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#### DIPLOMACY DA:

#### US-China climate negotiations are the only shot to stop warming. They’ll succeed now unless jeopardized by diplomatic hostility.

Stalley 2-8-2022, Endowed Professor of Environmental Diplomacy & Associate Professor of Political Science @ Depaul. (Phillip, "China’s climate change record: Beijing tends to meet its targets, but sets the bar too low", *NWI Times*, <https://www.nwitimes.com/news/world/china-s-climate-change-record-beijing-tends-to-meet-its-targets-but-sets-the-bar/article_4a7d34d5-4f6f-5cb8-9fe8-b2972879c558.html>)

When it comes to climate change, no nation is more important than China. It consumes more coal than the rest of the world combined, and it is the leading emitter of greenhouse gases, accounting for nearly 30% of global emissions.

Unless China takes rapid steps to control its greenhouse gas emissions, there is no plausible path to achieving the Paris climate agreement aim to limit global warming to 1.5 degrees Celsius (2.7 F), or even the less ambitious target of “well below 2 C” (3.6 F).

So, with the Olympic spotlight on China, what is the country doing to help the world avoid the worst impacts of climate change, and is it doing enough?

China’s record is mixed. Over the past year, China has signaled that it intends to continue on its well-worn path of making modest, incremental contributions to combat climate change, an approach inadequate for achieving the Paris goals. Yet, as an expert in environmental diplomacy who has followed China’s actions for years, I see reasons to think China might increase its efforts in the coming years.

China’s measured approach to climate change

A common misconception is that China either lacks climate policies or fails to implement them. The reality is that China has a robust set of climate and energy policies and a strong track record when it comes to fulfilling its pledges to the international community.

Driven by a desire to reduce air pollution, enhance energy security and dominate the industries of the future, China has been the world’s leading investor in renewable energy since 2013, and it has been buying up raw materials those industries need, such as cobalt mines in Africa. It has three times more renewable energy capacity than any other country, and its electric vehicle use is growing. As of 2019, about half the world’s electric vehicles and 98% of electric buses were in China.

Overall, China achieved nine of the 15 quantitative targets in its 2015 climate commitments ahead of schedule. Over the past decade, coal has fallen from about 70% to 57% of its energy consumption.

In September 2021, Chinese President Xi Jinping indicated that China will stop financing overseas coal power plants. This is likely to lead to the cancellation of much of the 65 gigawatts of coal power plants it had planned in Asia, roughly three times the annual emissions of Bangladesh. And unlike the U.S., China has also established a national emissions trading system for the electricity sector, though it lacks a hard cap on emissions.

When it comes to China’s approach to climate change, the problem is not a lack of policy implementation but rather a lack of policy ambition. China’s climate policies are admirable for a middle-income country that only recently escaped the ranks of the poor, but, like most of the world’s nations, it is still not doing enough.

This is evident both in China’s revised commitments presented at the U.N. climate summit in Glasgow in November 2021 and in its current Five-Year Plan (2021-2025). Both represent piecemeal improvements but will make it difficult to keep global warming well below 2 C.

For instance, China aims to have its carbon dioxide emissions peak before 2030 and be carbon neutral by 2060. These soft targets reflect a Chinese tendency in international negotiations to underpromise so that it can overdeliver. To be consistent with the Paris Agreement aims, China will need to set a cap on emissions and move forward its peak dates.

Current policy and recent history have also raised concerns that China’s coal use will not decline fast enough over the 2020s to achieve the 1.5 C target.

Three times in the past four years China responded to either an energy shortage or economic slowdown by allowing coal production and consumption to surge. In 2020, it added almost 40 gigawatts of new coal capacity, roughly equal to the entire coal fleet of Germany, the world’s fourth-largest industrial power.

Reasons for cautious optimism

There is still a chance that China will enhance its contribution to the fight against climate change.

It is worth noting that China is still developing the policies that will guide its approach to climate change over the next decade. It has released two overarching documents for reaching carbon neutrality and an emissions peak in 2030. Over the next year or so, it intends to release 30 sector- and province-specific documents to guide industries such as steel, cement and transportation.

Two key developments at Glasgow could also nudge China to do more.

First, a considerable number of countries increased their climate pledges, which ratchets up pressure on China.

More than 100 nations pledged to cut emissions of methane, a highly potent greenhouse gas, by 30% by 2030. India pledged to reach net-zero carbon emissions by 2070 and, more importantly, indicated it would potentially get half its electricity from renewable sources by 2030. There were also multicountry pledges to end deforestation, phase out coal and cut international funding for fossil fuels.

Like any country, China’s climate actions are driven primarily by domestic political considerations. However, over the past three decades Chinese policy has responded to – and been shaped by – external forces including diplomacy, advocacy and scientific exchange.

Developing countries, in particular, can influence China’s approach to climate change. Because China has long positioned itself as a leader of the developing world and is sensitive to its international image, it can be hard for Beijing to resist pressure from other developing countries. The fact that several countries, such as India, Indonesia and Vietnam, made bolder-than-expected pledges at Glasgow could induce Beijing to offer more aggressive targets for controlling emissions.

The second key development is that the United States and China achieved a much-needed thaw in their relationship at Glasgow and laid a foundation for future cooperation.

Climate negotiations

Although there is some debate about whether the climate benefits more from Sino-American competition or cooperation, there was concern that hostility between China and the U.S. could derail the talks.

Therefore, it was a welcome relief when late in the summit China and the U.S., the second largest greenhouse gas emitter, released a joint declaration outlining their shared commitment to combating climate change.

They agreed to establish a “working group on enhancing climate action in the 2020s” and to meet early in 2022 to address methane emissions. China also indicated it would release a national action plan for methane. This is significant because China did not sign the Global Methane Pledge and has not traditionally included noncarbon greenhouse gases – about 18% of China’s total emissions – in its commitments.

Will developing country pressure and U.S.-China cooperation be enough to persuade China to take more aggressive action? Only time will tell, but Glasgow may have been the crossroad where China and the rest of the world chose a more sustainable path.

#### Extraterritoriality causes diplomatic strife.

Park 17, Career in Law Teaching Fellow, Columbia Law School; Adjunct Professor of Law, Georgetown Law Center; Of Counsel, Kobre & Kim LLP. (S. Nathan, “Equity Extraterritoriality”, *Duke Journal of Comparative & International Law*, Vol 28:99, pg. 148-150, https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1515&context=djcil)

2. Strife in Diplomatic Relations

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

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

#### That touches off a spiral of retaliation

Bradford 12, Henry L. Moses Distinguished Professor of Law and International Organization at the Columbia Law School. (Anu, “Antitrust Law in Global Markets”, Research Handbook on the Economics of Antitrust Law, Einer Elhauge, Ed., Edward Elgar Publishing, pg. 300-301, Available at: <https://scholarship.law.columbia.edu/faculty_scholarship/1976>

Enforcement conflicts also increase tensions among antitrust regulators. The McDonnell Douglas controversy escalated into a political battle where the US administration considered a range of actions against the Europeans in response to the European Commission’s threat to enjoin the merger, including the possibility of limiting transatlantic flights, imposing retaliatory tariffs on European aircrafts, and challenging the Commission’s decision before the WTO.116 The criticism was no less ~~muted~~ after the negative GE/ Honeywell decision. The US Secretary of the Treasury, Paul O’Neil, described the decision as being ‘off the wall’, adding that the Commission was ‘the closest thing you can find to an autocratic organization that can successfully impose their will on things that one would think are outside their scope of attention’.117 Similarly, when the European Court of First Instance handed down its judgment in the Microsoft case, Tom Barnett, the Assistant Attorney General for Antitrust at the time, criticized the judgment vocally, accusing the Europeans of ‘chilling innovation and discouraging competition’.118

#### Warming causes extinction.

Coviello 21, BA, environmental activist, citing Guy R. McPherson, PhD, professor emeritus of natural resources and ecology @ the University of Arizona. (John, 12-26-2021, "Are Humans Facing Near-Term Human Extinction Due to Global Warming?", Soapboxie, <https://soapboxie.com/social-issues/Are-Humans-Facing-Near-Term-Human-Extinction-Due-to-Global-Warming>, thanks to ArchanSen)

Now that we’re progressing through the 21st century, why are some in scientific circles raising concerns about our near-term survival as a species? In recent years, the effects of global warming have become exceedingly extreme. In fact, from record-breaking heatwaves to unprecedented forest fires to melting polar ice sheets, the effects of global warming are occurring faster than the scientific community had projected they would just a decade or two ago. The concern about our viability as a species on Earth is due to the fast-developing effects of global warming. If we don’t address the causes of global warming or take mitigative actions, it could transform into runaway global warming that would heat up the Earth so rapidly that humans and many other species will likely be imperiled.

Many scientists wrongly had confidence that mankind would come to its senses when faced with the stark reality that our survival as a species is threatened and we’d collectively take actions to avert catastrophic global warming by discontinuing our burning of fossil fuels and replacing them with renewable non-carbon energy sources. However, despite some tepid efforts to cut carbon emissions, such as the 2016 Paris Agreement, it appears that due to a combination of ignorance and a concerted effort by the fossil fuels industry to stop any efforts to move away from carbon-based products, we will likely not address our continuing release of global warming gases into Earth’s atmosphere until it’s too late and the global warming we’ve experienced in recent decades transforms into irreversible and catastrophic runaway global warming.

This will occur because human-caused global warming will eventually trigger natural climate warming feedback loops to take over. At that point, global warming will be like an unstoppable runaway train, as the Earth’s atmospheric temperatures rise to life-threatening levels. These warming feedback loops include such things as releases of global warming gases from melting polar ice sheets and from frozen methane deposits beneath the oceans, as well as the loss of polar ice causing the Earth to absorb more of the sun’s heat energy. All of which will cause additional warming, which then results in additional releases of global warming gases that will cause additional global temperature rises in an unstoppable loop that will continue until the planet is warmer than it has been in many millions of years (long before humans existed).

Such rapid and uncontrollable warming of Earth’s atmosphere could warm the planet by 4 to 5 degrees Celsius (7 to 9 degrees Fahrenheit) within the current century and perhaps eventually lead to a planet that is 8 to 9 degrees Celsius (14 to 16 degrees Fahrenheit) warmer than it was before humans started burning fossil fuels in large quantities starting in the 19th century.

Some might wonder, what’s the big deal if the planet is 4 to 5 degrees Celsius or even 8 to 9 degrees Celsius warmer than it has been as humans evolved on Earth? After all, many parts of the planet routinely experience temperature swings of this magnitude on a daily or weekly basis. There are several ways that rapid global warming on a planetary scale could threaten human survival.

Warming is not evenly distributed. Some areas, including currently farmable land, will warm well in excess of the global average, which would lead to desertification and crop failures. This would obviously imperial humans due to massive food shortages.

Oceans, another major source of food that humans need to survive, are impacted by rising global temperatures, as higher ocean temperatures lead to acidification of ocean water, which will eventually lead to massive die-offs of sea life that provide much-needed food for humans.

Water resources will completely dry up in many arid parts of the world, making those areas uninhabitable.

Dwindling food and water resources will inevitably lead to wars between competing nations that could be catastrophic.

Humans can’t survive at wet-bulb temperatures above 35 degrees Celsius (95 degrees Fahrenheit), even in the shade, as the human body loses its ability to cool itself off. Higher global temperatures and the higher humidity levels that will occur with the higher temperatures could make large parts of the Earth uninhabitable due to wet bulb temperatures that are lethal.

Guy R. McPherson, Ph.D., a former Ecology professor from the University of Arizona, is a big proponent of the view that humans will soon become extinct due to global warming.

mikenowak.net/

Would Runaway Global Warming Actually Lead to Human Extinction?

It’s a very big step go from runaway global warming to the extinction of all human beings on Earth. Humans possess the intellectual skills necessary to design and build technologies that can help us adapt to climate change. We’re also able to move to places with more hospitable climates. However, some scientists are concerned that humans will not have time to adapt to the quick pace of runaway global warming and some of the impacts will be too harsh for us to survive.

If farmlands and oceans are no longer capable of providing food for humans, where will we turn to obtain life-sustaining food? It is possible that humans could migrate towards the poles and try to farm on land in those areas that is freed up from the ice. However, it is unclear if the currently frozen areas in and around the polar regions will have topsoil suitable for farming. What about freshwater fish? Unfortunately, freshwater lakes and rivers will also undergo acidification that will likely wipe out most or all fish species that can provide humans nourishment. Our only hope might be some sort of synthetic food that is created in factories using basic elements (a technology that is certainly viable).

There will be other life-threatening factors that humans will face in a fast warming world. Massive fire balls from methane releases will create havoc for humans. These fireballs will start enormous forest fires driven by the warmer and in many places a more arid world, which will cause turmoil for humans. A lack of freshwater in areas that undergo desertification will make survival impossible in such areas. Wars over dwindling resources will be fought out of desperation and could end in catastrophe.

The stress of a warmer world will weaken human immune systems. If industrial society collapses or is greatly reduced, healthcare and medicines might become very limited, lowering life expectancy dramatically. Humans that survive all the dangers associated with runaway global warming might succumb to pandemics that will likely sweep the world as opportunistic pathogens take advantage of weakened human systems and cause a large loss of life in the remaining human populations.

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#### ADVANTAGE CP:

#### The United States federal government should compensate manufactures for high supply costs.

#### Solves advantages 1 and 2 by offsetting supply disruptions.

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#### Interpretations:

#### “Business practices” are ongoing conduct defined by the behaviors of many market participants

MacIntosh 97, Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University. (Kerry Lynn, “LIBERTY, TRADE, AND THE UNIFORM COMMERCIAL CODE: WHEN SHOULD DEFAULT RULES BE BASED ON BUSINESS PRACTICES?” *William and Mary Law Review*, vol. 38, no. 4, May 1997, p. 1465-1544. HeinOnline, Accessed: 8-27-2021)

These new and revised articles reflect a strong trend toward choosing default rules4 that codify existing business practices.5 [[BEGIN FOOTNOTE 5]] 5. In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. § 1-205(2). [[END FOOTNOTE 5]] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

**“Prohibition” means forbid.**

**Eaton** et al. **17**, Joseph Van Eaton, Gail Karish, Gerard Lavery Lederer, lawyers for Best Best & Krieger, Llp. Michael Watza, (3-8-2017, KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK, “BEFORE THE FEDERAL COMMUNICATIONS COMMISSION WASHINGTON, D.C”, COMMENTS OF SMART COMMUNITIES SITING COALITION, https://tellusventure.com/downloads/policy/fcc\_row/smart\_communities\_siting\_coaltion\_comments\_mobilitie\_8mar2017.pdf)

2. What are at issue legally are prohibitions and effective prohibitions, and not hindrances, as the Commission seems to suggest in its Notice. The term “prohibit” is not defined in the Act, but it has an ordinary meaning: to formally forbid (something) by law, rule, or other authority; or to “prevent, stop, rule out, preclude, make impossible.” A mere “hindrance” “is simply notin accord withthe ordinaryand fairmeaning” of the term prohibit,104 and can provide no basis for additional Commission intrusions on local authority over wireless facilities. Much of what Mobilitie complains about is a “hindrance” at most (and usually a hindrance magnified by its own actions).

#### Violation: the aff doesn’t ban any firm conduct---it just means more people can sue them.

#### Voter for limits and ground---there are an infinite number of ways to merely increase prosecution that avoid core generics.

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#### CAP K:

#### Antitrust is capitalist----vote neg for a collective working-class struggle that solves the case

Winant 20, assistant professor of history at the University of Chicago. (Gabriel Winant, 1-21-2020, "Is Anti-Monopolism Enough?", *The Nation*, <https://www.thenation.com/article/culture/goliath-monopoly-and-democracy-matt-stoller-review/)---language> edited

It is clear from the outset of Goliath that Stoller very evidently wishes for a more just and equal world, and many of his solutions—breaking up and regulating the big banks and tech companies, for example—would be far preferable to the status quo. But he does not explain any of the reasons an anti-monopoly politics might win or achieve any staying power. If all of American history is defined by the struggle between the great heroes of anti-monopoly democracy and the avarice of Mellonism, then why would powerful and greedy [people] men not machinate once more against antitrust laws? Why wouldn’t disdainful intellectuals conspire against the people’s cause yet again? If the prevalence of monopoly, as Stoller insists, bears no relation to the larger social and economic environment and is purely a voluntary choice, then there’s no reason to believe that anti-monopoly can produce a stable resolution to the problem of corporate power. From where might antitrust politics draw social and political power with a mass base of farmers, craftsmen, and small businessmen long gone? What might bind the people as a whole together to confront their overlords? By way of employment in some cases, low prices or convenience in others, the monopolies that he detests have sunk their roots into large sections of society. Come after Amazon, and you come after its tens of millions of users too.

The socialism that Stoller dismisses emerged precisely in answer to these problems. It contends that capitalism gives rise—not once but repeatedly—to a potentially coherent and antagonistic social force capable of collective action. This is the working class. Because capitalism produces a larger population over time that cannot survive from its own property and therefore joins many of these people at sites of collective labor, it makes it possible for them to organize and then to exercise leverage and political leadership over other sectors of society. (This is the reason that the most exciting intellectual work in antitrust is being done by scholars who work on market power specifically in employment, such as Sanjukta Paul, Suresh Naidu, and Marshall Steinbaum.) One may criticize the socialist’s faith in the working class as politically naive or empirically inaccurate. But in any case, socialism (and beneath it Marxism as well) contains a theory of politics—a definite account of friends and enemies and why each is what it is—whereas Stoller’s populism does not. This is why socialists have proved to be so much less prone to deviations into jingoism and conspiracy theory than their populist peers.

One might also add that socialism and anti-monopoly are not necessarily opposed; In recent history, as well in the New Deal era, the two have blended in a combined opposition to the current economic and political order. For both sides, this blending together has been both opportunistic and fruitful. The presence in the presidential race of candidates who approximately represent each ideology illustrates the dynamic of this marriage of convenience. The socialist who speaks of class war allows the anti-monopolist to leverage her plans for fixing it into popularity; in turn, the plan maker must mimic the socialist’s positions in order for her gambit to succeed, thus validating his ideas. Each gets to obfuscate usefully through the presence of the other and because they share enemies: Wall Street and its political representatives.

But Stoller’s book also demonstrates some of the underlying differences. Anti-monopolists oppose the economic elite but not the social system that gave rise to it. Likewise, between socialism and anti-monopoly lies a vast difference in analysis about the nature of the state and, indeed, power itself. For the anti-monopolist, the state is a shield for the people against their plutocratic enemies; power inheres in the state, and it is only a question of whether the people capture it through elections. The anti-monopolist agenda is therefore to put the good expert into office, where she may wield the regulatory power of the state for the common good. For the socialist, on the other hand, the state is not neutral. Its purpose and nature are to serve the interests of the ruling class. If it can be remade to serve the working class, this project cannot be achieved without enormous social conflict, and this change can come only from below, not just through elections but through sustained attacks on authority at every level: in workplaces, schools, families, neighborhoods, and beyond. Friendly elements within the state may lend important support to such struggles, and this is one of the reasons socialists seek state power. But socialism cannot be achieved solely by means of such power.

Which of these analyses you believe (and which diagnosis you accept) is, in part, the result of the different historical narratives that we tell. If you think the problem we face is something like “crony capitalism” or “money in politics,” then there is one weird trick that will fix it: reining in the too-powerful corporations—often by using laws already on the books—in order to get back to the people’s business. This program, often presented as structural change, nonetheless represents an explicitly superficial approach: the idea that our economy has acquired a predatory, parasitic stratum at its top that needs to be stripped off, allowing the underlying system to work as intended. Explicitly or not, it’s the promise of a return to a lost utopia of markets, a society without fundamental antagonisms. If, on the other hand, you think our problems are deeper, woven more fundamentally into the structure of how we live together—which things and people we value and which we discard, who must wear the saddle and who gets to ride—then there’s no going back. If the problem lies with capitalism as a system and not specific malicious capitalists, then we’ve got to embark on an adventure of a different kind, one that leads us not back to the comforts of midcentury America but somewhere wild and new. Goliath will not help us find the way.

#### Capitalism causes extinction.

Robinson 16, professor of sociology, global studies and Latin American studies at U.C. Santa Barbara. (William I., “Sadistic Capitalism: Six Urgent Matters for Humanity in Global Crisis,” *Truth-out*, April 12, 2016, http://www.truth-out.org/opinion/item/35596-sadistic-capitalism-six-urgent-matters-for-humanity-in-global-crisis)

In these mean streets of globalized capitalism in crisis, it has become profitable to turn poverty and inequality into a tourist attraction. The South African Emoya Luxury Hotel and Spa company has made a glamorized spectacle of it. The resort recently advertised an opportunity for tourists to stay "in our unique Shanty Town ... and experience traditional township living within a safe private game reserve environment." A cluster of simulated shanties outside of Bloemfontein that the company has constructed "is ideal for team building, braais, bachelors [parties], theme parties and an experience of a lifetime," read the ad. The luxury accommodations, made to appear from the outside as shacks, featured paraffin lamps, candles, a battery-operated radio, an outside toilet, a drum and fireplace for cooking, as well as under-floor heating, air conditioning and wireless internet access. A well-dressed, young white couple is pictured embracing in a field with the corrugated tin shanties in the background. The only thing missing in this fantasy world of sanitized space and glamorized poverty was the people themselves living in poverty. The “luxury shanty town” in South Africa is a fitting metaphor for global capitalism as a whole. Faced with a stagnant global economy, elites have managed to turn war, structural violence and inequality into opportunities for capital, pleasure and entertainment. It is hard not to conclude that unchecked capitalism has become what I term “sadistic capitalism,” in which the suffering and deprivation generated by capitalism become a source of aesthetic pleasure, leisure and entertainment for others. I recently had the opportunity to travel through several countries in Latin America, the Middle East, North Africa, East Asia and throughout North America. I was on sabbatical to research what the global crisis looks like on the ground around the world. Everywhere I went, social polarization and political tensions have reached explosive dimensions. Where is the crisis headed, what are the possible outcomes and what does it tell us about global capitalism and resistance? This crisis is not like earlier structural crises of world capitalism, such as in the 1930s or 1970s. This one is fast becoming systemic. The crisis of humanity shares aspects of earlier structural crises of world capitalism, but there are six novel, interrelated dimensions to the current moment that I highlight here, in broad strokes, as the "big picture" context in which countries and peoples around the world are experiencing a descent into chaos and uncertainty. 1) The level of global social polarization and inequality is unprecedented in the face of out-of-control, over-accumulated capital. In January 2016, the development agency Oxfam published a follow-up to its report on global inequality that had been released the previous year. According to the new report, now just 62 billionaires -- down from 80 identified by the agency in its January 2015 report -- control as much wealth as one half of the world's population, and the top 1% owns more wealth than the other 99% combined. Beyond the transnational capitalist class and the upper echelons of the global power bloc, the richest 20 percent of humanity owns some 95 percent of the world's wealth, while the bottom 80 percent has to make do with just 5 percent. This 20-80 divide of global society into haves and the have-nots is the new global social apartheid. It is evident not just between rich and poor countries, but within each country, North and South, with the rise of new affluent high-consumption sectors alongside the downward mobility, “precariatization,” destabilization and expulsion of majorities. Escalating inequalities fuel capitalism’s chronic problem of over-accumulation: The transnational capitalist class cannot find productive outlets to unload the enormous amounts of surplus it has accumulated, leading to stagnation in the world economy. The signs of an impending depression are everywhere. The front page of the February 20 issue of The Economist read, "The World Economy: Out of Ammo?" Extreme levels of social polarization present a challenge to dominant groups. They strive to purchase the loyalty of that 20 percent, while at the same time dividing the 80 percent, co-opting some into a hegemonic bloc and repressing the rest. Alongside the spread of frightening new systems of social control and repression is heightened dissemination through the culture industries and corporate marketing strategies that depoliticize through consumerist fantasies and the manipulation of desire. As "Trumpism" in the United States so well illustrates, another strategy of co-optation is the manipulation of fear and insecurity among the downwardly mobile so that social anxiety is channeled toward scapegoated communities. This psychosocial mechanism of displacing mass anxieties is not new, but it appears to be increasing around the world in the face of the structural destabilization of capitalist globalization. Scapegoated communities are under siege, such as the Rohingya in Myanmar, the Muslim minority in India, the Kurds in Turkey, southern African immigrants in South Africa, and Syrian and Iraqi refugees and other immigrants in Europe. As with its 20th century predecessor, 21st century fascism hinges on such manipulation of social anxiety at a time of acute capitalist crisis. Extreme inequality requires extreme violence and repression that lend to projects of 21st century fascism. 2) The system is fast reaching the ecological limits to its reproduction. We have reached several tipping points in what environmental scientists refer to as nine crucial "planetary boundaries." We have already exceeded these boundaries in three areas -- climate change, the nitrogen cycle and diversity loss. There have been five previous mass extinctions in earth's history. While all these were due to natural causes, for the first time ever, human conduct is intersecting with and fundamentally altering the earth system. We have entered what Paul Crutzen, the Dutch environmental scientist and Nobel Prize winner, termed the Anthropocene -- a new age in which humans have transformed up to half of the world's surface. We are altering the composition of the atmosphere and acidifying the oceans at a rate that undermines the conditions for life. The ecological dimensions of global crisis cannot be understated. "We are deciding, without quite meaning to, which evolutionary pathways will remain open and which will forever be closed," observes Elizabeth Kolbert in her best seller, The Sixth Extinction. "No other creature has ever managed this ... The Sixth Extinction will continue to determine the course of life long after everything people have written and painted and built has been ground into dust." Capitalism cannot be held solely responsible. The human-nature contradiction has deep roots in civilization itself. The ancient Sumerian empires, for example, collapsed after the population over-salinated their crop soil. The Mayan city-state network collapsed about AD 900 due to deforestation. And the former Soviet Union wrecked havoc on the environment. However, given capital’s implacable impulse to accumulate profit and its accelerated commodification of nature, it is difficult to imagine that the environmental catastrophe can be resolved within the capitalist system. “Green capitalism” appears as an oxymoron, as sadistic capitalism’s attempt to turn the ecological crisis into a profit-making opportunity, along with the conversion of poverty into a tourist attraction. 3) The sheer magnitude of the means of violence is unprecedented, as is the concentrated control over the means of global communications and the production and circulation of knowledge, symbols and images. We have seen the spread of frightening new systems of social control and repression that have brought us into the panoptical surveillance society and the age of thought control. This real-life Orwellian world is in a sense more perturbing than that described by George Orwell in his iconic novel 1984. In that fictional world, people were compelled to give their obedience to the state (“Big Brother”) in exchange for a quiet existence with guarantees of employment, housing and other social necessities. Now, however, the corporate and political powers that be force obedience even as the means of survival are denied to the vast majority. Global apartheid involves the creation of "green zones" that are cordoned off in each locale around the world where elites are insulated through new systems of spatial reorganization, social control and policing. "Green zone" refers to the nearly impenetrable area in central Baghdad that US occupation forces established in the wake of the 2003 invasion of Iraq. The command center of the occupation and select Iraqi elite inside that green zone were protected from the violence and chaos that engulfed the country. Urban areas around the world are now green zoned through gentrification, gated communities, surveillance systems, and state and private violence. Inside the world's green zones, privileged strata avail themselves of privatized social services, consumption and entertainment. They can work and communicate through internet and satellite sealed off under the protection of armies of soldiers, police and private security forces. Green zoning takes on distinct forms in each locality. In Palestine, I witnessed such zoning in the form of Israeli military checkpoints, Jewish settler-only roads and the apartheid wall. In Mexico City, the most exclusive residential areas in the upscale Santa Fe District are accessible only by helicopter and private gated roads. In Johannesburg, a surreal drive through the exclusive Sandton City area reveals rows of mansions that appear as military compounds, with private armed towers and electrical and barbed-wire fences. In Cairo, I toured satellite cities ringing the impoverished center and inner suburbs where the country's elite could live out their aspirations and fantasies. They sport gated residential complexes with spotless green lawns, private leisure and shopping centers and English-language international schools under the protection of military checkpoints and private security police. In other cities, green zoning is subtler but no less effective. In Los Angeles, where I live, the freeway system now has an express lane reserved for those that can pay an exorbitant toll. On this lane, the privileged speed by, while the rest remain one lane over, stuck in the city's notorious bumper-to-bumper traffic -- or even worse, in notoriously underfunded and underdeveloped public transportation, where it may take half a day to get to and from work. There is no barrier separating this express lane from the others. However, a near-invisible closed surveillance system monitors every movement. If a vehicle without authorization shifts into the exclusive lane, it is instantly recorded by this surveillance system and a heavy fine is imposed on the driver, under threat of impoundment, while freeway police patrols are ubiquitous. Outside of the global green zones, warfare and police containment have become normalized and sanitized for those not directly at the receiving end of armed aggression. "Militainment" -- portraying and even glamorizing war and violence as entertaining spectacles through Hollywood films and television police shows, computer games and corporate "news" channels -- may be the epitome of sadistic capitalism. It desensitizes, bringing about complacency and indifference. In between the green zones and outright warfare are prison industrial complexes, immigrant and refugee repression and control systems, the criminalization of outcast communities and capitalist schooling. The omnipresent media and cultural apparatuses of the corporate economy, in particular, aim to colonize the mind -- to undermine the ability to think critically and outside the dominant worldview. A neofascist culture emerges through militarism, extreme masculinization, racism and racist mobilizations against scapegoats. 4) We are reaching limits to the extensive expansion of capitalism. Capitalism is like riding a bicycle: When you stop pedaling the bicycle, you fall over. If the capitalist system stops expanding outward, it enters crisis and faces collapse. In each earlier structural crisis, the system went through a new round of extensive expansion -- from waves of colonial conquest in earlier centuries, to the integration in the late 20th and early 21st centuries of the former socialist countries, China, India and other areas that had been marginally outside the system. There are no longer any new territories to integrate into world capitalism. Meanwhile, the privatization of education, health care, utilities, basic services and public land are turning those spaces in global society that were outside of capital's control into "spaces of capital." Even poverty has been turned into a commodity. What is there left to commodify? Where can the system now expand? With the limits to expansion comes a turn toward militarized accumulation -- making wars of endless destruction and reconstruction and expanding the militarization of social and political institutions so as to continue to generate new opportunities for accumulation in the face of stagnation. 5) There is the rise of a vast surplus population inhabiting a "planet of slums," alienated from the productive economy, thrown into the margins and subject to these sophisticated systems of social control and destruction. Global capitalism has no direct use for surplus humanity. But indirectly, it holds wages down everywhere and makes new systems of 21st century slavery possible. These systems include prison labor, the forced recruitment of miners at gunpoint by warlords contracted by global corporations to dig up valuable minerals in the Congo, sweatshops and exploited immigrant communities (including the rising tide of immigrant female caregivers for affluent populations). Furthermore, the global working class is experiencing accelerated "precariatization." The "new precariat" refers to the proletariat that faces capital under today’s unstable and precarious labor relations -- informalization, casualization, part-time, temp, immigrant and contract labor. As communities are uprooted everywhere, there is a rising reserve army of immigrant labor. The global working class is becoming divided into citizen and immigrant workers. The latter are particularly attractive to transnational capital, as the lack of citizenship rights makes them particularly vulnerable, and therefore, exploitable. The challenge for dominant groups is how to contain the real and potential rebellion of surplus humanity, the immigrant workforce and the precariat. How can they contain the explosive contradictions of this system? The 21st century megacities become the battlegrounds between mass resistance movements and the new systems of mass repression. Some populations in these cities (and also in abandoned countryside) are at risk of genocide, such as those in Gaza, zones in Somalia and Congo, and swaths of Iraq and Syria 6) There is a disjuncture between a globalizing economy and a nation-state-based system of political authority. Transnational state apparatuses are incipient and do not wield enough power and authority to organize and stabilize the system, much less to impose regulations on runaway transnational capital. In the wake of the 2008 financial collapse, for instance, the governments of the G-8 and G-20 were unable to impose transnational regulation on the global financial system, despite a series of emergency summits to discuss such regulation. Elites historically have attempted to resolve the problems of over-accumulation by state policies that can regulate the anarchy of the market. However, in recent decades, transnational capital has broken free from the constraints imposed by the nation-state. The more "enlightened" elite representatives of the transnational capitalist class are now clamoring for transnational mechanisms of regulation that would allow the global ruling class to reign in the anarchy of the system in the interests of saving global capitalism from itself and from radical challenges from below. At the same time, the division of the world into some 200 competing nation-states is not the most propitious of circumstances for the global working class. Victories in popular struggles from below in any one country or region can (and often do) become diverted and even undone by the structural power of transnational capital and the direct political and military domination that this structural power affords the dominant groups. In Greece, for instance, the leftist Syriza party came to power in 2015 on the heels of militant worker struggles and a mass uprising. But the party abandoned its radical program as a result of the enormous pressure exerted on it from the European Central Bank and private international creditors. The Systemic Critique of Global Capitalism A growing number of transnational elites themselves now recognize that any resolution to the global crisis must involve redistribution downward of income. However, in the viewpoint of those from below, a neo-Keynesian redistribution within the prevailing corporate power structure is not enough. What is required is a redistribution of power downward and transformation toward a system in which social need trumps private profit. A global rebellion against the transnational capitalist class has spread since the financial collapse of 2008. Wherever one looks, there is popular, grassroots and leftist struggle, and the rise of new cultures of resistance: the Arab Spring; the resurgence of leftist politics in Greece, Spain and elsewhere in Europe; the tenacious resistance of Mexican social movements following the Ayotzinapa massacre of 2014; the favela uprising in Brazil against the government's World Cup and Olympic expulsion policies; the student strikes in Chile; the remarkable surge in the Chinese workers’ movement; the shack dwellers and other poor people's campaigns in South Africa; Occupy Wall Street, the immigrant rights movement, Black Lives Matter, fast food workers' struggle and the mobilization around the Bernie Sanders presidential campaign in the United States. This global revolt is spread unevenly and faces many challenges. A number of these struggles, moreover, have suffered setbacks, such as the Greek working-class movement and, tragically, the Arab Spring. What type of a transformation is viable, and how do we achieve it? How we interpret the global crisis is itself a matter of vital importance as politics polarize worldwide between a neofascist and a popular response. The systemic critique of global capitalism must strive to influence, from this vantage point, the discourse and practice of movements for a more just distribution of wealth and power. Our survival may depend on it.

### 1NC

#### CON CON CP:

#### The United States should call a strictly limited Constitutional Convention that expands the extraterritorial private right of action of federal core antitrust laws.

#### Solves and avoids politics.

Neale 16, Specialist in American National Government (Thomas H., 3-29-2016, “The Article V Convention to Propose Constitutional Amendments: Contemporary Issues for Congress”, *Congressional Research Service*, pg. 12, https://sgp.fas.org/crs/misc/R42589.pdf)

The Limited Convention

The concept of a limited convention has commanded considerable support in the debate over the Article V alternative. A range of constitutional scholars maintains that, contrary to Charles Black’s assertion, quoted earlier, a convention may be limited to a specific issue or issues contained in state applications; in fact, some observers maintain that it must be so limited. A fundamental assumption from their viewpoint is that the framers did not contemplate a general or large-scale revision of the Constitution when they drafted Article V. The late Senator Sam Ervin, who supported the Article V alternative and championed advance congressional planning for a convention, expounded this point of view:

... there is strong evidence that what the members of the [original constitutional] convention were concerned with ... was the power to make specific amendments.... [The] provision in article V for two exceptions to the amendment power42 underlines the notion that the convention anticipated a specific amendment or amendments rather than general revision.43

Another commentator, championing state authority in the convention issue, asserted that the founders’ intention in establishing the alternative amendment process was to check the ability of Congress to impede proposal of an amendment that enjoyed widespread support. He claimed that a convention limited to an issue specified by the states in their applications would be constitutional, but that a convention could be limited by the states, but not by Congress:

Congress may not impose its will on the convention.... The purpose of the Convention Clause is to allow the States to circumvent a recalcitrant Congress. The Convention Clause, therefore, must allow the States [but not Congress] to limit a convention in order to accomplish this purpose.44

The primacy of the states in this viewpoint thus suggests that a convention could be open and general, or limited, depending on the applications of the legislatures.

### 1NC

#### STATES COUNTERPLAN:

#### The 50 United States and relevant subnational entities should increase prohibitions on anticompetitive business practices by the private sector by at least expanding the extraterritorial private right of action of core antitrust laws.

#### States solve.

Arteaga 21, \*Juan A., JD @ Colombia Law, Chambers-ranked antitrust partner, Co-Chair of Crowell & Moring’s New York Antitrust Practice, former Deputy Assistant Attorney General for the U.S. Department of Justice Antitrust Division. \*\*Jordan Ludwig, JD @ Loyola, partner in the Antitrust & Competition Group @ Crowell & Moring (1-28-2021, "The Role of US State Antitrust Enforcement", Global Competition Review, Lexology, <https://www.lexology.com/library/detail.aspx?g=3523359d-e7d7-489f-8f18-c0e4db0801cf>)

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. 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.

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. 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.

In once again flexing their enforcement muscle, state attorneys general have shown a willingness to publicly disagree with the DOJ and FTC on both policy and enforcement decisions, and have also sought to pressure their federal counterparts into more aggressively policing certain industries. Recent examples of

### 1NC

#### POLITICS DA:

#### China bill is Congress’s first priority and will pass---quickly solves inflation

Landis 2-15-2022, reports on politics and policy from Washington, D.C. for Spectrum. (Austin, "Commerce sec. calls on Congress to finalize chip production boost", *Spectrum News*, <https://www.ny1.com/nyc/all-boroughs/news/2022/02/15/commerce-secretary-raimondo-chip-production->)

Commerce Secretary Gina Raimondo on Tuesday called for Congress to reconcile two versions of a bill that would boost domestic manufacturing of semiconductor chips, an essential piece of technology used in vehicles, phones, hospital and military equipment and other key infrastructure. What You Need To Know Commerce Secretary Gina Raimondo on Tuesday called for Congress to reconcile two versions of a bill that would boost domestic manufacturing of semiconductor chips The commerce secretary called the chips a major driver of higher prices for cars, which account for a large portion of inflation The House passed one version of the funding earlier this month, while the Senate passed a different yet similar bill in June Raimondo told Spectrum News she's meeting with lawmakers this week to go over the legislation but didn't predict when members of Congress might finalize a bill Raimondo called the chips the “building blocks of our economy,” yet pointed to how they’re in short supply due to the COVID-19 pandemic and a lack of domestic sources for the chips. “The reality is the semiconductor supply chain remains fragile and vulnerable,” Raimondo told reporters on Tuesday. The commerce secretary called the chips a major driver of higher prices for cars, which account for a large portion of inflation. “Lack of supply has led to big increases in cost,” she said. “Why did the auto industry make so many fewer cars? One reason: they couldn't access enough semiconductors in order to make the cars.” Raimondo said a congressional infusion of funding would kickstart domestic manufacturing of the chips, but the House and Senate still need to iron out differences between separate bills passed in each chamber. The House passed one version of the funding under the COMPETES Act with nearly only Democratic support, which includes $52 billion in funding for domestic chip manufacturing and $45 billion for supply chain resilience among a total $250 billion in funding. The Senate had previously passed its own version called the U.S. Innovation and Competition Act (USICA), which also has $50 billion in emergency funding for domestic chip production. Asked by Spectrum News when she hopes lawmakers could meet to work out a final bill, Raimondo said her department was already preparing for a bicameral conference and that she was scheduled to meet with a number of senators this week. Yet she didn’t predict an exact timeline, just saying she hopes the process will “kick off soon.” Senate Majority Leader Chuck Schumer, D-N.Y., has called the chip legislation a priority, and President Joe Biden has expressed his support. At the core of the issue is the United States’ reliance on outside chip manufacturers instead of domestic ones.

#### 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.

#### Unchecked inflation triggers global war.

Brands 22, PhD, Distinguished Professor @ Johns Hopkins University’s School of Advanced International Studies. (Hal, 1-20-2022, "Inflation’s Biggest Risk Is Geopolitical Unrest", *Bloomberg*, <https://www.bloomberg.com/opinion/articles/2022-01-20/inflation-s-biggest-risk-is-geopolitical-unrest>)

In countries where there is lots of revolutionary kindling, inflation can provide the fatal spark. Historically, rising prices contributed to political upheavals such as the French Revolution, which touched off a quarter-century of war in Europe, and the Arab Spring, whose effects are still roiling the Middle East. This month, a doubling of fuel prices triggered protests, revolt and then Russian-backed repression in Kazakhstan. There’s probably more of this to come. In late 2021, the Food and Agriculture Organization at the United Nations reported that global food prices had reached their highest point in a decade.

Look out for geo-economic turbulence, as well. Argentina, the European Union, Russia and other countries have restricted the export of commodities such as grain to keep domestic food prices manageable. If Washington ratchets up interest rates to tame rising prices, it could unintentionally batter deeply indebted countries that have already lost years, even decades, of economic progress due to Covid. Indeed, when the Fed slayed inflation in the early 1980s, a decade-long Latin American debt crisis was part of the collateral damage.

Finally, there is the question of what will happen to the U.S. Biden isn’t entirely wrong to argue that inflation is actually a sign of strength: The U.S. economy rebounded quickly from Covid, fueling demand that is outstripping supply. Yet inflation is rarely a good-news story.

Inflation is psychologically demoralizing because it makes growth meaningless, and stagnation [devastating] crippling, for people whose real wages are in decline. It fosters a sense that the people are victims of forces that their leaders cannot control. It gives credence to arguments that America’s true problems are at home, rather than abroad, and thus threatens to create a more distracted, inward-looking superpower just as global threats are intensifying.

The damage isn’t hypothetical: As John Ferrari of the American Enterprise Institute points out, the U.S. defense budget is already at risk of being strangled by the “inflation anaconda.” The 5% bump that Congress approved for the Pentagon this year sounds impressive, but only until one considers that inflation is running at 7% and the military is particularly exposed to rising costs for energy and materials such as steel. As inflation builds up, Pentagon is forced to build down — just as China is racing to expand its military capabilities, Russia is threatening a major conflict in Eastern Europe and relations with Iran deteriorate.

The Biden administration appears to be recognizing, perhaps belatedly, that rising prices pose a severe threat to its domestic agenda and political fortunes. Inflation may also have nasty geopolitical effects in a world that hardly seemed stable before.

### 1NC

#### CONSULT CP:

#### The United States Federal Government ought to initiate prior and binding consultation with the EU on whether to increase prohibitions on anticompetitive business practices by the private sector by at least expanding the extraterritorial private right of action of its core antitrust laws and abide by the results of the consultation.

#### Antitrust without prior consultation forecloses US-EU alignment---stops a slew of threats.

Bhatia 21, JD @ Columbia, Vice-President, Government Affairs and Public Policy @ Google, member of the World Economic Forum’s Global Future Council on International Trade & Investment, former Deputy U.S. Trade Representative. (Karan, 4-1-2021, "The case for a US and European trade and technology council", *World Economic Forum*, <https://www.weforum.org/agenda/2021/04/us-europe-eu-trade-technology-council/>) \*\*typo corrected on brackets

The European Commission recently proposed an EU-US Trade and Technology Council (TTC). The United States should accept the invitation — and build on it. An expedited high-level trade dialogue on technology issues is critical to avoid unilateral approaches on pressing issues like data flows that are essential to commerce, regulation of digital platforms that we all use every day, and other essential components of a modern economy. A TTC could also prevent divergence on emerging areas like artificial intelligence and other advanced technologies and promote cooperation on third-country technology challenges.

Of course a TTC needs to be set up for success. When entering trade negotiations, each side typically avoids preemptive or unilateral actions that might foreclose meaningful alignment. In entering a TTC, both sides should commit to meaningful consultation before taking any further actions harming transatlantic tech trade. The U.S. should not enact new privacy or technology trade control regulations without consulting with the EU; the EU should pursue bilateral consultation to ensure technology initiatives like the Digital Markets Act reflect the EU-U.S. values-based alliance. Quickly forming a TTC can help drive a consistent and non-discriminatory approach on these challenging new areas of technology regulation.

### 1NC

#### UNIQUENESS CP:

#### The United States federal government should not increase enforcement of its core antitrust laws.

## ADV 1

#### No space col ever.

Dvorsky 19, senior staff reporter @ Gizmodo, citing astronautics engineer Louis Friedman. (George, 7-30-2019, "Humans Will Never Colonize Mars", Gizmodo, <https://gizmodo.com/humans-will-never-colonize-mars-1836316222>)

The suggestion that humans will soon set up bustling, long-lasting colonies on Mars is something many of us take for granted. What this lofty vision fails to appreciate, however, are the monumental—if not intractable—challenges awaiting colonists who want to permanently live on Mars. Unless we radically adapt our brains and bodies to the harsh Martian environment, the Red Planet will forever remain off limits to humans.

Mars is the closest thing we have to Earth in the entire solar system, and that’s not saying much.

The Red Planet is a cold, dead place, with an atmosphere about 100 times thinner than Earth’s. The paltry amount of air that does exist on Mars is primarily composed of noxious carbon dioxide, which does little to protect the surface from the Sun’s harmful rays. Air pressure on Mars is very low; at 600 Pascals, it’s only about 0.6 percent that of Earth. You might as well be exposed to the vacuum of space, resulting in a severe form of the bends—including ruptured lungs, dangerously swollen skin and body tissue, and ultimately death. The thin atmosphere also means that heat cannot be retained at the surface. The average temperature on Mars is -81 degrees Fahrenheit (-63 degrees Celsius), with temperatures dropping as low as -195 degrees F (-126 degrees C). By contrast, the coldest temperature ever recorded on Earth was at Vostok Station in Antarctica, at -128 degrees F (-89 degrees C) on June 23, 1982. Once temperatures get below the -40 degrees F/C mark, people who aren’t properly dressed for the occasion can expect hypothermia to set in within about five to seven minutes.

Mars also has less mass than is typically appreciated. Gravity on the Red Planet is 0.375 that of Earth’s, which means a 180-pound person on Earth would weigh a scant 68 pounds on Mars. While that might sound appealing, this low-gravity environment would likely wreak havoc to human health in the long term, and possibly have negative impacts on human fertility.

Yet despite these and a plethora of other issues, there’s this popular idea floating around that we’ll soon be able to set up colonies on Mars with ease. SpaceX CEO Elon Musk is projecting colonies on Mars as early as the 2050s, while astrobiologist Lewis Darnell, a professor at the University of Westminster, has offered a more modest estimate, saying it’ll be about 50 to 100 years before “substantial numbers of people have moved to Mars to live in self-sustaining towns.” The United Arab Emirates is aiming to build a Martian city of 600,000 occupants by 2117, in one of the more ambitious visions of the future.

Sadly, this is literally science fiction. While there’s no doubt in my mind that humans will eventually visit Mars and even build a base or two, the notion that we’ll soon set up colonies inhabited by hundreds or thousands of people is pure nonsense, and an unmitigated denial of the tremendous challenges posed by such a prospect.

Pioneering astronautics engineer Louis Friedman, co-founder of the Planetary Society and author of Human Spaceflight: From Mars to the Stars, likens this unfounded enthusiasm to the unfulfilled visions proposed during the 1940s and 1950s.

“Back then, cover stories of magazines like Popular Mechanics and Popular Science showed colonies under the oceans and in the Antarctic,” Friedman told Gizmodo. The feeling was that humans would find a way to occupy every nook and cranny of the planet, no matter how challenging or inhospitable, he said. “But this just hasn’t happened. We make occasional visits to Antarctica and we even have some bases there, but that’s about it. Under the oceans it’s even worse, with some limited human operations, but in reality it’s really very, very little.” As for human colonies in either of these environments, not so much. In fact, not at all, despite the relative ease at which we could achieve this.

After the Moon landings, Friedman said he and his colleagues were hugely optimistic about the future, believing “we would do more and more things, such as place colonies on Mars and the Moon,” but the “fact is, no human spaceflight program, whether Apollo, the Space Shuttle Program, or the International Space Station,” has established the necessary groundwork for setting up colonies on Mars, such as building the required infrastructure, finding safe and viable ways of sourcing food and water, mitigating the deleterious effects of radiation and low gravity, among other issues. Unlike other fields, development into human spaceflight, he said, “has become static.” Friedman agreed that we’ll likely build bases on Mars, but the “evidence of history” suggests colonization is unlikely for the foreseeable future.

#### Status quo solves---cartels are dying out.

Verbeke 21 – (\*Alain Verbeke and \*\*Caroline Buts \*Professor of International Business and Strategy and holds the McCaig Research Chair in Management @ Haskayne School of Business @ University of Calgary \*\*Professor at the department of applied economics @ Vrije Universiteit Brussel; published 2021, Management and Organization Review, “The Not So Brilliant Future of International Cartels,” doa: 9-4-2021) url: https://www.cambridge.org/core/journals/management-and-organization-review/article/not-so-brilliant-future-of-international-cartels/363CC718A5FD54F8BB390B9AB22150B7

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

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

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

#### No space elevators. Assumes graphene.

* Assumes Graphene Internal – Cost deters usage because of volume needed
* National and international politics
* Weather, orbital degree, structural insafety

Williams 21, writer for Universe Today, and the curator of their Guide to Space section. (Matthew S. “Engineers Are Creating a Real Space Elevator. Can They Succeed?” September 11, 2021. https://interestingengineering.com/can-engineers-create-a-real-space-elevator)

Challenges

Unfortunately, we cannot reap any of these benefits until we resolve a slew of challenges, and not all of them have to do with engineering (though they are legion!) Historically, the greatest challenge has been how to keep the tether taught while also ensuring that the mass is kept below a certain threshold.

While progress has been made in this area (thanks to the discovery of carbon nanotubes), there are still several stumbling blocks. For starters, researchers still can't create nanotubes that are particularly long and have high tensile strength. The current record for single tubes still stands at just under [20 inches (50 cm) and 5.5 inches (14 cm)](https://newatlas.com/materials/longest-carbon-nanotube-forests-record/) for "forests" of them.

Second, the very thing that makes carbon nanotubes so strong (their [hexagonal covalent bonds](https://gizmodo.com/why-well-probably-never-build-a-space-elevator-5984371)) also poses a major problem in constructing a tether. When loaded to an extreme degree, these bonds become unstable and come apart, which would cause the tether to fray in the same way a stocking would.

Graphene and diamond nanothreads are a possible solution since their structure is [not susceptible to fraying](https://www.engineering.com/story/3-challenges-for-engineering-a-space-elevator), and they present less of a problem when it comes to [mass production](https://www.nature.com/articles/nmat4088). However, producing enough to compose a tether that reaches an altitude of about 22,236 mi (35,786 km) or beyond would be a very costly venture.

Second, there's also the matter of the titanic forces the structure will have to deal with, like wind shear, storms, and hurricanes at lower altitudes, and micrometeoroids, and the Sun and Moon's gravitational influence at higher altitudes. Add to that the stress of regularly sending pod cars up and down the tether, and the result could be oscillations that eventually turn violent.

Third, there's the matter of [orbital debris](https://www.esa.int/Safety_Security/Space_Debris/Space_debris_by_the_numbers), which is already a considerable problem. The ESA estimates that there are currently 34,000 objects bigger than ~4 inches (10 cm) in diameter, 900,000 that measure between 0.4 to 4 inches (1 cm to 10 cm), and 128 million objects 0.4 to 0.04 inches (1 mm to 1 cm). Since objects in Earth's orbit move at a velocity of ~4.8 mi/s  (7.8 km/s) -  17,000 mph; 28,000 km/h — even the tiniest bit of debris can pose a high risk.

And of course, there's the issue of cost, which is beyond the capacity of any one nation to build. The only way we could afford to create a space elevator in the foreseeable future is if the wealthiest nations of the world came together and committed to a multi-generational effort to build one and could agree on a common framework for administering and using it.

This raises the equally sticky issue of national sovereignty. The elevator would need to be built in neutral territory and protected at all times by an international body to protect it from terrorists attempting to sabotage it while also preventing anyone from seizing control or having exclusive access to it.

#### There are no “graphene cartels,” BUT the tech will never get off the ground regardless

Burgess 19, editor @ FT. (Kate, 7-20-2019, "Graphene is less wonderful as an investment material", *Financial Times*, https://www.ft.com/content/1605a2aa-a971-11e9-b6ee-3cdf3174eb89)

Is there no end to what graphene can do? It makes golf balls go further, concrete stronger, and clothing and batteries last longer. It is a pity that just 1g of graphene goes a very long way.

Last week, Versarien, one of the many graphene producers floated on London’s junior market in the past six years, said ”revenues of any material amount have yet to be achieved” from its graphene-making division. Group losses before nasties such as tax and depreciation had widened to £1.1m. That is in spite of Versarien’s more mature side which sells hard metallic coatings to the oil and gas industry. Currently the group sells 100 grammes of graphene here and a kilo there to be tested by possible customers with whom it has signed umpteen collaborative agreements.

Chief executive Neill Ricketts is confident that one day the group will break even and hopeful it can increase graphene production capacity to 30 tonnes a year in time. Meanwhile, he is trying to raise funds from the Beijing Institute of Graphene Technology in return for a 15 per cent stake.

Graphene was discovered in 2004 by a couple of Manchester University scientists. They realised that this one atom-thick sheet of carbon was a million times thinner than a human hair and has 200 times the strength of steel. Enthusiasts soon began declaring the ultra-thin, mega-flexible and superconductive material would do for Manchester what silicon did to a valley in California. Graphene would revolutionise electronics, computers, energy, biotechnology and transport, they cried.

But it is taking decades to turn graphene to good, commercial use. Versarien is just one of very many companies trying to work out how to make money from it.

Versarien explodes or “exfoliates” lumps of graphite — a relatively ubiquitous commodity — to turn it into graphene.

#### No REM shortages---stockpiles, new deposits, and recycling.

Lovins 17, Cofounder and Chairman Emeritus of Rocky Mountain Institute, energy advisor to major firms and governments in 70+ countries for 45+ years, has written 31 books and more than 600 papers, advised major firms and governments worldwide, and received 12 honorary doctorates and many international awards. (Amory, 5-23-2017, "Clean energy and rare earths: Why not to worry", *Bulletin of the Atomic Scientists*, https://thebulletin.org/2017/05/clean-energy-and-rare-earths-why-not-to-worry/)

Rare earths’ uses are highly specialized but diverse. These elements are used in mobile phones, superstrong magnets and hence advanced motors and generators, some oil-refinery catalysts, certain lasers and fluorescent-lamp or flat-screen phosphors, some batteries and superconductors, and other technologies important to modern life. Some rare earths are particularly useful in energy applications. Around 2010, some articles and commentators warned that shortages of rare earths, or China’s near-monopoly on them, could choke off the West’s shift to renewable energy and other clean technologies. This was never true—but the myth persists.

Bubble and burst. Rare earths concerned only specialists until about 2009–10. In the mid-1990s, China had consolidated its control over most of the global rare-earth market, and the last US mine and mill, once the world’s dominant producer, closed in 2002 because it was unprofitable. China began imposing export quotas in 2006, and limited exports to Japan (a major user of rare earths for high-tech miniature motors) during a diplomatic spat in 2009–10, so global prices and anxieties soared. US government agencies published urgent reports about the rare-earth crisis and its threat to national security. Could China’s control of these crucial elements—roughly 97 percent at the time—block Washington’s ability to produce Tomahawk missiles, F-35 jets, and night-vision goggles, as some military writers warned, never mind electric vehicles and wind-power turbines?

As a technologist who had advised major mining companies, written two books on metal mining and a 445-page text on efficient motor systems, done rare-earth physics experiments at MIT Lincoln Laboratory, and consulted for MIT’s Francis Bitter Magnet Laboratory, I knew enough to be unconvinced by rare-earth alarm bells. It all felt like a commodity bubble, based more on a shortage of understanding—of rare earths, economic geology, and resource efficiency and substitution—than on a shortage of rare earths.

Sure enough, the debate was heavy on the supply of rare earths but light and often misinformed on the demand side. The few observers who focused more on demand suspected that rare earths’ price spike wouldn’t last long, whether or not it reflected mining-stock hype. I called the coming crash, to general ridicule, in 2010. Rare-earth prices soared through spring 2011—when a rare-earth bonanza was fondly predicted for Helmand Province in Afghanistan—but then plummeted.

US supplier Molycorp reopened its California rare-earth mine in 2012, but went broke in 2015 when low world prices wouldn’t support its high costs. By 2015, MIT Technology Review asked, “What Happened to the Rare-Earths Crisis?” It misleadingly called rare earths “crucial to the permanent magnets used in wind turbines and motors in hybrid or electric cars,” and concluded that worries about them had “seemingly dissipated without much fanfare” as “demand fell more than expected,” but never connected the dots by asking why demand did that. By 2016–17, the market was in the doldrums, with China planning to limit annual production to 140,000 metric tons beginning in 2020 to try to raise prices again. An investor in the rare-earth industry in 2007 would have lost 81 percent of her portfolio value after a classic decade-long boom-and-bust wild ride (see the chart at the top of this article from buyupside.com).

This is not how a durably scarce and valuable commodity behaves. What happened? Just what you’d expect of a thin market influenced by ignorance but ultimately tamed by reality. When prices soared, stockpiles rose, idle mines reopened, explorers sought and found new deposits, and recycling increased (for example, cerium in glass polishing). Most important, as customers from General Electric to Toyota to Ford sought to cut costs and boost performance, the costlier materials were used more frugally and often replaced with cheaper, better solutions—all as I’d predicted in 2010. Prices fell accordingly.

#### Domestic REM supply is high.

Mamula & Bridges 18, \*Ned Mamula is an adjunct scholar in geosciences at the Center for the Study of Science, Cato Institute. \*\*Ann Bridges writes about China’s influence in Silicon Valley. (9-6-2018, "Real Pushback on Chinese Mineral Imports = More Mining in America", *National Review*, https://www.nationalreview.com/2018/09/rare-earth-critical-minerals-from-china-national-security-concern/)

How can we get out of this mineral-dependency mess? For starters, the Trump administration is committed to improved mineral-policy stewardship, shorter permitting times for domestic mining, forming U.S. supply chains of technology metals, and increasing mining-related GDP, taxes, and jobs.

For the first time in American history, a presidential executive order (EO 13817) specifically defines “critical minerals” and directs several federal agencies to ensure secure supplies by conducting more geologic mapping and data gathering, increasing domestic exploration, and shortening the permitting process for mining — all of which will guarantee a more investor-friendly outlook.

#### No cyber impact.

Lewis 20, PhD, a senior vice president and director of the Technology Policy Program at the Center for Strategic and International Studies in Washington, D.C. (James Andrew, 8-17-2020, "Dismissing Cyber Catastrophe", *CSIS*, https://www.csis.org/analysis/dismissing-cyber-catastrophe)

A catastrophic cyberattack was first predicted in the mid-1990s. Since then, predictions of a catastrophe have appeared regularly and have entered the popular consciousness. As a trope, a cyber catastrophe captures our imagination, but as analysis, it remains entirely imaginary and is of dubious value as a basis for policymaking. There has never been a catastrophic cyberattack.

To qualify as a catastrophe, an event must produce damaging mass effect, including casualties and destruction. The fires that swept across California last summer were a catastrophe. Covid-19 has been a catastrophe, especially in countries with inadequate responses. With ~~man-made~~ actions, however, a catastrophe is harder to produce than it may seem, and for cyberattacks a catastrophe requires organizational and technical skills most actors still do not possess. It requires planning, reconnaissance to find vulnerabilities, and then acquiring or building attack tools—things that require resources and experience. To achieve mass effect, either a few central targets (like an electrical grid) need to be hit or multiple targets would have to be hit simultaneously (as is the case with urban water systems), something that is itself an operational challenge.

It is easier to imagine a catastrophe than to produce it. The 2003 East Coast blackout is the archetype for an attack on the U.S. electrical grid. No one died in this blackout, and services were restored in a few days. As electric production is digitized, vulnerability increases, but many electrical companies have made cybersecurity a priority. Similarly, at water treatment plants, the chemicals used to purify water are controlled in ways that make mass releases difficult. In any case, it would take a massive amount of chemicals to poison large rivers or lakes, more than most companies keep on hand, and any release would quickly be diluted.

More importantly, there are powerful strategic constraints on those who have the ability to launch catastrophe attacks. We have more than two decades of experience with the use of cyber techniques and operations for coercive and criminal purposes and have a clear understanding of motives, capabilities, and intentions. We can be guided by the methods of the Strategic Bombing Survey, which used interviews and observation (rather than hypotheses) to determine effect. These methods apply equally to cyberattacks. The conclusions we can draw from this are:

Nonstate actors and most states lack the capability to launch attacks that cause physical damage at any level, much less a catastrophe. There have been regular predictions every year for over a decade that nonstate actors will acquire these high-end cyber capabilities in two or three years in what has become a cycle of repetition. The monetary return is negligible, which dissuades the skilled cybercriminals (mostly Russian speaking) who might have the necessary skills. One mystery is why these groups have not been used as mercenaries, and this may reflect either a degree of control by the Russian state (if it has forbidden mercenary acts) or a degree of caution by criminals.

There is enough uncertainty among potential attackers about the United States’ ability to attribute that they are unwilling to risk massive retaliation in response to a catastrophic attack. (They are perfectly willing to take the risk of attribution for espionage and coercive cyber actions.)

No one has ever died from a cyberattack, and only a handful of these attacks have produced physical damage. A cyberattack is not a nuclear weapon, and it is intellectually lazy to equate them to nuclear weapons. Using a tactical nuclear weapon against an urban center would produce several hundred thousand casualties, while a strategic nuclear exchange would cause tens of millions of casualties and immense physical destruction. These are catastrophes that some hack cannot duplicate. The shadow of nuclear war distorts discussion of cyber warfare.

State use of cyber operations is consistent with their broad national strategies and interests. Their primary emphasis is on espionage and political coercion. The United States has opponents and is in conflict with them, but they have no interest in launching a catastrophic cyberattack since it would certainly produce an equally catastrophic retaliation. Their goal is to stay below the “use-of-force” threshold and undertake damaging cyber actions against the United States, not start a war.

This has implications for the discussion of inadvertent escalation, something that has also never occurred. The concern over escalation deserves a longer discussion, as there are both technological and strategic constraints that shape and limit risk in cyber operations, and the absence of inadvertent escalation suggests a high degree of control for cyber capabilities by advanced states. Attackers, particularly among the United States’ major opponents for whom cyber is just one of the tools for confrontation, seek to avoid actions that could trigger escalation.

The United States has two opponents (China and Russia) who are capable of damaging cyberattacks. Russia has demonstrated its attack skills on the Ukrainian power grid, but neither Russia nor China would be well served by a similar attack on the United States. Iran is improving and may reach the point where it could use cyberattacks to cause major damage, but it would only do so when it has decided to engage in a major armed conflict with the United States. Iran might attack targets outside the United States and its allies with less risk and continues to experiment with cyberattacks against Israeli critical infrastructure. North Korea has not yet developed this kind of capability.

One major failing of catastrophe scenarios is that they discount the robustness and resilience of modern economies. These economies present multiple targets and configurations; they are harder to damage through cyberattack than they look, given the growing (albeit incomplete) attention to cybersecurity; and experience shows that people compensate for damage and quickly repair or rebuild. This was one of the counterintuitive lessons of the Strategic Bombing Survey. Pre-war planning assumed that civilian morale and production would crumple under aerial bombardment. In fact, the opposite occurred. Resistance hardened and production was restored.1

This is a short overview of why catastrophe is unlikely. Several longer CSIS reports go into the reasons in some detail. Past performance may not necessarily predict the future, but after 25 years without a single catastrophic cyberattack, we should invoke the concept cautiously, if at all. Why then, it is raised so often?

## ADV 2

#### TRADE TURN:

#### US-China interdependence is high, and they can’t weaponize it.

Bremmer 9-14-2021, American political scientist and author with a focus on global political risk. He is the president and founder of Eurasia Group, a political risk research and consulting firm with principal offices in New York City. He is also a founder of the digital media firm GZERO Media (Ian, “China and US economic interdependence hasn't lessened,” G Zero Media, <https://www.gzeromedia.com/in-60-seconds/world/china-us-economic-interdependence-hasnt-lessened>)

China owns more than $1 trillion US debt, but how much leverage do they actually have? I mean, the leverage is mutual and it comes from the enormous interdependence in the economic relationship of the United States and China. And it's about debt. And it's about trade. It's about tourism. It's about sort of mutual investment. Now. There is some decoupling happening in terms of labor, increasingly moving domestic in terms of the China five-year plan, dual circulation focusing more on domestic economy, and in terms of data systems breaking up, the internet of things, being Chinese or American, but not both. And indebtedness is part of that. But I don't see that unwinding anytime soon. And certainly, the Chinese knows if they're going to get rid of a whole bunch of American debt, they wouldn't be as diversified in global portfolio. Not as great, it's much riskier. And also, the price of those holdings, as they start selling them down would go down. So, I don't think there's a lot of leverage there, frankly. I think the leverage is interdependent.

#### The plan causes Chinese blocking statutes and retaliation. That collapses trade.

Kava 19, JD/MBA Candidate @ JU (Samuel, “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization,” 15 J. Bus. & Tech. L. 135, Lexis)

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

#### US-China trade solves great-power war.

Drezner 16, PhD, professor of international politics @ Tufts, nonresident senior fellow @ Brookings (Daniel, May 2016, “Five Known Unknowns about the Next Generation Global Political Economy”, *Brookings*, pg. 15-16, <https://www.brookings.edu/wp-content/uploads/2016/07/IOS-Drezner-web.pdf>)

Multiple scholars have observed a secular decline in interstate violence in recent decades.105 The Kantian triad of more democracies, stronger multilateral institutions, and greater levels of cross-border trade is well known. In recent years, international relations theorists have stressed that commercial interdependence is a bigger driver of this phenomenon than previously thought.106 The liberal logic is straightforward. The benefits of cross-border exchange and economic interdependence act as a powerful brake on the utility of violence in international politics. The global supply chain and “just in time” delivery systems have further imbricated national economies into the international system. This creates incentives for governments to preserve an open economy even during times of crisis. The more that a country’s economy was enmeshed in the global supply chain, for example, the less likely it was to raise tariffs after the 2008 financial crisis.107 Similarly, global financiers are strongly interested in minimizing political risk; historically, the financial sector has staunchly opposed initiating the use of force in world politics.108 Even militarily powerful actors must be wary of alienating global capital.

Globalization therefore creates powerful pressures on governments not to close off their economies through protectionism or military aggression. Interdependence can also tamp down conflicts that would otherwise be likely to break out during a great power transition. Of the 15 times a rising power has emerged to challenge a ruling power between 1500 and 2000, war broke out 11 times.109 Despite these odds, China’s recent rise to great power status has elevated tensions without leading to anything approaching war. It could be argued that the Sino-American economic relationship is so deep that it has tamped down the great power conflict that would otherwise have been in full bloom over the past two decades. Instead, both China and the United States have taken pains to talk about the need for a new kind of great power relationship. Interdependence can help to reduce the likelihood of an extreme event—such as a great power war—from taking place.

#### Alt cause: skill shortages.

Strachan 21, \*Ruth, senior reporter at Investment Monitor, focusing on manufacturing, mining and commodities. \*\*Sebastian Shehadi, political editor and senior editor at Investment Monitor and a contributing writer for the New Statesman. Citing Suzanne Berger, an US political scientist at MIT (11-17-2021, "Who killed US manufacturing?", *Investment Monitor*, <https://www.investmentmonitor.ai/manufacturing/who-killed-us-manufacturing>)

A manufacturing job? How unbecoming

Another deeply rooted issue for US manufacturing has been the growing stigma and prejudice about its value. The result: a gaping skills gap.

Berger highlights the correlation between the shift towards global financial markets and the shift towards ‘expert’ opinion.

“The belief spread among economists and policymakers that manufacturing really wasn’t important,” she says. “[They believed] it was going to be just like agriculture – in the 1900s, we had needed to have 40% of the population on the farm in order to feed the rest of us. Today, we feed less than 2% of the population. So the belief was that manufacturing was going to be just like agriculture, we just didn’t need that much of it.”

Alongside this came a shift in career aspirations. “Why would a parent want their children to work in a factory where jobs were being lost all the time?” asks Bonvillian.

Meanwhile, the white-collar college dream only grew stronger, with the preference largely being for young people to go into what was considered to be the more academic fields of medicine, law, accounting and services.

Another nail in this coffin, according to Berger, is the fact that it wasn’t just investment into creating innovative education that was lacking, it was investment into technology in general. She explains that in her opinion this makes the skills gap a moot point.

“[A lot of US manufacturers] are not looking for skills, because they themselves have plants with very old equipment,” says Berger. “What they have to be able to do is teach people how to use their old equipment. They don’t have robots or things like 3D printing. They need somebody to come in and learn by ‘watching Joe’ (that is looking over the shoulder of some experienced worker). So I think we need to be focusing on technology acquisition by these firms.”

So the lack of desire to see young people go into manufacturing jobs adds to a lack of viable educational avenues into the sector, which is exacerbated by the lack of large-scale adoption of innovative technology. This ‘cycle of lack’ spells particularly bad news for US manufacturing within modern industry. A growing focus away from low-cost labour to strengthen supply chains and embracing innovation to up productivity spells trouble. This skills and technology gap will be felt more acutely as the world plots recovery from Covid-19.

## ADV 3

#### US-EU regulation is strong and coordinated.

Reuters 21, published in Al Jazeera. (6-15-2021, "EU and US call truce in Trump-era trade war", *Al Jazeera*, <https://www.aljazeera.com/economy/2021/6/15/eu-and-us-call-truce-in-trump-era-trade-war>)

United States President Joe Biden ended one front in a Trump-era trade war when he met European Union leaders on Tuesday by agreeing to a truce in a transatlantic dispute over aircraft subsidies that has dragged on for 17 years. Quoting Irish poet WB Yeats at the start of his first EU-US summit as president, Biden also said the world was shifting and that Western democracies needed to come together. “The world has changed, changed utterly,” Biden, an Irish-American, said, citing from the poem Easter 1916, in remarks that pointed towards the themes of his eight-day trip through Europe: China’s rise, the COVID-19 pandemic and climate change. Sitting at an oval table in the EU’s headquarters with US cabinet officials, he told EU institution leaders that the bloc and the US working together was “the best answer to deal with these changes” that he said brought “great anxiety”. He earlier told reporters he had very different opinions from his predecessor. Former President Donald Trump also visited the EU institutions, in May 2017, but later imposed tariffs on the EU and promoted Brexit – the United Kingdom’s departure from the bloc. “I think we have great opportunities to work closely with the EU as well as NATO and we feel quite good about it,” Biden said after walking through the futuristic glass Europa Building, also known as The Egg, to the summit meeting room with EU institution leaders. “It’s overwhelmingly in the interest of the USA to have a great relationship with NATO and the EU. I have very different views than my predecessor,” he said. The two sides agreed to remove tariffs on $11.5bn of goods from EU wine to US tobacco and spirits for five years. The tariffs were imposed on a tit-for-tat basis over mutual frustration with state subsidies for US planemaker Boeing and European rival Airbus. “This meeting has started with a breakthrough on aircraft,” European Commission chief Ursula von der Leyen said. “This really opens a new chapter in our relationship because we move from litigation to cooperation on aircraft – after 17 years of dispute … Today we have delivered.” Biden’s summit is with von der Leyen and the European Council President Charles Michel, who represents EU governments. Biden also repeated his mantra – “America is back” – and spoke of the need to provide good jobs for European and American workers, particularly after the economic impact of COVID-19. He spoke of his father saying that a job “was more than just a paycheque” because it brought dignity. He is seeking European support to defend Western liberal democracies in the face of a more assertive Russia and China’s military and economic rise. “We’re facing a once in a century global health crisis,” Biden said at NATO on Monday evening, while adding “Russia and China are both seeking to drive a wedge in our transatlantic solidarity.” According to an EU-US draft summit statement seen by Reuters news agency and still being negotiated up until the end of the gathering, Washington and Brussels will commit to ending another dispute over punitive tariffs related to steel and aluminium. Broader agenda US Trade Representative Katherine Tai discussed the aircraft dispute in her first face-to-face meeting with EU counterpart Valdis Dombrovskis before the US-EU summit. The pair are due to speak on Tuesday afternoon. Freezing the trade conflicts gives both sides more time to focus on broader agendas such as concerns over China’s state-driven economic model, diplomats said. Biden and US Secretary of State Anthony Blinken earlier met Belgian King Philippe, Prime Minister Alexander De Croo and Foreign Minister Sophie Wilmes in Brussels’ royal palace. On Wednesday, he meets Russian President Vladimir Putin in Geneva. The summit draft statement to be released at the end of the meeting said they had “a chance and a responsibility to help people make a living and keep them safe, fight climate change, and stand up for democracy and human rights”. There are no firm new transatlantic pledges on climate in the draft summit statement, however, and both sides will steer clear of setting a date to stop burning coal. The EU and the US are the world’s top trading powers, along with China, but Trump sought to sideline the EU. After scotching a free-trade agreement with the EU, the Trump administration focused on shrinking a growing US deficit in goods trade. Biden, however, sees the EU as an ally in promoting free trade, as well as in fighting climate change and ending the COVID-19 pandemic.

# 2NC

## UNIQUENESS CP

## ADV 2 CP

#### 1NC Landis from politics:

a congressional infusion of funding would kickstart domestic manufacturing

## CONSULT CP

## T

**“Prohibition” requires ending something, which excludes regulating within rules.**

**Feldman 86**, Member of Procopio's Native American Law practice. (Glenn M., On Appeal from the United States Court of Appeals for the Ninth Circuit, California v. Cabazon Band of Mission Indians, 1986 U.S. S. Ct. Briefs LEXIS 1221, Supreme Court of the United States, 1986, LexisNexis)

In arguing that California's bingo laws are prohibitory rat ther than regulatory, the appeallants have simply misunderstood the fundamental distinction between "prohibition" and "regulation" of conduct. As succinctly put by the Supreme Court of Washington more than 50 years ago, after noting that the prohibition and regulation of the sale of liquor are entirely different things: "To prohibit the liquor traffic implies the putting a stop to its sale as a beverage, to end it fully, completely, and indefinitely." In contrast, regulation "implies that the sale of intoxicating liquor shall go on within the bounds of certain prescribed rules, restrictions, and limitations." Ajax v. Gregory, 32 P.2d 560, 563 (Wash. 1934). Because regulation of conduct involves prescribing limitations, regulation, by definition, necessarily involves some degree of prohibition. Blumenthal v. City of Cheyenne, 186 P.2d 556, 566 (Wyo. 1947). The two concepts, however, are analytically distinct. Therefore, when courts have been faced with statutory schemes similar to California's bingo laws, they have consistently held them to be regulatory and not prohibitory.

#### If the plan allows a court to inquire into the effects of certain conduct, then they’re forbidding the effect, NOT the conduct. Only a declaration of illegality without weighing consequences is topical.

Kalintiri 20, Lecturer in Competition Law at King’s College London. (Andriani, “Analytical Shortcuts in EU Competition Enforcement: Proxies, Premises, and Presumptions”, *Journal of Competition Law & Economics*, 16(3), pg. 406-417, <https://heinonline.org/HOL/P?h=hein.journals/nylr95&i=1618>)

Firstly, normative assertions and economic propositions are what gives shape to the otherwise vague letter of the antitrust and merger provisions. Arguably, those provisions do not immediately reveal what is prohibited and are in need of elaboration to become operational. In this process, varying perceptions about the goals of the discipline may completely shift the focus of the analysis.45 For example, if competition law is to be enforced with a view to protecting small- and medium-sized enterprises or employment—as opposed or in addition to, say, promoting consumer welfare—then different effects in the market may become relevant.46 On the other hand, economic premises about the procompetitive or anticompetitive nature of the conduct at hand typically inform the choice between the application of a ‘rule’ or a ‘standard’.47 The prohibition, for instance, of cartels as ‘by object’ violations of antitrust law rests on the economic premise that conduct of this kind lacks any efficiency justification and thus a rule of prima facie illegality is not liable to chill procompetitive behaviour.48 Conversely, the treatment of quantity rebates as prima facie lawful is grounded in the idea that this type of discount reflects the cost savings achieved by the undertaking in question.49 In the same vein, the ‘by effect’ analysis of exclusive dealing under Article 101(1) TFEU is explained by the economic insight that behaviour of this kind may entail efficiencies.50 Accordingly, normative and economic premises are instrumental in the construction of competition law. It is worth noting at this point that in the EU the ‘by object’ test has been occasionally portrayed as a presumption of actual or likely anticompetitive effects. Arguably, the language employed by the EU Courts is partly to blame for this.51 In Cartes Bancaires, for instance, the Court of Justice explained that ‘certain collusive behaviour, such as that leading to horizontal price-fixing by cartels, may be considered so likely to have negative effects (...), that it may be considered redundant ( ... ) to prove that they have actual effects on the market’, since ‘experience shows that such behaviour leads to falls in production and price increases, resulting in poor allocation of resources to the detriment, in particular, of consumers’.52 This wording though is confusing, insofar as it may create the misimpression that a finding of ‘by object’ violation rests on a presumption—in the technical sense of the word—of the existence of actual or likely anticompetitive effects in the circumstances at hand. Considering that presumptions shift the burden of proof, in this case it should be open to undertakings to challenge such a finding by showing that their cartel agreement, for instance, was never implemented or that the presumed negative effects are unlikely to occur. Nevertheless, the EU Courts’ jurisprudence demonstrates that such arguments may not reverse a finding of ‘by object’ liability.53 Consequently, to speak of a presumption of actual or likely anticompetitive effects is incorrect. Secondly, premises also play a fundamental role in the design of administrative priorities—that is, the identification of cases on which the authority will choose to expend its limited resources to maximize the return on taxpayers’ money. For instance, if the goal is to promote consumer welfare, then it of course makes sense to prioritize investigations into practices which may have a bigger impact on it. Economic premises are critical in this screening exercise, since they can guide administrative agencies in detecting the most but also least ‘problematic’ types of behaviour in view of the pursued objective. For example, the prioritization of cartel enforcement worldwide rests on the economic insight that cartel conduct is among the most harmful for competition and consumers. Conversely, the development of ‘safe harbours’ setting out the circumstances where an authority is unlikely to intervene is grounded in the idea that competition is not liable to be impaired in the absence of a degree of market power. The Commission Guidelines on agreements of minor importance, for instance, explain that arrangements entered into between parties whose market shares do not exceed certain thresholds will be considered not to appreciably restrict competition in the meaning of Article 101(1) TFEU.54 Similar pronouncements may be located in the Commission Guidelines on horizontal cooperation agreements or in the Commission Guidelines on horizontal and nonhorizontal mergers.55 While these ‘safe harbours’ are often presented as ‘presumptions of lawfulness’, strictly speaking they are simply illustrations of the authority’s policy and understanding of the law.56 Last but not least, premises have a third important function in competition enforcement—they form part of the backdrop against which the standard of proof inquiry is conducted. The reason for this is that the process of determining whether the available evidence is sufficient to surpass the requisite level of conviction or probability for a decision to be lawfully adopted is informed—among others—by normality considerations, which allow us to make sense of the evidence and to ‘connect the dots’. Generally, our perception of ‘usual’ and ‘unusual’ is shaped by past experience and common sense.57 In competition enforcement though, economic premises may also determine what is ‘normal’ and what is not.58 For instance, because cartels are deemed to harm competition, claims and evidence of plausible explanations and efficiencies will be evaluated against this default idea. Likewise, the insight that ‘the effects of a conglomerate-type merger are generally considered to be neutral, or even beneficial, for competition’ led the General Court to emphasize in Tetra Laval that ‘the proof of anticompetitive conglomerate effects of such a merger calls for a precise examination, supported by convincing evidence, of the circumstances which allegedly produce those effects’.59 Therefore, premises inform not only the construction of the law and the design of policy but also fact-finding, insofar as they provide ‘rules of thumb’ and baselines for drawing inferences from the evidence.60 B. The Construction and Deconstruction of Normative and Economic Premises Premises are not set in stone though. Because they embody contemporary norms and values as well as current knowledge, they may—and do—evolve over time. Societal and political shifts and advances in economics may lead to the emergence of new premises or the critical revisiting of old ones. The construction and deconstruction of normative and economic premises in competition enforcement occur in an incremental and cumulative manner predominantly outside but also within the legal system. Outside the legal system, scholarly works exposing the thinking underlying competition enforcement and challenging its theoretical and empirical foundations, as well as its consistency, play a pivotal role in this regard. This is hardly surprising—by promoting evidence-based dialogue and allowing for the fermentation of ideas, academic debates may result in the elimination of weak propositions, the emergence of consensus positions, and the creation of new knowledge. This process though is a constant work in progress, which partly explains why many of the disputes concerning competition enforcement resurface now and again. The recently reignited conversation about the goals of the discipline is a good example of this—after the espousal by many of efficiency and consumer welfare as the main aims of competition law, the issue has again been brought into the spotlight by commentators advocating for the pursuit of broader social and political objectives.61 Economic premises are not immune to challenges either. As the currently ongoing discussion around the low levels of vertical merger enforcement illustrates, even well-established propositions—such as the idea that nonhorizontal concentrations generally benefit competition and generate efficiencies—may be questioned and potentially overturned.62 Finally, academic works exposing inconsistencies in the legal treatment of various categories of conduct may also cast doubt on the convincingness of the premises underlying the applicable tests.63 Within the legal system, the construction and deconstruction of premises naturally occur during the development of policy and in the context of specific cases. Indeed, on several occasions the emergence of new knowledge or changes in the prevailing circumstances have prompted competition authorities to reflect on—and update, where necessary—the premises driving their enforcement activities. In the EU, for instance, the heavy criticisms against the Commission’s early formalistic approach to the legal treatment of various practices led the authority to rethink its policy in different areas—from vertical agreements to horizontal arrangements to mergers and unilateral conduct. The replacement of old premises with new ones culminated in the publication of several soft law documents, which were seen as signalling a ‘more economic’ approach to EU competition enforcement.64 More recently, the challenges of the digital economy have impelled several authorities to commission expert reports and to launch task forces or strategies with a view to ascertaining what normative and economic premises should drive antitrust and merger policy in that context.65 By contrast, courts are naturally more cautious against regular or radical changes in the law as a result of contemporary developments due to the need to preserve legal certainty and stability.66 Nevertheless, the normative and economic propositions underpinning competition enforcement may be exposed or challenged in the context of judicial proceedings, too. Leegin is probably among the best examples of a drastic overhaul of the law in judicial acknowledgment of an evolution in current thinking. Noting that ‘economics literature is replete with procompetitive justifications for a manufacturer’s use of resale price maintenance’, the US Supreme Court overturned Dr Miles and dismissed the per se illegality test in favour of a rule of reason analysis.67 In the EU, the Courts have frequently spelt out the premises behind their interpretation of the law. While many have survived the passage of time relatively unscathed, for example, the idea that pricing below average variable costs is generally irrational for an undertaking or the insight that certain restraints are necessary in selective distribution or franchising,68 others have been tested—for instance, the idea that exclusivity rebates offered by a dominant firm are inherently harmful for competition and consumers.69 Over the years, such challenges have provided EU judges with the opportunity to incrementally clarify and elaborate on the main ideas driving the enforcement of the antitrust and merger rules.70 C. Economic Premises and Evidence Rules Most, if not all, premises, in particular economic ones, have at least some empirical grounding, and their ‘truth’ or ‘validity’ may thus be contested, as just noted. To the extent that they underpin the construction of the competition provisions and their application to specific practices and may be challenged in the context of judicial proceedings, it is necessary to briefly consider whether they are subject to the evidence rules. Are economic propositions to be established to the standard of proof before being endorsed by the court? If there is disagreement between the parties about the ‘correct’ premise, say, for instance, regarding the competitive effects of exclusive dealing by dominant firms or the relationship between market structure and innovation, is this to be resolved in accordance with the rules on the burden of proof? And are judges exclusively dependent on parties to produce the relevant information, or can they engage in independent research? These queries go to the heart of a rather old, yet highly important problem— that of the integration of social science in law.71 To the extent that the construction and the application of the legal rules hinge on ‘knowledge’ derived from social science, including economics, is this to be treated as ‘fact’ or as ‘law’ or perhaps as something else? Scholars have approached this question in different, albeit not fundamentally conflicting, ways. On the one hand, it has been suggested that so-called legislative facts—that is, facts that ‘inform (...) a court’s legislative judgment on questions of law and policy’— must be distinguished from adjudicative facts, that is, facts about ‘what the parties did, what the circumstances were, what the background conditions were’, and that the evidence rules apply only to the latter.72 On the other hand, it has been argued that social science may be treated both as ‘law’ and as a ‘fact depending on its use: it is akin to ‘law’ when it provides the basis for law-making or is employed to establish background knowledge and general methodology, while it is akin to ‘fact’, when it is applied to case-specific issues or to produce case-specific research findings.73 With these remarks in mind, when economic premises are employed for the purpose of determining the optimal legal test—that is, whether a conduct should be subject to a rule or a standard (in EU terminology, the ‘by object’ or the ‘by effect’ test)—they arguably escape the application of the evidence rules. In the EU this conclusion is further reinforced by the exclusive competence of the EU Courts to provide authoritative guidance on the meaning of EU law.74 Accordingly, conduct-specific economic premises, that is, generalized propositions pertaining to the economics of different practices—say, tying or price discrimination or refusal to supply—need not be established to the standard of proof to be accepted by EU judges as the motivation behind their choice of legal test. By contrast, where economic premises are employed as ‘background knowledge’ or even ‘rules of thumb’ for the purpose of making sense of the evidence, the answer is not as straightforward. As noted earlier, in this context economic premises may enable judges to draw inferences from the available pieces of information. Inevitably though, the strength of the inference is partly correlated with the strength or relevance of the economic premise. If either is prima facie challenged, then in principle the party with the burden of persuasion should explain why the inference should still be drawn. V. PRESUMPTIONS AS ANALYTICAL SHORTCUTS IN EU COMPETITION ENFORCEMENT A. A Brief Account of the Existing Presumptions Somewhat ironically, considering the popularity of the term in competition scholarship, there are not many presumptions in the technical sense in EU competition law. Indeed, the examination of the EU Courts’ jurisprudence reveals the existence of only five (Table 1).75 These effectively correspond to different elements of the antitrust rules that the Commission must prove to adopt a prohibition decision. The first presumption pertains to the notion of ‘undertaking’ against which Articles 101 and 102 TFEU are addressed.76 As explained in Höfner and Elser, the concept comprises ‘any entity engaged in an economic activity, regardless of the legal status of that entity and the way in which it is financed’.77 Further elaborating on this in Hydrotherm, the Court stressed that the term ‘undertaking’ must be understood as designating an economic— rather than a legal—unit.78 In this regard, the existence of distinct legal entities is immaterial; what matters is—as elucidated in Shell—that there is a ‘unitary organisation of personal, tangible and intangible elements which pursues a specific economic aim on a long-term basis and can contribute to the commission of an infringement’.79 In the case of parent companies and subsidiaries in particular, such an economic unit will exist where ‘the subsidiary does not decide independently upon its own conduct on the market, but carries out, in all material respects, the instructions given to it by the parent company’; according to settled jurisprudence, in these circumstances the anticompetitive conduct of the subsidiary may be imputed to the parent company.80 In Akzo the Court of Justice confirmed that ‘where a parent company has a 100% shareholding in a subsidiary (...) there is a rebuttable presumption that the parent company does in fact exercise decisive influence over the conduct of its subsidiary’.81 Ever since its first affirmation, the Akzo presumption has been reiterated multiple times and is now solidly rooted in the Courts’ jurisprudence. In any event, to find a violation of Article 101(1) TFEU in particular, the Commission must also demonstrate that the undertaking participated in a collusive arrangement—be it a concerted practice or an agreement.82 Showing the existence of a concerted practice in principle entails proving three elements: concertation, subsequent market conduct, and causal connection between the two. In Hüls and in Commission v Anic Partecipazioni, however, the Court clarified that ‘subject to proof to the contrary, which it is for the economic operators concerned to adduce, there must be a presumption that the undertakings participating in concerting arrangements and remaining active on the market take account of the information exchanged with their competitors when determining their conduct on that market’.83 Ever since, the Anic presumption—as is often called—has become firmly embedded in the Courts’ case law.84 While it was initially developed in connection with concerted practices—that is, collusive arrangements falling short of an agreement—this presumption soon provided the basis for the emergence of another one, that of participation in a cartel upon evidence that the undertaking has attended a meeting with an anticompetitive object. Indeed, as confirmed for the first time in Aalborg Portland, ‘it is sufficient for the Commission to show that the undertaking concerned participated in meetings at which anticompetitive agreements were concluded, without manifestly opposing them, to prove to the requisite standard that the undertaking participated in a cartel’, the presumption being that its will concurs with that of the other attendants.85 At any rate, to adopt a prohibition decision, the Commission must also establish the duration of the antitrust violation and of the undertaking’s involvement in it. This can be a daunting task—especially in complex infringements extending over longer periods of time. In recognition of this challenge, the EU Courts have eased the authority’s burden of proof in two ways. Firstly, they have developed the doctrine of single, continuous or repeated infringement, according to which there is one infringement—rather than several—where a series of acts form part of an unlawful ‘overall plan’.86 The latter may be deduced ‘from the identical nature of the objectives of the practices at issue, of the goods concerned, of the undertakings which participated in the collusion, of the main rules for its implementation, of the natural persons involved on behalf of the undertakings, and lastly, of the geographical scope of those practices’.87 Secondly—and most importantly, for the purposes of this work, the EU Courts have adopted a presumption of continuity, whose foundations originate in Dunlop. According to the latter, ‘if there is no evidence directly establishing the duration of an infringement, the Commission should adduce at least evidence of facts sufficiently proximate in time for it to be reasonable to accept that that infringement continued uninterruptedly between two specific dates’.88 Finally, the case law arguably points at the existence of one more presumption—that is, if a conduct lacks any plausible explanation, it is intrinsically capable of harming competition.89 Premises about the economics of the practice at hand and any ‘objective justifications’ raised by the parties will be crucial to ascertaining whether, on the facts, there is no legitimate ground for it.90 In this case, the anticompetitive potential of the practice is automatically inferred and needs not be proved ad hoc, unless the undertaking concerned produces evidence to the contrary, and a ‘by object’ violation will be considered established, provided that the other elements of Article 101 TFEU or Article 102 TFEU have been sufficiently demonstrated. In the context of Article 101 TFEU, the Court of Justice explained in T-Mobile that ‘the distinction between “infringements by object” and “infringements by effect” arises from the fact that certain forms of collusion between undertakings can be regarded, by their very nature, as being injurious to the proper functioning of normal competition’.91 As the Court elaborated, ‘in order for a concerted practice to be regarded as having an anticompetitive object, it is sufficient that it has the potential to have a negative impact on competition’; in this case, there is no need for the Commission to consider its effects.92 Nevertheless, Football Association Premier League clarifies that undertakings may ‘put forward any circumstance within the economic and legal context’ of the arrangement in question, which would justify the finding that it is ‘not liable to impair competition’.93 A similar presumption is visible in the context of Article 102 TFEU, as well. Indeed, the judgment of the Court of Justice in Intel implies that practices, which lack a plausible explanation, are presumed to be capable of harming competition, unless the dominant undertaking challenges this conclusion ‘on the basis of supporting evidence’.94

#### Independently, practices are distinct from the effects branching from individual cases.

Boyle & Hannum 74, \*Kevin, Barrister at Law at Queen’s University of Belfast. \*\*Hurst, member of the California Bar. (“Individual Applications Under the European Convention on Human Rights and the Concept of Administrative Practice: The Donnelly Case,” *The American Journal of International Law*, vol. 68, no. 3, American Society of International Law, pg. 440-453)

In reply, the respondent government argued that the “administrative practices” exception developed by the Commission in relation to interstate cases could not in any circumstances apply to an individual application under Article 25. They submitted that it applied only where an application raised a general issue, distinct from its effects on individuals, and that an individual was incompetent to raise such general issues under Article 25.52 While denying generally that any violation of Article 3 had occurred, the respondent government maintained that, if violations did occur, adequate and effective remedies existed within domestic United Kingdom law which had not been exhausted by the individual applicants.

## ADV 1

#### More barriers:

#### ---can’t reproduce.

Dvorsky 19, senior staff reporter @ Gizmodo; citing neuroscientist Rachael Seidler from the University of Florida. (George, 7-30-2019, "Humans Will Never Colonize Mars", Gizmodo, <https://gizmodo.com/humans-will-never-colonize-mars-1836316222>)

And that’s assuming humans could even reproduce on Mars, which is an open question. Casting aside the deleterious effects of radiation on the developing fetus, there’s the issue of conception to consider in the context of living in a minimal gravity environment. We don’t know how sperm and egg will act on Mars, or how the first critical stages of conception will occur. And most of all, we don’t know how low gravity will affect the mother and fetus.

Seidler, an expert in human physiology and kinesiology, said the issue of human gestation on Mars is a troublesome unknown. The developing fetus, she said, is likely to sit higher up in the womb owing to the lower gravity, which will press upon the mother’s diaphragm, making it hard for the mother to breathe. The low gravity may also “confuse” the gestational process, delaying or interfering with critical phases of the fetus’ development, such as the fetus dropping by week 39. On Earth, bones, muscles, the circulatory system, and other aspects of human physiology develop by working against gravity. It’s possible that the human body might adapt to the low-gravity situation on Mars, but we simply don’t know. An artificial womb might be a possible solution, but again, that’s not something we’ll have access to anytime soon, nor does it solve the low-gravity issue as it pertains to fetal development (unless the artificial womb is placed in a centrifuge to simulate gravity).

A strong case can be made that any attempt to procreate on Mars should be forbidden until more is known. Enforcing such a policy on a planet that’s 34 million miles away at its closest is another question entirely, though one would hope that Martian societies won’t regress to lawlessness and a complete disregard of public safety and established ethical standards.

For other colonists, the minimal gravity on Mars could result in serious health problems over the long term. Studies of astronauts who have participated in long-duration missions lasting about a year exhibit troubling symptoms, including bone and muscle loss, cardiovascular problems, immune and metabolic disorders, visual disorders, balance and sensorimotor problems, among many other health issues. These problems may not be as acute as those experienced on Mars, but again, we simply don’t know. Perhaps after five or 10 or 20 years of constant exposure to low gravity, similar gravity-related disorders will set in.

Seidler’s research into the effects of microgravity suggests it’s a distinct possibility.

“Yes, there would be physiological and neural changes that would occur on Mars due to its partial-gravity environment,” she told Gizmodo. “It’s not clear whether these changes would plateau at some point. My work has shown an upward shift of the brain within the skull in microgravity, some regions of gray matter increases and others that decrease, structural changes within the brain’s white matter, and fluid shifts towards the top of the head.”

#### ---disease, hunger, thirst.

Dvorsky 19, senior staff reporter @ Gizmodo; citing Briony Horgan, assistant professor of planetary science at Purdue University. (George, 7-30-2019, "Humans Will Never Colonize Mars", Gizmodo, <https://gizmodo.com/humans-will-never-colonize-mars-1836316222>)

And these are the health issues we think might be a problem. A host of other problems are likely to exist, giving rise to Martian-specific diseases affecting our brains, bodies, and emotional well-being. The human lifespan on Mars is likely to be significantly less than it is on Earth, though again, we simply don’t know.

Finally, there’s the day-to-day survival to consider. Limited access to fundamental resources, like food and water, could place further constraints on a colony’s ability to grow and thrive.

“Establishing stable resources to live off for a long period of time is possible, but it’ll be tough,” said Horgan. “We’ll want to be close to water and water ice, but for that we’ll have to go pretty far north. But the further north you go, the rougher the conditions get on the surface. The winters are cold, and there’s less sunlight.”

Colonists will also need stable food sources, and figure out a way to keep plants away from radiation. The regolith, or soil, on Mars is toxic, containing dangerous perchlorate chemicals, so that also needs to be avoided. To grow crops, colonists will likely build subterranean hydroponic greenhouses. This will require specialized lighting, genetically modified plants designed specifically for Mars, and plenty of water, the latter of which will be difficult to source on Mars.

“People don’t realize how complicated this is,” said Horgan. “Trying to think about establishing colonies to point of what we would consider safe will be a big challenge.”

#### ---life on Mars would be miserable. No one would go.

Dvorsky 19, senior staff reporter @ Gizmodo; citing Briony Horgan, assistant professor of planetary science at Purdue University. (George, 7-30-2019, "Humans Will Never Colonize Mars", Gizmodo, <https://gizmodo.com/humans-will-never-colonize-mars-1836316222>)

Until such time, an un-terraformed Mars will present a hostile setting for venturing pioneers. First and foremost there’s the intense radiation to deal with, which will confront the colonists with a constant health burden.

Horgan said there are many big challenges to colonizing Mars, with radiation exposure being one of them. This is an “issue that a lot of folks, including those at SpaceX, aren’t thinking about too clearly,” she told Gizmodo. Living underground or in shielded bases may be an option, she said, but we have to expect that cancer rates will still be “an order of magnitude greater” given the added exposure over time.

“You can only do so much with radiation protection,” Horgan said. “We could quantify the risks for about a year, but not over the super long term. The problem is that you can’t stay in there [i.e. underground or in bases] forever. As soon as you go outside to do anything, you’re in trouble,” she said.

Horgan pointed to a recent Nature study showing that radiation on Mars is far worse than we thought, adding that “we don’t have the long-term solutions yet, unless you want to risk radiation illnesses.” Depending on the degree of exposure, excessive radiation can result in skin burns, radiation sickness, cancer, and cardiovascular disease.

Friedman agrees that, in principle, we could create artificial environments on Mars, whether by building domes or underground dwellings. The radiation problem may be solvable, he said, “but the problems are still huge, and in a sense anti-human.”

Life in a Martian colony would be miserable, with people forced to live in artificially lit underground bases, or in thickly protected surface stations with severely minimized access to the outdoors. Life in this closed environment, with limited access to the surface, could result in other health issues related to exclusive indoor living, such as depression, boredom from lack of stimulus, an inability to concentrate, poor eyesight, and high blood pressure—not to mention a complete disconnect from nature. And like the International Space Station, Martian habitats will likely be a microbial desert, hosting only a tiny sample of the bacteria needed to maintain a healthy human microbiome.

Another issue has to do with motivation. As Friedman pointed out earlier, we don’t see colonists living in Antarctica or under the sea, so why should we expect troves of people to want to live in a place that’s considerably more unpleasant? It seems a poor alternative to living on Earth, and certainly a major step down in terms of quality of life. A strong case could even be made that, for prospective families hoping to spawn future generations of Martian colonists, it’s borderline cruelty.

#### No shortage now — supply’s at equilibrium or surplus.

Williams, 19 — Georgia Williams; BA, Writer for INN. Citing Nils Backeberg, deputy manager at Roskill. (1-10-2019; "Is a Global Rare Earths Shortage Imminent?" *Investing News Network*; https://investingnews.com/daily/resource-investing/critical-metals-investing/rare-earth-investing/global-rare-earths-shortage/)

Will our insatiable need for high-tech gadgets, electric vehicles and clean energy materials lead to a widespread rare earths shortage?

Every day we unwittingly interact with an array of rare earths — they’re in the planes that transport us through the air, in the sonar systems that scan the sea floor and everything in between. These 17 minerals have become an integral part in the evolution of technology and society.

As demand for rare earths steadily grows, output remains flat, theoretically creating the perfect environment for a rampant shortfall. But will one materialize?

The short answer is probably not, or at least not right away.

“While most rare earths are in a general surplus supply, most notably cerium and lanthanum, neodymium supply and demand were estimated to have reached equilibrium as of 2017, which makes the market more sensitive to disruptions in supply,” Nils Backeberg, deputy manager at Roskill, told the Investing News Network in late 2018.

“Neodymium prices saw a spike in end 2017, related to an increased market tightness following environmental inspections in China causing sustained closures and speculative trading exacerbating the situation,” he explained.

## ADV 3

#### 1AC Garcia concedes the NSCAI thumps. The 1AR will say spillover, but they’ve highlighted a line that we have fundamentally different ideals than the EU. [blue]

Garcia 21 [Denise Garcia, professor at Northeastern University; vice-chair of the International Committee for Robot Arms Control, “Stop the emerging AI cold war,” 05/11/21, *Nature*, Vol. 593, https://www.nature.com/articles/d41586-021-01244-z, EA]

A race to militarize artificial intelligence is gearing up. Two years ago, the US Congress created the National Security Commission on Artificial Intelligence (NSCAI). This March, it recommended that the United States must accelerate artificial-intelligence (AI) technologies to preserve national security and remain competitive with China and Russia.

This will undermine the United States’ ability to lead emerging global norms on AI. In April, the European Commission published the first international legal framework for making AI secure and ethical; in January, the European Parliament issued guidelines stating that military AI should not replace human decisions and oversight. By contrast, the NSCAI recommendations advocate “the integration of AI-enabled technologies into every facet of war-fighting”.

Enhancing AI war-fighting capacity will decrease security in a world where the biggest threats are instability — political, social, economic and planetary. The NSCAI should heed the research community. Some 4,500 AI and robotics researchers have declared that AI should not make the decision to take a human life — aligning with the European Parliament guidelines and the European Union regulation.

The NSCAI resurrected disastrous ideas from the cold war and framed its report in terms of winning a competition for AI-enabled warfare. During the cold war, the drive to stay ahead in the technological race led to the accumulation of 70,000 nuclear weapons and today’s global arsenal of 13,100 warheads. This brought extortionate costs: US$70 billion is spent annually to maintain nuclear weapons globally. Other threats demand similar investments: in 2019, climate-induced natural disasters displaced 25 million people, and decentralized conflicts forced 8.6 million to move. Still more threats affect infrastructure, such as the ransomware attack on 8 May that shut down a 8,850-kilometre US fuel pipeline.

The NSCAI does not prioritize international cooperation to create new regulations. Indeed, it speaks against a global ban on autonomous weapons, saying that other countries cannot be trusted to comply. But an AI-militarization race would be profoundly destabilizing. Unlike nuclear arms, AI is already ubiquitous in civilian spheres, so the dual-use risks of, say, flying drones or computer night vision are much higher.

Since 2014, I have been an observer and adviser at United Nations meetings, and I testified in 2017 as part of the International Panel on the Regulation of Autonomous Weapons. In my view, rather than focusing on counting weapons or on particular weapons systems, policies should specify human intention and human–machine interaction, obligating countries to maintain human control over military force. Other agreements could mitigate malicious uses of AI, such as using facial recognition to oppress citizens or biased data to guide decisions about employment or incarceration. The world’s people need protection from cyberattacks to infrastructure — such as those on US hospitals in 2020 or those that hit national electrical grids.

The NSCAI report calls for international standards for AI-enabled and autonomous weapons systems, arguing that if these systems are properly tested and designed, humans can use them to make the decision to kill, consistent with international humanitarian law. This is misleading: it’s difficult to make machine learning’s ‘black box’ nature fully interpretable, or to ensure that AI systems perform as expected after deployment. These systems learn from their environment, and the real world is never as simple as the laboratory.

The NSCAI argues that the United States should seek commitments from Russia and China against autonomous nuclear weapons, even as it argues against treaties regulating other autonomous and AI weapons. Instead, the United States should negotiate decreases in nuclear arsenals and establish standards to keep humans in meaningful control.

The NSCAI is too dismissive by discounting cooperation. The Chemical Weapons Convention, the Biological Weapons Convention, the UN Sustainable Development Goals and the 1987 Montreal Protocol are examples of accountability on which all the major powers worked together. The United States and Russia established the International Space Station by cooperating closely.

Most nations want governance that controls the use of AI in war. In June 2020, the Global Partnership on Artificial Intelligence was created by the Group of Seven industrialized countries (G7) and called for human-centric development and use of AI. The partnership brings scientific and research communities together with industry and government to facilitate international cooperation. This is the path that the United States should take — with scientists, researchers and industry alike.

#### This card’s “terminal impact”:

Garcia 21 [Denise Garcia, professor at Northeastern University; vice-chair of the International Committee for Robot Arms Control, “Stop the emerging AI cold war,” 05/11/21, *Nature*, Vol. 593, https://www.nature.com/articles/d41586-021-01244-z, EA]

The relentless pursuit of militarization does not protect us. It diverts resources and attention from nearer existential threats, such as extreme weather events. With the world reeling from COVID-19 — the shock of the century — now is not the moment to hasten towards worldwide confrontation. In 2019 alone, climate disasters displaced almost one million people in the United States. China, too, is extremely vulnerable to global warming. This common ground could pave the way to cooperation, including stopping the emerging AI cold war. This is no time to embark on an exorbitant and ineffective race.

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## DIPLOMACY DA

#### Warming causes global nuclear war.

Klare 20, professor emeritus of peace and world security studies at Hampshire College and senior visiting fellow at the Arms Control Association. (Michael T., 1/13/20, “How Rising Temperatures Increase the Likelihood of Nuclear War”, *The Nation*, <https://www.thenation.com/article/archive/nuclear-defense-climate-change/>)

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

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

#### Only warming causes extinction

McDonald 19, writer and geography PhD student at University of Oxford studying the intersection of grassroots movements and energy transition. (Samuel Miller, 1-4-2019, “Deathly Salvation,” *The Trouble*, <https://www.the-trouble.com/content/2019/1/4/deathly-salvation>)

A devastating fact of climate collapse is that there may be a silver lining to the mushroom cloud. First, it should be noted that a nuclear exchange does not inevitably result in apocalyptic loss of life. Nuclear winter—the idea that firestorms would make the earth uninhabitable—is based on shaky science. There’s no reliable model that can determine how many megatons would decimate agriculture or make humans extinct. Nations have already detonated 2,476 nuclear devices. An exchange that shuts down the global economy but stops short of human extinction may be the only blade realistically likely to cut the carbon knot we’re trapped within. It would decimate existing infrastructures, providing an opportunity to build new energy infrastructure and intervene in the current investments and subsidies keeping fossil fuels alive. In the near term, emissions would almost certainly rise as militaries are some of the world’s largest emitters. Given what we know of human history, though, conflict may be the only way to build the mass social cohesion necessary for undertaking the kind of huge, collective action needed for global sequestration and energy transition. Like the 20th century’s world wars, a nuclear exchange could serve as an economic leveler. It could provide justification for nationalizing energy industries with the interest of shuttering fossil fuel plants and transitioning to renewables and, uh, nuclear energy. It could shock us into reimagining a less ~~suicidal~~ civilization, one that dethrones the death-cult zealots who are currently in power. And it may toss particulates into the atmosphere sufficient to block out some of the solar heat helping to drive global warming. Or it may have the opposite effects. Who knows? What we do know is that humans can survive and recover from war, probably even a nuclear one. Humans cannot recover from runaway climate change. Nuclear war is not an inevitable extinction event; six degrees of warming is.

#### Respect for sovereignty is high now. Disputes collapse relations and cause great-power war.

Walt 20, professor of international relations at Harvard University (Stephen, “Countries Should Mind Their Own Business,” *Foreign Policy*, <https://foreignpolicy.com/2020/07/17/sovereignty-exceptionalism-countries-should-mind-their-own-business/>)

What we are seeing, in short, is a reassertion of sovereign independence on the part of great and small powers alike. The Westphalian model of sovereignty has never been absolute or uncontested, but the idea that individual nations should be (mostly) free to chart their own course at home remains deeply embedded in the present world order. The territorial state remains the basic building block of world politics, and, with some exceptions, states today are doing more to reinforce that idea than to dilute it. Although there are clearly areas where our future depends on states agreeing to limit their own freedom of action and conform to global norms and institutions, greater respect for sovereignty and national autonomy has some obvious benefits. First, states that interfere in foreign countries rarely understand what they are doing, and even well-intentioned efforts often fail due to ignorance, unintended consequences, or local resentment and resistance. A stronger norm of noninterference could make some protracted conflicts less likely or prolonged. Second, trying to impose a single model on other countries inevitably raises threat perceptions and increases the risk of serious great-power conflict. The Westphalian idea of sovereignty was created in part to address this problem: Instead of continuing to fight over which version of Christianity would hold sway in different countries (one of the key drivers of the wars that preceded the Westphalian peace), European states agreed to let each ruler determine the religious orientation of their realm. Similarly, a powerful state’s efforts to shape the domestic arrangements of another country will inevitably be seen as threatening by the target: Just look at how Americans now react to the possibility of Russian interference in our political system. Third, creating a more stable international economic order while preserving most of the benefits of trade and comparative advantage will require fashioning trade and economic arrangements that permit great national autonomy, even at the price of slightly lower global growth rates. Not only might this reduce the risk of global financial panics, but allowing individual states greater freedom to set the terms of their international economic engagement could also reduce the anti-free trade backlash that is currently fueling costly trade wars. Finally, a world in which a single political and economic model prevails is probably impossible anyway, at least for the foreseeable future. To believe that one size could fit all ignores the enormous diversity that still exists in the world and the powerful tendency for ideas and institutions to morph and evolve as they travel from their point of origins. Take pop music: Elvis Presley creates a new amalgam of rhythm and blues, gospel, and rockabilly (with a jolt of testosterone), his influence arrives in England and helps inspire the Beatles, who lead the “British invasion” of America in the 1960s, which then combines with Bob Dylan and the folk music movement to create the sound of groups like The Byrds. Or look at how Lin-Manuel Miranda combined hip-hop with his deep appreciation of traditional Broadway styles to create something new like Hamilton. These examples just scratch the surface of how music changes when different cultural streams begin to interact; I could just as easily have cited examples from Africa, Latin America, the Middle East, or the Silk Road. Because humans are boundlessly creative social beings who resist conformity, and because no social or political arrangements are ever perfect, dissidents will always arise and contending visions will emerge no matter how fiercely they are repressed. Institutions created in one place may travel to other locations, but they will mutate and evolve in the process and exhibit different forms wherever they take root. And that’s why I’ll raise two cheers for the (partly) sovereign state. A world made up of contending nationalisms is hardly a utopia, with the ever-present possibility of conflict and war and many obstacles to mutual cooperation. But trying to fit a diverse humanity into a uniform box is doomed to fail—and no small source of trouble as well. Even if we hold certain values to be sacred and are tempted to act when other states violate them, continued respect for boundaries and sovereignty is also a norm that can keep simmering rivalries in check. Libya would not have multiple powers interfering in it today had Britain, France, and the United States not decided to meddle there back in 2011. As A.J.P. Taylor once archly observed, leaders in the 19th century “fought ‘necessary’ wars and killed thousands; the idealists of the 20th century fought ‘just’ wars and killed millions.” Looking ahead, greater respect for national sovereignty and fewer efforts to force the whole world into one way of living will help emerging rivalries stay within bounds and help countries with very different values cooperate on those critical issues where their interests overlap.

#### Debris kills the project

Anzaldua et al 2014 (Al Anzaldua, former US State Dept diplomat, masters in Latin American studies, David Dunlop, chair of the National Space Society international committee, MA in science education, U of Illinois, and Brad Blair, former NASA researcher for space resource economic analysis, ME in mineral economics from Colorado school of Mines, 9-22-2014, "The Space Review: Are solar power satellites sitting ducks for orbital debris?," <http://www.thespacereview.com/article/2602/1> LAO)

Orbital debris, by threatening our satellites and related spacecraft, is also threatening to shred the very fabric of modern life. Satellites are intimately involved with our everyday activities. Anyone using Google maps, checking the weather forecast, watching TV, listening to the radio, flying on a plane, using an ATM while traveling, accessing certain Internet sites, taking a cruise, or calling on a cell phone makes use of satellite technology. The risk to future developments Worse yet, future space technologies and missions are threatened. For example, Solar Power Satellites (SPS) for terrestrial use, an energy technology with enormous potential to improve lives, is also at stake. In 2009, retired astrophysicist Donald Kessler, who started NASA’s work on orbital debris more than 30 years ago, stated, “large structures such as those considered… for building solar power stations in Earth orbit could set up a situation where a single satellite failure could lead to cascading failures of many satellites.”9 Solar power satellites are not the only future spacecraft that will be threatened. Bigelow Aerospace plans to have its BA 330 habitats serve as crew habitats in orbit starting as early as 2016.10 Add to this the untold satellites and other spacecraft scheduled to go into Earth orbits well into the future. Risk reduction strategies But would a hyper-modular system, such as proposed by John C. Mankins, also be vulnerable? Mankins admits that micrometeoroids and orbital debris might impact the SPS and cause damage, but then he argues, “Fortunately, with a hyper-modular architecture such as SPS-ALPHA11 there are no ‘single’ points of failure. Impacts will cause damage, but it will be mostly inconsequential and will only occasionally require repairs.”12 This statement bears skeptical examination. Much shrapnel debris exists below current detection limits, so quantification of risk remains problematic. Further studies of risk and greater detection capacity are needed to reduce uncertainty and to encourage potential investors that the risks to capital invested in solar power satellites (SPS) are acceptable. Admittedly, the hyper-modularity of the SPS-ALPHA system would mitigate damage from orbital debris. But Mankins proposes multiple SPS-ALPHAs to solve our energy concerns, each measuring approximately three by five kilometers.13 These structures would be very large targets—“sitting ducks,” in the case of a Kessler-type runaway debris growth in GEO—and the damage would likely go beyond “inconsequential.” Even if the satellite remained structurally intact, maintenance costs would sharply rise. Keep in mind also that to build such a large SPS in the first place, many SPS module-carrying spacecraft would have first to pass through shrapnel-cluttered LEO bands before carrying modules to GEO for construction by telerobotically operated spacecraft.14 Perhaps SPS-ALPHAs require, not only hyper-modularity, but hyper-permeability, such that the modular elements can each separately move to avoid debris. Ideally, the modules would describe an array of SPS-ALPHA elements flying in precise formation and with the ability to self-adjust to avoid danger, reminiscent of a school of fish avoiding the lunge of a predator. Large debris collisions make spacecraft-killing shrapnel Large debris, i.e. larger than ten centimeters in diameter and one kilogram in mass, can range in size all the way up to nine-ton rocket bodies and five-ton satellites. These multi-ton bodies make up much of the mass of approximately 6,300 tons of orbital debris, with approximately 2,200 tons in Low Earth Orbit (LEO) alone, and collisions among them are the source of millions of shrapnel fragments.15 For example, China in 2007 intentionally destroyed its Fengyun-1C weather satellite, and in 2009 the non-functioning Russian Cosmos 2251 satellite collided with the American Iridium 33 satellite. One-third of all orbital shrapnel can be traced to just these two collisions.16 Worse yet, orbital shrapnel smaller than ten centimeters and one kilogram is currently untrackable, and because of the high collisional velocities, even shrapnel as small as five millimeters can take out a spacecraft.17

#### Plan has to be immediate.

Nieto 9, Judge Henry Nieto, Colorado Court of Appeals. (8-20-2009, People v. Munoz, 240 P.3d 311 Colo. Ct. App. 2009)

"Should" is "used … to express duty, obligation, propriety, or expediency." Webster's Third New International Dictionary 2104 (200(2) Courts [\*\*15] interpreting the word in various contexts have drawn conflicting conclusions, although the weight of authority appears to favor interpreting "should" in an imperative, obligatory sense. HN7A number of courts, confronted with the question of whether using the word "should" in jury instructions conforms with the Fifth and Sixth Amendment protections governing the reasonable doubt standard, have upheld instructions using the word. In the courts of other states in which a defendant has argued that the word "should" in the reasonable doubt instruction does not sufficiently inform the jury that it is bound to find the defendant not guilty if insufficient proof is submitted at trial, the courts have squarely rejected the argument. They reasoned that the word "conveys a sense of duty and obligation and could not be misunderstood by a jury." See State v. McCloud, 257 Kan. 1, 891 P.2d 324, 335 (Kan. 1995); see also Tyson v. State, 217 Ga. App. 428, 457 S.E.2d 690, 691-92 (Ga. Ct. App. 1995) (finding argument that "should" is directional but not instructional to be without merit); Commonwealth v. Hammond, 350 Pa. Super. 477, 504 A.2d 940, 941-42 (Pa. Super. Ct. 1986). Notably, courts interpreting the word "should" in other types of jury instructions [\*\*16] have also found that the word conveys to the jury a sense of duty or obligation and not discretion. In Little v. State, 261 Ark. 859, 554 S.W.2d 312, 324 (Ark. 1977), the Arkansas Supreme Court interpreted the word "should" in an instruction on circumstantial evidence as synonymous with the word "must" and rejected the defendant's argument that the jury may have been misled by the court's use of the word in the instruction. Similarly, the Missouri Supreme Court rejected a defendant's argument that the court erred by not using the word "should" in an instruction on witness credibility which used the word "must" because the two words have the same meaning. State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958). [\*318] In applying a child support statute, the Arizona Court of Appeals concluded that a legislature's or commission's use of the word "should" is meant to convey duty or obligation. McNutt v. McNutt, 203 Ariz. 28, 49 P.3d 300, 306 (Ariz. Ct. App. 2002) (finding a statute stating that child support expenditures "should" be allocated for the purpose of parents' federal tax exemption to be mandatory).

#### Clawback statutes zero solvency---answers Kava.

Murray 17, J.D., 2017, and Stein Scholar, Fordham University School of Law; B.A., 2010, Vassar College (Sean, “With a Little Help from my Friends: How a US Judicial International Comity Balancing Test Can Foster Global Antitrust Redress,” https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2690&context=ilj)

In addition to these criticisms, the application of the Sherman Act to foreign defendants’ conduct, often legal under the laws of their own sovereigns, prompted controversy among US trading partners.101 Non-US litigants were concerned with the US government’s power to fine and imprison non-US defendants as well as the ability of US plaintiffs to subject non-US companies to expensive discovery and trebledamage exposure.102 As a consequence, US trading partners enacted legislation blocking discovery and permitting defendants to “claw back” the treble-damages portion of any private recovery that might be awarded by a US court.103

#### Sovereignty Disputes---the plan causes them.

Murray 17, J.D., 2017, and Stein Scholar, Fordham University School of Law; B.A., 2010, Vassar College (Sean, “With a Little Help from my Friends: How a US Judicial International Comity Balancing Test Can Foster Global Antitrust Redress,” <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2690&context=ilj>)

With nowhere else to go, private litigants have naturally flocked to the United States for remedial assistance, creating an issue for developing antitrust regimes.12 Several implications attend foreign plaintiffs seeking recovery in the United States. American courts have recognized the importance of allowing foreign plaintiffs to bring claims in the United States under the Sherman Act.13 Before 2004, there was a significant chance that parties injured abroad by global cartels that directly harmed the United States would be able to sue in US courts to recover their losses.14 But, as illustrated above, private litigants applying US antitrust law for redressing harm that occurred abroad create tensions over sovereignty with other countries.

Start FN 15

15. See, e.g., Joseph P. Griffin, Extraterritoriality in U.S. and EU Antitrust Enforcement, 67 ANTITRUST L.J. 159, 160-61 (1999) (discussing that aggressive extraterritorial application of the Sherman Act brought “considerable backlash from foreign governments”); Mark S. Popofsky, Extraterritoriality in U.S. Jurisprudence, in 3 ISSUES IN COMPETITION LAW AND POLICY 2417, 2423 (2008) (describing the controversy associated with US antitrust law extraterritoriality with US trading partners). See also infra § III

#### Extraterritorial antitrust craters growth and violates Chinese sovereignty. They’ll respond by backtracking on bilateral commitments.

Kava 19, JD/MBA Candidate @ JU (Samuel, “The Extraterritorial Application of the Sherman Anti-Trust Act in the Age of Globalization,” 15 J. Bus. & Tech. L. 135, Lexis)

Justice Scalia, in his dissenting opinion in Hartford Fire Insurance Co., highlighted many of these factors and determined that international comity barred the Sherman Anti-Trust Act’s extraterritorial application in that case.168 However, the majority decided to narrow the comity analysis by only considering if “the non-U.S. law must require the action being challenged so that ‘compliance with the laws of both countries is…impossible.’”169 This narrow comity analysis has led to the broadening of the Sherman Anti-Trust Acts extraterritorial application, which jeopardizes the economic well-being of the global economy. While some courts have disregarded the Supreme Court’s narrow comity analysis, by claiming that the Supreme Court “left unclear whether it was saying that the only relevant comity factor in that case was conflict with foreign law…or whether the Court was more broadly rejecting balancing of comity interests in any case where there is no true conflict,” Congress should expressly provide federal courts with a broad range of factors it should consider to ensure the United States respects the laws of other nations.170 Specifically, Congress should amend the FTAIA by explicitly providing that the Sherman Anti-Trust Act only applies extraterritorially in cases where it does not offend the sovereignty of a foreign nation. In essence, to ensure the economic prosperity of the global economy, the United States Congress should be proactive in amending the FTAIA. Specifically, Congress should prescribe a broad international comity test for courts to consider when deciding if the Sherman Anti-Trust Act should apply extraterritorially. If international comity is taken seriously, unlike its most recent application by the Supreme Court in Hartford Fire Insurance Co., there will be a greater degree of compliance by the international community and more certainty will be provided to consumers and producers. Moreover, federal courts should not wait until Congress amends the FTAIA. In fact, federal courts should, on its own accord, extensively apply an international comity analysis to every case where a foreign entity is involved. As was previously mentioned, some courts continue to apply a robust international comity analysis. Specifically, the Ninth Circuit Court of Appeals in Mujica v. Airscan Inc. considered: [T]he location of the conduct in question, the nationality of the parties, the character of the conduct in question, the foreign policy interests of the United States, any public policy interests, the strength of the foreign governments’ interests, and the adequacy of the alternative forum.171 Thus, until the United States Congress takes the necessary step to amend the FTAIA, federal courts should consider applying an international comity analysis to all cases that involve an international entity. By adopting a broad international comity analysis: (1) foreign nations would be less likely to adopt burdensome blocking statutes, (2) consumers and producers would have more certainty through unified laws, (3) the global economy will continue to prosper because of the certainty and predictability of the law, and (4) foreign nations may become more amenable to enter into bilateral treaties with the United States.

#### Sovereignty encroachments provoke Chinese escalation.

Fravel 20, Professor of Political Science and Director of the Security Studies Program @ MIT. (M Taylor, 6-26-2020, "China’s sovereignty obsession", *MIT Center for International Studies*, <https://cis.mit.edu/publications/analysis-opinion/2020/china%E2%80%99s-sovereignty-obsession>)

Rather, the pandemic appears to have increased Beijing’s sensitivity to questions of sovereignty, from Hong Kong and Taiwan to the East and South China Seas—and to the rugged Himalayan border with India. Facing pressure at home and criticism abroad, China wants to telegraph strength. Chinese officials worry that moderation and restraint might signal weakness both to domestic elites, who might question the leadership of President Xi Jinping, and to foreign countries embroiled in disputes with China. This heightened sensitivity to any challenge to its territorial claims has shaped China’s bristling response to what it views as an Indian provocation in their long-standing dispute.

Much ado about sovereignty

The clash in June was the product of a standoff between Chinese and Indian forces in several locations in the “western sector” of their contested border. This area, known as Aksai Chin, comprises roughly 33,000 square kilometers and is under Chinese control. (The “eastern sector,” roughly comprising the Indian state of Arunachal Pradesh, is 90,000 square kilometers and under Indian control, while the much smaller “middle sector” of around 2,000 square kilometers is under more or less evenly divided control.) Starting as early as mid-April, and definitely by early May, China moved large numbers of troops up to the “line of actual control” (LAC)—the de facto border separating Chinese and Indian forces—in three areas in the western sector. Reports vary, but the scale of China’s advance was unprecedented both in terms of the number of troops—around 5,000 soldiers—and in terms of location, with the People’s Liberation Army moving into areas in which it previously had not been active or maintained a strong presence. Chinese soldiers reportedly crossed what India views as the LAC at several points, including at the Galwan Valley, where the June 15 clash occurred.

Any understanding of these recent actions must start with the more strident approach to sovereignty that China has adopted since Xi Jinping became the general secretary of the Chinese Communist Party. In early 2013, Xi linked sovereignty with the accomplishment of his “China dream,” proclaiming that “no foreign country should expect us to trade away our core interests” or expect China “to swallow the bitter fruit” of encroachments upon its “sovereignty.” In 2018, Xi more pointedly told US Secretary of Defense James Mattis that China “cannot lose even one inch of the territory left behind by our ancestors.”