A. Antitrust and Regulation as Policy Alternatives

A variety of institutions can govern economic competition. Decentralized, capitalist economies generally rely on markets themselves to provide the incen- tives and discipline necessary to keep prices low, output high, and innovation moving forward.8 But sometimes market forces alone cannot ensure efficiency and economic welfare—for example, when the market structure has changed due to mergers or the rise of a dominant firm, or when the market is an oligopoly susceptible to parallel conduct or collusion. In such cases, governance of competition by a nonmarket institution might be warranted. Because concentrated markets or even monopolies can arise for good reasons related to efficiency, in- novation, and consumer preference, the governance of competition more often involves vigilance than liability or injunctions. Then-Judge Stephen Breyer, long a leading scholar of antitrust and regulation, described the best situation as being an unregulated, competitive market in which “antitrust may help maintain com- petition.”9 Antitrust law aims to prevent the improper creation and exploitation of market power on a case-by-case basis while avoiding the punishment of commercial success justly earned through “skill, foresight and industry.”10 Thus, competition authorities like the FTC and the DOJ’s Antitrust Division review mergers, inves- tigate single-firm conduct, and prosecute collusion.11 Private plaintiffs can pur- sue civil antitrust liability through suits in the federal courts.12 To win their claims, enforcement agencies and private plaintiffs bear the burden of showing that the effect of a firm’s activity is “substantially to lessen competition, or to tend to create a monopoly,”13 or to constitute a “contract, combination, . . . or conspir- acy” in restraint of trade,14 or to “monopolize, or attempt to monopolize” any line of business.15 Antitrust is not, however, the only institution through which government addresses competition concerns and market failures. Congress can give regulatory agencies authority to intervene where they see the need to address competition and market structure—and Congress has often done so. With such statutory authority, “[i]n effect, the agency becomes a limited-jurisdiction enforcer of antitrust principles.”16 For example, the Department of Transportation (DOT) has jurisdiction to approve transfers of routes between airlines carriers, giving it a role in reviewing airline mergers.17 The 1992 Cable Act gave the FCC authority to limit the share of the national cable market that a single operator could serve, thereby giving the agency some control over the industry’s market structure.18 The FCC has long regulated market entry and, through its control over license transfers, reviewed mergers and acquisitions in several sectors of the telecom- munications industry. More recently, the FCC issued,19 and then repealed, 20 “network neutrality” regulations intended to preserve ease of entry and a level playing field for digital services. The Food and Drug Administration (FDA), Securities and Exchange Commission (SEC), Department of Energy, and numerous other federal agencies have various powers that directly affect competition.21 State regulation can be important as well in governing competition, particularly in the insurance and healthcare industries.22 In contrast to the case-by-case approach of antitrust, regulation typically im- poses ex ante prohibitions or requirements on business conduct. The Telecommunications Act of 1996, for example, required incumbent local telephone com- panies to grant new competitors access to parts of their networks and prohibited incumbents from refusing to interconnect calls from their customers to custom- ers of competing networks.23 With the rule in place, the FCC bore no burden of proving that a specific instance of network access was necessary for competition, or that a specific denial of interconnection would harm competition. In contrast to antitrust, where the burden of proving liability is on the agency, under a regulatory regime the burden of seeking a waiver from regulation or challenging an agency’s enforcement decision is usually on the regulated party. Antitrust and regulation therefore present alternative approaches to governing competition and addressing market failures.24 The government can review individual mergers under the antitrust laws, as it does in most markets, or it can set rules that impose clear, ex ante limits on the extent of concentration, as the FCC did for media ownership under the Communications Act.25 Government can investigate under the antitrust laws whether a firm has monopoly power that it has “willful[ly]” acquired or maintained other than “as a consequence of a su- perior product, business acumen, or historic accident.”26 Alternatively, with au- thority from Congress an agency can regulate how much of a market a single firm can serve, as the FCC tried to do with cable companies,27 or require firms to dispose of key assets in order to promote competition in a relevant market, as the DOT has done with airline slots.28

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T No Mergers

#### Practices are a pattern of ongoing conduct---they aff violates: a merger is a single act, tangential effects on business practices don’t meet

Mosk 88 (Stanley Mosk-judge. Concurring and Dissenting Opinion in State of California ex rel. Van De Kamp v. Texaco, 762 P. 2d 385 - Cal: Supreme Court 1988, Google scholar caselaw, date accessed 9/27/21)

The statute defines "unfair competition" to mean, as relevant here, "unlawful, unfair or fraudulent business *practice*. ..." (Bus. & Prof. Code, § 17200, italics added.) In so doing it effectively requires what the court variously described in the leading case of Barquis v. Merchants Collection Assn. (1972) 7 Cal.3d 94 [101 Cal. Rptr. 745, 496 P.2d 817], as "a `pattern' ... of conduct" (id. at p. 108), "ongoing ... conduct" (id. at p. 111), "a pattern of behavior" (id. at p. 113), and, "a course of conduct" (ibid.).

What the Attorney General challenges in this action is the Texaco-Getty merger. Under the Barquis court's construction of the statute, however, the merger itself cannot be characterized as "a `pattern' ... of conduct," "ongoing conduct," "a pattern of behavior," "a course of conduct," or anything relevantly similar: it is rather a single act. That the complaint, under the Attorney General's reading, alleges that Texaco engaged in certain unlawful, unfair, or fraudulent business practices in the past and may engage in other such practices in the future is simply not enough: the complaint attacks not those past or future practices, but only the merger.

#### VOTE NEG:

#### FIRST, limits and ground—the best links are predicated on repeated nature of practices for spillover and precedent arguments. Mergers backs the neg into a corner of negating specific one-off transactions

#### SECOND, precision—our practices evidence has intent to define and exclude.

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#### TECH LEADERSHIP DA:

#### US tech leadership is secure, BUT antitrust cedes it.

Abbott 21, JD, MA, Senior Research Fellow at the Mercatus Center focusing on antitrust, formerly served as the Federal Trade Commission’s General Counsel. (Alden, *et al*, 3-10-2021, “Aligning Intellectual Property, Antitrust, and National Security Policy”, *Regulatory Transparency Project of the Federalist Society*, pg. 2-5, <https://regproject.org/wp-content/uploads/Paper-Aligning-Intellectual-Property-Antitrust-and-National-SecurityPolicy.pdf>)

II. The United States Plays a Critical Role in 5G Standards Development

The U.S. government has recognized that “5G is a critical strategic technology [such that] nations that master advanced communications technologies and ubiquitous connectivity will have a long-term economic and military advantage.”8 The U.S. has had a substantial technological edge over our military and intelligence rivals in foundational R&D for 5G and other next-generation technologies. U.S. companies have long been leaders in the development of previous generations of core mobile standards (2G, 3G, 4G, and LTE). This technological leadership has made it possible for U.S. companies to ensure the security and integrity of the hardware and software products that make up the backbone of the U.S. telecommunication systems. This leadership must continue for the U.S. government to more effectively anticipate potential security risks and take the necessary steps to protect national security.9

Despite this history of clear technological leadership, there are causes for concern. First, a very small number of U.S. companies have made the investments in the overwhelming majority of the R&D necessary to develop 5G.10 Historically, U.S. companies have heavily invested in R&D, which has propelled the U.S. into leadership positions in critical standard development organizations working on foundational next-generation technologies like 5G.11 U.S. companies like Qualcomm play a significant and important role in this process through innovation, patenting, and standard setting, but they are not alone in the global community of high-tech companies.12 Backed by their nations’ leadership, Chinese and Korean companies have also invested heavily in developing the core technologies for 5G.13

The willingness of U.S. companies to invest in R&D is threatened, however. The development of 5G is a bit like a race, with the companies who develop the best technology coming out ahead. While U.S. companies are savvy and talented competitors in this race, aggressive and unwarranted use of antitrust law by U.S. regulators, as well as by foreign antitrust authorities, threatens to put obstacles in these companies’ paths and hinder their ability to lead.

III. Overly Aggressive Antitrust Enforcement Hinders American Technological Leadership and Threatens National Security

As companies from around the world develop the technology and standards for 5G mobile devices and networks, American companies are under threat by aggressive antitrust enforcement that ultimately redounds to the benefit of these foreign companies, which are economic competitors in countries that are also military competitors of the U.S. Over the past five years, foreign governments, particularly in Asia, have subjected U.S. companies to antitrust investigations that failed to follow basic norms of the rule of law, such as providing basic due process protections.14 These antitrust investigations were a thinly-disguised effort by these countries to force the transfer of U.S. patented technology to their own domestic companies, or to insulate their domestic companies from American competition. In recent years, Chinese, Korean, and Taiwanese antitrust authorities have brought nearly 30 investigations against 60 foreign companies across a range of industries, including manufacturing, life sciences, and technology.15

Antitrust challenges undermine intellectual property rights by forcing companies to license their products on non-market-based terms. One prominent example in U.S. history is when the Department of Justice wrung a concession from AT&T to license royalty-free the entire portfolio of 8,600 patents held by Bell Labs in a 1956 antitrust consent decree with the company.16 Today, the White House Office of Trade and Manufacturing Policy has observed that “China uses the Antimonopoly Law of the People’s Republic of China not just to foster competition but also to force foreign companies to make concessions such as reduced prices and below-market royalty rates for licensed technology.”17 Companies have also complained about poor policy guidance and procedural protections under China’s competition laws.18 Others have complained about China’s use of its competition laws to promote policy objectives rather than protect competition and advance consumer welfare.19 In one example, companies raised concerns with Article 7 of China’s State Administration of Industry Commerce (SAIC) 2015 Rules on the Prohibition of Conduct Eliminating or Restricting Competition by Abusing Intellectual Property Rights.20 Under this provision, intellectual property constitutes an “essential facility,” which could allow parties to raise abuse of intellectual property rights claims against patent owners for a unilateral refusal to license their patents.21

Predatory antitrust enforcement actions threaten the ability of U.S. companies to continue to be leaders in 5G technological development. China and other nations with similarly restrictive regulatory frameworks can weaken the ability of the United States to compete in global markets by exacting high monetary penalties from U.S. intellectual property owners or forcing the transfer of their intellectual property to domestic commercial rivals. As a penalty for violations of its competition laws, China can impose exorbitant fines that range up to 10% of a foreign company’s entire revenue in the prior year.22 This is not a legal rule observed in the breach; it has already resulted in fines just shy of $1 billion.23

Another way in which courts in China and other foreign countries are harming U.S. companies is through the use of anti-suit injunctions. One example of this is in the recent patent infringement lawsuit brought by InterDigital, an American high-tech company that has developed key technologies in wireless telecommunication, against Chinese company Xiaomi. In June 2020, Xiaomi filed a lawsuit in the Wuhan Intermediate Court in China requesting that the court set global licensing rates for InterDigital’s patents on standardized technologies. In July 2020, InterDigital sued Xiaomi in India for infringement of InterDigital’s Indian patents. The Wuhan Intermediate Court then ordered InterDigital to stop its lawsuit with its request for an injunction in India. The Chinese court further prohibited InterDigital from suing Xiaomi and requesting an injunction or damages in the form of reasonable licensing rates, or even to enforce a previously-issued injunction, in any other country. If InterDigital does not comply with this worldwide injunction against pursuing legal relief for the violation of its patents in any other country, the company faces a significant fine in China. The type of judicial order issued by the Wuhan court is known as an anti-suit injunction and its purpose is to force an intellectual property dispute to play out solely in a Chinese court at the behest of the Chinese government. These court orders demonstrate China’s desire to become the source of 5G innovation and to dictate the licensing terms of the technology, and the anti-suit injunctions hamstring U.S. companies like InterDigital from enforcing their intellectual property rights anywhere in the world.

The unfair use of antitrust enforcement and related legal actions like anti-suit injunctions to weaken U.S. intellectual property rights around the world risks diminishing U.S. global competitiveness in critical technologies like 5G, and further empowers China and others to expand their influence over the evolving 5G technological ecosystem. To the extent the U.S. cedes its dominance in 5G standards development, China will continue its focused efforts to fill that void. Huawei, a China-based company, has increased its R&D spending while growing its share of patents on the standardized technologies comprising 5G.24 The President’s Council on Science and Technology issued a report concluding that Chinese actions in the semiconductor industry, which include a range of policies backed by over $100 billion in government funds, threaten U.S. leadership in the industry and present risks to U.S. national security.25 China’s “Made in China 2025” plan called for China to become a leader in 5G technology, including in the development of the standards for the technology, by 2020.26 The plan expressly favors Chinese domestic producers, calling for raising the domestic content of core components in high-tech industries like 5G to 70% by 2025.27

This issue, however, extends far beyond simply the ability and willingness of U.S. companies to engage in the requisite R&D to participate in the 5G race. Reduced U.S. influence on 5G standard-setting would force the U.S. government to rely on untrusted foreign companies for its 5G product supply. The Department of the Treasury has expressed concern about the “well-known” U.S. national security risks posed by Huawei and other Chinese telecommunications companies.28

#### Revisionist tech leadership causes nuclear war.

Kroenig & Gopalaswamy 18, \*Associate Professor of Government and Foreign Service at Georgetown University and Deputy Director for Strategy in the Scowcroft Center for Strategy and Security at the Atlantic Council. \*\*Director of the South Asia Center at the Atlantic Council. He holds a PhD in mechanical engineering with a specialization in numerical acoustics from Trinity College, Dublin. (Matthew & Bharath, 11-12-2018, "Will disruptive technology cause nuclear war?", *Bulletin of the Atomic Scientists*, <https://thebulletin.org/2018/11/will-disruptive-technology-cause-nuclear-war/>)

Rather, we should think more broadly about how new technology might affect global politics, and, for this, it is helpful to turn to scholarly international relations theory. The dominant theory of the causes of war in the academy is the “bargaining model of war.” This theory identifies rapid shifts in the balance of power as a primary cause of conflict.

International politics often presents states with conflicts that they can settle through peaceful bargaining, but when bargaining breaks down, war results. Shifts in the balance of power are problematic because they undermine effective bargaining. After all, why agree to a deal today if your bargaining position will be stronger tomorrow? And, a clear understanding of the military balance of power can contribute to peace. (Why start a war you are likely to lose?) But shifts in the balance of power muddy understandings of which states have the advantage.

You may see where this is going. New technologies threaten to create potentially destabilizing shifts in the balance of power.

For decades, stability in Europe and Asia has been supported by US military power. In recent years, however, the balance of power in Asia has begun to shift, as China has increased its military capabilities. Already, Beijing has become more assertive in the region, claiming contested territory in the South China Sea. And the results of Russia’s military modernization have been on full display in its ongoing intervention in Ukraine.

Moreover, China may have the lead over the United States in emerging technologies that could be decisive for the future of military acquisitions and warfare, including 3D printing, hypersonic missiles, quantum computing, 5G wireless connectivity, and artificial intelligence (AI). And Russian President Vladimir Putin is building new unmanned vehicles while ominously declaring, “Whoever leads in AI will rule the world.”

If China or Russia are able to incorporate new technologies into their militaries before the United States, then this could lead to the kind of rapid shift in the balance of power that often causes war.

If Beijing believes emerging technologies provide it with a newfound, local military advantage over the United States, for example, it may be more willing than previously to initiate conflict over Taiwan. And if Putin thinks new tech has strengthened his hand, he may be more tempted to launch a Ukraine-style invasion of a NATO member.

Either scenario could bring these nuclear powers into direct conflict with the United States, and once nuclear armed states are at war, there is an inherent risk of nuclear conflict through limited nuclear war strategies, nuclear brinkmanship, or simple accident or inadvertent escalation.

This framing of the problem leads to a different set of policy implications. The concern is not simply technologies that threaten to undermine nuclear second-strike capabilities directly, but, rather, any technologies that can result in a meaningful shift in the broader balance of power. And the solution is not to preserve second-strike capabilities, but to preserve prevailing power balances more broadly.

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#### Antitrust law enforcement has two areas of focus now: health care and big tech. Health care is under the radar.

Levine 8-25-2021, master’s degree from the Columbia University Graduate School of Journalism and a bachelor of arts in English from the University of Pennsylvania. She is also an alumna of the Fellowships at Auschwitz for the Study of Professional Ethics, a program in Germany and Poland that explores the ethics of reporting on politics, war and genocide (Alexandra, “How Biden's tech trustbuster could change health care,” *Politico*, <https://www.politico.com/newsletters/future-pulse/2021/08/25/how-bidens-tech-trustbuster-could-change-health-care-797333>)

Lina Khan’s Federal Trade Commission has its eyes on health care. The agency known for efforts to rein in Big Tech companies like Facebook and Amazon is also enmeshed in high-stakes health care and health tech battles that extend well beyond Silicon Valley. Case in point: The FTC trial that kicked off yesterday examining monopoly concerns in the market for cancer screening technology. (More on that below.) That closely watched antitrust case — involving the giant Illumina and startup Grail — predates Khan’s confirmation as FTC chair. But it underscores how health issues are looming over the agenda, particularly heading into the pandemic's second year. The way health care companies and consumer health apps handle sensitive data “is an area that I'm sure [Khan’s] very, very interested in,” said Jessica Rich, former director of the FTC’s consumer protection bureau, adding that the Biden administration's FTC will also be closely scrutinizing hospital mergers. “I expect her and the commission to take a very bold approach to what constitutes harm for both,” Rich said. “I expect her to pay close attention to algorithms and potential discrimination in health care, both denials and pricing issues which the FTC's laws can address.” The FTC’s jurisdiction touches nearly the entire health economy. While its competition bureau looks at health care mergers like the Illumina-Grail deal, its consumer protection side is focused on health privacy and data security issues, as well as fighting bogus medical claims on everything from weight loss to Covid cures. When Congress passed the Covid-19 Consumer Protection Act last year, the agency was granted new authority to police Covid scams. Although Khan hasn't spoken publicly about her health care agenda, she's likely to take issue with health apps and companies whose business models maximize, incentivize and monetize data collection. Of particular concern is how firms disclose what they’re doing with consumers’ data — and whether it may still be deceptive or unfair.

#### The plan requires an unexpected, significant and drawn-out expenditure of finite law enforcement resources

Dafny 21, Professor of Business Administration at the Harvard Business School and the John F. Kennedy School of Government, and former Deputy Director for Healthcare and Antitrust in the Bureau of Economics at the Federal Trade Commission. Professor Dafny’s research focuses on competition in health care markets, and the intersection of industry and public policy. (Leemore, “The Covid-19 Pandemic Should Not Delay Actions to Prevent Anticompetitive Consolidation in US Health Care Markets,” *Pro Market*, <https://promarket.org/2021/06/10/covid-pandemic-consolidation-pandemic-monopoly/>)

However, as Commissioner Rebecca Slaughter, the current acting FTC chair has noted, these efforts have “faced resistance, with two of these recent victories only coming after district court setbacks.” Blocking a horizontal merger, even when it appears to be an “open and shut” case to a layperson, requires extraordinary resources, including large investigation and litigation teams, as well as economic and other subject matter experts who must analyze the transaction, lay out the case for blocking the merger, and rebut arguments advanced by Defendants’ attorneys and experts. To pick a recent example, consider the proposed merger of two hospital systems in the Memphis area, which the FTC filed to block in November 2020. Based on the FTC’s complaint, the merger would have reduced the number of competing systems from four to three and created a system with over a 50 percent market share. In the face of litigation, the parties abandoned the deal—consistent with this being a straightforward case. Although the FTC prevailed without a trial, it took nearly a year from the merger announcement to the abandonment. Over that period, the FTC likely devoted thousands of staff hours to the investigation and lawsuit and expended substantial taxpayer resources on expert witnesses. The higher the payoff from the merger for the merging parties—and the payoff in the case of an increase in market power can be substantial—the greater the incentive for defendants to invest extraordinary resources to fight a merger challenge. Even if there is only a middling (and in some cases, small) chance of getting a merger through, it may well be in the parties’ interest to see if they can prevail, absorbing the agencies’ (i.e., DOJ and FTC’s) scarce resources in that attempt and preventing them from devoting those resources to investigate other transactions or anticompetitive practices. The substantial resources required to challenge transactions, paired with stagnating enforcement budgets, may explain why authorities have elected not to challenge some horizontal transactions they would likely have challenged in previous eras. Using data on a wide range of industries, antitrust scholar John Kwoka documents that enforcers rarely raise concerns about changes in market structure that used to draw scrutiny—that is, mergers that yield five or more market participants.

#### Resources are finite and are drawn from under-the-radar M and A priorities

McCabe 18, covers technology policy from The Times' Washington bureau, formerly of Axios (David, “Mergers are spiking, but antitrust cop funding isn't,” Axios, <https://www.axios.com/antitrust-doj-ftc-funding-2f69ed8c-b486-4a08-ab57-d3535ae43b52.html>)

The number of corporate mergers has jumped in recent years, but funding has stagnated for the federal agencies that are supposed to make sure the deals won’t harm consumers. Why it matters: A wave of mega-mergers touching many facets of daily life, from T-Mobile’s merger with Sprint to CVS’s purchase of Aetna, will test the Justice Department's and Federal Trade Commission’s ability to examine smaller or more novel cases, antitrust experts say. What they’re saying: “You have finite resources in terms of people power, so if you are spending all of your time litigating big mergers … there might be some investigations where decisions might have to be made about which investigations you can pursue,” said Caroline Holland, who was a senior staffer in DOJ’s Antitrust Division under President Obama and is now a Mozilla fellow. What's happening: More mergers are underway now than at any point since the recession. The total number of transactions reported to the federal government in fiscal year 2017, and not including cases given expedited approval or where the agencies couldn't legally pursue an investigation, is 82% higher than the number reported in 2010 and 55% higher than the number reported in 2012. Funding for antitrust officials who weigh the deals hasn’t kept pace. The funding for the Department of Justice’s antitrust division has fallen 10% since 2010, when adjusted for inflation. That's in line with the broader picture: not adjusting for inflation, the Department's overall budget increased just slightly in 2016 and 2017. Funding for the FTC has fallen 5% since 2010 (adjusted for inflation). An FTC spokesperson declined to comment on funding levels and Antitrust Division officials didn't provide a comment. Driving the news: Merger and acquisition activity is up 36% in the United States compared to the same time last year, according to Thomson Reuters data from April. Several deals under government review have gotten national attention, including Sinclair’s purchase of Tribune's TV stations or T-Mobile’s deal with Sprint, which stands to reduce the number of national wireless providers from four to three. Meanwhile, the Justice Department is awaiting the ruling on its lengthy legal effort to block AT&T’s proposed $85 billion purchase of Time Warner. Yes, but: It’s not the attention-grabbing mega-mergers that advocates worry will get less of a close look thanks to a shortage of funds. Instead, some say budget limitations are likely to matter when officials are deciding which smaller or "borderline" deals to investigate further. “Sometimes there’s nothing there,” said Holland of the agency's early investigations. “Other times, it might be, ‘This is kind of a close call, and we’ve got three or four close calls and we need to pick one of them.’" "It could mean settlements get accepted that otherwise wouldn’t, or deals that should be challenged aren’t," said Michael Kades of the Washington Center for Equitable Growth, an antitrust-enforcement-friendly think tank that has done extensive research on the topic, in an email.

#### Health consolidation collapses public health

Numerof 20, PhD @ Bryn Mawr, internationally recognized consultant and author with over 25 years of experience in the field of strategy development and execution, business model design, and market analysis (Rita, “Covid-Induced Hospital Consolidation: What Are The Impacts On Consumers, And Potentially The President,” *Forbes*, <https://www.forbes.com/sites/ritanumerof/2020/11/11/covid-induced-hospital-consolidation-what-are-the-impacts-on-consumers-and-potentially-the-president/?sh=692d6fc94da0>)

Covid-19 has initiated yet another wave: A wave of hospital mergers and acquisitions that will have devastating consequences for public health if industry doesn’t soon execute an about-face. Whether because they’re on the brink of bankruptcy and have subscribed to the half-truth that size is protective, or because they think they can score some good deals and believe scale and success are synonymous, the financial fallout of Covid-19 has caused many hospital executives to make consolidation a core part of their future plans. With the intent of increasing care quality and decreasing consumer costs despite these challenging times, the merger between Shannon Medical Center and Community Hospital and partnership between Intermountain and Sanford Health are just two examples. There are multiple reasons why consumers absolutely cannot afford for industry to bulk up in an effort to weather this storm. The first is that the positive efforts executives claim consolidation will help them accomplish often prove to be futile. Research shows that wherever market concentration is high, there are also higher prices for both consumers and the employers who provide their healthcare coverage. In the absence of competition, costs increase and quality deteriorates. That’s the opposite of progress. Second, generally speaking, the union of two institutions with operational shortcomings only creates one larger institution with even more operational shortcomings! That’s not progress either. Third, Covid-induced consolidation will only make future progress many times more difficult. The larger an organization is, the more it will struggle to rapidly adapt to healthcare disruptions like we’re seeing today. Retail giants like Walmart, Walgreens, Amazon and CVS are pivoting to cater to healthcare consumer demands for affordability and accessibility. Right now, they’re still a blip on the radar relative to mainstream healthcare delivery, but they are looking to eventually corner the market and drive the industry forward. And as they continue down this path, consolidated healthcare systems will be left behind, potentially at the expense of the consumers in that area. The potential impact of continued consolidation on rural patients is especially concerning. Rural communities may have a limited number of the big-box retailers mentioned above. And the unfortunate fact of the matter is that when a larger hospital or health system purchases a smaller, rural hospital, it’s usually only a matter of time before the purchasing system realizes that unless they drastically pare down and reconfigure operations, the acquired hospital will never be profitable. Many eventually decide to close up shop, in some instances reducing or even eliminating rural patients’ options for care delivery. In the absolute worst-case scenario, this is exactly the reality all consumers could face if consolidation continues at its current pace. In theory and if left unchecked, all of the hospitals in the United States could be owned by only a handful of mammoth systems that then lack incentive to continually deliver quality services at lower total cost of care.

#### Strong public health infrastructure prevents bioterror attacks

Kosal 14, Adjunct Scholar to the Modern War Institute at the US Military Academy/West Point, Ph.D. in Chemistry from the University of Illinois at Urbana Champaign, Associate Professor at The Sam Nunn School of International Affairs at Georgia Tech (Margaret E. Kosal, “A New Role For Public Health in Bioterrorism Defense,” Frontiers in Public Health, Volume 2, Article 278)

In thinking about public health infrastructure as an active or passive part of new deterrence strategies, it is useful to think about the role of missile defense. As the presence of a ballistic missile defense system is supposed to be an existential deterrent itself, so could be a strong public health system. Missile defense is both a passive deterrent and, if used, an active deterrent, as it stops something from occurring. A strong public health infrastructure is likely to be the key in reducing the vulnerability to bioterrorism attack, as well as having a potential role in deterring a foreign terrorist group from even considering such an attack. If a biological weapon launched by a terrorist group will have little or no effect on the target country because of a known robust public health sector, then a foreign terrorist may be discouraged from launching a biological weapons attack in the first place. If foreign terrorists are also aware of the weak public health infrastructure with their own borders, and the increased risks to them and their publics in the event of an accident in developing biological weapons and/or spread of an infectious disease that they might launch, this may also deter them from pursuing this work. In addition, even the accidental release of a dangerous pathogen or the spread of an infectious disease via attack will most likely cause disproportional negative effects to nations with limited public health infrastructures and affect tacit and explicit supporters in those states. The role of a robust public healthcare system for its deterrence capacity can be explored through empirically driven case study methods against predominant theories of deterrence in political science (14, 15) and in comparison to other works considering the possibility of deterring bioterrorism (16–20). For example, the re-emergence of polio offers a potentially useful example to think about the effects of a potential bioterrorist attack on the developed and the developing world. Polio is both a contagious infectious disease and transmissible from human-to-human (like smallpox and plague). The poliovirus is highly transmissible with a basic reproductive rate or secondary transmission rate (R0) exceeding most suspected biological agents, e.g., standard estimates of R0 for polio range from 5 to 7 (21, 22), whereas R0 for suspected bioterrorist agents like smallpox (1.8–3.2) (23–25); pneumonic plague (0.8–3.0) (26, 27); and even Ebola (1.34–2.0) (28, 29) are lower. It is not a likely biological terrorism agent, however, due to the low-mortality associated with infection. It is, however, a useful model for thinking about the spread of infectious disease and the importance of a robust public health infrastructure as a deterrence strategy. At the beginning of 2003, the complete eradication of polio appeared to be within the grasp of the World Health Association and its many partners. In 1998, the World Health Organization estimated there were over 365,000 new cases of polio; by early 2003, the rate of infection had declined to <1,000 new cases worldwide due to a vigilant vaccination effort (30). That trend was interrupted, however, when Nigerian citizens refused to be vaccinated after hearing unfounded allegations of contaminated vaccines that would lead to sterility or cause HIV/AIDs. Before 2003, polio had largely been confined to only a handful of countries; Nigeria, India, Pakistan, and Afghanistan accounted for 93% of the world’s cases (31). What started with the refusal of local clerics to allow vaccination led to the reestablishment or importation of the poliovirus to 14 countries that were previously disease-free. Transport of the contagious virus was not limited to neighboring African states. The poliovirus moved through Sudan to Ethiopia crossing the Red Sea to Lebanon and Yemen. The latter was been particularly severely affected, witnessing more than 500 new cases in the first half of 2005. The poliovirus spread as far as Indonesia, where it afflicted more than 150 people in a single year in 2 provinces, predominantly children (32). Prior to this outbreak, Indonesia had been polio free for nine years. Genetic fingerprinting confirmed that the strain imported to Indonesia came from northern Nigeria through Sudan, most closely resembling an isolate recovered in Saudi Arabia in December 2004. A pilgrim returning from Mecca or a returning foreign worker is suspected to have brought the virus to the island of Java, across an ocean and thousands of miles from its source. The polio virus continues to persist in a limited number of states in the developing world, specifically in Nigeria, Afghanistan, and Pakistan, where a ban on vaccination by Islamist leaders in Waziristan remains in place. Since 2013, polio (linked genetically to the strain in Pakistan) has spread from Syria to Iraq (33). Countries that have witnessed the re-emergence of poliovirus outbreaks have some crucial links: social and political challenges that have impeded the development and implementation of appropriate public health infrastructures and measures. Not unexpectedly, there is an inverse relationship between government health expenditure in health and number of polio cases. Looking at the spread of polio can provide us with a lens to think about the impacts of bioterrorism in states with developed public health infrastructures and those who do not. A bioterrorist attack, especially one with a contagious agent like smallpox or pneumonic plague, will likely impact the developing parts of the world substantially more than the US. One only has to look as far as polio’s re-emergence (or more recently the outbreak of Ebola virus disease in West Africa) to see the very real repercussions of a contagious virus and how the most dire causes and effects of infection and spread stem from poor public health infrastructures (34). Creating a new deterrence strategy for bioterrorism is needed. Credibly, communicating the differential capacities to respond and the comparative likely outcomes will require diplomacy, coordination with civil affairs, specialized knowledge of individual states, and regions of the developing world. These are fundamentally interdisciplinary efforts that should leverage small teams from diplomatic, development, public health, and defense communities. One single parochial voice will be inadequate. Further improving the US domestic public health infrastructure would be beneficial and cost effective regardless of whether an outbreak is intentional or natural. The devastating Ebola outbreaks serve as a call for urgent investment in public health infrastructures worldwide, to provide both responsive and proactive actions to deter bioterrorism and to deal with natural disease outbreaks. Public health remains a powerful and often underutilized asset for bioweapons defense through vulnerability reduction; leveraging public health may also enable new approaches to deterring bioterrorism threats. International security scholars would benefit from better understanding of and leveraging the knowledge of the public health community.

#### Extinction without early response

Farmer 17 (“Bioterrorism could kill more people than nuclear war, Bill Gates to warn world leaders” http://www.telegraph.co.uk/news/2017/02/17/biological-terrorism-could-kill-people-nuclear-attacks-bill/)

Bioterrorists could one day kill hundreds of millions of people in an attack more deadly than nuclear war, Bill Gates will warn world leaders. Rapid advances in genetic engineering have opened the door for small terrorism groups to tailor and easily turn biological viruses into weapons. A resulting disease pandemic is currently one of the most deadly threats faced by the world, he believes, yet governments are complacent about the scale of the risk. Speaking ahead of an address to the Munich Security Conference, the richest man in the world said that while governments are concerned with the proliferation of nuclear and chemical weapons, they are overlooking the threat of biological warfare. Mr Gates, whose charitable foundationis funding research into quickly spotting outbreaks and speeding up vaccine production, said the defence and security establishment “have not been following biology and I’m here to bring them a little bit of bad news”. Mr Gates will today (Saturday) tell an audience of international leaders and senior officers that the world’s next deadly pandemic “could originate on the computer screen of a terrorist”. He told the Telegraph: “Natural epidemics can be extremely large. Intentionally caused epidemics, bioterrorism, would be the largest of all. “With nuclear weapons, you’d think you would probably stop after killing 100million. Smallpox won’t stop. Because the population is naïve, and there are no real preparations. That, if it got out and spread, would be a larger number.” He said developments in genetic engineering were proceeding at a “mind-blowing rate”. Biological warfare ambitions once limited to a handful of nation states are now open to small groups with limited resources and skills. He said: “They make it much easier for a non-state person. It doesn’t take much biology expertise nowadays to assemble a smallpox virus. Biology is making it way easier to create these things.” The increasingly common use of gene editing technology would make it difficult to spot any potential terrorist conspiracy. Technologies which have made it easy to read DNA sequences and tinker with them to rewrite or tweak genes have many legitimate uses. He said: “It’s not like when someone says, ‘Hey I’d like some Plutonium’ and you start saying ‘Hmmm.. I wonder why he wants Plutonium?’” Mr Gates said the potential death toll from a disease outbreak could be higher than other threats such as climate change or nuclear war. He said: “This is like earthquakes, you should think in order of magnitudes. If you can kill 10 people that’s a one, 100 people that’s a two... Bioterrorism is the thing that can give you not just sixes, but sevens, eights and nines. “With nuclear war, once you have got a six, or a seven, or eight, you’d think it would probably stop. [With bioterrorism] it’s just unbounded if you are not there to stop the spread of it.” By tailoring the genes of a virus, it would be possible to manipulate its ability to spread and its ability to harm people. Mr Gates said one of the most potentially deadly outbreaks could involve the humble flu virus. It would be relatively easy to engineer a new flu strain combining qualities from varieties that spread like wildfire with varieties that were deadly. The last time that happened naturally was the 1918 Spanish Influenza pandemic, which went on to kill more than 50 million people – or nearly three times the death toll from the First World War. By comparison, the recent Ebola outbreak in West Africa which killed just over 11,000 was “a Richter Scale three, it’s a nothing,” he said. But despite the potential, the founder of Microsoft said that world leaders and their militaries could not see beyond the more recognised risks. He said: “Should the world be serious about this? It is somewhat serious about normal classic warfare and nuclear warfare, but today it is not very serious about bio-defence or natural epidemics.” He went on: “They do tend to say ‘How easy is it to get fissile material and how accurate are the plans out on the internet for dirty bombs, plutonium bombs and hydrogen bombs?’ “They have some people that do that. What I am suggesting is that the number of people that look at bio-defence is worth increasing.” Whether naturally occurring, or deliberately started, it is almost certain that a highly lethal global pandemic will occur within our lifetimes, he believes. But the good news for those contemplating the potential damage is that the same biotechnology can prevent epidemics spreading out of control. Mr Gates will say in his speech that most of the things needed to protect against a naturally occurring pandemic are the same things needed to prepare for an intentional biological attack. Nations must amass an arsenal of new weapons to fight such a disease outbreak, including vaccines, drugs and diagnostic techniques. Being able to develop a vaccine as soon as possible against a new outbreak is particularly important and could save huge numbers of lives, scientists working at his foundation believe.

### 1NC

#### T Prohibition

#### “Prohibition” requires a declaration of per se illegality

Loevinger 61 (Honorable Lee Loevinger- Assistant Attorney General in charge of the Antitrust Division. “THE RULE OF REASON IN ANTITRUST LAW” , *Section of Antitrust Law* , 1961, Vol. 19, PROCEEDINGS AT THE ANNUAL MEETING, ST. LOUIS, MISSOURI, AUGUST 7 THROUGH 11, 1961 (1961), pp. 245-251, JSTOR accessed online via KU libraries, date accessed 9/13/21)

Running through the history of antitrust law are two contrapuntal themes: A prohibition of restraint of trade and a principle lately called the "rule of reason" which limits the prohibition. The legal rule against restraint of trade began in the 15th century in cases holding that a contract by which a man agreed not to practice his trade or profession was illegal.1 However, in the course of development of the common law, it became established that agreements which were ancillary to the sale or transfer of a trade or business and which were limited so as to impose a restriction no greater than reasonably necessary to protect the purchaser's interest.2

Thus, when the Sherman Act incorporated the common-law principles on this subject into federal statutory law 3 by adopting the concept of restraint of trade, it presumably imported both the principle that restrictions on competition are illegal and also the principle that in some circumstances a showing of reasonableness will legalize restrictions on competition. Nevertheless, when the question was first presented to the United States Supreme Court under the Sherman Act, it was clearly held (despite later disavowals4 ) that the justification of reasonableness was not available as a defense to a combination which had the effect of restraining trade.' Indeed, it was intimated that the question of reasonableness was not open to the courts in these actions at common law.6 However, when the Court reviewed this matter in Standard Oil Co. v. United States,7 it said in fairly explicit terms both that the Sherman Act prohibited only contracts or acts which unreasonably restrained competition and that the standard of reasonableness had been applied to all restraints of trade at the common law. The Court's assertion is somewhat weakened by the fact that it construed the rule of reason not as applying a standard for judging the character or consequences of the challenged conduct, but as a technique involving the application of human intelligence, or reason, to the problem of making a judgment about whether the conduct does restrain trade.'

#### The aff violates—they create a new legal standard for courts to decide whether a practice is “unreasonable” based on weighing evidence—not a declaration of illegality without inquiry

McKibben 85 (Michael D. McKibben-Vanderbilt University Law School, J.D., 1985, Vanderbilt Law Review, Associate Editor; Patrick Wilson Scholar. The Resale Price Maintenance Compromise: A Presumption of Illegality, 38 Vanderbilt Law Review 163 (1985), Available at: <https://scholarship.law.vanderbilt.edu/vlr/vol38/iss1/3> , date accessed 9/13/21)

In United States v. Colgate & Co." the Court developed a major exception to Dr. Miles. The Colgate doctrine allows a weak form of RPM by manufacturers or wholesalers that have attempted unilaterally to set prices.6 Although the Colgate doctrine has lost much of its vitality due to years of restrictive interpretation, in Russell Stover Candies, Inc. v. FTC7 the United States Court of Appeals for the Eighth Circuit upheld Colgate against a challenge by the Federal Trade Commission. In addition, the Supreme Court, in Monsanto Co. v. Spray-Rite Service Corp.," recently intimated new-found support for the Colgate doctrine and a possible willingness to reconsider the Dr. Miles per se prohibition against RPM.9

The outcome of vertical pricing cases under section 1 has depended upon the perceived effects of RPM on competition. Current RPM decisions, however, rest on the principles of stare decisis and, therefore, do not depend upon political and economic theories that have developed since Dr. Miles.10 Early courts denounced vertical restraints as analogous to horizontal price fixing, which courts have assumed the drafters of the Sherman Act intended to prohibit per se. 11 Later cases, however, illustrate that the analogy between vertical and horizontal trade restrictions is not analytically sound, and the Supreme Court's attempt to maintain the per se approach to RPM has led to serious theoretical and practical problems. 12

This Note explores several problems with recent RPM decisions: (1) the effect of the per se rule on producers' rights to control their marketing strategies; (2) inconsistent use of the plural action requirement as a foil for avoiding or invoking the per se rule; (3) the suppression of benign or procompetitive activities because of the rule; (4) the difficulties with free rider marketing; and (5) the obstacles to advice and planning that recent decisions have created. This Note contends that a new standard, a rebuttable presumption13 against legality, would alleviate most, if not all, problems that the inflexible per se rule causes.

A rebuttable presumption, followed by rule of reason analysis 14 [[BEGIN FOOTNOTE 14]] 14. Under the rule of reason "the factfinder weighs all of the circumstances of a case in deciding whether a restrictive practice should be prohibited as imposing an unreasonable restraint on competition." Sylvania, 433 U.S. at 49. [[END FOOTNOTE 14]] in cases in which the defendant satisfies the threshold inquiry,15 would restore certainty and intellectual honesty to RPM cases. The rebuttable presumption would eliminate the need to reconcile contrary cases and the need to consider issues that parties now must address under the rule of reason. While the rebuttable presumption does not require that courts maintain or reject the Colgate doctrine,16 this Note argues that the Court could retain Colgate but primarily rely upon the guidelines and safeguards of the rebuttable presumption. This new line of inquiry would retain the benefits of the per se rule-efficiency and certainty-and would remain flexible enough to accommodate special cases in which RPM may be beneficial to the market. In many cases, the rebuttable presumption also would save society, courts, and litigants the protracted costs of rule of reason analysis.

Part II of this Note considers major RPM cases since the early 1900s, with special focus on Russell Stover and Filco v. Amana Refrigeration, Inc.,'17 cases which protect the defendant under the Colgate doctrine. Part III analyzes the weaknesses of the per se rule and the benefits that could inure to manufacturers and the marketplace under the rebuttable presumption. Part IV examines the strengths and weaknesses of the rule of reason and offers an improved rule of reason approach as the second part of the rebuttable presumption standard. Finally, Part V outlines a suggested analysis for RPM disputes using a rebuttable presumption of illegality. Part V also considers the effects of the presumption on federal antitrust laws.

II. THE CURRENT CONTROVERSY

A. Minimum Price Restrictions in the Supreme Court

Vertical price restrictions are written or oral directives setting a price above or below which a manufacturer wishes its distributors to sell. If the manufacturer establishes a price below which a distributor should not resell a product, the manufacturer is imposing minimum price RPM. Maximum price RPM-the setting of price ceilings- and minimum RPM are per se violations of section 1 of the Sherman Act."' Nonprice vertical restrictions, however, which include primarily territorial distributorship limitations, generally are reviewed under the rule of reason. 19

1. Dr. Miles: The Per Se Rule

Dr. Miles Medical Co. v. John D. Park & Sons Co.20 is the basis of much of the current academic criticism of the Supreme Court's RPM approach.2 ' The plaintiff Dr. Miles, a medicine manufacturer, required its wholesalers and retailers to adhere to a minimum resale price schedule. The plaintiff also required its wholesalers to maintain control over the retailers' subsequent resale prices. The defendant Park & Sons, a wholesaler that refused to purchase from Dr. Miles under the minimum price contract, bought Dr. Miles' medicines from third parties and resold them below the plaintiff's price schedule. The plaintiff charged the defendant with inducing the plaintiff's distributors to breach their contracts by reselling to a price cutter.22 The Court denied the plaintiff's request for relief and held that the plaintiff's contract provision was void under common law and the Sherman Act. 3

After determining that the agreement between Dr. Miles and its vendees fulfilled the duality requirement of the Sherman Act,24 the Court found that the plaintiff's resale price schedule eliminated competition by controlling the price at which all purchasers received the product.25 The Court refused to accept the defendant's argument that producers of patented products have a right ordinary sellers do not have-the right to dictate the destiny of their products.26 The Court inquired whether the plaintiff had a right to restrain trade. The Court held that generally a right to control alienation does not exist without an agreement.2 7 Applying the common-law rule that contractual restraints on alienation must be reasonable and limited to the necessity of the circumstances, 2 the Court found that Dr. Miles' agreement did not fit any of the common forms of acceptable restraints.29

The Court's final inquiry was whether the benefits that the plaintiff gained from its pricing restrictions were entitled to more protection than the property rights that the defendants had in the medicine.30 The Court's response to this issue forms the heart of the per se rule.31 [[BEGIN FOOTNOTE 31]] 31. Per se rules prohibit certain conduct without inquiry into possible justifications for the conduct. Courts impose per se rules when the interests of judicial economy outweigh other interests. See Note, Fixing the Price Fixing Confusion: A Rule of Reason Approach, 92 YALE L.J. 706, 708 (1983). [[END FOOTNOTE 31]] Although the Court never explicitly condemned all vertical price fixing agreements, it found that the effects of the Dr. Miles scheme were the same as the effects that could result from horizontal price fixing at the dealer level. The Court, therefore, held that both kinds of price fixing were illegal.3 2 The Supreme Court's focus on the effects of the alleged violative activity, without regard to its purposes or benefits, is characteristic of other Supreme Court per se decisions. 3

The breadth of the Dr. Miles decision is still unclear.3 4 A narrow interpretation of the holding is that express contractual provisions restraining resale prices violate the Sherman Act. The decision left open many further questions, the first of which the Court answered by creating the Colgate exception.

2. The Colgate Exception

The Court's 1919 decision in United States v. Colgate & Co.35 is still difficult for courts and commentators to harmonize with the Dr. Miles rule of per se illegality.3 6 In Colgate the prosecution charged the defendant under the Sherman Act 37 with forming an illegal combination to fix resale prices among the wholesalers and retailers of the defendant's soap and toilet products.3 8 Colgate circulated price lists, along with provisions for penalties to distributors that did not adhere to the defendant's price lists. Colgate also engaged in policing activities, such as obtaining information from other distributors concerning noncomplying dealers, and requesting assurances from nonuniform pricers that they would comply with the defendant's guidelines. 39

The trial court sustained the defendant's demurrer 40 and the Supreme Court affirmed on direct appeal. The Court permitted the defendant's pricing structure based on the trial court's finding that Colgate reserved no contractual rights in the goods after their sale to dealers. Colgate could enforce the price restrictions only by later refusing to deal with wholesalers and retailers that breached their contracts.41 According to the Court, because the contracts in Dr. Miles "undertook to prevent dealers from freely exercising the right to sell," Dr. Miles was distinguishable from Colgate.42 The Court then laid out the Colgate doctrine: "In the absence of any purpose to create or maintain a monopoly, the [Sherman Act] does not restrict the long recognized right of a trader or manufacturer engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal. 43 If the Court had employed the "effects only" logic that it used in Dr. Miles, Colgate would have been an inconsequential extension of the Dr. Miles progeny. By blending the section 1 duality requirement with common-law business principles, however, the Court created an exception to the per se rule.44

3. Narrowing Colgate

The Court quickly issued three decisions reaffirming the viability of Colgate, but in increasingly narrow circumstances. 45 Less than one year after Colgate, the Court decided United States v. A. Schrader's Son, Inc.46 Schrader's Son was factually similar to Dr. Miles,47 but the district court initially held for the defendant, reasoning that Colgate implicitly had overruled Dr. Miles.48 The Supreme Court reversed, stressing that its intent in Colgate was only to preserve the manufacturer's right to announce its pricing policy and cease to do business with dealers that failed to comply. 49

Based on this narrow interpretation of Colgate, the Court extended the scope of Dr. Miles to implicit agreements that attempt to make resale rates binding, including agreements "implied from a course of dealing or other circumstances." 0 The Court contrasted Colgate's holding with situations in which "the parties are combined through agreements designed to take away dealers' control of their own affairs and thereby destroy competition." 51 This language created a major expansion of the per se rule by shifting the Court's inquiry from "contract" to the less restrictive term "agreement." The Court's characterization of implicit agreements as section 1 violations is the basis of most criticism of the per se rule.52 Schrader's Son did not resolve the open distinction between implicit agreements that derive from dealer acceptance of fixed prices and unilateral declarations of terms that originate from a manufacturer's normal course of dealing.

The Supreme Court was quick to quell rumors of Colgate's early demise. In Frey & Son, Inc. v. Cudahy Packing Co.53 the trial court instructed the jury that the plaintiff could prevail despite the lack of an express or implied agreement or objections to the seller's pricing demands.5 4 The Supreme Court held that the jury instruction was insufficient to establish the defendant's liability under section 1. 55 Despite the Court's inability to draw a clear distinction between Dr. Miles and Colgate, the Court refused to extend the per se rule to prohibit inferential agreements.

#### VOTE NEG

#### FIRST---Ground---balancing tests devastate core links, because they allow the practice when it’s beneficial. AND, creates a moving target, because the disallowed behavior is context-dependent.

#### SECOND---Bidirectionality---rule of reason creates legally protected practices

Graglia 8 (Lino A. Graglia is the A. Dalton Cross Professor of Law at the University of Texas. “The Antitrust Revolution”, *Engage* Vol. 9, Issue 3, <https://fedsoc-cms-public.s3.amazonaws.com/update/pdf/HfSHUKp1jnxxov80FkGORMCD5eojoela0HkiRejm.pdf> , October 2008, date accessed 9/14/21)

Although Section 1 of the Sherman Act prohibits “every contract, combination…, or conspiracy, in restraint of trade,”7 it was early and necessarily—since the purpose of every contract is to restrain—decided that it prohibited only “unreasonable” restraints on trade.8 Under the resulting “Rule of Reason,” only business practices found to be net anticompetitive and without efficiency justification were (and are) illegal. Some practices, however, have been declared to be always or almost always anticompetitive and without justification—and therefore are said to be illegal per se. Because a challenged practice’s anticompetitive effects and lack of justification are typically very difficult to show—largely because they characterize few business practices—the Rule of Reason tends to become a rule of legal per se.9 The Rule of Reason means that antitrust plaintiff s will rarely win and, therefore, that few antitrust suits will be brought. Th e liberal justices of the Warren Court dealt with the “problem” by tending to declare nearly all challenged practices illegal per se.

### 1NC

#### Text: The 50 United States and relevant subnational entities should enact and enforce prohibititions on anticompetitive practices by establishing a presumption against mergers and acquisitions among agribusiness firms.

#### State antitrust is enforceable and solvent.

Lange et al. 21, \*Perry A., JD, antitrust lawyer, vice-chair of the ABA Antitrust Section’s Joint Conduct Committee. \*Brian K. Mahanna, JD, former chief of staff and deputy attorney general in the Office of the New York State Attorney General, \*Nicole Callan, JD, vice chair of the Civil Practice and Procedure Committee of the American Bar Association (ABA)'s Section of Antitrust Law, \*Álvaro Mateo Alonso, LLM, Law Degree, antitrust lawyer. (3-5-2021, "Developments in Antitrust Law: Keep an Eye on New York", *WilmerHale*, Full report accessible at: https://www.wilmerhale.com/en/insights/client-alerts/20210305-developments-in-antitrust-law-keep-an-eye-on-new-york)

Although much attention recently has been focused upon debates in Congress, potential legislative changes to U.S. antitrust law are not limited to proposals at the federal level. Many states are considering changes to their own antitrust laws, which usually can be enforced by state attorneys general and private plaintiffs. Importantly, New York legislators have introduced two bills that propose sweeping changes to the State’s antitrust law, the Donnelly Act, building on measures introduced in New York’s last legislative session.

These proposals, if enacted, would make New York’s single firm conduct statutory provisions the most aggressive in the United States and would give the New York Attorney General a more prominent role in reviewing transactions—including by creating a first-of-its-kind state merger notification requirement. These changes would allow New York’s antitrust law to reach a range of conduct not actionable under any existing federal or state antitrust law, and would introduce European-style antitrust standards to New York. Accordingly, this reform would create considerable new compliance challenges and risk for companies potentially subject to New York antitrust law, whether or not those companies are located in New York.

Other U.S. states and territories are considering antitrust law changes, but the New York proposals are the most significant. Although much of the conversation concerning developments in antitrust law has focused on “Big Tech” companies, these proposals would affect businesses across all sectors of the economy. This alert discusses these legislative proposals and key implications for businesses.

## Case

## Adv 1

### 1NC---!D---Food Wars

#### Food insecurity doesn’t cause war.

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

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

### 1NC-AT: Water topic impact thing

#### Dead zones aren’t anthropogenic—newest studies

Gupta et al. 21, (4-16-2021, Dr. G. V.M. Gupta, specialized in Marine Biogeochemistry, Director of CENTRE FOR MARINE LIVING RESOURCES & ECOLOGY. Dr. Gupta did his M. Sc in Chemical Oceanography from Andhra University, Visakhapatnam in 1992. He joined National Institute of Oceanography, Visakhapatnam as Junior Research Fellow under the project Coastal Ocean Monitoring and Predictive Systems (COMAPS) and worked on the estuarine/coastal pollution and biogeochemistry of the Bay of Bengal through extensive field surveys. He received his Ph. D from Andhra University in 1999 for his work on Particulate Matter Composition in the Bay of Bengal. He worked as an Environmental Manager in Baroda for one year before joining Integrated Coastal and Marine Area Management - Project Directorate (ICMAM-PD), Chennai as Scientist in 1999., R Jyothibabu, Ch V Ramu, A Yudhistir Reddy, K K Balachandran, V Sudheesh, Sanjeev Kumar, N V H K Chari, Kausar F Bepari, Prachi H Marathe, B Bikram Reddy and Anil Kumar Vijayan. "The world's largest coastal deoxygenation zone is not anthropogenically driven", Environmental Research Letters is a quarterly, peer-reviewed, open-access, scientific journal covering research on all aspects of environmental science. It is published by IOP Publishing, https://iopscience.iop.org/article/10.1088/1748-9326/abe9eb ) //BW

Terrestrial inputs can also contribute to the formation of coastal deoxygenation but the recently emerged evidences suggest that this could not be the only cause. Unlike the major and perennial rivers that flow along the east coast of India into the Bay of Bengal, only small to medium rivers flow along the west coast of India discharging ~76% less freshwater laden with nutrients into the Arabian Sea (Krishna et al 2016). Much of these discharges are confined to a shorter period of about four months coinciding with the SM, with peak discharges in July–August when >80% of runoff occurs that dilute the nutrient load. Though India is the second-largest fertilizer consuming country in the world, transport of nutrients to the coastal sea will be heavily constrained by their highest retention in these monsoonal rivers (~91%; Krishna et al 2016) compared to those in the North America and western Europe (74%; Alexander et al 2002, Boyer et al 2002), and global watershed (80%; Caraco and Cole 1999). This is reflected in the stable isotopic composition of suspended organic matter over the central-western shelf of India which did not reveal significant anthropogenic contribution (Maya et al 2011). Even the minor fraction of nutrients that escape into the coastal sea may not be fully utilized by coastal phytoplankton since rivers also discharge significant amounts of suspended sediments which along with overcast skies during the SM limit the primary production. Besides, it has been shown recently that hypoxic to anoxic waters exist over the south-western shelf of India (Gupta et al 2016, Sudheesh et al 2016, 2020) where no major rivers exist and the degree of coastal deoxygenation remain stable despite the hinterland experienced large-scale developmental activities in the last five decades (Gupta et al 2016). Collectively, these recent studies are suggestive of yet another process, besides that of anthropogenic origin, being chiefly responsible for the observed seasonal deoxygenation over the west coast of India. Nevertheless, the seasonal acute oxygen deficiency along the west coast of India is recurrently happening possibly by both natural and anthropogenic sources but with unknown relative importance. Using the systematic oceanographic Eastern Arabian Sea (EAS) basin-scale data collected from 7 to 10 transects running from estuaries through coastal to offshore regions during different phases of the SM of 2018 (figure 1), we prove that the influence of terrestrial inputs is meagre while the oceanic factors largely drive the development of hypoxia/anoxia along the west coast of India. Apart, we also have focused on the spatio-temporal variation in upwelling and its linkage between dissolved oxygen concentrations of the OMZ and development of anoxia confined only to the central shelf during the progression of SM, which are hitherto unknown. 2. Study area The circulation in the EAS during the SM is characterised by an equator-ward West India Coastal Current (WICC), a poleward West India Under Current (WIUC) and the phenomenon of coastal upwelling (Shetye et al 1990). While this phase of WICC carries Arabian Sea High Salinity Watermass (ASHSW) from the north, the WIUC carries relatively ventilated waters towards the north (Naqvi et al 2006). The upwelling is supported by favourable winds/currents and propagates from south to north with time (Johannessen et al 1987), but its intensity weakens towards the north. These upwelling waters are sourced from the perennial OMZ (Banse et al 2014) and promote the development of deoxygenation over its shelf. Among the estuaries discharging along the west coast of India (figure 1), the Kochi estuary in the south and Amba and Thane estuaries in the north are highly eutrophic compared to those in the central region, viz. Nethravati, Mandovi and Zuari, as the latter are less affected by the developmental activities. 3. Materials and methods We made EAS basin-scale cruises during the three phases of SM viz. early SM (4 June to 9 July), peak SM (3 August to 6 September) and late SM (16 September to 8 October) of 2018 onboard FORV Sagar Sampada and ORV Sagar Kanya. Each cruise covered about 70–90 stations from 7 to 10 coast-offshore transects along the entire EAS (figure 1). Each transect was occupied between 30 and 2000 m depth contours, and additionally, very shallow stations (13 and/or 20 m) were occupied at Kochi, Mangalore, Goa, Mumbai, and Okha. Parallelly, seven main estuaries (downstream regions towards mouth) along the western India (figure 1), debouching adjoining our cruise transects, were studied twice during early SM (June) and late SM (September). The temperature and salinity profiles were recorded using a new Conductivity-Temperature-Depth (CTD) profiler (SBE 11 Plus, Sea-Bird, USA for cruises and SBE 25 for estuaries). Samples were collected from Niskin bottles attached to CTD rosette (cruises) and manually (estuaries). Samples for dissolved oxygen were collected in 125 ml glass bottles, fixed by adding 1 ml of Winkler A (with Azide to remove nitrite interference) and Winkler B, and titrated against 0.001 N sodium thiosulphate potentiometrically (907 Titrando, Metrohm, Switzerland) (Carritt and Carpenter 1966). The small amount of oxygen carried by the reagents was not subtracted, and oxygen was estimated with a precision of ±0.15 µM. The new dissolved oxygen sensor (SBE 43, Sea-Bird) attached to CTD was maintained wet and rinsed regularly with 0.1% Triton X-100 followed by a rinse with fresh water. The oxygen sensor data, well correlated against the measured values (n = 1062; p< 0.001) across the water column, was used in this study. Apparent oxygen utilisation was calculated according to Garcia and Gordon (1992). Samples for nutrients, filtered through Whatman GF/F and preserved with saturated mercuric chloride (0.5% v/v), were analysed using an autoanalyser (Skalar San++) following standard methods (Grasshoff et al 1999), except nitrate which was analysed following the method of García-Robledo et al (2014). Ammonium was measured spectrophotometrically (Grasshoff et al 1999). The precisions of nitrate, nitrite, ammonium, and phosphate were ±0.01, ±0.03, ±0.1 and ±0.01 µM, respectively. For particulate organic matter, 4–6 l of seawater was filtered through 47 mm Whatman GF/F filters (precombusted at 400 °C for 4 h) and preserved at −40 °C. The overnight oven-dried filters for carbon were decarbonated with HCl fumes, whereas nitrogen isotopic composition was measured from untreated filters. Carbon and nitrogen isotopic composition in these filters were analysed using an isotope ratio mass spectrometer attached to an elemental analyser (Thermo Flash 2000 + Delta V) with a precision of <0.1‰ and <0.3‰, respectively. Dissolved organic carbon and nitrogen in the filtrates were analysed using a TOC-TN analyser (Shimadzu) with an accuracy of ±1%. Chlorophyll a in the seawater (2–3 l filtered onto 25 mm Whatman GF/F filters in dark and stored at −80 °C) was extracted in 100% methanol and analysed using high performance liquid chromatography (Shimadzu Prominence) (Roy et al 2015). 4. Results and discussion 4.1. Significance of anthropogenic effect on coastal deoxygenation Temporal changes between early, peak and late phases of the SM upwelling showed two significant features (figure 1): the gradual intensification of shelf oxygen deficiency from hypoxic during early SM to suboxic/anoxic by late SM and the other, a gradient in it, with the suboxia/anoxia (≤5 µM) confined to the central shelf between 11º and 18º N, and hypoxia prevailing to the north and south of it. This reflects that almost half of the western Indian shelf in the central region is under acute stress. There are several factors that appear to unrelate the development of this coastal anoxia to the anthropogenic effect. First, the anoxic central zone is located away from receiving significant anthropogenic inputs unlike in the coastal waters off Kochi (10º N) in the south and Mumbai (19º N) in the north, the two largest coastal cities of west India, which receive substantial allochthonous inputs, yet remained at hypoxia during entire SM. The increased anthropogenic activities have not impaired these coastal waters (Balachandran 2001) as evident from their decadal changes. The Kochi estuary has been transformed from an autotrophic to a highly heterotrophic system between 1965 and 2005 (Gupta et al 2009) due to a 4–6 fold rise in anthropogenic nutrients (Martin et al 2010). Yet, its SM coastal hypoxia remains unchanged during this period (Gupta et al 2016) because the fast turnover rates of nitrogen within the flushing times of the estuary (Bhavya et al 2016) limits its export impact to the nearshore regions only (Gupta et al 2016, Bhavya et al 2017, 2018). This is also true with other monsoonal estuaries of west India which are acting as heavy sink zones and export only <10% of anthropogenic nutrients to the coastal sea (Krishna et al 2016). Second, nutrient concentrations in the lower reaches of seven main estuaries along the west coast during early and late phases of SM showed more than two-fold lower concentrations in the estuaries of the central region, where coastal anoxia is confined, than those in the northern and southern regions (figure 2). Though not measured, the estuarine nutrients during peak SM can contribute to coastal deoxygenation. But the high nearshore surface salinity (upper 4 m) at the central shelf (Mangalore and Goa) during peak SM (34.27–35.36) compared to that of Kochi (24.26) shows weak runoff over the former shelf (figure 3), still, it maintained with nitrate replete (9.5–13 µM) and anoxic conditions (figure 1). Third, we examined the data on the stable isotopic composition of particulate organic carbon (POC) and nitrogen (PN) during the SM (figure 3). High δ15NPN (15.8 ± 1.6‰) and low δ13CPOC (−31.5 ± 1‰) were found in the sewage from a coastal outfall at Mumbai (Sarma et al 2019). These δ15NPN are distinctly higher than our measured values at nearshore regions of Kochi (7.7‰–7.8‰) and the rest of the west coast (8‰–13‰) including those reported off Goa earlier (7.77 ± 1.57‰; Maya et al 2011), indicating an absence of anthropogenic influence due to intense mixing and rapid dilution of these waters once enter the coastal sea. Similarly, except nearshore waters of Kochi during late SM (−15.3‰), the δ13CPOC from rest of the coast, including the anoxic central zone (−20‰ to −25.5‰) and off Goa (−19.0 ± 0.67‰; Maya et al 2011), largely fell in the range reported for organic matter of marine origin (−18‰ to −24 ‰; Cloern et al 2002, Bouillon et al 2003). Since the nearshore waters of Kochi show high δ13CPOC with high salinity during late SM, it precludes the possibility of significant terrestrial influence as it is quite close to the values observed for sea grass or macroalgae (−16‰ to −19‰; Hondula and Pace 2014). Notably, δ13CPOC (−21.7‰ to −22.2‰) during the maximum runoff conditions at Kochi nearshore during peak SM (salinity 24.26–28.1) also did not deviate significantly from the typical marine signature, when it maintained with bottom hypoxia (17–31 µM). These are in accordance with the last three decadal regular monitoring of coastal waters around India, which shows that the coastal waters within ~2 km from the vicinity of population centres, especially mega cities like Kochi and Mumbai, only felt with significant anthropogenic effect (Madeswaran et al 2018) due to their rapid dilution beyond this distance. Thus the observed weak or no anthropogenic signal even at the nearshore stations (8–13 km away from the coast) along the EAS is consistent with no terrestrial nutrients influence beyond ~15 km from the coast in the Bay of Bengal (Sarma et al 2020b). Overall the isotopic data in conjunction with salinity during the study period (figure 3) suggests that the nutrient source of organic matter to the anoxic central zone is likely of marine origin. Higher δ15NPN in the central region (>9‰) compared to Kochi (7.1‰–7.8‰), despite salinity at the former region was higher than the latter, suggest the isotopically enriched source of nitrogen during the formation of organic matter as these values are higher than typical δ15N for phytoplankton in marine waters (Kumar et al 2004). The enriched source of nitrogen for these waters could be sewage (15.8 ± 1.6‰; Sarma et al 2019) or denitrified upwelling (9‰–12‰; Rixen et al 2014) or sediment pore water. However, no significant drop in salinity at these locations indicates the limited contribution of freshwater mediated waste supply. Therefore, it is highly likely that the source of nutrients for the formation of organic matter at these locations is marine-derived natural processes. Moreover, even during peak SM, when significant freshwater was received at Kochi nearshore (surface salinity ~24), no significant increase in δ15NPN was observed implying rapid dilution of terrestrial inputs within few kilometres from the coast. Similar is the case with Mangalore where the low salinity front observed between stations 3 and 4 during peak SM shows δ15NPN of denitrified marine signals (figure 3). To further confirm the possible influence of anthropogenic sources on coastal anoxia, paleoceanographic records are examined. Organic carbon isotopic composition and variability in iron content in the sediment core were taken as proxies for the source of carbon and redox conditions in the water column, respectively. The sediment cores from the shallow stations of the central west coast of India, dated to ~350 years, were found to have a narrowly varied isotopic composition of organic carbon (−23‰ to −21‰) indicating its marine origin (Fernandes et al 2020). The authigenic iron contents in these cores also did not show significant variability between the recent and past centuries. Similarly, almost uniform Fe/Al (0.78 ± 0.04) and Mg/Al (0.32 ± 0.02) ratios in the sediment core in the last ~700 years infer no considerable change in nature and source of detritus (Agnihotri et al 2008). Dinoflagellate cysts are good indicators of ecosystem eutrophication by anthropogenic factors (Price et al 2018), and their tracking history in the sediment core from the west coast of India also did not indicate any sign of terrigenous derived organic matter (D'Silva et al 2012). Unlike the coastal systems of the Gulf of Mexico, Gulf of St. Lawrence, etc where paleo records show a significant impact of anthropogenically derived eutrophication (Rabalais et al 2007, Gilbert et al 2010, Price et al 2018), the studies on coastal system of west India have not shown such effect. These findings along with our earlier observation of unchanged hypoxic conditions compared to five decades ago over the southwest coast of India corroborate the view that the coastal deoxygenation is supported by the oceanic processes (Gupta et al 2016). All these observations collectively strengthen the possibility that the anoxic conditions along the central west coast are not primarily related to the anthropogenic effect. 4.2. Influence of circulation on the variation of OMZ and its expansion onto the coast It is known that the upwelling waters of the EAS originate from the Arabian Sea OMZ (Banse 1959), however, it is unknown till now the depth and dissolved oxygen concentrations of source waters for the upwelling. Our results show that the extent of shelf deoxygenation follows the corresponding spatio-temporal changes in the distribution of dissolved oxygen concentrations in the offshore OMZ. To begin with, the upwelling of deoxygenated waters initiated in the south is progressed up to 15° N by early SM, and to the entire west coast by peak SM (figure 1). While doing so, the shelf exhibited significant deoxygenation gradients with anoxia confined to the central shelf between 11° and 18° N. The upper boundary of OMZ (20 µM oxygen), varied between ~100 m in the south to ~130 m in the north during early SM, shallows with the progression of the season to a peak to ~70 m in the central region by late SM (figure 4), and accordingly forms the source for upwelling (figure 5). Further, the perennial OMZ has a southern boundary at ~12° N (Naqvi 1991), its 0.2 ml l−1 (~9 µM) dissolved oxygen isoline slopes northward up to 18° N (figure 1). These lead to a condition wherein the upwelling waters over the central shelf are sourced from the core OMZ which are suboxic (≤10 µM) while those of the south and north are from hypoxic waters (~20 µM) outside the core OMZ (figure 4). These core OMZ denitrified waters have enriched δ15NPN of 9‰–12‰ at 100–150 m (Rixen et al 2014), the upwelling of these waters contributed to higher δ15NPN over the central shelf (>9‰), consistent with the values reported earlier (Maya et al 2011), compared to the southern shelf (<8‰) (figure 3). Though the upwelling propagates from south to north, its onset in the south is evident at 100 m during January–February, peaks to the surface layers during the SM (June–August), and subsides abruptly thereafter (Gupta et al 2016). However, the present intra-seasonal data shows that while progressing to the north, the peak phase of upwelling over the southern and northern shelves end up at hypoxia while the upwelling over the central shelf is sustained till late SM but with suboxia/anoxia (figure 6). These changes in the coastal waters are also accompanied by similar changes in the offshore waters. The doming of the water column seen at 10° N during early SM shallows and strengthens in size up to 11° N by peak SM, and thereafter shifts to 14° N by late SM (figure 4). This shift, as shown by the weekly averaged satellite data on sea surface height anomalies, is governed by the formation of cold-core eddies in the south and central regions respectively during peak and late SM (figure 7). This leads to a shift in the upliftment of the water column/oxycline from outside core OMZ to within core OMZ during the progression of SM. Consequently, the core OMZ waters of the central region shoal from >100 m to ~70 m between early and late SM, the corresponding change in oxygen regime in upwelling source waters from hypoxia to suboxia (figure 4) influences the intensification of deoxygenation over the central shelf (figures 5, 6 and 8). Such spatial and temporal shifting of cyclonic eddies, influencing the intensity and spatial spread of upwelling and, in turn, the patterns of distribution of dissolved oxygen over the shelf, as seen from the sea surface height anomalies from 2012 to 2017 (figures S1 and S2 (available online at stacks.iop.org/ERL/16/054009/mmedia)), is probably a recurrent feature. The poleward west India under-currents at 50–150 m, gain strength between peak and late SM, carry relatively ventilated waters (Naqvi et al 2006) up to 11–12° N (figures 4 and S3). Their progression also restricts the upwelling of suboxic (<10 µM) core OMZ waters to the north of 11° N and governs the southern boundary of shelf anoxia (figures 1 and 5). The equatorward advection of Arabian Sea High Salinity Watermass (ASHSW >36) with WICC also has a role in maintaining the oxygen gradients between the north and central regions. The oxygenated ASHSW is about 150 m thick in the north and caps the cold (20 °C) and hypoxic (~20 µM) waters (figure 4). The upwelling of these relatively aerated waters over the shelf north of 19° N maintains its hypoxic conditions (figures 5 and 8). But between 18° and 12° N, the ASHSW is gradually eroded to <70 m, enabling an intense upwelling of suboxic waters on to the central shelf. However, the ASHSW still acts as a barrier for upward movement of anoxic layers along the central west coast. Though coastal anoxia is confined to 11–18° N, north of 15° N (for example, off Goa—figure 8) where the pycnocline is thicker, it is less-spread whereas the shallow pycnocline south of 15° N leads to large parts of the water column becoming anoxic, thereby the severity of anoxic volume is higher at Mangalore than at Goa. 4.3. Influence of shelf biogeochemistry and biology on deoxygenation Though physical factors govern the spread of deoxygenated upwelling waters, shelf biogeochemistry and biology also play a crucial role in maintaining the observed gradients. In phase with the decreasing upwelling intensity towards the north, the phytoplankton biomass (column chlorophyll a) between the nearshore and mid-shelf regions during the SM months was higher in the south (77 ± 47 mg m−2) compared to the central (56 ± 26 mg m−2) and northern (56 ± 23 mg m−2) regions. But the corresponding bottom oxygen consumption rates (based on changes in apparent oxygen utilisation), following the decay of plankton, remained relatively higher in the central (1.91 ± 0.8 µM l−1 d−1) than in the southern (1.59 ± 0.6 µM l−1 d−1) and the northern (1.68 ± 0.4 µM l−1 d−1) regions. As the abundance of zooplankton and herbivorous fishes in the suboxic/anoxic (hypoxic) waters of the central (southern) shelf are expected to be lower (higher) (Stramma et al 2011, Gupta et al 2016, Roman et al 2019), the lower grazing loss of phytoplankton in the central shelf results in higher decomposition of sinking organic matter (figure S4) and intensifies oxygen depletion. 5. Conclusions This study clearly shows that the development of seasonal anoxia over the central-western shelf of India is a natural phenomenon caused by the upwelling of core OMZ waters, to which upwelling driven biogeochemical processes add. The incidence and spread of this coastal anoxic zone may vary depending on the interannual variation in the intensity of SM, which in turn is influenced by climatic events. For example, the weak upwelling during El Niño-Southern Oscillation (ENSO) years has led to the incursion of relatively oxygenated waters and no or weak coastal anoxia was formed (figure S5). Even model studies have found prevention of anoxia formation during Indian Ocean Dipole (IOD) years over the west coast of India (Parvathi et al 2017), which also supports our argument of it being driven naturally. The observed weak cyclonic eddies during the IOD (2012) and ENSO (2014–2015) years relative to normal years (figures S1 and S2) also support this. Similarly, the ENSO years of weak winter cooling (Chakraborty et al 2017) can alternately weaken the strength of ASHSW and influence the upwelling intensity. The fact that equatorward spread of ASHSW through WICC interacting with upwelling influences the spatio-temporal variation of oxycline depth is a significant finding as larger the anoxic volume greater the reduction in habitat for higher pelagic organisms, which in turn, alters the trophic food web dynamics (Diaz and Rosenberg 2008, Stramma et al 2011). This is especially true during late SM when fresh water laden salinity stratification (oxic zone) is sharply retreating and upwelling driven anoxic volume is proportionately increasing it leads to a scenario of pelagic fishes gets trapped into the rapidly shrinking habitable oxic volume towards the coast and washed ashore over the central coast (at Goa beach, see figure 2.3.12 of Naqvi 2019). Similar fish mortality were also happening in the regions of sharp hypoxic-anoxic boarders such as one that happened at ~11–12° N during late SM 2019 (figure S6). Nevertheless, the present study, pointing out the natural origin of the world's largest coastal anoxia over the central west coast of India as an example, may infer that not all the

### 1NC- AT: Phosphurus

#### new gmo’s solve

Ziegler 12 (Robert, Director General Emeritus of IRRI, plant pathologist, “Plant phracking pops peak phosphorus?”, 12/5/12, <http://irri.org/blogs/bob-s-blog/plant-phracking-pops-peak-phosphorus>, ID)

But what does this have to do with [peak phosphorus](http://en.wikipedia.org/wiki/Peak_phosphorus) and global food security? Well, last September IRRI scientists and their partners [published a paper in Nature](http://irri.org/news/media-releases/underground-solution-to-starving-rice-plants)in which they describe a gene from a traditional rice variety that is able to grow in very low phosphorus soils and produce a good yield (see my blog [“Whose line is it, anyway? ”](http://irri.org/blogs/item/whose-line-is-it-anyway)). The mechanism appears to be that the gene (Pstol1) promotes much more vigorous root growth that allows the plant root system to more effectively penetrate and explore the soil volume to extract what phosphorus is there. There may also be a role for root exudates that make the soil phosphorus more chemically available to the plant. In my mind this is the plant kingdom’s equivalent of “fracking”. If this rice gene can be transferred to other crops, especially cereals and legumes, this would have a massive impact on global agriculture. Imagine maize farmers in Sub-Saharan Africa not having to worry about applying phosphorus fertilizer to their nutrient-poor acid soils. Or, farmers in the US, China, Europe, Latin America, and Australia having only to add minimal amounts of phosphorus to their crops. The economic and environmental advantages would be enormous. Especially considering that pollution of water bodies with phosphorus fertilizers is a serious problem worldwide.

## Adv2

### **1NC**

#### **Hong Kong is comparatively the biggest threat to Xi ever.**

Ruwitch 19 (John, Journalist, “Tens of thousands of Hong Kong protesters plead for U.S. help,” <https://www.reuters.com/article/us-hongkong-protests/tens-of-thousands-of-hong-kong-protesters-plead-for-u-s-help-idUSKBN1WT039>, DOA: 11-9-2019) //Snowball

The unrest poses the biggest popular challenge to Chinese President Xi Jinping since he came to power in 2012. He warned that any attempt to divide China would be crushed.

“Anyone attempting to split China in any part of the country will end in crushed bodies and shattered bones,” Xi said in a meeting on Sunday with leaders in Nepal, where he was visiting, according to China’s state broadcaster CCTV.

‘THEY ARE RIOTERS, CRIMINALS’

In contrast to Monday night’s peaceful protest, rallies descended into chaos on Sunday with running skirmishes between protesters and police in shopping malls and on the streets.

A police officer also had his neck slashed by a protester.

“Violence against police has reached a life-threatening level,” said Deputy Commissioner of Police Tang Ping-keung.

“They are not protesters, they are rioters and criminals. Whatever cause they are fighting for it never justifies such violence.”

Protests have attracted millions of people but have gradually become smaller in recent weeks. Yet violence by hardcore activists has risen, prompting debate over tactics. But they say they remained united.

“Violence is always undesirable, but in the case of Hong Kong, we have no other option,” said regular protester Jackson Chan, 21.

### **1NC**

#### **No US-China war.**

Lei 20, PhD and MA in International Politics, associate research fellow with the China Institute of International Studies. (Cui, 7-24-2020, "Despite heated talk, risk of a US-China hot war is small", *South China Morning Post*, https://www.scmp.com/comment/opinion/article/3094121/why-risk-us-china-hot-war-small-despite-heated-talk)

Many observers are pessimistic about deteriorating US-China relations and believe the two countries are heading towards a cold war. Even worse, some argue that the situation might be more dangerous than the US-Soviet Union Cold War, and that a hot war might break out between the two. This argument is unconvincing. First of all, deterrents to a flare-up are much stronger in US-China relations than in US-Soviet relations. Although economic and people-to-people ties between China and the US are declining, they are still close compared to US-Soviet ties. It is hard to decouple two closely intertwined economies and societies. Take two examples. China is expected to become the world's largest consumer market, a temptation hard to resist for exporters, including those from the US. And in education, more than 300,000 Chinese students study in the US, bringing in huge revenues for the US education industry. Many universities go to great lengths to woo international students. Recently Harvard and the Massachusetts Institute of Technology even sued the government over its new visa restrictions, now aborted, on international students. Second, even if there is decoupling, the pain would not be too great and can be kept out of the national security sphere if properly handled. In fact, for national security reasons, a modest degree of isolation will make both sides more secure and comfortable. For instance, if China’s information technology equipment cannot capture Western markets, the US will be more relaxed. If China cannot get advanced technologies from the US and its technological progress slows down, the US will be less anxious. In the same vein, China feels assured knowing that if the Trump administration does impose a travel ban on Communist Party members, it would be abandoning one of the tools available to the US to promote “peaceful evolution” in China. Economic decoupling is undeniably more painful for China than for the US. But unlike Japan during WWII, which was hit hard by the US oil embargo because of its lack of natural resources, China has no such problems. Given its large domestic market, losing the US as a major customer is not a disaster for China, and can be compensated through more dynamic economic activities at home. China can also make up for being freezed out of technological exchanges by turning to indigenous innovation. As for the US, it can import goods from other developing countries, albeit less cheaply. The relative loss is acceptable when weighed against the heightened perception of economic independence and security. Third, the ideological confrontation between China and the US is less intense than that during the Cold War. Unlike the obsession with ideology in those days, the line between capitalism and socialism is blurred today. The market economy has become universally recognised as the best way to promote economic growth and, politically, many countries have embraced democracy. Even North Korea calls itself the Democratic People’s Republic of Korea. Although ideological hawks in the US still long for the day when the beacon of freedom will light up the world, after many years of fighting bloody wars overseas, most American people are not interested in promoting democracy abroad. Meanwhile, China just wants to preserve its political system and has no interest in exporting it to other countries, as the Soviet Union did. Thus, ideological antagonism in China-US relations can easily be eased by calculations of realistic interests, which create conditions for compromise and cooperation. Fourth, both China and the US have many options other than war to achieve their policy goals. While they have no allies to serve as a buffer, given the nature of the potential conflict in the South China Sea or Taiwan Strait, both countries are adept at operating in grey zones and fighting psychological, public opinion or diplomatic warfare below the threshold of war. The forced closure of the Chinese consulate in Houston by the US government is just the latest act of brinkmanship. In addition, given China’s huge economic and financial interests in the US, the latter can wield the stick of sanctions when use of force is highly risky or not worth it. When both sides have many tools and options, why would they rush to war to achieve their goals? Last but not least, the imbalance of power will act as a deterrent. Some say the US and Soviet Union did not fight a hot war because they were evenly matched. It was not the case, actually. At the beginning of the Cold War, the Soviet Union was at a relative military disadvantage. Moreover, a country needs the will to fight before going to war, even if it is stronger militarily than its adversary. Having fought years of meaningless wars, the US is weary of war. China, too, abhors war. Having a clear understanding of US strength, especially when its own economy is slowing down and it is facing various domestic challenges, China would not wish to recklessly start a war with the US. In summary, the possibility of a hot war between China and the US is very small. The greatest danger for China is not a cold or hot confrontation with the US, but policymakers’ interpretation of the momentary hostility towards Beijing of a portion of the American population and the larger world. An erroneous interpretation could end China’s march to further opening up, and see it turn instead towards self-isolation.

# 2NC

## States

### 2NC---Solvency

#### Don’t need em

Arteaga and Ludwig ‘21

(Juan A Arteaga is a partner in Crowell & Moring’s antitrust and white-collar groups. His practice focuses primarily on advising companies, boards of directors, and executives in a broad range of civil and criminal antitrust matters Jordan Ludwig is a counsel in the antitrust group in Crowell & Moring’s Los Angeles office, where he focuses on antitrust litigation, civil and criminal antitrust investigations, and appeals. “The Role of US State Antitrust Enforcement” 1/28/21. DOA: 9/3/21. https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement)

In 1976, Congress passed the Hart-Scott-Rodino Antitrust Improvement Act, which, among other things, authorised state attorneys general to bring parens patriae suits (i.e., legal actions brought on behalf of natural persons residing within their states) seeking monetary (treble damages) and injunctive relief for Sherman Act violations.[9] Congress also passed the Crime Control Act of 1976, which, among other things, provided state attorneys general with tens of millions in federal grants as ‘seed money’ for the creation of antitrust bureaus within their offices.[10] These laws had their intended effect of reinvigorating state antitrust enforcement. During the 1980s, for example, state attorneys general once again emerged as vigorous antitrust enforcers, especially with respect to the prosecution of resale price maintenance practices and other vertical restraints.[11] The rise in the level and prominence of state antitrust enforcement during this period was largely due to a perceived enforcement void at the federal level, where the DOJ and FTC had mostly limited their focus to ‘prohibiting cartels and large horizontal mergers’.[12] No longer content with ceding antitrust enforcement to federal enforcers, state attorneys general expanded their antitrust dockets from prosecuting purely ‘local matters, such as bid-rigging on state contracts’, to actively investigating and litigating matters with multistate and national implications.[13] To help ensure that they had a larger seat at the antitrust enforcement table, state attorneys general also increased the coordination of their enforcement efforts and competition advocacy through organisations such as the National Association of Attorneys General (NAAG), which created a Multistate Antitrust Task Force and issued state Vertical Restraints and Horizontal Merger Guidelines during this period.[14] Since the reawakening of state antitrust enforcement nearly 30 years ago, state attorneys general have continued to play an important role in the enforcement of both state and federal antitrust laws. During periods of lax federal antitrust enforcement, state attorneys general have often ramped up their enforcement activity in order to protect consumers from anticompetitive transactions and business practices.[15] During periods of vigorous federal antitrust enforcement, they have often served as strong partners for the DOJ and FTC by, among other things, offering valuable insights about competitive dynamics in local markets, assisting with obtaining information from key market participants (including state governmental entities that are direct purchasers of goods and services), and helping develop and implement litigation strategies for cases being tried before federal judges presiding in their states.[16] Since January 2017, state attorneys general have increasingly played a leading and independent antitrust enforcement role. State antitrust enforcers have significantly increased their enforcement activity and willingness to act separately from their federal counterparts because many of them believe that there has been ‘under-enforcement’ by the DOJ and FTC.[17] State antitrust enforcers have also been able to enhance their influence over key competition policy issues and the antitrust enforcement agenda within the United States because there appears to have been a significant decline in the coordination and relationship between the DOJ and FTC.

#### New York proves states can stop mergers.

Lange et al. 21, \*Perry A., JD, antitrust lawyer, vice-chair of the ABA Antitrust Section’s Joint Conduct Committee. \*Brian K. Mahanna, JD, former chief of staff and deputy attorney general in the Office of the New York State Attorney General, \*Nicole Callan, JD, vice chair of the Civil Practice and Procedure Committee of the American Bar Association (ABA)'s Section of Antitrust Law, \*Álvaro Mateo Alonso, LLM, Law Degree, antitrust lawyer. (3-5-2021, "Developments in Antitrust Law: Keep an Eye on New York", *WilmerHale*, Full report accessible at: https://www.wilmerhale.com/en/insights/client-alerts/20210305-developments-in-antitrust-law-keep-an-eye-on-new-york)

Overview of New York Antitrust Legislation In January 2021, New York State Senator and Deputy Majority Leader Michael Gianaris (D-12th District) reintroduced the 21st Century Antitrust Act (S933), seeking changes to New York’s antitrust law that are more sweeping than those proposed in a version of the bill introduced in 2020. The revised legislation would: – Prohibit unilateral conduct that creates or maintains a monopoly—similar to Section 2 of the Sherman Act. – Create an unprecedented (in the United States) “abuse of dominance” offense, based on European law, and give the New York Attorney General rulemaking authority to carry out the provision. – Require merger notifications to the New York Attorney General at least 60 days prior to consummation for transactions that result in the acquirer holding more than $8 million in assets or voting securities of the target—the first state-level merger reporting requirement in the United States. – Authorize significantly higher fines for violations of the Donnelly Act. – Authorize parens patriae actions by the New York Attorney General on behalf of injured individuals and businesses for violations of the Donnelly Act, as well as private class actions. New York Attorney General Letitia James testified in support of the prior version of the bill in a hearing before the Senate Consumer Protection Committee, stating that “it will give New York’s antitrust laws the scope and the flexibility needed for effective antitrust enforcement in this era of increasing economic concentration.” In late January Assemblyman Ron Kim (D-40th District) proposed A3399, an equally extensive rewrite of the Donnelly Act.1 In addition to prohibiting abuse of dominance, the Assembly bill would bar mergers under language that parallels Section 7 of the federal Clayton Act2 and would impose on the merging parties the burden of showing that the procompetitive benefits of the transaction outweigh any anticompetitive effects. Analysis of Significant Proposed Changes – European-Inspired “Abuse of Dominance” Offense The Donnelly Act does not contain an analog to Section 2 of the Sherman Act, which prohibits single firm conduct that creates or maintains monopoly power. Senator Gianaris’ proposal would amend the statute with language that is similar to Section 2.3 However, the proposal would go substantially further than federal or any other U.S. state’s law in addressing single firm conduct; it would prohibit companies “with a dominant position in the conduct of any business, trade, [] commerce [or service]” from “abus[ing] that dominant position.”

### 2NC- Strikedown

#### No strikedown on commerce clause grounds

Brinkerhoff 17 (John C. Brinkerhoff Jr. received his J.D. from Yale Law School in 2018. Currently a lawyer in Alabama. , May 31 2017,Ropes of Sand: State Antitrust Statutes Bound by Their Original Scope, https://digitalcommons.law.yale.edu/yjreg/vol34/iss1/6/)

Federal law is of little assistance in this debate, as national antitrust laws do not preempt the antitrust efforts of states in any substantive way. Modem dormant Commerce Clause jurisprudence is equally unavailing. It will only invalidate nondiscriminatory state statutes if their burden on interstate commerce is "clearly excessive" in relation to their intrastate benefits. Consequently, court holdings that curtail state antitrust enforcement via the dormant Commerce Clause are extremely rare. When this highly deferential standard is compared to the diverse interstate constraints contemplated by state courts, the potentially massive effect of the current debate over these statutes' original scope is clear: a court's interpretation of the issue can effectively determine if a statute has no application in modem commerce or a very robust operation. Indeed, this debate is decisive as to where a state statute will fall between these two points.

### 2NC- Pre-emption part 2

#### States empowered themselves against pre-emption

Arteaga and Ludwig ‘21

(Juan A Arteaga is a partner in Crowell & Moring’s antitrust and white-collar groups. His practice focuses primarily on advising companies, boards of directors, and executives in a broad range of civil and criminal antitrust matters Jordan Ludwig is a counsel in the antitrust group in Crowell & Moring’s Los Angeles office, where he focuses on antitrust litigation, civil and criminal antitrust investigations, and appeals. “The Role of US State Antitrust Enforcement” 1/28/21. DOA: 9/3/21. https://globalcompetitionreview.com/guide/private-litigation-guide/second-edition/article/the-role-of-us-state-antitrust-enforcement)

Most states have enacted state antitrust laws that are comparable to Sections 1 and 2 of the Sherman Act.[52] In addition, some states have passed antitrust laws that are similar to Sections 3 and 7 of the Clayton Act and the Robinson-Patman Act.[53] These state antitrust laws typically contain provisions expressly requiring that ‘they be construed in conformity with comparable [f]ederal antitrust statutes’.[54] Some states may have statutes that go beyond the scope of the federal antitrust statutes. For example, California recently passed a statute that would deem certain ‘reverse-payment settlements’ to be presumptively anticompetitive.[55] State antitrust statutes typically provide state attorneys general with broad authority to investigate possible violations, including the power to ‘issue civil investigative demands compelling oral testimony, the production of documents, and responses to written interrogatories to individuals and corporations’.[56] Like the federal antitrust laws, most state antitrust laws authorise state attorneys general to file civil lawsuits on behalf of their states and state governmental entities whenever a violation has caused them to suffer harm in their capacity as direct purchasers of goods or services, as well as parens patriae actions on behalf of their citizens.[57] In bringing enforcement actions under state antitrust laws, state antitrust enforcers typically have the authority to seek a broad range of relief, including treble damages, disgorgement of unlawful profits, injunctions, and attorney’s fees and costs.[58] In some states, antitrust enforcers can also seek to have a contract declared void; suspend a violator’s ability to be awarded state contracts for a certain period; rescind an out-of-state company’s ability to do business within the state; and terminate an in-state company’s corporate charter.[59] Moreover, state attorneys general can often seek relief on behalf of indirect purchasers when exercising their state law parens patriae authority. This is an important distinction between the parens patriae authority that state attorneys general enjoy under federal and state antitrust laws. The United States Supreme Court’s decision in Illinois Brick Co. v. Illinois precludes state attorneys general from seeking damages on behalf of indirect purchasers in parens patriae actions brought under the federal antitrust laws.[60] In direct response to this decision, nearly 25 states and the District of Columbia have passed ‘Illinois Brick repealer’ laws that expressly authorise state attorneys general to recover damages on behalf of indirect purchasers that were harmed by state law antitrust violations.[61] Notably, the United States Supreme Court has rejected constitutional challenges to these laws on the bases that states are free to permit indirect purchasers to recover damages given that (1) Congress has not passed legislation that preempts such state laws and (2) allowing indirect purchaser recovery under state law does not frustrate the legislative purpose of the federal antitrust laws.[62] The states that have passed Illinois Brick repealer laws include California, New York and Illinois.[63]

#### Follow On

Lange et al. 21, \*Perry A., JD, antitrust lawyer, vice-chair of the ABA Antitrust Section’s Joint Conduct Committee. \*Brian K. Mahanna, JD, former chief of staff and deputy attorney general in the Office of the New York State Attorney General, \*Nicole Callan, JD, vice chair of the Civil Practice and Procedure Committee of the American Bar Association (ABA)'s Section of Antitrust Law, \*Álvaro Mateo Alonso, LLM, Law Degree, antitrust lawyer. (3-5-2021, "Developments in Antitrust Law: Keep an Eye on New York", *WilmerHale*, Full report accessible at: https://www.wilmerhale.com/en/insights/client-alerts/20210305-developments-in-antitrust-law-keep-an-eye-on-new-york)

An open question is whether other states will pursue antitrust law changes. While not as sweeping as the New York bills, other states have and continue to consider their own measures. Last year, Colorado amended its antitrust law to allow its Attorney General to challenge mergers that have been reviewed but not challenged by the federal authorities.35 And a bill in the Puerto Rico legislature would enable the Attorney General to bring actions to recover treble damages and attorneys’ fees as parens patriae on behalf of indirect buyers of products that were subject to cartel activity. Given the growing spotlight on antitrust, other state legislatures may consider their own bills in the coming months. Meanwhile, Europe is considering changes to its competition policy, which could also inspire legislative changes in the United States.

### 2NC-AT: Modeling

#### States are perceived as representing the U.S. internationally

Robinson 7 – JD @ Yale (Nick, “Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy,” *Akron Law Review*, Lexis)//BB

State and local governments are arguably seen as representing the U.S. government abroad in a more official capacity than U.S. non-state actors. The governments of these localities are democratically elected and so it is more likely that they will be seen as acting on behalf of the American people. Additionally, the federal government generally has a greater ability to control the actions of these localities than non-state actors. Therefore, there is a greater chance that nonintervention by the federal government to stop offensive activity will be seen as federal endorsement of such activity. Such logic though should caution against court intervention in these cases rather than encourage it. If localities' actions damage U.S. foreign policy interests, the federal government can easily preempt the state or local policies in question. Further, with the world's increased interconnectedness, it is more likely that if a foreign government takes offense to a locality's policy it can discriminate between the policy of the locality and the policy of the federal government. n155

#### The counterplan creates internationally-perceived norms.

Robinson 7 – JD @ Yale (Nick, “Citizens Not Subjects: U.S. Foreign Relations Law and the Decentralization of Foreign Policy,” Akron Law Review, Lexis)//BB

States have also urged the United States to sign and ratify international agreements. For example, several state governments have passed resolutions in support of the Convention on the Elimination of Discrimination Against Women (CEDAW).324 Often state and local action arises out of dissatisfaction with the perceived inadequacy or incorrectness of a federal policy towards a foreign policy issue. Catherine Powell calls the impact of state and local laws on national foreign policy “dialogic federalism.”325 She argues that enough local ordinances can create a norm cascade that affects federal policy.326 The U.S. federal sanctions against South Africa passed by Congress over President Reagan’s veto in 1986 were arguably in part a result of just such a norm cascade created by anti-apartheid resolutions and laws at the state and local level.327 In many ways, it is the mobilization of citizens around, more than the passage of a resolution or act on a foreign policy issue that leads to a norm cascade which changes federal policy. The effort required to convince legislators and their fellow citizens to support a locality’s official action gives citizens a tangible and reachable local goal to focus their efforts on. This helps organize constituencies locally that can develop into a national coalition. For example, someone who has worked continuously to garner support for a local divestment initiative on Sudan is also more likely to call their Congressperson to urge them to pass the Darfur Accountability Act. Norm cascades created by localities’ actions do not only impact the policy they are directed at, but have a wider impact as well. For instance, the South Africa or Sudan divestment campaigns can be seen as national human rights moments. These are moments in which a segment of the American public becomes unusually organized to promote a human rights-based foreign policy goal. Most voters remain generally unaware of how U.S. foreign policy implicates human rights in other countries. Further, most voters do not base their vote on foreign policy human rights issues. The signal given by these human rights moments, however, creates an environment in which sympathetic legislators and policymakers can prioritize human rights concerns in other areas of foreign policy, knowing there is a constituency that generally supports this type of action.

### 2NC-AT: 50 Theory

#### Literature: State anti-trust reform is predominant in the lit and is educational

Meese ‘20

(Alan J. Meese. Ball Professor of Law and Cabell Research Professor, William and Mary Law School. “Antitrust Regulation and the Federal-State Balance: Restoring the Original Design” p91-92. DOA: 9/1/21. [http://www.aulawreview.org/antitrust-regulation-and-the-federal-state-balance-restoring-the-original-design/)**AB**](http://www.aulawreview.org/antitrust-regulation-and-the-federal-state-balance-restoring-the-original-design/)AB)

States exercised their exclusive authority in various ways.50 Some employed corporate law, invalidating certain anticompetitive practices." All employed contract law, declining to enforce unreasonable restraints.52 At least one relied upon a general law against conspiracies to injure trade.53 Finally, beginning in the 1880s, numerous states enacted antitrust legislation governing intrastate restraints.4 State antitrust enforcement activity exceeded that of the federal government for two decades after passage of the Sherman Act.55 Between 1890 and 1919, Texas collected more antitrust fines than the United States. 56 State and federal courts sustained application of these statutes to local activity affecting interstate commerce indirectly.57 During this period, then, a robust regime of competitive federalism generated antitrust doctrine and enforcement institutions governing a large proportion of the nation's trade restraints. Because competing states internalized the costs and benefits of these rival packages of doctrine and institutions, such interjurisdictional competition presumably enhanced the quality of such regimes, improving society's welfare compared to an allocation of authority in which a single lawgiver produced legislation applicable to all the nation's trade restraints. By contrast, the national government generated the doctrine and institutions governing restraints that exercised market power to the detriment of out-of-state consumers, because the interstate nature of such harm raised the prospect that state regulation of these restraints would produce self-interested results.

## T

### 2NC Interp

#### “Private sector” means all entities---that’s Senate Report. Prefer it:

#### FIRST---limits and ground---forcing broad changes across the entire private sector is the only check on an unlimited topic. Affs can be:

#### A. ---single industry---like sports or education

#### Here’s just a short-list of the most notable industries (that certainly have advocates)

Select USA No Date (“INDUSTRIES”, <https://www.selectusa.gov/industries> , date accessed 9/11/21)

The United States is home to the most innovative and productive companies in the world, forming a diverse and competitive group of industry sectors. The U.S. industries highlighted here are exceptionally dynamic and represent key opportunities for global growth and success.

Aerospace

Agribusiness

Automotive

Biopharmaceuticals

Chemicals

Consumer Goods

Energy

Environmental Technology

Financial Services

Logistics and Transportation

Machinery and Equipment

Media and Entertainment

Medical Technology

Professional Services

Retail Trade

Software and IT Services

Textiles

Travel, Tourism, and Hospitality

#### B.---single companies---any company in any of those above industries, AND any non-profit entity

#### There are 32 million businesses in the US

FedCommunities 9/9 (“Small-business owners: Share your experiences with credit access this past year” , <https://fedcommunities.org/data/2021-take-federal-reserve-small-businesses-credit-survey/> , September 9, 2021, date accessed 9/11/21)

There are 32.5 million small businesses in the United States. That’s 32.5 million stories of small-business ownership. Representative data drawn from these stories can shed light on more universal experiences.

#### 1.5 million non-profits

Candid Learning No Date (“How many nonprofit organizations are there in the U.S.?” , <https://learning.candid.org/resources/knowledge-base/number-of-nonprofits-in-the-u-s/> , date accessed 9/11/21)

According to the National Center for Charitable Statistics (NCCS), more than 1.5 million nonprofit organizations are registered in the U.S. This number includes public charities, private foundations, and other types of nonprofit organizations, including chambers of commerce, fraternal organizations and civic leagues.

#### C.---affs could further disaggregate by country, or product

#### Antitrust prohibitions can be global

Hamer et al 16 (Mark H. Hamer is a partner in Baker & McKenzie's Washington, DC office and Chair of the Firm’s North American Antitrust and Competition Practice Group. Celina Joachim is a partner in Baker McKenzie's Houston office and certified in labor and employment law by the Texas Board of Legal Specialization. She represents management in all aspects of labor and employment law, including employment arbitration, litigation, counseling, and traditional labor law. Cynthia Jackson is a partner in the Compliance Group in Baker & McKenzie's Palo Alto office. “US Federal Agencies Issue Joint Guidance for HR Professionals Warning of Criminal Liability for Wage-Fixing and No-Poaching Agreements” , <https://www.globalcompliancenews.com/2016/11/15/us-issues-guidance-for-hr-professionals-wage-fixing-20161110/> , NOVEMBER 15, 2016, date accessed 9/5/21)

US antitrust prohibitions can apply to global conduct when there is a negative effect on competition in the United States. For instance, agreements between non-US companies, or transactions driven outside of the US, that include US compensation data, wage or benefit sharing, and/or no-hire / no poach or wage fixing agreements which impact US workforces will be in violation of this new guidance and constitute unlawful antitrust agreements. Multinational employers should therefore be mindful of sharing data or entering into such restrictive agreements where they involve US workforces.

#### And cover specific products

Markham 11 (Jesse W. Markham, Jr-\* Marshall P. Madison Professor of Law, The University of San Francisco School of Law. “LESSONS FOR COMPETITION LAW FROM THE ECONOMIC CRISIS: THE PROSPECT FOR ANTITRUST RESPONSES TO THE “TOO-BIG-TO-FAIL” PHENOMENON” , FORDHAM JOURNAL OF CORPORATE & FINANCIAL LAW, Vol. 16, Issue 2, <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=1281&context=jcfl> , 2011, date accessed 9/11/21)

A merger is not the only setting in which antitrust champions scale efficiencies. At the retail level, economies of scale constitute a legitimate reason for a manufacturer to limit intrabrand competition by imposing vertical restraints.92 Antitrust law also generally tolerates combinations of competitors into joint ventures to achieve economies of scale, with the presence of such efficiencies removing a challenge from the application of per se condemnation and establishing a facially plausible justification for the concerted activity.93 Removing conduct from per se illegality comes close to legalizing it, given the rarity of plaintiff successes in challenging the conduct under the rule of reason.94

[[BEGIN FOOTNOTE 94]]

94. One rare successful challenge under the rule of reason is found in Polygram Holding, Inc. v. FTC, 416 F.3d 29 (D.C. Cir. 2005), a case that is indicative of the difficulties plaintiffs face under Post-Chicago School antitrust rules. In that case the FTC challenged an agreement between competing record companies to suspend advertising and discounting of two record albums temporarily during the launch period for a jointly-produced recording. The court affirmed the FTC’s application of the rule of reason to the challenged agreement, even though it involved competitors agreeing not to put specific products on sale for a period of time – a collusive restriction on price and advertising that in an earlier era probably would have met with per se condemnation.

[[END FOOTNOTE 94]]

### AT: Counter-Interp

#### Allowing disaggregation of the private sector is a limits nightmare

Crick et al 16 (Florence Crick-Grantham Research Institute on Climate Change and the Environment, The London School of Economics and Political Science, London. Mamadou Diop-Innovation Environnement Développement (IED) Afrique, Dakar, Senegal. Momadou Sow-Innovation Environnement Développement (IED) Afrique, Dakar, Senegal. Birame Diouf-Independent consultant, Senegal. Babacar Diouf-Independent consultant, Senegal. Joseph Muhwanga-Kenya Markets Trust (KMT), Nairobi, Kenya. and Muna Dajani- Department of Geography, The London School of Economics and Political Science, London. “Enabling private sector adaptation in developing countries and their semi-arid regions – case studies of Senegal and Kenya” Centre for Climate Change Economics and Policy Working Paper No. 291 Grantham Research Institute on Climate Change and the Environment Working Paper No. 258, <https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/57692/IDL-57692.pdf> , December 2016, date accessed 7/19/21).

In addition, it is important to disaggregate the term private sector and not treat it as a homogenous entity. It covers all types of businesses that can be formal or informal and range from micro enterprises, such as local entrepreneurs and smallholder farmers, through to multinational companies operating in a multitude of countries across the world. Not all businesses possess the same capacity to consider climate change within their operations and not all businesses will require the same type of support or facilitating environment to adapt to climate change (Lonsdale et al, 2010; Pulver and Benney, 2013). In particular, small and medium enterprises (SMEs), which form a critical part of the economy in developed and developing countries, are considered highly vulnerable to climate change. They are considered to be amongst the most affected by extreme weather events and with a low ability to deal with and respond to such events (Yoshida and Deyle, 2005; Runyan, 2006; Wedawatta et al, 2010; AXA and UNEP, 2015). The impact of climate change on SMEs will have wide-ranging social and economic consequences in developing countries, as SMEs provide most employment opportunities, contribute to economic growth and are also local players strongly integrated into their communities. SMEs have the potential to integrate women and other marginalised groups into society (AfDB, 2013b). With their role in driving local development, as well as their ability to innovate and to build community resilience, SMEs are seen as important drivers for societal adaptation (Dougherty-Choux et al, 2015). Therefore, it is critical to better understand how to provide an enabling environment to support their adaptation to climate change. Yet, to date much of the literature on private sector adaptation has tended to focus on the larger companies and those based in developed countries.

### AT: Private Sector is For-Profit (Excludes Non-Profit)

#### It means ALL profiting actors

Greenhalgh et al 19 (Garry Greenhalgh-James Cook University. Kim S. Alexander-James Cook University , Silva Larson-University of Sunshine Coast. , Phommath Thammavong-National University of Laos. Silinthone Sacklokham-National University of Laos. Manithaythip Thephavanh-National Agricultural and Forestry Research Institute. Phonevilay Sinavong-National Agricultural and Forestry Research Institute. , Magnus Moglia-Commonwealth Scientific and Industrial Research Organisation (CSIRO). Pascal Perez-Hema Consulting. “Transdisciplinary agricultural research in Lao PDR”, Journal of Rural Studies 72 (2019): 216-227. <https://uwe-repository.worktribe.com/OutputFile/4215285> , date accessed 7/19/21)

3) Private sector actors: This area concerns the mobilization of private sector partners that can have a direct impact on farmer adoption issues. For practical purposes, this area may have to be combined with ‘markets’ above, for a more comprehensive solution. It was noted that in Lao PDR the term ‘private sector organization’ refers to all actors in the end-to-end supply chain. The terms supply chain and value chains are often used interchangeably.

#### All organizations within the monetized economy

Raworth 8 – Oxfam economist (Kate, “The Private Sector and Poverty Reduction,” p. 1)

2. What is the private sector and how does it affect poverty reduction?

In this paper, the private sector is defined as all organisations within the monetised economy which are privately owned and funded, and that are operating for profit. It is a small sub-sector of the total productive system on which human beings depend for their wellbeing, which is bounded by the planet's natural resource base and relies heavily on the unpaid and caring work Of individuals.

#### All

Investopedia 20 (“Private Sector” , Reviewed by THOMAS BROCK-Chartered Financial Analyst and a Certified Public Accountant with 20 years of corporate finance, accounting, and financial planning experience; on December 25, 2020, <https://www.investopedia.com/terms/p/private-sector.asp> , date accessed 9/11/21)

The private sector is the part of the economy that is run by individuals and companies for profit and is not state controlled. Therefore, it encompasses all for-profit businesses that are not owned or operated by the government. Companies and corporations that are government run are part of what is known as the public sector, while charities and other nonprofit organizations are part of the voluntary sector.

### 2NC-AT: Practices

#### Means uniformity and universality—not isolated

Hanson 67 (HANSON, District Judge. Opinion in Guenther v. Morehead, 272 F. Supp. 721 - Dist. Court, SD Iowa 1967, Google scholar caselaw 8/25/21)

The Court dealt with the interpretation of the word "practice" in determining on p. 682 that:

"While conceivably a consistent course of conduct, even with respect to nonpayment of bills, might in time become a `practice', it is difficult to see how a single instance of the nonpayment of a bill could be so denominated.

`Practice' ordinarily implies uniformity and continuity, and does not denote a few isolated acts, and uniformity and universality, general notoriety and acquiescence, must characterize the actions on which a practice is predicated." (Citations omitted.)

The cases of United States v. Donahue Bros., 59 F.2d 1019 (8th Cir.) and Swift & Co. v. United States, 317 F.2d 53 (7th Cir.) were found to be grounded upon that distinction. This Court would add Bowman v. United States Department of Agriculture, 363 F.2d 81 (5th Cir.) to the cases falling within the "continuity of conduct" category.

## Adv 1

### 2NC---!D---Food Wars

#### No causal evidence, only maybe true for the poorest countries, and government responses check

Rosegrant 13, Director of the Environment and Production Technology Division at the International Food Policy Research Institute, et al. (Mark W., 2013, “The Future of the Global Food Economy: Scenarios for Supply, Demand, and Prices”, in *Food Security and Sociopolitical Stability*, pg. 39-40

The food price spikes in the late 2000s caught the world’s attention, particularly when sharp increases in food and fuel prices in 2008 coincided with street demonstrations and riots in many countries. For 2008 and the two preceding years, researchers identified a significant number of countries (totaling 54) with protests during what was called the global food crisis (Benson et al. 2008). Violent protests occurred in 21 countries, and nonviolent protests occurred in 44 countries. Both types of protest took place in 11 countries. In a separate analysis, developing countries with low government effectiveness experienced more food price protests between 2007 and 2008 than countries with high government effectiveness (World Bank 201la). Although the incidence of violent protests was much higher in countries with less capable governance, many factors could be causing or contributing to these protests, such as government response tactics, rather than the initial food price spike.

Data on food riots and food prices have tracked together in recent years. Agricultural commodity prices started strengthening in international markets in 2006. In the latter half of 2007, as prices continued to rise, two or fewer food price riots per month were recorded (based on World Food Programme data, as reported in Brinkman and Hendrix 2011). As prices peaked and remained high during mid-2008, the number of riots increased dramatically, with a cumulative total of 84 by August 2008. Subsequently, both prices and the monthly number of protests declined.

Several researchers have studied the connection between food price shocks and conflict, finding at least some relationship between food prices and conflict. According to Dell et al. (2008), higher food prices lead to income declines and an increase in political instability, but only for poor countries. Researchers also found a positive and significant relationship between weather shocks (affecting food availability, prices, and real income) and the probability of suffering government repression or a civil war (Besley and Persson 2009). Arezki and Bruckner (2011) evaluated a constructed food price index and political variables, including data on riots and anti-government demonstrations and measures of civil unrest. Using data from 61 countries over the period 1970 to 2007, they found a direct connection between food price shocks and an increased likelihood of civil conflict, including riots and demonstrations.

Other researchers have broadened the analysis by considering government responses or underlying policies that affect local prices, and consequently influence outcomes and the linkage between food price shocks and conflict. Carter and Bates (2012) evaluated data from 30 developing countries for the time period 1961 to 2001, concluding that when governments mitigate the impact of food price shocks on urban consumers, the apparent relationship between food price shocks and civil war disappears. Moreover, when the urban consumers can expect a favorable response, the protests only serve as a motivation for a policy response rather than as a prelude to something more serious, such as violent demonstrations or even civil war.

Many in the international development community see war and conflict as a development issue, with a war or conflict severely damaging the local economy, which in turn leads to forced migration and dislocation, and ultimately acute food insecurity. Brinkman and Hendrix (2011) ask if it could be the other way around, with food insecurity causing conflict. Their answer, based on a review of the literature, is “a highly qualified yes,” especially for intrastate conflict. The primary reason is that insecurity itself heightens the risk of democratic breakdown and civil conflict. The linkage connecting food insecurity to conflict is contingent on levels of economic development (a stronger linkage for poorer countries), existing political institutions, and other factors. The researchers say establishing causation directly is elusive, considering a lack of evidence for explaining individual behavior. The debate over cause and effect is ongoing.

Policies can nevertheless be implemented to reduce price variability. Less costly forms of stabilization, at least in terms of government outlays, include reducing import tariffs (and quotas) to lower prices and restricting exports to increase food availability. However, these types of policy responses, while perhaps helping an individual country’s consumers in the short run, can lead to increased international price volatility, with potential for disproportionate adverse impacts on other countries that also may be experiencing food insecurity.

### 2NC- AT: Ocean anoxia

#### Arabian Sea dead zone is a much greater cause of anoxia.

Tristan Baurick 18, staff writer for NOLA, 5-11-2018, "World's largest 'dead zone' discovered, and it's not in the Gulf of Mexico," NOLA, <https://www.nola.com/news/environment/article_31a00b4d-0a10-56cd-b5ba-f30141966512.html> - MBA AM

The Gulf of Mexico's dead zone is bigger than ever. Recent surveys put it at an enormous 8,776 square miles, large enough to cover New Jersey. But another massive zone of low dissolved oxygen confirmed recently in the Arabian Sea is seven times larger. At 63,000 square miles -- the size of Florida -- it ranks as the world's largest. Scientists from the University of East Anglia of Norwich, England measured the dead zone, which sits in the Gulf of Oman south of Iran, with underwater robots. The area had been suspected of hosting a massive dead zone, but roving bands of pirates and the region's volatile geopolitics made research difficult. The torpedo-shaped robots were able to slip in and do the measurements with ease, but they came back with very bad news. "The Arabian Sea is the largest and thickest dead zone in the world," said Bastien Queste, a marine biochemist and the study's lead author. "But until now, no one really knew how bad the situation was because of piracy and conflicts in the area have made it too dangerous to collect data." Waters depleted of oxygen turn fish away and suffocate anything that can't escape, including plants and slow-moving crabs and other shellfish. "Of course all fish, marine plants and other animals need oxygen, so they can't survive there," Queste said. "It's a real environmental problem with dire consequences for humans, too." In the Gulf of Mexico, the growing dead zone has had a big impact on commercial fisheries. Shrimp are harder to find and the oxygen-starved crustaceans are slow to grow, producing a smaller shrimp that fetches lower prices.

### Phosphurus

#### innovation solves peak phosphorus

Beardsley 11 (Timothy, “Peak Phosphorus”, BioScience, Volume 61, Issue 2, 1 February 2011, Page 91, <https://academic.oup.com/bioscience/article/61/2/91/243098/Peak-Phosphorus>, ID)

Yet there are ways to manage the effects of peak phosphorus. There is an abundant but often ignored source of phosphorus available for recycling worldwide: human and animal wastes. (Hennig Brandt discovered the element in 1669 by distilling urine.) Already, as Daniel L. Childers and his colleagues report in the article that starts on p. 117, some cities in Sweden are requiring the use of urine-diverting toilets. These authors outline and argue for the development of methods to close the human phosphorus cycle—that is, to retrieve for fertilizer production a large part of the phosphorus that currently enters wastewater and agricultural runoff, where it pollutes aquatic sediments and promotes eutrophication. Keeping phosphorus out of wastewater would thus bring environmental benefits as well as forestall a hike in the cost of fertilizer. There are also many ways that agriculture could be made more phosphorus efficient, including genetic engineering of crops, erosion control, and targeted application of fertilizer. For a more down-to-earth solution, a return to the practice of growing crops near where farm animals are raised, so their manure and urine can replenish phosphate in soil, would be a good step. Reducing overconsumption of food would also help. The double whammy arises because biofuel feedstocks, grown in increasing amounts to meet demand as oil becomes harder to find, require fertilizer as well as agricultural land. Manufacturing the fertilizer raises demand for phosphorus in addition to further limiting the energy benefit of biofuels. Serious consequences from a phosphorus crunch are avoidable if concerted efforts are made to implement good practices: Promising possibilities exist, and the ideas for closing the human phosphorus cycle sketched by Childers and company ought to stimulate further research. Fortunately, major symposia are now being devoted to the topic. Agronomists, water treatment experts, and ecologists might take note of an area that seems destined to grow in importance.

## Adv 2

### AT: Internal - blue

#### Their modeling line is in reference to a singular policy

James Keyte and Shepard Goldfein 16, Director of the Fordham Competition Law Institute and Director of Global Competition at The Brattle Group, antitrust attorney at Skadden Arps Slate Meagher & Flom LLP, 08/22/16, Chinese Antitrust Enforcement And the U.S.: an Uncertain Path, New York Law Journal, Vol. 256, No. 36,

U.S. Agencies

Previously lacking well-developed competition law, Chinese officials began exploring the possibility of implementing an enforcement regime in the early 1980s. The result was the Anti-Unfair Competition Act, a simple—but vague— attempt to enact meaningful antitrust reform. Recognizing the act’s shortcomings, the Chinese government formed a drafting committee that eventually led—years later and following significant dialogue with a host of international antitrust enforcers—to the creation of the AML.

To pursue the AML’s many mandates, including monitoring and policing monopolization, market power abuses, vertical issues, collusion and anticompetitive mergers, China divided enforcement authority among three agencies: the Ministry of Commerce (MOFCOM), tasked with merger review and enforcement; the National Development and Reform Commission (NDRC), which investigates price-related violations; and the State Administration for Industry and Commerce (SAIC), responsible for investigating non-pricing violations.

Over the course of the last several years (both during the drafting process and post-enactment), U.S. and Chinese competition authorities have engaged in a frequent dialogue on a host of antitrust-related issues. Speaking on behalf of the FTC before the House subcommittee, Commissioner Ohlhausen noted that the commission has made “engagement with the three Chinese antimonopoly agencies one of its highest international priorities,” a commitment that has played out in meetings with the Vice Ministers of the Chinese agencies, outreach through the FTC’s technical assistance program and various other workshops with the Chinese agencies. Ohlhausen touted MOFCOM’s adoption of a revised merger review procedure in 2015 as a promising result of these engagement efforts. Indeed, MOFCOM’s new process greatly streamlines merger reviews and is modeled on procedures adopted by the U.S. authorities.

Cohen, representing the USPTO, also lauded the Patent and Trademark Office’s relationship with the Chinese agencies, reflected in Under- Secretary Michelle Lee co-chairing a working group of the Joint Commission on Commerce and Trade, which included significant dialogue on the AML. Further, Cohen noted that the USPTO has directly engaged with the Chinese agencies on IP-related antitrust issues on the ground via the USPTO’s IP Attache Program, which advances U.S. IP protection efforts abroad, including via attaches stationed in Beijing, Guangzhou and Shanghai. Heather commented on the positive relationship between the Chamber of Commerce and the Chinese agencies.

### Alt Causes—blue

#### Labor shortages

Ben Reynolds 16, foreign policy analyst and author of The Coming Revolution: Capitalism in the 21st Century, 03/16/16, China’s Agricultural Policy and the Urban Labor Shortage, https://www.chinausfocus.com/society-culture/chinas-agricultural-policy-and-the-urban-labor-shortage

The recent announcement of China’s 13th Five Year Plan has generated widespread interest in some proposed reforms, such as the end of the one child policy. However, the new Five Year Plan contains an important proposal that has largely been overlooked: the ‘professionalization and modernization’ of agriculture. Despite its apparent modesty, this goal is actually a critical component of the Chinese government’s economic development plans. Chinese policymakers likely see agricultural modernization as a means to address labor pressures in urban areas. Despite this, the history of agricultural development in countries like the United States suggests that a transition to American-style agribusiness may have destabilizing consequences in the Chinese countryside.

Chinese agriculture is still relatively traditional. Many farmers work small plots, often around the size of an American football field, and have a limited ability to invest in farm machinery and new seed varieties. Chinese farmers do not own their land. Instead, they are granted usage rights as part of a collective ownership system guaranteed by the state. These are legacies of the Chinese Communist Party’s land reform efforts, which purged the country of large landholders. In addition to these conditions, Chinese farmers have to contend with a shortage of arable land, rampant pollution, and over-usage of chemical fertilizers. As a result of the factors listed above, farm productivity in China is very low. For example, the per-hectare yield of U.S. soybeans and corn is double that of Chinese farms.

Chinese policymakers thus perceive a serious need to boost farm output and productivity. China still cannot produce enough food to feed its own population. It appears that China is looking to American agribusiness as a source of inspiration for agricultural modernization. American-style agriculture is virtually the opposite of current Chinese practice. Farms are very large, often focusing on growing a few cash crops. Most farms use extremely little labor and invest heavily in highly-automated machinery. The remaining farmers have little autonomy, as contracts with large agricultural processing companies and GMO seed providers precisely stipulate what they can and cannot do with their land. This style of agriculture is good at one thing: producing large amounts of staple crops at an extremely low cost of production.

China’s new Five Year Plan proposes creating “new-style professional farmers” and reforming the land ownership system. A new land ownership system will make it easier to consolidate small plots, eventually reaching a size that can support industrial-scale agribusiness. These proposals are consistent with China’s desire to boost its agricultural productivity and build an independent capacity to grow its own food. However, there are reasons to suspect that other issues may be involved.

In recent years, many firms in manufacturing and other industries in China’s urban areas have reported labor shortages. The stream of both skilled and unskilled workers appears to be drying up, and frequent strikes and other industrial actions by brave Chinese workers continue to drive wage increases. China’s productivity-adjusted labor costs are now $14.60 an hour on the coast, as compared to $22.68 an hour in the United States. Compare this to 2002, when Chinese labor costs were as low as 60 cents an hour in some cases. It then seemed that an endless supply of cheap labor could be found, as many Chinese workers migrated from the farms to the cities in search of work.

The rate of growth in China’s urban labor force has been falling with relative consistency since 2007. In 2015, that rate reached its lowest point in over twenty years. The demand for labor is rising faster than its supply. When one cannot easily be replaced by competing unemployed workers – as is currently the case in Europe and the United States – it is much easier for workers to demand wage increases. As Chinese workers continue to claim a higher share of their total product, firms have a greater difficulty competing with other firms operating in low-wage areas. In response, firms attempt to automate production, move facilities to low-wage areas, or find a new source of workers.

Some commentators argue that China’s one child policy and the antiquated household registration system – which restricts access to basic services for many rural migrants – are to blame for the present labor shortage. Reforming the hukuo system will certainly help to incentivize farmers to move to the cities, but it will also strain China’s social infrastructure. Ending the one child policy may promote population growth, but the effects of this change will take at least two decades to be felt. If Chinese policymakers want to address the labor shortage, the obvious place to look is the same as it has been for decades: farmers in the countryside.

If the history of agriculture throughout the world is any clue, China’s agricultural modernization plans will create a lot of dislocation. In the United States, the growing use of mechanization and the consolidation of smaller farms made it nearly impossible for family farms to compete with agribusiness. Farmers went into debt as they attempted to keep up, often going bankrupt during periods of low crop prices. Their farms would then be sold to larger farmers, furthering the process of consolidation. Now-landless farmers moved to the cities to find work and make a living. This process – which is why American agriculture is what it is today – created serious unrest among farmers throughout the late 19th century, and even into the Great Depression.

Modernizing Chinese agriculture in line with American-style agribusiness will ultimately force smallholders off of their land and into the cities. Combined with other parts of the 13th Five Year Plan – including increased vocational education – this could help to alleviate the urban labor shortage. It is hard to imagine that small Chinese farmers will quietly accept the gradual loss of their land to industrial-scale competitors. Rural unrest and resistance, often spurred by land sales orchestrated by corrupt local officials, is already relatively widespread and common. A large-scale plan to modernize agriculture will likely add fuel to this fire.

There may be an emerging tension between the perceived need to address the urban labor shortage and the need to maintain social stability in the countryside. There are ways to address China’s food production problems without following the model of American agribusiness. Bio-intensive agriculture and permaculture techniques, pioneered by farmers like John Jeavons, can produce more food than conventional industrial agriculture with less land, water, fertilizer, and energy. These methods are labor-intensive and are optimal for farmers with small plots, but China still has a large rural labor force. If Chinese policymakers were to pursue this alternative, they could likely solve China’s food supply problem with a moderate investment in education and farm equipment.

This would require policymakers to look for solutions other than cheap migrant labor to address the labor shortage. China is already the world’s largest market for industrial robotics, but enlightened policies could speed up the pace of automation. Chinese firms could be encouraged to adapt to a world of high wages and decent working conditions, rather than hoping that the era of cheap labor will continue without end. These shifts would be consistent with China’s development goals, including its stated commitment to environmental sustainability and improving the standard of living. If China follows the American example, it will trade short-term benefits for long-term costs in ecological and social stability. If China wants a sustainable, productive agricultural system, there are certainly better places to look than American agribusiness.

#### Education and nutrition programs

Vincent Ni 21, Guardian's China affairs correspondent, 07/07/21, Gap between rich and poor Chinese threatens nation, https://www.taipeitimes.com/News/editorials/archives/2021/07/07/2003760416

When Wang Zhenyu moved out of his small village in central Henan Province to the coastal city of Dalian at 18, he was astonished.

“It was like culture shock for me, even though it was just a big city in my country, not a foreign land,” Wang said.

A few years later when he was enrolled in Peking University as a graduate student, he found that many fewer students in the country’s top university came from a background similar to his. Growing up in a small village of 2,000 farmers, many of Wang’s childhood friends had dropped out of school after finishing their nine years of compulsory education.

Now with a decent academic job, Wang experiences “reverse culture shock” every time he returns to his village for the lunar New Year holiday.

“When I get together with my childhood friends in my village, the number of attendees drops every year. Some went out to be migrant workers in big cities then never came back, while others have gotten used to life as villagers,” Wang said. “It’s the poverty that is dividing us. It’s a vicious circle.”

As China grows wealthier as a nation, its gap between rich and poor, urban and rural also increases. Although the country’s official Gini coefficient, a measurement of income inequality, has improved slightly over the past few years, experts have also questioned its accuracy.

Chinese Premier Li Keqiang (李克強) in May revealed that 600 million citizens only earn about 1,000 yuan (US$155) per month, indicating the extent of the problem.

Many worry that the COVID-19 pandemic might have reversed the trend.

TREND REVERSAL

The story of Wang’s home village is common in China. After all, 40 percent to two-thirds of China’s 1.4 billion people still live in rural areas.

Wang’s own path from poverty to the ranks of the educated middle class is “very rare,” said Scott Rozelle, a development economist at Stanford University’s Freeman Spogli Institute for International Studies.

“How much Wang’s childhood friends and their fellow villagers can contribute to the country’s changing labor market matters for the future of the world’s second-largest economy.

However, the reality does not look optimistic,” added Rozelle, who has spent the past 30 years researching China’s labor force and its rural-urban divide.

As the Chinese Communist Party (CCP) celebrated its centennial last week, Chinese President Xi Jinping (習近平) vowed to keep it in power, but some analysts have said that the ever-increasing rural-urban divide — and the division between rich and poor — pose the biggest uncertainty to China’s society, as well as a threat to the longevity of the 92 million-strong political organization.

“Although the CCP does not face any electoral pressure, anger over inequalities could undermine its authority and trigger resentment if it fails to take actions that alleviate the people’s pain,” said Yu Jie (余杰), senior research fellow on China at the London-based think tank Chatham House. “The Chinese people are watching closely, so are foreign nations, not least the US.”

“It is all about citizens’ expectation,” said Rozelle, who coauthored Invisible China: How the Urban-Rural Divide Threatens China’s Rise.

“If those at the bottom of the social strata begin to lose hope of a better future as a result of the increasing wealth gap and stagnant wages, we are very likely to see the emergence of a polarized society,” he said. “This is not good for the stability of the world’s second-largest economy.”

It is not just researchers who are concerned about the urgency of the problem.

In January, Xi said that the country’s wealth gap is not just an economic issue, but a political one that could threaten the legitimacy of the CCP.

“Achieving common prosperity is not just an economic issue, but a significant political one that matters to the party’s basis to rule,” Xi told his provincial and ministerial-level cadres.

“We absolutely cannot allow the rich-poor gap to increase bigger and bigger, resulting in the poor poorer and the rich richer,” Xi said. “We should absolutely not allow an insurmountable gap between the rich and the poor.”

LITTLE CHANGE

Despite the political rhetoric from the nation’s highest level, very little change is happening on the ground, Rozelle said.

China needs long-term and sufficient investment into programs such as early childhood education and rural health nutrition, he said.

“But just like the US, although political leaders understand the significance of these issues, as the effects of such an investment would not be seen immediately, it makes it less of a priority,” Rozelle added.

The stakes are high for China.

For example, a lack of early childhood education is making the country’s labor force less sophisticated in the long term, Rozelle said.

In one of his studies in China’s rural Gansu and Shaanxi provinces, Rozelle measured the cognitive abilities of students who were 13 to 14 years old and found that about half of them would be considered delayed enough to qualify for special education programs in developed nations.

“In the past, China’s rural-urban divide enabled the country’s urban factories to exploit cheap manufacturing labor from rural areas, but many of these jobs are disappearing, as the country moves up the economic ladder,” said Jan Knoerich, a senior lecturer in the economy of China at King’s College London.

“Wages are going up in China, and other countries — such as Vietnam and others in Africa — are getting more competitive in labor cost,” Knoerich said.

Rozelle agreed, adding that this changing economic structure would not only have profound economic implications for China, but also social and political effects.

“As a result, many of those people are not going to be able to participate in the new economy,” Rozelle said. “They are going to be forced into a peripheral and informal economy. It not only won’t be productive for the society, and many of them may end up being a drag for China.”

‘MIDDLE-INCOME TRAP’

Chinese economists have for many years worried about the “middle-income trap,” a situation where a country that has reached a certain level of income gets stuck for a long time.

According to the World Bank, only a handful of economies — including South Korea and Singapore — have risen from middle income to high income since 1960.

Even when they were still middle-income economies, the average share of the labor force with a high-school education was 72 percent, Rozelle found.

However, 2015 census data for China showed that only 30 percent of the nation’s workers aged 25 to 65 had attended high school — a figure below the average of other middle-income countries (36 percent) and much lower than the average for nations in the Organisation for Economic Co-operation and Development (78 percent).

“Most middle-income countries don’t make it, such as Malaysia. This is what’s challenging for China, to move beyond manufacturing and low-skilled labor, and arrive at a more advanced economy characterized by booming hi-tech and services sectors,” Knoerich said.

Wang has thought about this since recent visits to his home village in Henan.

Now at the age of 34 and living with his wife in China’s wealthy southern Guangdong Province, Wang considers himself “a lucky one” — or “a success story” from his poor village.

“I don’t exactly know how I did not end up like my childhood friends in the village, but I’m now helping my nine-year-old nephew to get into a better school and receive a proper education,” he said. “No one wants their next generation to be left behind.”

#### Disease, imports, floods, pests, demographics, climate, and urbanization

Scott B. MacDonald 20, Chief Economist at Smith’s Research and Gradings and Research Fellow at Global Americans and Senior Associate at the Center for Strategic & International Studies, 09/30/20, China, Food Security and Geopolitics, https://thediplomat.com/2020/09/china-food-security-and-geopolitics/

This has not been a good year for China. The economy suffered a 6.8 percent economic contraction in Q1, followed by a 3.2 percent rebound (anemic by Chinese standards) in Q2. Relations with the United States remain tense and complicated. On top of that, heavy rains have caused massive flooding that has wiped away billions of dollars of value in China, washing up factories, homes and agricultural land in a frothy tide of destruction. This last is important. While China supports over 20 percent of the world’s population, it has a little over 12 percent of its arable land (according to the World Bank). Heavy rains and floods are bad enough; add in an African Swine Fever resurgence in some parts of southern China and the question of food security gains some traction as something to watch. In a confirmation of increasing concern over food, in August President Xi Jinping launched a new initiative “operation empty plates,” targeting wasted food in China.

Food, large populations and good governance are built into China’s history. Indeed, the national story has often been defined by a dynastic cycle in which the old order becomes corrupt, fails to maintain key infrastructure like canals and irrigation, and eventually is unable to keep public order or defend the frontier. The economy eventually fails as does support for the dynasty. Famine, bandits and rebels add to the misery, eroding the old dynasty’s Mandate of Heaven. Out of the chaos a new leader arises, sets the wrongs right and founds the next dynasty. So the cycle goes.

The Communists are no strangers to famine. Mao Zedong’s Great Leap Forward (1959-1960) set out to rapidly industrialize China, but instead helped plunge the country into ideological upheaval, which contributed to the disruption of agricultural production. Mao’s ideological blinders and the fear most Party members felt about telling him the truth of a massive miss in food production targets plunged his country into what is known as the Great Chinese Famine (1959-1961), which is thought to have killed millions (possibly up to 55 million people).

It was only after Mao was briefly ousted that China would return to being able to feed itself, helped by allowing some degree of market-like incentives to encourage food production. Does China face a similar ideological situation now?

Probably not, but Xi does not like dissenting views. This has created a top-down system that makes it difficult for actors at the bottom of the power pyramid to quickly signal problems up the chain of command. The outbreak of COVID-19 in Wuhan had all the hallmarks of this: Local leaders sought to contain a problem that was beyond their capacity and in doing so suppressed information, crushed any debate over policy options and delayed the moment when key news should have heading up the hierarchy to the emperor, or, in this case, the president.

The scope of the food security problem facing China is complicated and touches on a number of factors. Although China has considerable stocks of corn, rice and wheat, it remains dependent on imported soybeans and has a shortage of pork, a traditional staple. African Swine Fever forced a major culling of the hog herd in China in 2019 and the 2020 floods have hurt efforts to rebuild them. And while China has diversified its sources of soybeans (to include producers like Brazil and Argentina), it is still dependent on imports.

China’s more aggressive “wolf warrior” diplomacy, as reflected in Beijing’s aggressive moves along the Indian border, South China Sea, as well as tetchy relations with three of its most important food suppliers (Australia, the U.S. and Canada) could be part of an effort to divert attention from domestic problems such as food insecurity. This was a tactic used by Mao in 1962 in the aftermath of the Great Famine to divert attention away from domestic troubles to the borders. While China’s persistent poking at India’s border has drawn attention, the August 26 decision to fire four ballistic missiles, dubbed aircraft carrier killers” or the “Guam killer,”  from the South China Sea raised tensions with the U.S. , but also fits a pattern long used by Mao to start troubles outside the country while dealing with internal challenges.

The floods in the Yangtze River basin, the source of most of China’s rice, have impacted production and transportation and left behind a fair amount of land under water. According to the China General Administration of Customs, China’s grain imports have risen by 22.7 percent (to 74.51 million tons) in between January and July as compared to the same period in 2019. Wheat and corn imports over the same period saw significant increases. The importance of grain imports is likely to last through the year.

China’s food production has also been hit by insects. According to the U.S. Department of Agriculture’s Foreign Agricultural Service, corn crops fell victim to an intense infestation of Fall Armyworm, a type of moth, in June.

The Yangtze River Economic Belt is both a strength to China and a weak point. The area is home to more than 40 percent of China’s population (about 600 million people) and accounts for almost 50 percent of export value and 45 percent of GDP (according to China Water Risk). As Bloomberg’s Anjani Trivedi noted: “On its own, the region could be the third-largest economy in the world.” It could be said that, as goes the Yangtze River Economic Belt, so goes China. Rising population weight and over-urbanization make this a region that will increasingly be under the threat of flooding. It is likely that climate change is speeding up flooding.

China’s consumer inflation accelerated to 2.7 percent in July from 2.5 percent in June, pushed along by rising food prices. This pressure has come from supply-side problems, which have been particularly evident in pork and egg prices. Referred to as “flying pigs” and “rocketing eggs,” these are two socially sensitive foods, which no doubt concerns the government.

There is also a looming possibility that Xi is about to launch a new purge of the party in anticipation of a more challenging economic landscape ahead as well as heading off dissent growing dissent within the party over his policies. Indeed, there is talk about a rectification campaign, a tactic used by Mao to purge his enemies within the party.

Despite a gloomy short-term outlook China is not heading into a famine; at least not right now. The Chinese authorities are keenly aware of historical developments and have little wish to lose their Mandate of Heaven. On August 17, 2020 the Chinese Academy of Social Sciences made note that “there is no need to worry” when it comes to the country having enough food. However, it also warned that unless major agricultural reforms are made, China could face a “food shortfall” by 2025. The driving forces behind this are an aging population and an ongoing movement of population to the cities which translate into a shrinking rural labor force. This takes us back to operation clean plates.

The reasoning behind Xi’s initiative is tied to the need to start being smarter about food use. Simply stated, the more China has to import food, the more dependent it is on other countries. If food is weaponized, China’s growing reliance on food imports could reduce its ability to pursue certain policies, such as its moves to consolidate its position in the South China Sea and control over Hong Kong. It could also put pressure on food prices, something that the Communist Party is sensitive over considering it was one of the factors that helped spark the Tiananmen Square demonstrations in 1989.

The Chinese government is bearing down on its population (through shaming people for eating too  much and attacking the fad of binge eating) to preserve food stocks, make the Chinese people think about food as a precious commodity, and set the stage, if needed, for tougher measures to secure food supplies. While thinking ahead is proactive, it has downside risk. One of the main promises made by the Communist Party to the Chinese people has been plentiful food. It can be argued that the Communist Party has delivered on meeting the basics of putting food on the table, personal safety and a place to live. Now it is signaling that food could be an issue in the future.

Slate’s Joshua Keating has observed: “People may vote with their pocketbooks, but more often than not, they revolt with their bellies.” Considering China’s history, the ruling party and Xi should be concerned. As China’s global ambitions, climate change-induced severe flooding, over-urbanization and aging population converge, the Communist Party’s Mandate of Heaven is facing new challenges.

### 1NC---!D---China Diversionary War

Interconnectn

#### No chance of Chinese diversionary war.

Medeiros & Blanchette 21, \*professor and Penner Family chair in Asian studies at Georgetown University’s School of Foreign Service and a senior adviser with The Asia Group. He served as senior director for Asian affairs at the National Security Council from 2013 to 2015. \*\*holds the Freeman Chair in China studies at the Center for Strategic and International Studies. (Evan S. and Jude, 3-19-2021 , "Beyond Colossus or Collapse: Five Myths Driving American Debates about China", *War on the Rocks*, https://warontherocks.com/2021/03/beyond-colossus-or-collapse-five-myths-driving-american-debates-about-china/)

Wag the Dog?

A fourth and related myth is that if China’s economy slows and domestic challenges accumulate, then Xi will lash out and start a war, perhaps over Taiwan. This notion is inconsistent with China’s current political realities or its longstanding strategic calculus about external aggression.

As the cliché holds, the Chinese Communist Party’s first priority is the preservation of power, and the surest way to aggravate political instability over a slowing economy would be to prioritize a military action that would further deplete scarce resources and increase foreign pressure on China. For Xi personally, the surest way to undermine his grand ambitions would be to risk a war at the expense of domestic prosperity and with mixed popular support. Xi clearly has a higher risk tolerance than previous leaders, but there is no evidence that he is reckless.

More realistically, social discontent and economic malaise within China would bury the Chinese Communist Party senior leadership in domestic burdens, likely at the exclusion of foreign policy. Overseas lending would likely shrivel up, and Chinese corporates would find it even more difficult to invest abroad. As we saw in the early days of the most recent domestic crisis, the COVID-19 outbreak in 2020, Chinese foreign policy became focused on using diplomacy to generate foreign support — indeed, accolades and praise — to bolster a beleaguered Chinese Communist Party leadership.

Historically, China’s leaders have sought to reduce external risk during periods of domestic turmoil. Mao Zedong and Deng Xiaoping pursued resolution of border disputes when they faced challenges at home, such as after the Great Leap Forward in the late 1950s, the nationwide protests in the spring of 1989, and the collapse of the Soviet Union in the early 1990s. China’s more assertive foreign policy has coincided with periods in which Beijing has felt confident and assured at home, not weak and vulnerable.

# 1NR

## DA---Infrastructure

### 1NR---Overview

#### Only our impact accesses extinction

**Reisner et al. 18** (Jon Reisner – Climate and atmospheric scientist at the Los Alamos National Laboratory. Gennaro D’Angelo – Climate scientist at the Los Alamos National Laboratory, Research scientist at the SETI institute, Associate specialist at the University of California, Santa Cruz, NASA Postdoctoral Fellow at the NASA Ames Research Center, UKAFF Fellow at the University of Exeter. Eunmo Koo - Scientist at Applied Terrestrial, Energy, and Atmospheric Modeling (ATEAM) Team, in Computational Earth Science Group (EES-16) in Earth and Environmental Sciences Division and Co-Lead of Parallel Computing Summer Research Internship (PCSRI) program at the Los Alamos National Laboratory, former Staff research associate at UC Berkeley. Wesley Even - Computational scientist in the Computational Physics and Methods Group at Los Alamos National Laboratory. Matthew Hecht – Atmospheric scientist at the Los Alamos National Laboratory. Elizabeth Hunke - Lead developer for the Los Alamos Sea Ice Model (CICE) at the Los Alamos National Laboratory responsible for development and incorporation of new parameterizations, model testing and validation, computational performance, documentation, and consultation with external model users on all aspects of sea ice modeling, including interfacing with global climate and earth system models. Darin Comeau – Climate scientist at the Los Alamos National Laboratory. Randy Bos - Project leader at the Los Alamos National Laboratory, former Weapons Effects program manager at Tech-Source. James Cooley – Computational scientist at the Los Alamos National Laboratory specializing in weapons physics, emergency response, and computational physics. <MKIM+KEN> “Climate impact of a regional nuclear weapons exchange: An improved assessment based on detailed source calculations,” March 16, 2018. DOA: 7/13/19. <https://agupubs.onlinelibrary.wiley.com/doi/full/10.1002/2017JD027331>) \*BC = Black Carbon

The no-rubble simulation produces a significantly more intense fire, with more fire spread, and consequently a significantly stronger plume with larger amounts of BC reaching into the upper atmosphere than the simulation with rubble, illustrated in Figure 5. While the no-rubble simulation **represents the worst-case scenario** involving vigorous fire activity, **only a relatively small amount of carbon makes it**s **way** in**to the stratosphere** during the course of the simulation. But while small compared to the surface BC mass, stratospheric BC amounts from the current simulations are significantly higher than what would be expected from burning vegetation such as trees (Heilman et al., 2014), e.g., the higher energy density of the building fuels and the initial fluence from the weapon produce an intense response within HIGRAD with initial updrafts of order 100 m/s in the lower troposphere. Or, in comparison to a mass fire, wildfires will burn only a small amount of fuel in the corresponding time period (roughly 10 minutes) that a nuclear weapon fluence can effectively ignite a large area of fuel producing an impressive atmospheric response. Figure 6 shows vertical profiles of BC multiplied by 100 (number of cities involved in the exchange) from the two simulations. The total amount of BC produced is in line with previous estimates (about 3.69 Tg from no-rubble simulation); however, the majority of BC resides below the stratosphere (3.46 Tg below 12 km) and can be readily impacted by scavenging from precipitation either via pyro-cumulonimbus produced by the fire itself (not modeled) or other synoptic weather systems. While the impact on climate of these more realistic profiles will be explored in the next section, it should be mentioned that these estimates are still at the high end, considering the inherent simplifications in the combustion model that lead to overestimating BC production. 3.3 Climate Results Long-term climatic effects critically depend on the initial injection height of the soot, with larger quantities reaching the upper troposphere/lower stratosphere inducing a greater cooling impact because of longer residence times (Robock et al., 2007a). Absorption of solar radiation by the BC aerosol and its subsequent radiative cooling tends to heat the surrounding air, driving an initial upward diffusion of the soot plumes, an effect that depends on the initial aerosol concentrations. Mixing and sedimentation tend to reduce this process, and low altitude emissions are also significantly impacted by precipitation if aging of the BC aerosol occurs on sufficiently rapid timescales. But once at stratospheric altitudes, aerosol dilution via coagulation is hindered by low particulate concentrations (e.g., Robock et al., 2007a) and lofting to much higher altitudes is inhibited by gravitational settling in the low-density air (Stenke et al., 2013), resulting in more stable BC concentrations over long times. Of the initial BC mass released in the atmosphere, most of which is emitted below 9 km, **70% rains out within the first month** and 78%, or about 2.9 Tg, is removed within the first two months(Figure 7, solid line), with the remainder (about 0.8 Tg, dashed line) being transported above about 12 km (200 hPa) within the first week. This outcome differs from the findings of, e.g., Stenke et al. (2013, their high BC-load cases) and Mills et al. (2014), who found that most of the BC mass (between 60 and 70%) is lifted in the stratosphere within the first couple of weeks. This can also be seen in Figure 8 (red lines) and in Figure 9, which include results from our calculation with the initial BC distribution from Mills et al. (2014). In that case, only 30% of the initial BC mass rains out in the troposphere during the first two weeks after the exchange, with the remainder rising to the stratosphere. In the study of Mills et al. (2008) this percentage is somewhat smaller, about 20%, and smaller still in the experiments of Robock et al. (2007a) in which the soot is initially emitted in the upper troposphere or higher. In Figure 7, the e-folding timescale for the removal of tropospheric soot, here interpreted as the time required for an initial drop of a factor e, is about one week. This result compares favorably with the “LT” experiment of Robock et al. (2007a), considering 5 Tg of BC released in the lower troposphere, in which 50% of the aerosols are removed within two weeks. By contrast, the initial e-folding timescale for the removal of stratospheric soot in Figure 8 is about 4.2 years (blue solid line), compared to about 8.4 years for the calculation using Mills et al. (2014) initial BC emission (red solid line). The removal timescale from our forced ensemble simulations is close to those obtained by Mills et al. (2008) in their 1 Tg experiment, by Robock et al. (2007a) in their experiment “UT 1 Tg”, and © 2018 American Geophysical Union. All rights reserved. by Stenke et al. (2013) in their experiment “Exp1”, in all of which 1 Tg of soot was emitted in the atmosphere in the aftermath of the exchange. Notably, the e-folding timescale for the decline of the BC mass in Figure 8 (blue solid line) is also close to the value of about 4 years quoted by Pausata et al. (2016) for their long-term “intermediate” scenario. In that scenario, which is also based on 5 Tg of soot initially distributed as in Mills et al. (2014), the factor-of2 shorter residence time of the aerosols is caused by particle growth via coagulation of BC with organic carbon. Figure 9 shows the BC mass-mixing ratio, horizontally averaged over the globe, as a function of atmospheric pressure (height) and time. The BC distributions used in our simulations imply that the upward transport of particles is substantially less efficient compared to the case in which 5 Tg of BC is directly injected into the upper troposphere. The semiannual cycle of lofting and sinking of the aerosols is associated with atmospheric heating and cooling during the solstice in each hemisphere (Robock et al., 2007a). During the first year, the oscillation amplitude in our forced ensemble simulations is particularly large during the summer solstice, compared to that during the winter solstice (see bottom panel of Figure 9), because of the higher soot concentrations in the Northern Hemisphere, as can be seen in Figure 11 (see also left panel of Figure 12). Comparing the top and bottom panels of Figure 9, the BC reaches the highest altitudes during the first year in both cases, but the concentrations at 0.1 hPa in the top panel can be 200 times as large. Qualitatively, the difference can be understood in terms of the air temperature increase caused by BC radiation emission, which is several tens of kelvin degrees in the simulations of Robock et al. (2007a, see their Figure 4), Mills et al. (2008, see their Figure 5), Stenke et al. (2013, see high-load cases in their Figure 4), Mills et al. (2014, see their Figure 7), and Pausata et al. (2016, see one-day emission cases in their Figure 1), due to high BC concentrations, but it amounts to only about 10 K in our forced ensemble simulations, as illustrated in Figure 10. Results similar to those presented in Figure 10 were obtained from the experiment “Exp1” performed by Stenke et al. (2013, see their Figure 4). In that scenario as well, somewhat less that 1 Tg of BC remained in the atmosphere after the initial rainout. As mentioned before, the BC aerosol that remains in the atmosphere, lifted to stratospheric heights by the rising soot plumes, undergoes sedimentation over a timescale of several years (Figures 8 and 9). This mass represents the effective amount of BC that can force climatic changes over multi-year timescales. In the forced ensemble simulations, it is about 0.8 Tg after the initial rainout, whereas it is about 3.4 Tg in the simulation with an initial soot distribution as in Mills et al. (2014). Our more realistic source simulation involves the worstcase assumption of no-rubble (along with other assumptions) and hence serves as an upper bound for the impact on climate. As mentioned above and further discussed below, our scenario induces perturbations on the climate system similar to those found in previous studies in which the climatic response was driven by roughly 1 Tg of soot rising to stratospheric heights following the exchange. Figure 11 illustrates the vertically integrated mass-mixing ratio of BC over the globe, at various times after the exchange for the simulation using the initial BC distribution of Mills et al. (2014, upper panels) and as an average from the forced ensemble members (lower panels). All simulations predict enhanced concentrations at high latitudes during the first year after the exchange. In the cases shown in the top panels, however, these high concentrations persist for several years (see also Figure 1 of Mills et al., 2014), whereas the forced ensemble simulations indicate that the BC concentration starts to decline after the first year. In fact, in the simulation represented in the top panels, mass-mixing ratios larger than about 1 kg of BC © 2018 American Geophysical Union. All rights reserved. per Tg of air persist for well over 10 years after the exchange, whereas they only last for 3 years in our forced simulations (compare top and middle panels of Figure 9). After the first year, values drop below 3 kg BC/Tg air, whereas it takes about 8 years to reach these values in the simulation in the top panels (see also Robock et al., 2007a). Over crop-producing, midlatitude regions in the Northern Hemisphere, the BC loading is reduced from more than 0.8 kg BC/Tg air in the simulation in the top panels to 0.2-0.4 kg BC/Tg air in our forced simulations (see middle and right panels). The more rapid clearing of the atmosphere in the forced ensemble is also signaled by the soot optical depth in the visible radiation spectrum, which drops below values of 0.03 toward the second half of the first year at mid latitudes in the Northern Hemisphere, and everywhere on the globe after about 2.5 years (without never attaining this value in the Southern Hemisphere). In contrast, the soot optical depth in the calculation shown in the top panels of Figure 11 becomes smaller than 0.03 everywhere only after about 10 years. The two cases show a similar tendency, in that the BC optical depth is typically lower between latitudes 30º S-30º N than it is at other latitudes. This behavior is associated to the persistence of stratospheric soot toward high-latitudes and the Arctic/Antarctic regions, as illustrated by the zonally-averaged, column-integrated mass-mixing ratio of the BC in Figure 12 for both the forced ensemble simulations (left panel) and the simulation with an initial 5 Tg BC emission in the upper troposphere (right panel). The spread in the globally averaged (near) surface temperature of the atmosphere, from the control (left panel) and forced (right panel) ensembles, is displayed in Figure 13. For each month, the plots show the largest variations (i.e., maximum and minimum values), within each ensemble of values obtained for that month, relative to the mean value of that month. The plot also shows yearly-averaged data (thinner lines). The spread is comparable in the control and forced ensembles, with average values calculated over the 33-years run length of 0.4-0.5 K. This spread is also similar to the internal variability of the globally averaged surface temperature quoted for the NCAR Large Ensemble Community Project (Kay et al., 2015). These results imply that surface air temperature differences, between forced and control simulations, which lie within the spread may not be distinguished from effects due to internal variability of the two simulation ensembles. Figure 14 shows the difference in the globally averaged surface temperature of the atmosphere (top panel), net solar radiation flux at surface (middle panel), and precipitation rate (bottom panel), computed as the (forced minus control) difference in ensemble mean values. The sum of standard deviations from each ensemble is shaded. Differences are qualitatively significant over the first few years, when the anomalies lie near or outside the total standard deviation. Inside the shaded region, differences may not be distinguished from those arising from the internal variability of one or both ensembles. The surface solar flux (middle panel) is the quantity that appears most affected by the BC emission, with qualitatively significant differences persisting for about 5 years. The precipitation rate (bottom panel) is instead affected only at the very beginning of the simulations. The red lines in all panels show the results from the simulation applying the initial BC distribution of Mills et al. (2014), where the period of significant impact is much longer owing to the higher altitude of the initial soot distribution that results in longer residence times of the BC aerosol in the atmosphere. When yearly averages of the same quantities are performed over the IndiaPakistan region, the differences in ensemble mean values lie within the total standard deviations of the two ensembles. The results in Figure 14 can also be compared to the outcomes of other previous studies. In their experiment “UT 1 Tg”, Robock et al. (2007a) found that, when only 1 Tg of soot © 2018 American Geophysical Union. All rights reserved. remains in the atmosphere after the initial rainout, temperature and precipitation anomalies are about 20% of those obtained from their standard 5 Tg BC emission case. Therefore, the largest differences they observed, during the first few years after the exchange, were about - 0.3 K and -0.06 mm/day, respectively, comparable to the anomalies in the top and bottom panels of Figure 14. Their standard 5 Tg emission case resulted in a solar radiation flux anomaly at surface of -12 W/m2 after the second year (see their Figure 3), between 5 and 6 time as large as the corresponding anomalies from our ensembles shown in the middle panel. In their experiment “Exp1”, Stenke et al. (2013) reported global mean surface temperature anomalies not exceeding about 0.3 K in magnitude and precipitation anomalies hovering around -0.07 mm/day during the first few years, again consistent with the results of Figure 14. In a recent study, Pausata et al. (2016) considered the effects of an admixture of BC and organic carbon aerosols, both of which would be emitted in the atmosphere in the aftermath of a nuclear exchange. In particular, they concentrated on the effects of coagulation of these aerosol species and examined their climatic impacts. The initial BC distribution was as in Mills et al. (2014), although the soot burden was released in the atmosphere over time periods of various lengths. Most relevant to our and other previous work are their one-day emission scenarios. They found that, during the first year, the largest values of the atmospheric surface temperature anomalies ranged between about -0.5 and -1.3 K, those of the sea surface temperature anomalies ranged between -0.2 and -0.55 K, and those of the precipitation anomalies varied between -0.15 and -0.2 mm/day. All these ranges are compatible with our results shown in Figure 14 as red lines and with those of Mills et al. (2014, see their Figures 3 and 6). As already mentioned in Section 2.3, the net solar flux anomalies at surface are also consistent. This overall agreement suggests that the inclusion of organic carbon aerosols, and ensuing coagulation with BC, should not dramatically alter the climatic effects resulting from our forced ensemble simulations. Moreover, aerosol growth would likely **shorten the residence time of the BC particulate in the atmosphere** (Pausata et al., 2016), possibly **reducing the duration of these effects.**

#### Turns all other impacts.

Cribb ’17 [Julian; 2017; Principal of Julian Cribb & Associates, Fellow of the Australian Academy of Technological Sciences and Engineering, former Director of National Awareness at the Commonwealth Scientific and Industrial Research Organisation; *Surviving the 21st Century*, “The Baker,” Ch. 4, p. 91-93; DML]

This event, known as the Palaeocene-Eocene Thermal Maximum or PETM, happened only about ten million years after the dinosaurs were smashed by an asteroid impact. This ‘hyperthermal’ period took place quite suddenly (in geological terms)—in less than 2000 years—and lasted for about 170,000 years before the planet again cooled. The heat spike was accompanied by a major wipe-out of ocean life in particular, though most small land mammals survived. Investigating the records of old marine sediments Zeebe was able to show there had been a sharp, 70 %, leap in atmospheric CO 2 concentrations at the time. However, he concluded there was only sufficient carbon available to force the climate to warm by 1–3 °C and that some other mechanism must have been triggered by the initial warming, which then drove the Earth’s temperature to fever pitch, up by another 4–6 °C (Zeebe et al. 2009). This process is the ‘ runaway global warming ‘ which now menaces us.

The significance of PETM is that it appears that about the same volume of carbon was dumped by natural processes into the Earth’s atmosphere and oceans as humans are currently dumping with the burning of fossil fuels and clearing of the world’s forests—about 3 trillion tonnes in all—and it was this that triggered the hyperthermal surge in planetary heating.

As to the mechanism that could suddenly release a huge amount of extra carbon into the atmosphere and oceans and project global temperatures up by 6–9 °C, the most likely explanation is the one described at the start of this chapter—the rapid melting and escape of billions of tonnes of frozen methane, CH 4 , currently locked in tundra and seabed sediments. This phenomenon, dubbed the “clathrate gun ” (Kennett et al. 2003), is now linked by scientists not only with the PETM event but also, according to palaeontologist Peter Ward, with the Great Death of the Permian, the worst annihilation in the history of life on Earth (Ward 2008). The significance of the clathrates is that they consist of methane, a gas that is 72 times more powerful than CO 2 as a climate forcing agent in the short run, and 25 times stronger over a century or so. The clathrates could be released by a process known as ‘ ocean overturning ’, a shift in global current patterns caused by moderate warming, which brings warmer water from the surface down into the depths, to melt the deposits of frozen gas. Unlocking several trillion tonnes of methane would cause global temperatures to rocket upwards sharply. Once such a process gets under way, most experts consider, warming will happen so fast it is doubtful if humans could do anything to stop it even if they instantly ceased all burning of fossil fuels.

This ‘double whammy’ of global warming caused by humans releasing three trillion tonnes of fossil carbon which then precipitates an uncontrollable second phase driven by the melting of all or part of the five trillion tonnes of natural methane deposits (Buff et & Archer 2004) is the principal threat to civilisation in the twenty-first century and, combined with nuclear conflict (Chap. 4), to the survival of the human species.

The IPCC’s fifth report states that the melting of between 37 and 81 % of the world’s tundra permafrost is ‘virtually certain’ adding “There is a high risk of substantial carbon and methane emissions as a result of permafrost thawing ” ((IPCC 2014a), p. 74). This could involve the venting of as much as 920 billion tonnes of carbon. However, the Panel did not venture an estimate for methane emissions from the melting of the far larger seabed clathrates and a number of scientists have publicly criticised the world’s leading climate body for remaining so close-lipped about this mega-threat to human existence. The IPCC’s reticence is thought to be founded on a lack of adequate scientific data to make a pronouncement with confidence—and partly to fear of the mischief which the fossil fuels lobby would make of any premature estimates. However, it critics argue, by the time we know for sure that the Arctic and seabed methane is escaping in large volumes, it will be too late to do anything about it.

The difficulty is that no-one knows how quickly the Earth will heat up, as this depends on something that cannot be scientifically predicted: the behaviour of the whole human species and the timeliness with which we act. Failure to abolish carbon emissions in time will make a 4–5 °C rise in temperature likely. As to what that may mean, here are some eminent opinions :

• Warming of 5 °C will mean the planet can support fewer than 1 billion people—Hans-Joachim Shellnhuber, Potsdam Institute for Climate Impact Research (Kanter 2009)

• With temperature increases of 4–7 °C billions of people will have to move and there will be very severe conflict—Nicholas Stern, London School of Economics (Kanter 2009)

• Food shortages, refugee crises, flooding of major cities and entire island nations, mass extinction of plants and animals, and a climate so drastically altered it may be dangerous for people to work or play outside during the hottest times of the year—IPCC Fifth Assessment (IPCC 2014b)

• Corn and soybean yields in the US may decrease by 63–82 %—Schlenker and Roberts, Arizona State University (Schlenker & Roberts 2009a)

• Up to 35% of the Earth’s species will be committed to extinction—Chris Thomas, University of Leeds (Thomas et al. 2004)

• Total polar melting combined with thermal expansion could involve sea levels eventually rising by 65 m (180 ft), i.e. to the 20th floor of tall buildings, drowning most of the world’s coastal cities and displacing a third or more of the human population (Winkelmann et al. 2015)

• Intensified global instability, hunger, poverty and conflict. Food and water shortages, pandemic disease, disputes over refugees and resources, and destruction by natural disasters in regions across the globe—Chuck Hagel, US Secretary for Defence (Hagel 2014)

• “Almost inconceivable challenges as human society struggles to adapt… billions of people forced to relocate.… worsening tensions especially over resources… armed conflict is likely and nuclear war is possible”— Kurt Campbell, Center for Strategic and International Studies (Campell et al. 2007).

• “Unless we get control of (global warming), it will mean our extinction eventually”—Helen Berry, Canberra University (Snow & Hannam 2014).

#### Key to lock upgrades---otherwise all ag fails

Farabaugh 6-5-2021 (Kane, “Infrastructure Bill Would Upgrade Aging US Waterways System,” *VoA News*, <https://www.voanews.com/usa/infrastructure-bill-would-upgrade-aging-us-waterways-system>)

It's a routine sight on the Illinois River: towboats slowly pushing barges carrying everything from salt and petroleum to corn and soybeans. "This is the backbone of our economy," said Tom Heinold, chief of the operations division for the U.S. Army Corps of Engineers Rock Island District. "Here in the upper Midwest, we feed the world from right here." Heinold oversees Corps of Engineers facilities along the Illinois River, including the Starved Rock Lock and Dam near Utica. The National Waterways Foundation says the statewide system moves more than 83 million tons of freight annually, worth more than $13 billion to the U.S. economy. Using barges to transport goods on rivers is not only efficient but also environmentally friendly, reducing the need to use petroleum-guzzling trucks, Heinold said. "We can take 1,000 tractor-trailer trucks' worth of commodities and put them on a single 15-ton barge tow," he told VOA. "If it's big, bulk, it's more efficient to go on the rivers. So we see the benefits of that, that cost savings over roads and rails." Showing their age But the locks, which rise and fall to allow barges to navigate a consistent depth of the river, were built nearly a century ago and are showing their age. "It is literally, in places, crumbling," Heinold said while peering from a balcony overlooking the lock and dam. "You can see the concrete right in front of you, deteriorating. On the vertical walls, you can see the corner armor rusting. Some of it is bent." "They were built with a 50-year design life," explained Rodney Weinzierl, a farmer in central Illinois, where the waterways are key to getting crops to foreign buyers. Weinzierl serves as executive director of the Illinois Corn Growers Association, which advocates for improving the country's inland waterway system. "Exports are very important to Illinois and the U.S., and infrastructure is what keeps us competitive with foreign competition," Weinzierl said. But since most taxpayers rarely engage with this part of the country's infrastructure, he said, the waterways often get overlooked. "The public just never really sees it," he told VOA. "It's much lower on the list of awareness of infrastructure that's really helped make our nation what it is today." Weinzierl says it's crucial to improve the locks and dams so they don't become unusable, which would impact the flow of grains and other goods — as well as the prices of those goods. But for Heinold to be able to keep things running, the system "needs some help to be reliable and safe," he told VOA. 'Long-term investments' Both President Joe Biden's $1.7 trillion infrastructure plan and a Republican counterproposal would invest in the country's inland waterways and ports.

#### Infrastructure solves sustainable/regenerative ag

Barry 21, graduate student at the University of Colorado Boulder where she is pursuing her master's degree in sustainable food systems. She is also a content and media relations intern with Rodale Institute (Caroline, “WHAT BIDEN’S CLIMATE PLAN MEANS FOR REGENERATIVE AG,” Rodale Institute, https://rodaleinstitute.org/blog/what-bidens-climate-plan-means-for-regenerative-ag/)

President Joe Biden has introduced an ambitious climate plan for the United States. Could regenerative agriculture help us get there? President Biden has pledged to spend up to $2 trillion on climate change initiatives. “Climate change” is a broad-brush topic, so how will these measures impact food, agriculture and regenerative organic farming? Let’s take a closer look at “The Biden-Harris Plan to Build Back Better in Rural America” and examine how a few key proposals could impact the food system. Agriculture & The Climate Crisis: First… what does agriculture have to do with climate change? Agricultural activities are responsible for nearly a quarter (24%) of global greenhouse gas emissions. But building healthy soil by implementing regenerative practices like cover cropping and reduced tillage can help sequester carbon and mitigate the damage to our climate. Reducing reliance on fossil-fuel-intensive synthetic chemicals, grazing animals on pasture, and other organic practices can play a major role.

Biden’s Plan

While President Biden hasn’t directly stated the role that regenerative organic agriculture will play in his administration, these farming practices (and their outcomes!) are uniquely suited to its climate goals. Most notably, the Biden administration has proposed a carbon market to incentivize carbon capture. For farmers, this could mean receiving payments for the carbon they sequester in their soils. Many scientists, agribusinesses and lawmakers agree that healthy soils will be vital to curbing the climate crisis. Let’s dive deeper and examine some key proposals from the “The Biden-Harris Plan to Build Back Better in Rural America:” Key Proposal 1: Help farmers leverage new technologies, techniques, and equipment to increase productivity and profit while tackling the challenge of sequestering carbon and reducing emissions – making American agriculture the first in the world to achieve net-zero emissions and create new sources of income for farmers in the process. In Their Words: “President Biden will make a significant investment in research to refine practices to build soil carbon while maximizing farm and ranch productivity. Soil is the next frontier for storing carbon.” What This Means For Regenerative Ag: Regenerative agriculture has the potential to drawdown greenhouse gas emissions and sequester them in the soil due to its emphasis on soil microbiome, reduced tilling, livestock integration, and more. We may soon see the introduction of carbon markets and new technologies that encourage and incentivize regenerative organic farming practices, including a stronger emphasis on the importance of healthy soils.

### 1NR---AT Thumpers

#### Withdrawal doesn’t cost PC

Kapur 8-24-2021 (Sahil, “Joe Biden bets a war-weary America will reward him for leaving Afghanistan,” *NBC News*, <https://www.nbcnews.com/politics/white-house/joe-biden-bets-war-weary-america-will-reward-him-leaving-n1277104>)

President Joe Biden is standing firmly by his decision to withdraw U.S. forces from Afghanistan, despite chaotic scenes of the Taliban rapidly seizing control and the U.S. rushing to airlift diplomats out of the country. Behind his confidence is a political bet that a war-weary U.S. public will stick with him and enable him to weather a firestorm of criticism, not just from his Republican opposition but also from Democratic allies who promise to investigate failures surrounding the withdrawal. Public support for the withdrawal has fallen from earlier this year, but pluralities still want U.S. forces out, according to two new surveys. A Yahoo News poll found that 40 percent support the pullout, while 28 percent oppose it. (In July, 50 percent favored the pullout.) A Morning Consult/Politico poll found that 49 percent support the withdrawal, while 37 percent oppose it. (In April, 69 percent backed withdrawal.) The criticism has been heaviest over the execution of the withdrawal, including the failure to evacuate U.S. personnel and partners in time for the rapid Taliban takeover. Republican lawmakers, and some Democrats, have compared it to the fall of Saigon, South Vietnam, in 1975. At the moment, Biden needs all the political capital he can muster, in order to spend it on signing an infrastructure bill and a $3.5 trillion social safety net package at the core of his domestic agenda, which his party is counting on to survive a difficult midterm election cycle next year. Democratic strategists say Biden is on solid political footing, arguing that Americans will ultimately see the issue as a simple choice between continuing the occupation and ending it.

#### Biden’s barely above water

Davis 8-27-2021, data analyst in DC (Ben, “Biden is facing his biggest crisis yet. And he will survive it,” The Guardian, <https://www.theguardian.com/commentisfree/2021/aug/27/biden-is-facing-his-biggest-crisis-yet-and-he-will-survive-it>)

President Biden’s decision to withdraw US troops from Afghanistan, and the country’s nearly immediate fall to the Taliban, has created the first major public relations crisis of his presidency. This crisis further deteriorated on Thursday, with the Islamic State bombing at Kabul airport, which claimed the lives of at least 12 American soldiers. Elite opinion in both parties has been decidedly against his decision to withdraw and he has received intense and sustained negative media coverage for the first time as president. The airport blast will only make this worse. As a result, Biden’s formerly stable approval rating has dropped precipitously and now sits just barely above water. Biden has hit a crisis that looks like it could sink his presidency, but he is right to dismiss his critics and stay the course, both morally and politically. Biden campaigned and was elected on leaving Afghanistan. While the spasm of negative coverage has damaged his approval rating temporarily, the underlying policy of withdrawing from Afghanistan is extremely popular. Even polling designed to elicit specific negative responses, such as Morning Consult’s framing of supporting withdrawal “even if it means it creates an opening for al-Qaida and other terrorist groups to establish operations”, results in net positive support for withdrawal. Americans of both political parties do not want to be engaged in military occupation and overseas conflict in perpetuity. Those who are declaring the withdrawal a presidency-defining catastrophe for Biden are ignoring that the shelf-life of scandals isn’t what it used to be. There is much to be gained from staying the course and riding out the storm. Donald Trump was a master of this. He was able to rebound back to his baseline from a number of controversies that briefly sank his approval rating. A number of other politicians, such as the Virginia governor, Ralph Northam, have also demonstrated the limited timeframe of controversy. Biden must ignore the media storm and the over-the-top politically motivated calls for his resignation by Republican politicians like Nikki Haley and Josh Hawley, who are dropping their isolationist “America first” charade in order to criticize the withdrawal. As Trump himself said earlier this year: “Getting out of Afghanistan is a wonderful and positive thing to do.” His supporters will likely agree. And so Republican politicians will be forced to adjust to this reality. The sad truth is, the media’s attention span – especially when it comes to covering western wars – is short. If the past two decades has taught us anything, it’s that the current wall-to-wall Afghanistan coverage is rare and fleeting. Biden can weather this storm, especially if he is successful at tackling the humanitarian part of this crisis, rather than the military one. A recent poll found that 81% of Americans support offering asylum to Afghans. And nine Republican governors have even offered to resettle Afghan refugees in their states. Given that much of the outcry over Biden’s withdrawal was over the dramatic scenes of Afghans clinging to airplanes at Kabul airport, a successful refugee resettlement effort would help to disarm many of Biden’s fiercest critics. Biden has a rare but brief opportunity to resettle refugees before Republican officials in state governments revert to their usual anti-refugee positions. Biden has a moral imperative to take advantage of this and accept as many people as possible. The other important point in Biden’s favor is: there was no credible alternative. Some have argued that, while the withdrawal was generally a good idea, the execution was shambolic. And while this may be true when it comes to the evacuation crisis – Biden could certainly have airlifted American civilians and Afghan refugees sooner – it’s clear that a Taliban takeover could not have been avoided. Despite the chaos at the airport, about 100,000 Afghans have been evacuated in a very short period of time. If two decades of war to the tune of $1tn couldn’t stop a Taliban takeover, then the only responsible decision is to avoid yet more war and loss of life. The rapid withdrawal was dramatic and painful, like ripping a Band-Aid off. A slower withdrawal would have almost certainly been worse. By endlessly drawing out the exit, every new bombing, every new surprise attack, could have slowed down the pace of the exit until it ground entirely to a halt, causing needless protracted suffering. All the while, lives would continue to be lost for an unwinnable war. That Biden has resolutely stuck by his decision in the face of universal media condemnation is extremely brave, and it will pay off in the long term both for Americans and the Afghans who have lived under two decades of war. When the eyes of the media move on, his approval rating should rebound, and the administration will be able to refocus on political battles that deliver clear material benefits for Americans, like the infrastructure bill and reconciliation package. The current crisis is a painful one, but it will not define Biden’s presidency. If he delivers on his ambitious domestic agenda, he will still have the opportunity to be remembered as an FDR-style president. He will be celebrated for the victories he won, not the quagmires he inherited.

### 1NR---AT Inevitable

#### Not inevitable---still work to do.

Stimson 10-29-2021 (Brie, “Progressives block infrastructure vote before Biden trip, but back reconciliation plan: LIVE UPDATES,” Fox news, <https://www.foxnews.com/live-news/biden-europe-democratic-infighting-infrastructure-vote>)

The Congressional Progressive Caucus got the best of House Speaker Nancy Pelosi, D-Calif., and President Biden yet again Thursday after the pair pushed for a vote on the infrastructure bill before Biden's climate summit in the U.K. next week. The caucus forced the House to put off a vote on the bill yet again. The group and Chairwoman Rep. Pramila Jayapal, D-Wash., are demanding more progress on the passage of Democrats' reconciliation spending plan before they will let the bipartisan infrastructure bill pass, because they don't trust Senate moderates to pass it. "The reality is that while talks around the infrastructure bill lasted months in the Senate, there has only been serious discussion around the specifics of the larger Build Back Better Act in recent weeks, thanks to the Progressive Caucus holding the line and putting both parts of the agenda back on the table," Jayapal said in a Thursday statement. "Members of our Caucus will not vote for the infrastructure bill without the Build Back Better Act. We will work immediately to finalize and pass both pieces of legislation through the House together," she added. But Jayapal and her members also endorsed the framework for a reconciliation bill that President Biden released Thursday morning, which would cost $1.75 trillion. $1.75 trillion is an exorbitant amount of money. But it's half of the $3.5 trillion progressives were pushing for at the beginning of the reconciliation process. And some progressives had their sights set even higher, on a bill that might cost $6 trillion or more. The price needed to drop because Sens. Joe Manchin, D-W.Va., and Kyrsten Sinema, D-Ariz., as well as other moderates in the House and Senate, were concerned about spending too much money as the economy is coming out of the coronavirus pandemic. Neither Sinema nor Manchin have explicitly endorsed the Biden reconciliation framework yet. And Democrats admit that there is still a lot of work to do to turn the president's proposal into a final bill that will pass both the House and the Senate -- any one senator, or just a handful of House members, can tank the whole endeavor. But with progressives' support for a plan that represents massive compromises on many of their biggest priorities, Democrats appear to be inching closer to a deal that could see both infrastructure and reconciliation pass in November. "The Congressional Progressive Caucus just overwhelmingly voted to endorse in principle the entire Build Back Better Act framework announced by President Biden today," Jayapal said Thursday.

### 1NR---Link

#### Lobbies: ensure centrist backlash

Stacey 6-21-2021 (Kiran, “Big Tech lobby looks to moderate Democrats to defeat new regulation,” *Financial Times*, <https://www.ft.com/content/44baae26-564b-4314-a622-637a54282520>)

Senior Democrats are pushing back against attempts by members of their own party to regulate large technology companies, in a sign of how difficult progressives are likely to find it to rewrite US competition laws. Democratic members of the House of Representatives have attacked a package of measures being promoted by members of the House antitrust subcommittee, as opposition builds to radical proposals that some hope could lead to the break-up of Big Tech. The rift shows how difficult it will be to enact a big shake-up of US antitrust laws, even as President Joe Biden considers signing his own executive order to strengthen regulators’ powers to promote competition in their sectors. Zoe Lofgren, a Democratic representative from California, told the Financial Times: “I don’t think they spent a lot of time drafting these bills, some of the measures in them are embarrassing . . . I am in favour of making adjustments to antitrust laws, but some of these are radical.” Lou Correa, another Democratic representative from California, said: “I’m not sure we should try to break up some of these companies. And why are we singling out American companies, and especially those from California?” The House judiciary committee last week passed six bills aimed at breaking the corporate power enjoyed by the likes of Google, Facebook, Amazon and Apple. The move is part of a broader push to enact the most significant change to US competition law in a generation. But industry lobbyists are targeting centrist Democrats and those from California in particular as they try to block the most radical measures. One of the bills would ban large technology companies from giving preferential treatment to their own products and could stop practices such as Amazon using its online store to promote products it has made. Another would prevent them from buying up rivals or nascent competitors, as Facebook did with both WhatsApp and Instagram. Biden has signalled his support for taking on Big Tech by appointing Lina Khan, a law professor who has called for the break-up of Amazon, to chair the Federal Trade Commission and Tim Wu, another prominent critic, as a White House adviser. Amazon on Wednesday filed a petition with the FTC, calling on Khan to recuse herself from investigations involving the company. Wu is one of those working on an executive order which would give greater power to industry regulators to encourage competition in their sectors. As part of that order, officials are considering ordering regulators to ban “non-compete” clauses, which have been used by companies including Amazon to stop their employees moving to work for their rivals. A White House spokesperson said: “The president made clear during his campaign that he is committed to increasing competition in the American economy . . . but there is no final decision on any actions at this time.” Critics of Big Tech are keen to push for legislative changes after antitrust lawsuits filed against Facebook by the FTC and dozens of state attorneys-general using existing competition law were thrown out of court this week. But the comments by Lofgren and Correa show how hard it will be to pass such legislation, even though it has attracted the support of a handful of Republican critics of Big Tech. They come days after Steny Hoyer, the Democratic leader in the House, warned that the bills had triggered opposition from senior members of his party and were not ready for a vote by the full chamber. Earlier this month, a separate set of eight Democrats warned the bills “may weaken personal privacy protections [and] cyber security, and increase the spread of dangerous conspiracy theories and misinformation”. Democrats have a thin majority in the House of Representatives and Kevin McCarthy, the Republican minority leader, has signalled his opposition. One industry lobbyist expressed confidence that the bills would not make it through the House, saying: “The centrist Democrats and the California delegation should see to that.”

#### Time: Any legislation takes years.

Stern 20 (Christopher, “Split Government Could Doom Antitrust Reform, but Tech to Remain in Crosshairs,” *The Information*, <https://www.theinformation.com/articles/split-government-could-doom-antitrust-reform-but-tech-to-remain-in-crosshairs>)

The Democrats’ apparent failure to secure a majority in the Senate will likely be a big disappointment to advocates of antitrust reform aimed at curtailing what they view as anticompetitive conduct by big tech companies. The changes they are seeking are aimed at making it easier for prosecutors to win antitrust convictions against companies with dominant market power. David Cicilline, the Democrat who chairs the House Antitrust Subcommittee, plans to introduce a series of bills to achieve those goals, after spending a year leading a congressional investigation into the business practices of Apple, Amazon, Google and Facebook. Democratic control of the Senate would have greatly improved the odds of those bills becoming law. While many Republican lawmakers are supportive of tougher antitrust enforcement, they have generally opposed efforts to change current legal standards. Still, hope for antitrust reform might not be completely dead, said Seth Bloom, a former general counsel for the Senate’s antitrust subcommittee, who represents firms including Amazon as a lobbyist. Bloom said the antagonism toward big tech of some prominent Senate Republicans, including Josh Hawley and Ted Cruz, could lead them to support proposals that undermine the power of those companies. Even if Democrats manage to squeak through antitrust changes, any legislation would likely take more than a year to make its way through Congress. Tech companies could see a more immediate impact on another aspect of their businesses: mergers and acquisitions approval.

#### floor time is limited and congress must prioritize.

Heitshusen 13 – Analyst on Congress and the Legislative Process (Valerie, 3/18/13, ‘The Legislative Process on the Senate Floor: An Introduction”, [http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%26\*2D4Q%5CK3%0A](http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%26*2D4Q%5CK3%0A))

The legislative process is laborious and time-consuming, and the time available for Senate floor action each year is limited. Every day devoted to one bill is a day denied for consideration of other legislation, and there are not enough days to act on all the bills that Senators and Senate committees wish to see enacted. Naturally, the time pressures become even greater with the approach of deadlines such as the date for adjournment and the end of the fiscal year. So, for all but the most important bills, even the threat of a filibuster can be a potent weapon. Before a bill reaches the floor or while it is being debated, its supporters often seek ways to accommodate the concerns of opponents, preferring an amended bill that can be passed without protracted debate to the time, effort, and risks involved in confronting a filibuster or the threat of one.

#### 3. ag - Applying antitrust to big ag encounters fierce political backlash

Kaufman 8-17-2021, Author of THE FALL OF WISCONSIN (Dan, “Is It Time to Break Up Big Ag?,” New Yorker, <https://www.newyorker.com/news/dispatch/is-it-time-to-break-up-big-ag>)

Perhaps the most pivotal figure in any effort to break up Big Ag will be Tom Vilsack, Biden’s Secretary of Agriculture, and the only Cabinet member from the Obama Administration to return to office under Biden. Vilsack had been a rural adviser for Obama’s 2008 campaign, which offered a decidedly populist message to farmers. “The game’s been rigged,” Obama had said, during a visit to a farm in Adel, Iowa. “It’s time we had a government that understood it’s the Department of Agriculture, not the Department of Agribusiness.” After winning the Democratic nomination, Obama released a plan for rural America that included rigorous enforcement of antitrust laws like Packers and Stockyards. Obama won forty-five per cent of the national rural vote, carrying Iowa by ten points and Wisconsin by fourteen. When Obama picked him to lead the Department of Agriculture, Vilsack was widely considered a pro-business choice, a former governor who had supported tax breaks for the ethanol industry. But his political ascent was preceded by a difficult childhood. Born to an unwed Irish American mother, in Pittsburgh, he was placed in a Catholic orphanage, and adopted as a four-month-old; by the time he left for college, his adoptive mother, who struggled with alcohol and prescription drugs, had made two suicide attempts. After graduating from law school, in Albany, New York, he moved to Mount Pleasant, Iowa, his wife’s home town, and joined his father-in-law’s firm. The job put him in contact with farmers who, during the Reagan Administration, were facing their biggest crisis since the Depression. “I represented a lot of farmers who were losing their farms,” Vilsack told me. “That directed my interest to try to provide some help.” In December of 1986, a disgruntled homeowner, angry about backed-up water in his basement from the town’s sewer system, rose at a Mount Pleasant city-council meeting, pulled out a handgun, and shot and killed the mayor, Edd King. King’s father asked Vilsack to run in the ensuing special election. Vilsack won the mayor’s race—and, later, a state senate seat, and then two terms as Iowa’s governor. As a member of Obama’s cabinet, Vilsack publicly embraced organic agriculture, established a program to bring locally grown foods to school cafeterias, and launched the U.S.D.A.’s StrikeForce Initiative, which invested more than twenty-three billion dollars in infrastructure, conservation, nutrition, and other programs in rural counties with persistently high poverty rates. But he also proved to be a mostly reliable steward of the corporate-friendly status quo. He approved so many genetically modified crops that critics began calling him Mr. Monsanto. At the 2009 United Nations Climate Change Conference, in Copenhagen, he unveiled a plan for the U.S.D.A. to help farmers cut greenhouse-gas emissions by buying manure digesters, even though they are useful only for large, carbon-intensive factory farms. Vilsack also faced pressure to revive antitrust enforcement. Two years before he took office, a U.S.D.A. inspector general’s report revealed that the Grain Inspection, Packers, and Stockyards Administration, or gipsa, the agency within the U.S.D.A. tasked with enforcing fair business practices, was actively blocking the enforcement of its own rules. Most notably, gipsa’s acting administrator had stashed about fifty of the agency’s enforcement actions in a desk drawer, instead of prosecuting them. In response, Vilsack proposed a set of sweeping measures that would, among other things, make it easier for farmers to sue processors for harming their business. “I think it’s fair to say what we’re proposing is aggressive,” Vilsack said, in a news conference announcing the new rules. “Our job is to make sure the playing field is level for producers.” In 2010, Vilsack hosted a nationwide series of hearings to investigate anticompetitive practices and market concentration in various agricultural sectors. “The President has instructed the Department of Agriculture to establish a framework for a new rural economy,” he said at the first hearing, in Iowa, which was attended by Attorney General Eric Holder and Christine Varney, the head of the Justice Department’s antitrust division. At a hearing in Madison, Wisconsin, which focussed on the dairy industry, hundreds of farmers were in attendance, some from as far as California and New Mexico. Vilsack highlighted the problems that agricultural consolidation was causing for rural America. He noted that rural counties in the U.S. accounted for ninety per cent of those with persistent poverty—meaning, twenty per cent or more of the population has lived in poverty for the past thirty years—and that nearly half the country’s dairy farms had been lost in the previous decade. “When we lose farming operations, it not only impacts that specific family but it also has a significant impact on rural America,” he said. “I have a growing concern about the condition of rural America.” Meanwhile, the meat industry began an intensive lobbying campaign against Vilsack’s proposed gipsa rules, which the National Farmers Union had dubbed the “Farmer and Rancher Bill of Rights.” The House and Senate Agriculture Committees requested that Vilsack extend the deadline for comments, which he did, putting the new deadline beyond the 2010 midterm elections. That year, as the journalist Christopher Leonard details in “The Meat Racket,” the country’s five largest meat companies and their front groups spent nearly ten million dollars on lobbying, casting the gipsa rules as job-killing regulatory overreach. After the midterms, when Republicans regained control of Congress, they attached an annual rider to the U.S.D.A. appropriations bill stripping the agency of funds to complete the rule-adoption process. Vilsack did not fight back. In 2016, he told the Des Moines Register, “I don’t think just because a couple of the major players are going to potentially merge or consider some other kind of arrangement that that necessarily long-term absolutely guarantees that farmers are going to have less choice.” A few weeks after leaving office, Vilsack was hired as president of a dairy-export group, earning roughly a million dollars a year. His successor in the Trump Administration, Sonny Perdue, effectively eliminated gipsa. “When Vilsack failed to follow through, it really set the effort back,” Leonard told me. “It was worse than if they had done nothing. It emboldened the companies not only to continue their practices but to intensify them.”

### 1NR---Internal Link

#### Passage solves climate change AND solidifies US international climate leverage

Hulac 10-28-2021, analyst @ Roll Call (Benjamin, “Framework’s climate elements may keep emissions goals in reach,” *Roll Call*, <https://www.rollcall.com/2021/10/28/frameworks-climate-elements-may-keep-emissions-goals-in-reach/>)

Before heading to Italy and then the United Kingdom for back-to-back summits on climate change, Biden presented the outline for climate and social safety net proposals as well as $2 trillion in offsets, including an international tax agreement, more IRS enforcement of tax collection and a fee on corporate stock buybacks. The agreement was not as aggressive as the administration had originally wanted, but experts said it appeared to be the foundation of a significant climate bill that keeps the country’s climate goals attainable. “If Congress can deliver this, that keeps our climate goal within reach,” Trevor Higgins, senior director of domestic climate and energy policy at the Center for American Progress, a left-leaning think tank, said in an interview. Under Biden, the U.S. has committed to cutting its greenhouse gas emissions 50 to 52 percent from 2005 levels by 2030, and many Democratic lawmakers said passage of the spending package before climate talks in Glasgow, Scotland, conclude in mid-November would help underscore U.S. leadership in averting the worst effects of climate change in the coming decades. “The next week is a critical week for President Biden, and for our leadership on the world stage as a country,” Sen. Chris Coons, D-Del., told reporters Monday. Before the draft legislative text was released ahead of a 3 p.m. Rules Committee meeting, independent researchers and climate advocacy groups said the framework could lead to the most potent climate bill Congress has ever passed. The key climate pillar in the framework is a suite of clean energy tax incentives worth $320 billion that would be in place for 10 years. Other climate elements include $105 billion in climate “resilience” efforts to blunt the impacts of climate change, such as rising sea levels, and $110 billion for investments in clean energy technology, manufacturing and supply chains, the White House said in a summary of the deal. And the deal includes $20 billion for the public sector to purchase low-emission energy sources. “We are very pleased with the framework,” Lena Moffitt, campaigns director for Evergreen Action, a climate advocacy group, said by phone. “It is absolutely needed and must pass,” she said, adding that it is not as ambitious as her group would have liked and is not sufficient to reach the U.S. climate targets on its own. “Both of those things are true.” Sticks needed Daniel Raimi, a fellow at the nonpartisan research organization Resources for the Future, said in an interview that the tax credits will help knock down emissions

. “These are a whole bunch of carrots to spur clean energy, but there are no sticks to deter fossil energy,” Raimi said. “Without sticks, it’s really hard to achieve the emissions goal that the administration has set,’ he said, adding that cutting emissions from the transportation sector, the highest-emitting sector in the U.S. economy, is difficult without disincentives. “Without sticks, it’s really hard to get emission reductions in transportation.” Princeton University engineering professor Jesse Jenkins said on Twitter that the White House was accurate in calling the deal the “largest effort to combat climate change in American history.” Jenkins said the deal would likely “deliver the necessary emissions reductions to put the U.S. on track for (or at least well within reach of) Biden’s 2030 climate pledge to reach 50 percent below 2005 emissions.” “This is a massive step forward,” Ryan Fitzpatrick of ThirdWay, a centrist think tank, said in an interview, adding that elements in the deal that focus on the supply chain and the industrial sector could translate to jobs.