# Shirley---Round 2---vs. Trinity MN

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#### Biden PC will get BBB passed despite disagreements, but timing and focus is key

Laura Barron-Lopez 11/11, White House Correspondent for POLITICO, “Dems to White House: The only prescription is more Biden”, <https://www.politico.com/news/2021/11/11/dems-white-house-biden-520946>, November 11th, 2021

After months of deference to Congress, President Joe Biden moved more assertively last week to shepherd half his domestic agenda into law. With the other half still in limbo, Democrats want some of that Biden punch again.

Outside groups fear that congressional Democrats could come up short on Biden’s social spending package. They are concerned that moderates in the House may end up buckling if the budget scores on the bill come back worse than anticipated. And there is residual anxiety that one of the two wavering Senate Democrats — Joe Manchin of West Virginia and Kyrsten Sinema of Arizona — could vote “no” over concerns about inflation and long-term debt.

The clearest solution to avoiding this, they argue, is more Biden.

“All eyes are on the president, all expectations are on the president,” said Lorella Praeli, co-president of the progressive Community Change Action. “We are playing our role. We are mobilizing. We're reminding people everyday what this is about.”

Praeli added that Biden must ensure there aren’t future cuts to the package, which dropped from $3.5 trillion to $1.75 trillion to accommodate centrist Democrats in the House and Senate. “This is what he campaigned on. Only the president can deliver it in the end.”

Until last week, Biden’s involvement in negotiations had been more deferential than managerial. That befuddled lawmakers, who were waiting for him to draw red lines about which priorities he wants in and out of the deal or to even demand votes. To date, Biden has publicly refrained from drawing a red line around including paid leave in the final version of the legislation, leaving the leadership in the House at odds with centrists in the Senate.

But Biden did ramp up his involvement in the negotiations last week. And Democrats viewed that as key to getting an agreement in the House on their infrastructure bill, as well as on a rule to move forward with their social spending package, which funds universal pre-K, expands Medicare access, cuts taxes for families with children 18 years old and under, and combats climate change.

Now they want more. Expectations are high for Biden to keep the House to its promise of a vote on that social spending plan the week of Nov. 15.

“They basically made a promise,” said Rahna Epting, executive director of the progressive advocacy group MoveOn. “And Biden was able to get enough progressives to vote for the bipartisan infrastructure bill, on that promise. We are expecting Biden and the Democratic Caucus will make good on their word and pass the Build Back Better Act no later than Nov 15th as stated.”

White House officials contend that Biden and his team remain in close touch with the Hill, and their legislative affairs staff continues to push the social spending bill toward a vote. The White House said it is communicating regularly with a range of lawmakers including Manchin, but did not answer when asked whether Biden has spoken to the West Virginia senator or other moderates in recent days.

“There has been no kind of slowdown when it comes to our Hill outreach,” a White House official said.

The growing demands for Biden to stay heavily involved reflect a fear in the party that the window to act on the agenda is quickly closing, especially as concerns mount about lingering inflation and the midterms near. If the House meets its deadline next week and passes the social spending bill, some Democrats want Biden to issue a deadline for the Senate to act. Others noted that the end-of-year legislative calendar is short and brutal.

The “dynamic has totally changed,” said a Democratic strategist. “The president secured this agreement with the five holdouts for House passage of BBB next week and it’s on him to enforce it.”

A top climate operative echoed that assessment telling POLITICO that Biden “will have failed” on tackling climate change if the second piece of the agenda doesn’t pass.

But the operative also expressed a newfound fear that Biden’s current effort to sell the benefits of the infrastructure bill could distract or complicate Democrats’ attempt to keep public interested in the social spending plan.

"They need to sell [physical infrastructure] but also act like it's not enough," said the activist.

"How are they also creating the urgency for BBB to get done, for it to stay on the timeline of getting it done by Thanksgiving? It's a balancing act.”

Matt Bennett, co-founder of the moderate group Third Way, agreed that the dynamics were “tricky” in trying to sell one just-passed bill as historic while simultaneously making the case that another ambitious bill is needed. Biden will travel to New Hampshire and Michigan next week to highlight the money the infrastructure bill will direct toward new roads, bridges and transit projects across the country.

“This moment that we're in is hard,” said Bennett. “It will be much, much easier when both bills are completed. There is a very profound political imperative for Democrats to get this finished, to end the infighting and sausage-making and shift to creating a narrative about what Democrats have just done for Americans because they've been utterly unable to do that.”

A number of groups plan to amp up pressure next week as Congress returns. House Speaker Nancy Pelosi and the White House have repeated their desire to have a vote on the social spending plan by the end of next week. The Service Employees International Union will descend on Capitol Hill with some 500 union members, said Mary Kay Henry, the union’s president.

“We are escalating phone calls, text messages,” said Henry. “We're bringing members into Washington next Tuesday, we have the president's back, to get Congress to act quickly and get the full back package.”

Democratic outside groups have spent more than $150 million on TV and digital ads promoting the president’s social spending plan, known as “Build Back Better.” The League of Conservation Voters and Climate Power launched new digital ads calling on the five moderates who reached an agreement with the White House and House leadership last week to follow through on their commitment to pass the second piece of Biden’s economic agenda “next week.”

The longer it takes to pass the social spending plan, the harder it becomes to keep the party unified, Democrats warn, especially amid up-and-down economic news. A new report Wednesday revealed inflation hit 6.2 percent in October, its highest point in 31 years, contributing to high gas, car and food prices. It forced Biden to quickly issue a statement addressing the issue and ever-so-slightly shift his messaging, arguing that passage of the social spending plan would combat inflation.

“Inflation hurts Americans’ pocketbooks, and reversing this trend is a top priority for me,” Biden said in a statement. “It is important that Congress pass my Build Back Better plan, which is fully paid for and does not add to the debt, and will get more Americans working by reducing the cost of child care and elder care, and help directly lower costs for American families.”

#### The plan trades-off

Peter C. Carstensen 21, Fred W. & Vi Miller Chair in Law Emeritus at the University of Wisconsin Law School, LL.B. from Yale Law School, MA in Economics from Yale University, “The “Ought” and “Is Likely” of Biden Antitrust”, Concurrences – Antitrust Publications & Events, February 2021, 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.

#### Failure causes extinction

Jeff Goodell 21, American Author and Contributing Editor to Rolling Stone Magazine, Senior Fellow at the Atlantic Council and 2020 Guggenheim Fellow, “Joe Manchin Just Cooked the Planet,” Rolling Stone, 10-1-2021, https://www.rollingstone.com/politics/political-commentary/joe-manchin-reconcilation-bill-big-coal-1235597/amp/

West Virginia Sen. Joe Manchin just cooked the planet. I don’t mean that in a metaphorical sense. I mean that literally. Unless Manchin changes his negotiating position dramatically in the near future, he will be remembered as the man who, when the moment of decision came, chose to condemn virtually every living creature on Earth to a hellish future of suffering, hardship, and death.

Quite a legacy. But he has earned it.

Last night, during the insane and at times comical negotiations over President Biden’s infrastructure bill and his $3.5 trillion Build Back Better agenda (aka the reconciliation bill), Manchin let it be known that he was not going to vote for any measure above $1.5 trillion. And because Democrats can’t afford to lose a single vote in the Senate, if Manchin won’t vote for it, the reconciliation bill won’t pass.

The $3.5 trillion reconciliation bill includes a long list of programs and tax reforms that will help reduce poverty and improve the social safety net, such as universal child tax credit, universal pre-K, free community college, and an expansion of Medicare. But it is also the primary vehicle for President Biden’s ambitious climate action agenda, including cuts in subsidies for the fossil fuel industry, and, most importantly, the Clean Energy Performance Package (CEPP), which is a clean energy standard that incentivizes power companies to shift away from fossil fuels.

From a climate point of view, the importance of these climate policy measures is impossible to overstate. In order to have a decent chance at maintaining a habitable planet, scientists agree that the world needs to zero out carbon pollution by 2050. And to have any shot at that, we have to start moving now. Every year, every month, every hour of delay makes that goal more difficult to achieve, and increases the risks of accelerated climate chaos that will make this past summer of hellish wildfires, storms, and droughts look like the good old days.

The zero carbon by 2050 goal is not a political slogan or environmentalist’s dream. It is what the best scientists in the world are telling us we need to do to avert climate catastrophe. It is also the basis for Biden’s goal of a 100 percent clean energy grid by 2035, and a 50 percent reduction in CO2 pollution by 2030. For Biden, taking strong action on climate is not just important in itself. It is also key to giving the U.S. climate negotiators something to bring to the table at the upcoming Glasgow climate talks, which begin on October 31st. After President Trump pulled the U.S. out of the Paris climate deal, the rest of the world has looked at the U.S. with distrust. Passage of strong climate measures in Congress before the Glasgow meeting would not only rehabilitate America’s standing as a nation that takes its contribution to solving the climate crisis seriously, but give U.S. negotiators leverage to push other nations to take action.

For Biden, and for the world, it all rests on the ability to get the reconciliation bill through Congress. With Republicans not willing to do anything, this was the only chance they had to get climate policy through. It was a gamble, but it was a gamble they had to take.

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#### ‘Antitrust’ applies to the entire economy---targeting single industries isn’t topical

Dr. Babette Boliek 11, Associate Professor of Law at Pepperdine University School of Law, J.D. from the Columbia University School of Law, and Ph.D. in Economics from the University of California, Davis, “FCC Regulation Versus Antitrust: How Net Neutrality is Defining the Boundaries”, Boston College Law Review, 52 B.C. L. Rev. 1627, November 2011, Lexis

Although the two regimes share a commonality of purpose--to protect consumers and to promote allocative efficiencies in production--the two have quite distinct, predominately opposing, means of securing social benefits. As Justice Stephen Breyer stated when serving [\*1629] as a judge on the U.S. Court of Appeals for the First Circuit, although regulation and the antitrust laws "typically aim at similar goals--i.e., low and economically efficient prices, innovation, and efficient production methods"--regulation looks to achieve these goals directly "through rules and regulations; [but] antitrust seeks to achieve them indirectly by promoting and preserving a process that tends to bring them about." The battle between these two regimes may be broadly summarized in a single issue thusly: in the face of the industry-specific regulator, what is (or what should be) the role of antitrust law?

Antitrust law preserves the process of competition across all industries by condemning anticompetitive conduct when it occurs. In contrast, industrial regulation by its nature is a public declaration that, in a given industry, market forces are too weak or underdeveloped to produce the consumer benefits that are realized in competitive markets--regulated industries are carved out from the rest of the economy and are subject to proactive, regulatory intervention that goes above and beyond antitrust enforcement measures. Not surprisingly, regulatory agencies were historically created as substitutes for market forces in the few markets that, by the nature of the product or technology, were natural monopolies or severely prone to monopoly. In the vast majority [\*1630] of markets, however, the antitrust law is the default government control, designed to supplement market forces to inhibit or prevent the growth of monopoly.

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

#### Vote neg:

#### Limits---they devolve into hundreds of specific subsets like aviation, ag, defense or rail AND allow thousands of cases that deny single mergers OR regulate individual companies like Facebook or Amazon

#### Ground---economy-wide change ensures links to core generics like biz con and politics by forcing the aff to structurally change antitrust AND be big enough to deviate from the background noise of daily enforcement actions

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#### The plan sends a protectionist shockwave that ends the last semblance of global free trade

Allison Murray 19, JD from the Loyola Law School, Los Angeles Law School, BS in Business Administration from the University of Redlands, Judicial Law Clerk at the U.S. Bankruptcy Courts, Former Corporate Paralegal at Boeing, Degree in Economics and Management from the University of Oxford, “Given Today's New Wave of Protectionism, Is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?”, Loyola of Los Angeles International and Comparative Law Review, Volume 42, Number 1, 42 Loy. L.A. Int'l & Comp. L. Rev. 117, Winter 2019, p. 117-119

INTRODUCTION

Trump. Le Pen. Brexit. Protectionist rhetoric has consumed the international political stage. Western countries and their leaders were once the drivers of economic globalization, relying on free-market speeches and the prospect of removing trade barriers to appeal to their constituents. 1They pointed fingers at other countries engaging in or encouraging protectionist behavior and challenged them in the court of public opinion and elsewhere to stop their antics. The "our country first, world trade after" mentality was widely politicized and vilified. Now, it seems that Western national leaders are championing the very protectionism that they once criticized. 2

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. [\*118] Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences.

Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders' best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law. 3So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims.

Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States ("U.S."), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally. 4To remedy bad behavior in a specialized set of industries is not to instigate a global paradigm shift. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes. 5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations.

Trump is not the only high-profile leader flirting with staunch protectionism. Western leaders in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western lawmakers themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions [\*119] that could counteract that progress. 6Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies.

Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be forced to rely on existing avenues to meet protectionist aims. Again, we find ourselves relying squarely on antitrust law, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization ("WTO"), "once formal trade barriers come down, other issues become more important." 7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures.

Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause the death of even the smallest semblance of international free trade that remains in the international marketplace today.

#### Nuclear war

Dr. Michael F. Oppenheimer 21, Clinical Professor at the Center for Global Affairs at New York University, Senior Consulting Fellow for Scenario Planning at the International Institute for Strategic Studies, Former Executive Vice President at The Futures Group, Member of the Council on Foreign Relations, The Foreign Policy Roundtable at the Carnegie Council on Ethics and International Affairs, and The American Council on Germany, “The Turbulent Future of International Relations”, in The Future of Global Affairs: Managing Discontinuity, Disruption and Destruction, Ed. Ankersen and Sidhu, p. 23-30

Four structural forces will shape the future of International Relations: globalization (but without liberal rules, institutions, and leadership)1; multipolarity (the end of American hegemony and wider distribution of power among states and non-states2); the strengthening of distinctive, national and subnational identities, as persistent cultural differences are accentuated by the disruptive effects of Western style globalization (what Samuel Huntington called the “non-westernization of IR”3); and secular economic stagnation, a product of longer term global decline in birth rates combined with aging populations.4 These structural forces do not determine everything. Environmental events, global health challenges, internal political developments, policy mistakes, technology breakthroughs or failures, will intersect with structure to define our future. But these four structural forces will impact the way states behave, in the capacity of great powers to manage their differences, and to act collectively to settle, rather than exploit, the inevitable shocks of the next decade.

Some of these structural forces could be managed to promote prosperity and avoid war. Multipolarity (inherently more prone to conflict than other configurations of power, given coordination problems)5 plus globalization can work in a world of prosperity, convergent values, and effective conflict management. The Congress of Vienna system achieved relative peace in Europe over a hundred-year period through informal cooperation among multiple states sharing a fear of populist revolution. It ended decisively in 1914. Contemporary neoliberal institutionalists, such as John Ikenberry, accept multipolarity as our likely future, but are confident that globalization with liberal characteristics can be sustained without American hegemony, arguing that liberal values and practices have been fully accepted by states, global institutions, and private actors as imperative for growth and political legitimacy.6 Divergent values plus multipolarity can work, though at significantly lower levels of economic growth-in an autarchic world of isolated units, a world envisioned by the advocates of decoupling, including the current American president. 7 Divergent values plus globalization can be managed by hegemonic power, exemplified by the decade of the 1990s, when the Washington Consensus, imposed by American leverage exerted through the IMF and other U.S. dominated institutions, overrode national differences, but with real costs to those states undergoing “structural adjustment programs,”8 and ultimately at the cost of global growth, as states—especially in Asia—increased their savings to self insure against future financial crises.9

But all four forces operating simultaneously will produce a future of increasing internal polarization and cross border conflict, diminished economic growth and poverty alleviation, weakened global institutions and norms of behavior, and reduced collective capacity to confront emerging challenges of global warming, accelerating technology change, nuclear weapons innovation and proliferation. As in any effective scenario, this future is clearly visible to any keen observer. We have only to abolish wishful thinking and believe our own eyes.10

Secular Stagnation

This unbrave new world has been emerging for some time, as US power has declined relative to other states, especially China, global liberalism has failed to deliver on its promises, and totalitarian capitalism has proven effective in leveraging globalization for economic growth and political legitimacy while exploiting technology and the state’s coercive powers to maintain internal political control. But this new era was jumpstarted by the world financial crisis of 2007, which revealed the bankruptcy of unregulated market capitalism, weakened faith in US leadership, exacerbated economic deprivation and inequality around the world, ignited growing populism, and undermined international liberal institutions. The skewed distribution of wealth experienced in most developed countries, politically tolerated in periods of growth, became intolerable as growth rates declined. A combination of aging populations, accelerating technology, and global populism/nationalism promises to make this growth decline very difficult to reverse. What Larry Summers and other international political economists have come to call “secular stagnation” increases the likelihood that illiberal globalization, multipolarity, and rising nationalism will define our future. Summers11 has argued that the world is entering a long period of diminishing economic growth. He suggests that secular stagnation “may be the defining macroeconomic challenge of our times.” Julius Probst, in his recent assessment of Summers’ ideas, explains:

…rich countries are ageing as birth rates decline and people live longer. This has pushed down real interest rates because investors think these trends will mean they will make lower returns from investing in future, making them more willing to accept a lower return on government debt as a result.

Other factors that make investors similarly pessimistic include rising global inequality and the slowdown in productivity growth…

This decline in real interest rates matters because economists believe that to overcome an economic downturn, a central bank must drive down the real interest rate to a certain level to encourage more spending and investment… Because real interest rates are so low, Summers and his supporters believe that the rate required to reach full employment is so far into negative territory that it is effectively impossible.

…in the long run, more immigration might be a vital part of curing secular stagnation. Summers also heavily prescribes increased government spending, arguing that it might actually be more prudent than cutting back – especially if the money is spent on infrastructure, education and research and development.

Of course, governments in Europe and the US are instead trying to shut their doors to migrants. And austerity policies have taken their toll on infrastructure and public research. This looks set to ensure that the next recession will be particularly nasty when it comes… Unless governments change course radically, we could be in for a sobering period ahead.12

The rise of nationalism/populism is both cause and effect of this economic outlook. Lower growth will make every aspect of the liberal order more difficult to resuscitate post-Trump. Domestic politics will become more polarized and dysfunctional, as competition for diminishing resources intensifies. International collaboration, ad hoc or through institutions, will become politically toxic. Protectionism, in its multiple forms, will make economic recovery from “secular stagnation” a heavy lift, and the liberal hegemonic leadership and strong institutions that limited the damage of previous downturns, will be unavailable. A clear demonstration of this negative feedback loop is the economic damage being inflicted on the world by Trump’s trade war with China, which— despite the so-called phase one agreement—has predictably escalated from negotiating tactic to imbedded reality, with no end in sight. In a world already suffering from inadequate investment, the uncertainties generated by this confrontation will further curb the investments essential for future growth. Another demonstration of the intersection of structural forces is how populist-motivated controls on immigration (always a weakness in the hyper-globalization narrative) deprives developed countries of Summers’ recommended policy response to secular stagnation, which in a more open world would be a win-win for rich and poor countries alike, increasing wage rates and remittance revenues for the developing countries, replenishing the labor supply for rich countries experiencing low birth rates.

Illiberal Globalization

Economic weakness and rising nationalism (along with multipolarity) will not end globalization, but will profoundly alter its character and greatly reduce its economic and political benefits. Liberal global institutions, under American hegemony, have served multiple purposes, enabling states to improve the quality of international relations and more fully satisfy the needs of their citizens, and provide companies with the legal and institutional stability necessary to manage the inherent risks of global investment. But under present and future conditions these institutions will become the battlegrounds—and the victims—of geopolitical competition. The Trump Administration’s frontal attack on multilateralism is but the final nail in the coffin of the Bretton Woods system in trade and finance, which has been in slow but accelerating decline since the end of the Cold War. Future American leadership may embrace renewed collaboration in global trade and finance, macroeconomic management, environmental sustainability and the like, but repairing the damage requires the heroic assumption that America’s own identity has not been fundamentally altered by the Trump era (four years or eight matters here), and by the internal and global forces that enabled his rise. The fact will remain that a sizeable portion of the American electorate, and a monolithically pro- Trump Republican Party, is committed to an illiberal future. And even if the effects are transitory, the causes of weakening global collaboration are structural, not subject to the efforts of some hypothetical future US liberal leadership. It is clear that the US has lost respect among its rivals, and trust among its allies. While its economic and military capacity is still greatly superior to all others, its political dysfunction has diminished its ability to convert this wealth into effective power.13 It will furthermore operate in a future system of diffusing material power, diverging economic and political governance approaches, and rising nationalism. Trump has promoted these forces, but did not invent them, and future US Administrations will struggle to cope with them.

What will illiberal globalization look like? Consider recent events. The instruments of globalization have been weaponized by strong states in pursuit of their geopolitical objectives. This has turned the liberal argument on behalf of globalization on its head. Instead of interdependence as an unstoppable force pushing states toward collaboration and convergence around market-friendly domestic policies, states are exploiting interdependence to inflict harm on their adversaries, and even on their allies. The increasing interaction across national boundaries that globalization entails, now produces not harmonization and cooperation, but friction and escalating trade and investment disputes.14 The Trump Administration is in the lead here, but it is not alone. Trade and investment friction with China is the most obvious and damaging example, precipitated by China’s long failure to conform to the World Trade Organization (WTO) principles, now escalated by President Trump into a trade and currency war disturbingly reminiscent of the 1930s that Bretton Woods was designed to prevent. Financial sanctions against Iran, in violation of US obligations in the Joint Comprehensive Plan Of Action (JCPOA), is another example of the rule of law succumbing to geopolitical competition. Though more mercantilist in intent than geopolitical, US tariffs on steel and aluminum, and their threatened use in automotives, aimed at the EU, Canada, and Japan,15 are equally destructive of the liberal system and of future economic growth, imposed as they are by the author of that system, and will spread to others. And indeed, Japan has used export controls in its escalating conflict with South Korea16 (as did China in imposing controls on rare earth,17 and as the US has done as part of its trade war with China). Inward foreign direct investment restrictions are spreading. The vitality of the WTO is being sapped by its inability to complete the Doha Round, by the proliferation of bilateral and regional agreements, and now by the Trump Administration’s hold on appointments to WTO judicial panels. It should not surprise anyone if, during a second term, Trump formally withdrew the US from the WTO. At a minimum it will become a “dead letter regime.”18

As such measures gain traction, it will become clear to states—and to companies—that a global trading system more responsive to raw power than to law entails escalating risk and diminishing benefits. This will be the end of economic globalization, and its many benefits, as we know it. It represents nothing less than the subordination of economic globalization, a system which many thought obeyed its own logic, to an international politics of zero-sum power competition among multiple actors with divergent interests and values. The costs will be significant: Bloomberg Economics estimates that the cost in lost US GDP in 2019- dollar terms from the trade war with China has reached $134 billion to date and will rise to a total of $316 billion by the end of 2020.19 Economically, the just-in-time, maximally efficient world of global supply chains, driving down costs, incentivizing innovation, spreading investment, integrating new countries and populations into the global system, is being Balkanized. Bilateral and regional deals are proliferating, while global, nondiscriminatory trade agreements are at an end.

Economies of scale will shrink, incentivizing less investment, increasing costs and prices, compromising growth, marginalizing countries whose growth and poverty reduction depended on participation in global supply chains. A world already suffering from excess savings (in the corporate sector, among mostly Asian countries) will respond to heightened risk and uncertainty with further retrenchment. The problem is perfectly captured by Tim Boyle, CEO of Columbia Sportswear, whose supply chain runs through China, reacting to yet another ratcheting up of US tariffs on Chinese imports, most recently on consumer goods:

We move stuff around to take advantage of inexpensive labor. That’s why we’re in Bangladesh. That’s why we’re looking at Africa. We’re putting investment capital to work, to get a return for our shareholders. So, when we make a wager on investment, this is not Vegas. We have to have a reasonable expectation we can get a return. That’s predicated on the rule of law: where can we expect the laws to be enforced, and for the foreseeable future, the rules will be in place? That’s what America used to be.20

The international political effects will be equally damaging. The four structural forces act on each other to produce the more dangerous, less prosperous world projected here. Illiberal globalization represents geopolitical conflict by (at first) physically non-kinetic means. It arises from intensifying competition among powerful states with divergent interests and identities, but in its effects drives down growth and fuels increased nationalism/populism, which further contributes to conflict. Twenty-first-century protectionism represents bottom-up forces arising from economic disruption. But it is also a top-down phenomenon, representing a strategic effort by political leadership to reduce the constraints of interdependence on freedom of geopolitical action, in effect a precursor and enabler of war. This is the disturbing hypothesis of Daniel Drezner, argued in an important May 2019 piece in Reason, titled “Will Today’s Global Trade Wars Lead to World War Three,”21 which examines the pre- World War I period of heightened trade conflict, its contribution to the disaster that followed, and its parallels to the present:

Before the First World War started, powers great and small took a variety of steps to thwart the globalization of the 19th century. Each of these steps made it easier for the key combatants to conceive of a general war. We are beginning to see a similar approach to the globalization of the 21st century. One by one, the economic constraints on military aggression are eroding. And too many have forgotten—or never knew—how this played out a century ago.

…In many ways, 19th century globalization was a victim of its own success. Reduced tariffs and transport costs flooded Europe with inexpensive grains from Russia and the United States. The incomes of landowners in these countries suffered a serious hit, and the Long Depression that ran from 1873 until 1896 generated pressure on European governments to protect against cheap imports.

…The primary lesson to draw from the years before 1914 is not that economic interdependence was a weak constraint on military conflict. It is that, even in a globalized economy, governments can take protectionist actions to reduce their interdependence in anticipation of future wars. In retrospect, the 30 years of tariff hikes, trade wars, and currency conflicts that preceded 1914 were harbingers of the devastation to come. European governments did not necessarily want to ignite a war among the great powers. By reducing their interdependence, however, they made that option conceivable.

…the backlash to globalization that preceded the Great War seems to be reprised in the current moment. Indeed, there are ways in which the current moment is scarier than the pre-1914 era. Back then, the world’s hegemon, the United Kingdom, acted as a brake on economic closure. In 2019, the United States is the protectionist with its foot on the accelerator. The constraints of Sino-American interdependence—what economist Larry Summers once called “the financial balance of terror”—no longer look so binding. And there are far too many hot spots—the Korean peninsula, the South China Sea, Taiwan—where the kindling seems awfully dry.

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#### The United States federal government should establish and advocate a framework for contingent international cooperation that serial criminality by domestic financial institutions is an anti-competitive private sector business practice prohibited by core anti-trust laws.

#### The CP’s framework multilateralizes antitrust---explicit reciprocity bypasses generic barriers AND spills over to deep economic integration

Dr. Daniel Francis 21, Climenko Fellow and Lecturer on Law at Harvard Law School, Doctorate of Laws Degree from the NYU School of Law, Master of Laws Degree from Harvard University, JD from Trinity College at Cambridge University, Former Deputy Director of the Federal Trade Commission, “Choices and Consequences: Internationalizing Competition Policy after TPP”, in Megaregulation Contested: The Global Economic Order After TPP, Ed. Kingsbury, Revised 8/26/2021, p. 40-48

B. Between Contracts and Networks: Frameworks

Another dichotomy that dominates the integration of competition policy pertains to the forms of internationalization, which in the competition policy space have generally been dominated by contract-style treaties on the one hand and by open networks on the other.166 Between these two models lies what seems to be an under-utilized alternative, which I call a “framework for contingent cooperation.”

[FOOTNOTE] 166 This binary view dominates the literature. See, e.g., Edward M. Graham, “Internationalizing” Competition Policy: An Assessment of the Two Main Alternatives, 48 Antitrust Bull. 947, 949 (2003) (“[M]echanisms [for antitrust internationalization] range from bilateral treaties creating arrangements for cooperation between or among national competition law enforcement agencies to informal working arrangements among agencies.”); Eleanor M. Fox, International Antitrust and the Doha Dome, 43 Va. J. Int’l L. 911, 912 (2003) (contrasting “horizontalism” with “globalism”); Anu Piilola, Assessing Theories of Global Governance: A Case Study of International Antitrust Regulation, 39 Stan. J. Int'l L. 207, 247 (2003) (“Rather than drafting overarching multilateral agreements on antitrust laws, cooperation efforts in the immediate future are more likely to succeed in managing existing diversity and promoting voluntary convergence based on approximation of domestically applied standards. Networks of antitrust authorities are well-suited to facilitate this process of cooperation and voluntary convergence.”). [END FOOTNOTE]

A “framework” in the sense that I am using that term is a facilitative arrangement that does not constitute a treaty under international law,167 and which does not carry the charge of international legal obligation, but which involves an exchange of specific and reciprocally contingent commitments by participant jurisdictions to engage in mutually beneficial conduct. Specifically, each party states that it will extend certain benefits to each other party so long as each other does likewise; the parties may also create supplementary mechanisms to monitor and/or adjudicate compliance with these commitments.168

A framework of this kind is not a treaty: it is what Kal Raustiala calls a “pledge,”169 and what Charles Lipson calls an “informal” agreement,170 involving no legal obligation, and it involves no commitment of the parties’ reputation for law-abiding behavior.171 On the other hand, it differs from an open, information-sharing network because it precisely specifies behavioral commitments, and because each of the parties shares an understanding that concrete consequences will promptly follow—exclusion from the benefits provided by others—if its behavior materially deviates from the terms of the commitment.172 A framework is therefore essentially a specific declaration of intention to engage in conduct that benefits others, contingent upon parallel behavior by other participating states, without obligatory status under international law.

This is, in some sense, the direct opposite of the approach typically taken in competition policy chapters in trade agreements. The provisions of competition policy chapters partake of the substance of treaty law, but are generally framed in broad terms rather than specifics, and generally do not reflect a shared understanding that specific consequences will attend breach. By contrast, frameworks do not bind in international law, are framed in specific terms than aspirational generalities, and reflect an understanding that the benefits of cooperation will be withdrawn in the event of violation.

Contingent cooperation thus depends for its effectiveness primarily upon three important dynamics. The first and most important of these is the rationality of strategic cooperation. A familiar mainstream view holds that to a significant extent states behave in international society in ways that rationally serve their interests.173 And when cooperation over a series of interactions is overall in the interests of each member of a group, but when each member faces a rational incentive to defect from the terms of cooperation in individual cases, familiar economic theory teaches that a strategic cooperative equilibrium can be maintained among the parties.174 In contingent cooperation, each party understands that if it defects materially from the terms of the framework, the other participants will withdraw the excludable benefits of cooperation, and this provides the incentive to comply.175

Contingent cooperation can be made more stable by the introduction of certain structures designed to monitor compliance (just as with a cartel among private companies).176 This might among other things involve the creation of a central “facilitator” that is responsible, in a general sense, for obtaining, collecting, and processing information necessary to sustain a cooperative equilibrium.177 Depending on the purpose and scope of the cooperation project, this could include (for example): reviewing the text of laws, regulations, and policy documents for consistency with the terms of the framework; conducting peer-review-style evaluations and certifications; hosting voluntary dispute resolution processes, including mediation and/or arbitration, to determine whether and when the framework has been violated; or even receiving and handling complaints of violations ombudsman-fashion (i.e., receiving the complaint, giving the subject of the complaint an opportunity to respond, and publishing findings and conclusions). A central facilitator could also go beyond a policing function and offer a common forum for certain forms of cooperation and information sharing. The nature of such broader functions, and the extent to which they would be useful or desirable, would depend on the nature and purpose of the cooperation.

The second dynamic that powers contingent cooperation is the normative appeal of the project itself. The point here is not unlike what Gráinne de Búrca calls “mission legitimacy”: the normative force of the underlying purpose of a cooperative project, and specifically the power of that normativity to secure the acceptance and cooperation of those who participate.178 Parties joining projects of contingent cooperation can be expected to be in some sense self-selecting: they join such endeavors because, in part, they are genuinely committed to promoting and achieving the ends that the project represents, and they embrace the project of cooperation as worthwhile.179 It may sound a little naïve to suggest that a project of cooperation may be more likely to “stick” if it has some normative appeal to the participating polities, but legal scholarship has long recognized that states do what they undertake to do more often than strictly rational analysis would predict.180 And I think the proposition that genuine commitment to a goal can contribute to compliance is in truth somewhat less naïve than the converse idea that compliance is just as likely without it.

The third source of a framework’s effectiveness is to be found in the acculturative and socializing effects of interaction in an environment in which values and practices are shared and reinforced as normative, and in which attention is paid to the existence and nature of violations. There is a rich and complex literature on the ways in which states, state actors, and the individuals within them may be “socialized” or “acculturated” by repeated engagement with others through common institutions and shared environments of normativity, eventually contributing to the emergence of obligations with genuine normative force.181 Jutta Brunnée and Stephen Toope have pointed out ways in which the force of legal obligation itself arises from shared communities of practice grounded in social reality and shared understandings, not formal commitments.182 As they put it, “[s]tability may be aided by explicit articulation of a norm in a text, but it is ultimately dependent upon [an] underlying shared understanding and a continuous practice of legality.”183

Participation in an endeavor of contingent cooperation may help to engender the development of such understandings and practices, and these may contribute to the effectiveness of the framework. In the longer term, this may even result in the creation of a legal instrument. But this progression is not necessary for acculturation to exert a reinforcing effect: for, as Anu Bradford accurately notes, there is no reason to think that “the pathway from nonbinding to binding rules” is an inevitable or even a natural one.184

The distinctive value of a framework is that it provides a low-cost way for jurisdictions to explore and participate in possible arrangements of mutual benefit that depend upon shared concrete understandings regarding future behavior, but without bearing the burden of an obligation under international law, without running the reputational risk of having to break a treaty, and without facing the domestic hurdles (or political scrutiny) that a treaty would necessitate.185 Use of such a framework may help to reduce the concerns grounded in political morality that might otherwise attend inter-jurisdictional action in sensitive areas:186 to use a term I have coined elsewhere, as contingent practices from which states could withdraw at any time, frameworks would benefit from considerable resources of “exit legitimacy.”187

Frameworks are not suited to every application. They seem particularly apt for types of international cooperation that generate excludable benefits for other participants and can be reasonably well monitored: in the sphere of competition policy, for example, this would include commitments to provide nondiscriminatory access to procurement markets as well as many forms of antitrust cooperation (including cooperation with one another’s investigations, coordination of enforcement activity, the operation of joint filing systems for merger review and cartel leniency programs, and so on). Certain guarantees of nondiscriminatory treatment by SOEs could also be extended on a selective basis. On the other hand, contingent cooperation is much less suitable for projects that require strong and highly credible guarantees of commitment from the participants (in which case a traditional treaty-contract would seem more appropriate188) or groups of parties still lacking the prerequisite agreement on the terms and ambit of desirable cooperation. Nor is it suitable in the absence of sufficient confidence in the ability or incentive of other parties to deliver on their commitments: in these cases, open dialogue and information exchange through a network would seem preferable. Nor, obviously, is it a good fit for projects in which the benefits of cooperation are non-excludable.189 To pick an obvious example, contingent cooperation would not recommend itself as a natural choice for an international project to introduce SOE discipline: the benefits are non-excludable (there is no obvious way to withdraw them selectively in the event of defection) and compliance is very difficult to monitor, so the use of a framework is unlikely to make much of a contribution.190

#### Only harmonized transnational antitrust solves the case---compliance and competition require streamlining the regulatory drag of conflicting legal systems, but the plan’s ad hoc unilateralism proliferates it

Camilla Jain Holtse 20, Associate General Counsel in Maersk Line, LL.M in European Law from King’s College, Master’s Degree from University of Aarhus, “Navigating Through Uncertain Waters—The Importance of Legal Certainty, Predictability, and Transparency in Future Antitrust Enforcement”, Journal of European Competition Law & Practice, Volume 11, Issue 8, October 2020, p. 446-447

I. Global developments suggest increased need for legal certainty in rulemaking and enforcement

Companies today operate in an increasingly globalised world, interconnected via digital platforms and ecosystems. The technological revolution is accelerating at an ever-increasing speed. It promises to fundamentally alter both the competitive landscape and the tools by which competition is regulated. Against this backdrop, the world is facing substantial environmental challenges with mounting pressure on businesses to change the way they operate, including an increasing need for firms to collaborate to achieve social goals and increased efficiency that no one firm could achieve independently.

While some progress has been made towards a unified view of competition law, companies are also facing rising geopolitical tensions that have led to protectionist measures and the pursuit of industrial policy objectives under the guise of competition law enforcement. Concepts including national security, full employment, and ‘fair’ or ‘level’ pricing frequently introduce domestic protection concerns into traditional economic tests. With the proliferation of competition regimes, now well over 100, the potential for regulatory drag on the global markets increases exponentially. Having spent the last two decades as competition counsel, I can say with certainty that the complexity of the legal landscape and uncertainty and unpredictability as to compliance with competition law regulations have increased dramatically in recent years both at a global and EU level. Companies are struggling to achieve legal competition law compliance despite consistent efforts including scaling up their compliance departments.

As our markets continue to evolve in the face of technology and sustainability and other social goals, it is now more important than ever for the European Commission (‘the Commission’) to ensure legal certainty, both in rulemaking and in enforcement. The costs associated with uncertainty should not be underestimated, particularly as the Commission considers new enforcement tools designed to address competition structures and practices that may fall outside of traditional economic analyses. Not only is transparency and predictability vital for the proper functioning of the European Economic Area, but it would also send a much-needed signal to the rest of the world. Conversely, if, in any new enforcement system transparency and predictability do not prevail, the Commission’s efforts would likely serve to indirectly legitimise non-transparent and unpredictable protectionist systems in other countries, not founded on the rule of law and due process.

Even if one of the key roles of the Commission is to enforce competition law, it is important to keep in mind that competition policy and enforcement are tools of economic policy. Implemented well, competition policy can stimulate economic growth and competitiveness but, if not, it can be a significant regulatory brake on investment, economic development, and sustainability advances.

#### Normative convergence through antitrust harmonization prevents extinction from resource depletion, human rights abuse, and war

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A. The international political environment

At the root of international political theory is the fundamental maxim that relations between sovereign nations in the absence of mitigating factors is characterized by intense competition, mutual distrust, the inability to make credible commitments, and war.20

[FOOTNOTE] 20 Political scientists characterize the international system as “anarchic.” In the absence of world government (or other mitigating force), competition between states is largely unregulated by external laws or enforcement. The world is characterized by mistrust, the inability to contract, and the ultimate reliance on a state’s own devices. See THOMAS HOBBES, LEVIATHAN 80 (Edwin Curley ed., 1994) (in the state of nature “the condition of man . . . is a condition of war of everyone against everyone”). In fuller terms:

There is no authoritative allocator of resources: we cannot talk about a ‘world society’ making decisions about economic outcomes. No consistent and enforceable set of comprehensive rules exists. If actors are to improve their welfare through coordinating their policies, they must do so through bargaining rather than by invoking central direction. In world politics, uncertainty is rife, making agreements is difficult, and no secure barriers prevent military and security questions from impinging on economic affairs.

ROBERT O. KEOHANE, AFTER HEGEMONY: COOPERATION AND DISCORD IN THE WORLD POLITICAL ECONOMY 18 (1984). Efficiency-enhancing gains from trade are difficult to appropriate because trade itself (and any other form of exchange or agreement between nations) is characterized by the absence of credible commitments to future behavior. And underlying the problem is the ever-present threat of the use of force. See, e.g., Kenneth N. Waltz, Anarchic Orders and Balances of Power, in NEOREALISM AND ITS CRITICS 98, 98 (Robert O. Keohane ed. 1986) (“The state among states . . . conducts its affairs in the brooding shadow of violence . . . . Among states, the state of nature is a state of war.”). Although this dire characterization of the international environment is, of course, a stylized approximation of the real world—there are always overlying constraints on sovereign behavior in the form of norms, reputational effects, and customary international law, HEDLEY BULL, THE ANARCHICAL SOCIETY: A STUDY OF ORDER IN WORLD POLITICS (1977)—it is a useful and widely accepted heuristic for crafting a theory of international politics. [END FOOTNOTE]

As one commentator notes, “Nations dwell in perpetual anarchy, for no central authority imposes limits on the pursuit of sovereign interests.”21 And states are “unitary actors who, at a minimum, seek their own preservation and, at a maximum, drive for universal domination.”22 As a result, states operating on the international stage are unable to judge the sincerity of each others’ stated intentions when those intentions are contrary to this manifest interest. Because of self-help rules, states are forced in the main to assess their own security environment by assessing the capabilities of competitors, downplaying their motives. Given that the nature of the competition can implicate the fundamental survival of one (or more) of the actors, actions taken by one state to improve its own security must necessarily decrease the security of its competitor; in the absence of mitigation, security is a zero-sum game.23 In a world where cooperation is exceedingly difficult (because there is no authority to enforce agreements, nor any basis for assessing the reliability of another state’s commitments), international relations are characterized by a continuous race to the bottom, a mindless arms race rather than the opportunity to realize gains from cooperation.

It is obvious that not all relations between states are characterized by the security dilemma, however. Canada, for example, shares an unprotected border with the most powerful nation in the world without degenerating into a destructive and costly arms race. By some mechanism, then, Canada must be able reliably to judge U.S. intentions, even absent the apparent ability by the United States credibly to bind itself to a nonaggressive policy toward Canada. The key to mitigating the pressures of the security dilemma is the ability to distinguish a state with aggressive and expansionist tendencies from a benign one.24 States can be distinguished by their fundamental type. They can be classified as “revisionist,” that is, they seek to subvert the dominant order, or they can be classified as “status quo,” that is, they seek to support it.25 But, as noted, a state’s ability to judge another’s intentions (as opposed simply to counting its armaments) is extremely tenuous and comes at great cost. In fact, political science offers few well-understood mechanisms for judging a state’s propensity for aggression.

At the same time, hegemonic states have an abiding interest in spreading and maintaining their dominant worldview.26 Not only is it imperative that dominant states receive credible signals about other states’ intentions, but it is also important that dominant states attempt to inculcate their norms within other states that, over time, might mount credible challenges to the dominant states’ security.27 The spread of hegemony through internalization of norms occurs for three reasons. First, states with similar institutions and sympathetic domestic norms are simply better and more reliable trading partners, and it is in the hegemon’s economic interest to instill its norms.28 Second, states with defensive military postures and that adhere to the status quo present significantly less security risk to dominant states.29 And finally, the hegemon has a normative interest in the spread of its culture, its worldview, and its norms.30 This conception of the playing field upon which states interact leads to the conclusion that, entirely apart from the immediate and substantial economic benefits to a state from well-ordered interactions with other states, hegemonic states also have a national security and a normative interest in the information to be gleaned from the fact that these interactions are, in fact, well ordered.

In the absence of centralized enforcement, privately held and nonverifiable information as to a state’s fundamental type is the critical problem in assessing motives.31

[FOOTNOTE] 31 See KEOHANE, supra note 20, at 31 (“Order in world politics is typically created by a single dominant power [or hegemon].”). States are consequently classified as one of two types, “revisionist” or “status quo,” based on their acceptance and adherence to the political norms, institutions, and rules created by the hegemon. Status quo states are those that try to improve their condition from within the framework of the accepted world order. Revisionist states, by contrast, seek to gain position both by working outside that order and by working to subvert the hegemonic order itself. For instance, the existing world order is generally accepted to be that created by the United States after World War II. It comprises a liberal international economic order, the use of multilateral institutions (such as the United Nations and the WTO), negotiation for dispute resolution rather than the threat of violence, and the promotion of liberal democratic moral norms. See, e.g., Schweller, supra note 24, at 85; HANS J. MORGENTHAU, POLITICS AMONG NATIONS: THE STRUGGLE FOR POWER AND PEACE 32 (1948). Trade disputes between status quo states (like tariff disputes between the United States and Europe) are resolved through peaceful negotiation rather than the threat of war. Although status quo states do not entirely eschew the use of violence, they typically seek international authorization and legitimization before employing military force, as in the multilateral operations in Iraq, Kosovo, and Afghanistan. Revisionist states, on the other hand, such as North Korea, Iran, and China, will more readily use military force as a bargaining tool and are more reluctant fully to participate in transparent military, economic, and political negotiations. [END FOOTNOTE]

States wishing to escape the pressures of the security dilemma and engage in cooperative behavior need a means of conveying their preferences to others in a credible manner. There are, in general, two means by which such information can be transmitted: states can either bind themselves in such a way that they are unable to deviate from a stated behavior (known as “hands tying” in Schelling),32 or they can signal their intention to engage in a specified course of action by incurring costs sufficiently large that they discourage the misrepresentation of preference.33

International institutions can play a crucial role in facilitating the transmission of this information.34 In particular, international agreements over the terms of trade, even without binding supranational enforcement authority, provide a means for states to bind themselves to a desirable course of behavior in the short run and, more importantly, to signal their acquiescence to the ruling world order in the long run. Because compliance with treaty obligations often requires signatories to alter their domestic laws to reflect the terms of the treaty, the costs of compliance can be substantial. In the short run, to the extent that states enforce their domestic laws they can bind themselves to a certain course of behavior. In the long run, a state’s willingness to incur the substantial costs of changing its laws, both the transaction costs inherent in changing domestic laws and the even more substantial costs in domestic political capital, signals a willingness to engage other states on the terms set by the reigning international power. Moreover, there may be unintended effects, as changes in domestic laws result in a new set of domestic incentives to which actors respond, and new windows of opportunity may open up through which policy entrepreneurs can push for the internalization of new norms.35 Competition laws in particular are susceptible to this mode of analysis.

Most nations have adopted competition laws as a way to actualize (as well as to symbolize) a degree of commitment to the competitive process and to the prevention of abusive business practices . . . . The introduction of competition laws and policies has also gone hand in hand with economic deregulation, regulatory reform, and the end of command and control economies.36

The surest way to remove the threat of war, increase wealth, conserve resources, and protect human rights is through fundamental agreement between all states (or at least effective agreement between verifiably status quo states) under a normative umbrella that promotes all of those values. This normative convergence can be effected through the stepwise internalization of the sorts of economic and democratic values inherent in international economic liberalization, perhaps most notably through the adoption of principled international antitrust standards.37

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#### The United States federal government should issue a policy memorandum that serial criminality by domestic financial institutions is an anti-competitive private sector business practice prohibited by core anti-trust laws.

#### The CP competes because it’s not legally binding BUT solves by shifting antitrust policy

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III. ENFORCEMENT MATTERS

A. Agency Enforcement and Policy

1. Guidance

Where there are uncertainties in the Agencies' enforcement policies or priorities, it is often essential for the Agencies to provide guidance. The formal guidance can take the form of formal guidance documents (such as the Horizontal Merger Guidelines of 2010) or FTC opinions. Informal guidance can take the form of agency reports, speeches by key agency personnel, amicus briefs, decisions to litigate, or closing statements. Agency guidance is important and beneficial for multiple reasons, such as providing clarity for businesses, moving competition policy in the right direction, and ensuring a U.S. perspective on the international arena. Agency guidance is also particularly useful to communicate a shift in enforcement policy or practice.3

[FOOTNOTE] 3 The recent guidance issued by the Division and the FTC communicating the decision to treat wage-fixing and no-poaching agreements as criminal violations going forward provides an excellent example of this. See DEP’T OF JUSTICE, ANTITRUST DIV., FED. TRADE COMM’N, ANTITRUST GUIDANCE FOR HUMAN RESOURCE PROFESSIONALS (Oct. 2016), available at www.ftc.gov/system/files/documents/ public\_statements/992623/ftc-doj\_hr\_guidance\_final\_10-20-16.pdf. [END FOOTNOTE]

Furthermore, uncertainty as to the boundaries of antitrust laws may chill potentially procompetitive conduct or enable potentially anticompetitive behavior to continue unchecked. Businesses may be less willing to engage in novel business activities that could benefit consumers. Moreover, agency guidance and enforcement not only define the boundaries of how the Agencies view and enforce the law, but may also impact how courts rule in litigation.

Guidance also ensures a place for the U.S. perspective on the international stage. Because so many foreign antitrust authorities look to the Agencies for leadership and study U.S. enforcement decisions and cases, clearly articulated guidance helps achieve uniformity across jurisdictions. Moreover, an international presence and influence as to antitrust policy is particularly critical in an era in which some foreign competition agencies use the pretense of antitrust enforcement as a cover to mask decisions that are actually based on industrial policy or protectionism.

Speeches, while not binding on the Agencies or as long-lasting as more formal agency documents, can give advance notice of enforcement priorities and the views of agency leadership regarding how best to analyze certain forms of conduct. For instance, in her first speech as Acting Assistant Attorney General, Renata Hesse offered important insights into the use of bargaining models in analyzing vertical mergers and the Division's skepticism of procompetitive claims in horizontal mergers. Indeed, for changes in agency thinking, an agency speech or other non-enforcement guidance can be the fairer approach, at least in the first instance, than initially embarking on litigation.

Business review letters from the Division and advisory opinions from the FTC serve as another avenue for providing guidance on novel conduct. More important, by setting forth the respective agency's reasoning for how it views proposed conduct, these documents in effect make a policy statement as to what characteristics of the conduct are considered to be beneficial or harmful for consumers.

#### It avoids politics AND preserves agency PC

Dr. Nicholas R. Parrillo 19, Professor of Law and Professor of History at Yale Law School, JD from Yale Law School, PhD in American Studies from Yale University, AB in History and Literature from Harvard University, “Should the Public Get to Participate Before Federal Agencies Issue Guidance? An Empirical Study”, Administrative Law Review, Volume 71, Issue 1, 71 ADMIN. L. REV. 57, Winter 2019, Lexis

II. BURDEN OF PUBLIC COMMENT ON GUIDANCE LESS THAN LEGISLATIVE RULEMAKING

If the agency is going to solicit public comment on guidance, why not just go the whole nine yards and proceed by legislative rulemaking, which unlike guidance is genuine binding law? The reason is that the actual taking of public comment is only a fraction of the burden that legislative rulemaking imposes, and even if one focuses on the taking of comment alone, it is often less burdensome for guidance than for rulemaking. Thus, for most agencies at least, "notice-and-comment guidance" is considerably faster and less expensive than notice-and-comment rulemaking.

In discussing why legislative rulemaking takes the amount of time and resources that it does, interviewees prominently cited five aspects of the process, all of which are either absent or less costly when the process is voluntary notice-and-comment for guidance. I discuss these in roughly descending order of prominence.

A. Mandates for Cost--Benefit Analysis

Before significant legislative rules can be proposed or finalized by executive agencies, they are reviewed by the President's Office of Management and Budget to ensure, inter alia, that the agency engaged in appropriate cost--benefit analysis. OMB also reviews executive agencies' "significant" guidance documents. The relevant Executive Order's definition of "significant" is, in many ways, open-ended. According to an official at the [\*80] EPA's Office of General Counsel, the decision on which guidance documents to submit to OMB for review is made at the senior management level of the agency, by political appointees, and the handling of the question changes depending on who is in the relevant agency-manager and OMB positions.

Generally, interviewees thought OMB review was less likely for guidance than for legislative rules and, when it occurred, less time-consuming. A former senior official at the EPA's Air Program office said he thought OMB review of guidance took less time than that of legislative rules. Lynn Thorp of Clean Water Action observed that OMB scrutiny of the EPA guidance was less than that for legislative rules. A former senior FDA official noted that OMB was not much engaged with the agency's day-to-day scientific guidance, while a former senior FDA career official said many FDA guidance documents did not go through OMB at all. William Schultz, former HHS General Counsel, in discussing differences between the notice-and-comment process for rulemaking and the notice-and-comment process for guidance, cited OMB delays, which he said can be severe. Daniel Troy, general counsel of GlaxoSmithKline and former chief counsel of the FDA, said one reason for FDA personnel's preference for guidance over legislative rulemaking was that it avoided OMB review. At [\*81] USDA NOP, which does notice-and-comment on "most" of its guidance, the head of the program cited OMB review as one of a few factors that makes legislative rulemaking generally slower than guidance. Richardson, the former chair of the NOSB, said legislative rulemaking was greatly delayed by agency economic analysis in contemplation of OMB review, which was not done for guidance; and whereas OMB was a focal point for private lobbying regarding legislative rules, causing further delay, this was not true of guidance. The result was that legislative rulemaking took "much longer" than guidance even when the latter went through public comment. At the Department of Transportation (DOT), said the former general counsel Kathryn Thomson, guidance, even with public comment, was "much faster" than legislative rulemaking, mainly because it was not necessary to do cost--benefit analysis in contemplation of OMB review; OMB would accept a fast process for guidance more than it would for a legislative rule. At the DOE appliance standards program, recalled a former Department division director, OMB could delay or accelerate legislative rulemaking depending on the administration's calendar and politics, but guidance was not subjected to OMB review.

In banking regulation, where most of the agencies are independent and therefore not subject to OMB review, economic analysis can still cause legislative rulemaking to take longer than guidance, as such analysis may be required on some matters by statute or agency practice. An interviewee who held senior posts at CFPB and other federal agencies said that at the independent banking agencies (i.e., those not funded with tax revenues and not subject to OMB review), where cost--benefit analysis may be required by statute, that analysis would be done for legislative rulemaking but not for guidance, which helped explain why the former took longer. A former senior Federal Reserve official noted that, while the Federal Reserve's legislative-rulemaking-specific cost--benefit analysis was "sometimes a bit skippy," [\*82] the CFPB did voluminous cost--benefit analysis because of its fear of D.C. Circuit case law striking down SEC action for violating cost--benefit requirements.

B. Building a Record and Responding to Comments in Anticipation of Judicial Review

The advent of "hard look" judicial review in the 1970s, ratified by the Supreme Court in Motor Vehicles Manufactures Ass'n v. State Farm, pushed agencies to develop voluminous administrative records to support their legislative rules and to devote countless hours to writing long preambles responding minutely to public comments. An EPA official--in comparing legislative rulemaking (which he said took an "excruciatingly" long time) with guidance (on which he said the agency was "much more nimble")--said that a "huge" difference between the two was the time spent developing the administrative record and replying to comments, both of which he placed under the heading of "judicial review accountability," that is, the agency's "fear" of investing in a legislative rule only to have it struck down in court. EPA lawyers, he explained, were "vigilant" about ensuring that the administrative record was "all there," including the development of supporting documents, with all data gathered and analyzed, which took a "ton of time." Likewise, lawyers were vigilant in making sure the agency accounted for all comments. By contrast, "very little" of this was required for EPA guidance. There might be some accompanying materials, but it was "very rare" to do a full supporting foundation, in part because much of the necessary information would already have been gathered for a prior relevant legislative rulemaking, or would have bubbled up from the implementation process for that prior legislative rule. And even if the EPA took public comment on a guidance document and responded (which it sometimes did), "we're coasting along the surface" compared to what is done for a legislative rulemaking preamble. A former senior official at the EPA Air Program Office concurred that, for guidance, supporting material did not need to be gathered because it had already been assembled in prior legislative rulemakings, and public comments did not need to be addressed [\*83] at the same level of detail as for legislative rulemaking.

There is a similar dynamic at the FDA, which, per the GGPs, takes public comment on a very large proportion of its guidance documents. A former senior FDA official explained the difference. Legislative rulemaking required support for everything in the record and a time-consuming response to comments, and the costs of this process had been part of the agency's drive since the 1990s to rely more upon guidance, for which the process, even with public comment, was much more "abbreviated." Whereas legislative rules were "law" and had to be supported, the agency in issuing guidance felt freer not to develop a voluminous record, and the comments on guidance did not require the kind of response that was required on legislative rules. The fact that the FDA was sued much more on legislative rules than on guidance, he said, was surely part of this. Similarly, a congressional staffer observed that, although the FDA took public comment on guidance, it generally did not give any response to comments, meaning there was not the same kind of " State Farm obligation" as for legislative rulemaking, and so the process did not ensure the same careful consideration of stakeholder views. A former senior FDA official thought the lack of a requirement to respond to comments was a crucial and salutary feature of the FDA's process for guidance: if you required a preamble, you might as well do legislative rulemaking, and the whole thing would become "unworkable." A former senior FDA career official, discussing the difference between legislative rulemaking and guidance, said responding to all substantive comments in a rulemaking in writing for publication added "significantly" to the time spent. Overall, said an FDA Office of Chief Counsel official, whereas legislative rulemaking was criticized for being "ossified," it was possible to issue guidance "pretty quickly."

[\*84] Elsewhere, too, the research and analytic demands are less for guidance than for legislative rulemaking. At OSHA, said the former deputy solicitor of the Department of Labor (DOL), guidance was faster than legislative rulemaking in part because of judicial decisions requiring that the agency in each rulemaking make a showing of significant risk and technological and economic feasibility. By contrast, headquarters might have a regional office draft a guidance document, noted John Newquist, a former assistant administrator of OSHA's Region V (headquartered in Chicago).

C. Taking Comments in Itself

The actual publication of the draft rule/guidance and the taking of comments on it (as distinct from the work of responding to those comments) takes time and effort in itself, but this time and effort did not figure nearly as prominently in the interviews as did cost--benefit analysis, record-building, or responding to comments. And in any event, the burden of taking comment per se tends to be less for guidance documents than for legislative rules. At the banking agencies, said an interviewee who held senior posts at the CFPB and other federal agencies, the comment period tends to be shorter for guidance, and the comments fewer. The comment period was also said to be shorter for guidance at the USDA NOP, and in EPA clean water regulation. Comments were said to be less voluminous on guidance compared to legislative rules at the FDA.

D. Drafting Challenges

Legislative rules are typically harder to draft than guidance, which adds further to the time and resources they demand. Because legislative rules are mandatory, said an EPA official, you "sweat each detail," seeking to account for all factors and contingencies, since once the rule is promulgated, "we can't go back to it for 15 years." Guidance, he said, does not involve the same sweating of details. As to the FDA, a former senior career official [\*85] there said that, in writing guidance, you need not be as careful on wording as on a legislative rule because the language is not binding and is described as reflecting the current thinking of the agency; you are therefore more free to put in details, use narrative form, Q&A form, and plain language, since the document is not "set in stone." He recalled one subject on which he and his colleagues initially sat down to write a legislative rule and found it impossible to start with "codified language," given the complexity of the matter; he therefore suggested handling the problem by writing guidance, as a "dry run," before drawing up binding requirements. In banking regulation, an interviewee who held senior posts at the CFPB and other federal agencies said that guidance was "easier" to write and could be written "faster" than a legislative rule because "you don't need to nail everything down," as the aim is to warn regulated parties to pay attention to certain risks, not prescribe mandatory requirements.

E. Dealing with Mobilized Stakeholders

The length, officially-binding status, and public salience of legislative rulemaking make it a focal point for the mobilization of interest groups to pressure the agency and enlist political allies in Congress, the White House, and elsewhere. This, in turn, makes legislative rulemaking expensive to the agency in terms of political capital. An official at a public interest organization working on immigrants' rights said that, in his experience seeking favorable policies from DHS, he had found that legislative rulemaking tended to "exhaust all [the agency's] political capital," more than issuing guidance did. Legislative rulemaking allowed time for the opponents of an initiative to marshal their forces. If an agency and its stakeholder allies sought to proceed by legislative rulemaking, he said, they were "declaring a grand war" and had to be prepared for greater opposition. A former DOE division director, explaining why there was "no comparison" between the processes for legislative rulemaking and guidance, emphasized that the "politics" of the former process "slowed it down," for whenever the proceeding seemed to veer in a direction that one interest group did not like, [\*86] that group would marshal evidence and political support to stop the process, enlisting friendly members of Congress or the White House. With respect to the USDA NOP, the president of an organic certifier, in discussing factors that slowed legislative rulemaking, immediately cited the agency's internal process for economic analysis (not applicable to guidance), which he said could become a "pawn" in political clashes between different parts of the industry, in which members of Congress might be involved.

### OFF

#### ‘Business practices’ are ongoing conduct defined by the behaviors of many market participants

Kerry Lynn Macintosh 97, Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, Lexis

These new and revised articles reflect a strong trend toward choosing default rules 4 that codify existing business practices. 5 [FOOTNOTE 5 BEGINS] 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). [FOOTNOTE 5 ENDS] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

#### ‘Prohibition’ must ban anticompetitive practices without exception

E. Norman Veasey 95, Chief Justice on the Delaware Supreme Court, “Snell v. Engineered Sys. & Designs”, Supreme Court of Delaware, 669 A.2d 13, 17-18, 1995 Del. LEXIS 338, 9/13/1995, Lexis

The interpretation of the statute is aided by the synopsis to a recent amendment to Section 2825. This synopsis states [\*\*12] that the amendment "clarifies the limitations on the public use of the word engineering by those not authorized to practice engineering for the general public." 68 Del. Laws, c. 24 (emphasis added). Had the General Assembly intended to ban all uses of the word "engineer" by those not certified, it would have been more logical for it to have used the word "prohibition" (or the equivalent) rather than the word "limitations" in the synopsis. Section 2825 must be analyzed, therefore, with the understanding that it bans only uses of the term "engineer" which would "lead to the [\*18] belief that such person is entitled to practice engineering"--i.e., a misleading use of any derivative of the word "engineer."

#### That means the only topical mechanism is to apply per se illegality

John Paul Stevens 90, Justice, Supreme Court of the United States, “FTC v. Superior Court Trial Lawyers Ass'n,” 493 U.S. 411, Lexis

LEdHN[3C] [3C]LEdHN[14] [14]Equally important is the second error implicit in respondents' claim to immunity from the per se rules. In its opinion, the Court of Appeals assumed that the antitrust laws permit, but do not require, the condemnation of price fixing and boycotts without proof of market power. 15 The opinion further assumed that the per se rule prohibiting such activity "is only a rule of 'administrative convenience and efficiency,' not a statutory command." 272 U.S. App. D. C., at 295, 856 F. 2d, at 249.This statement contains two errors. HN10 [\*\*\*\*42] The per se [\*433] rules are, of course, the product of judicial interpretations of the Sherman Act, but the rules nevertheless have the same force and effect as any other statutory commands. Moreover, while the per se rule against price fixing and boycotts is indeed justified in part by "administrative convenience," the Court of Appeals erred in describing the prohibition as justified only by such concerns. The per se rules also reflect a long-standing judgment that the prohibited practices by their nature have "a substantial potential for impact on competition." Jefferson Parish Hospital District No. 2 v. Hyde, 466 U.S. 2, 16 (1984).

[\*\*\*\*43] LEdHN[15] [15]As we explained in Professional Engineers, HN11 the rule of reason in antitrust law generates

"two complementary categories of antitrust analysis. In the first category are agreements whose nature and necessary effect are so plainly anticompetitive that no elaborate study of the industry is needed to establish their illegality -- they are 'illegal per se.' In the second category are agreements whose competitive effect can only be evaluated by analyzing the facts peculiar to the business, the history of the restraint, and the reasons why it was imposed." 435 U.S., at 692.

[\*\*\*873] "Once experience with a particular kind of restraint enables the Court to predict with confidence that the rule of reason will condemn it, it has applied a conclusive presumption that the restraint is unreasonable." Arizona v. Maricopa County Medical Society, 457 U.S. 332, 344 (1982).

[\*\*781] LEdHN[16] [16] [\*\*\*\*44] The per se rules in antitrust law serve purposes analogous to per se restrictions upon, for example, stunt flying in congested areas or speeding. Laws prohibiting stunt flying or setting speed limits are justified by the State's interest in protecting human life and property. Perhaps most violations of such rules actually cause no harm. No doubt many experienced drivers and pilots can operate much more safely, even at prohibited speeds, than the average citizen.

[\*434] If the especially skilled drivers and pilots were to paint messages on their cars, or attach streamers to their planes, their conduct would have an expressive component. High speeds and unusual maneuvers would help to draw attention to their messages. Yet the laws may nonetheless be enforced against these skilled persons without proof that their conduct was actually harmful or dangerous.

In part, the justification for these per se rules is rooted in administrative convenience. They are also supported, however, by the observation that every speeder and every stunt pilot poses some threat to the community. An unpredictable event may overwhelm the skills of the best driver or pilot, even if the [\*\*\*\*45] proposed course of action was entirely prudent when initiated. A bad driver going slowly may be more dangerous that a good driver going quickly, but a good driver who obeys the law is safer still.

#### Vote:

#### 1) GROUND---key to link uniqueness and a unidirectional topic. Fringe standards dodge topic links, AND they can pick a broader but more permissive standard, making the topic bidirectional.

#### 2) LIMITS---too many possible standards, each requiring distinct answers, makes the topic unmanageably large.

### OFF

#### The 50 state governments and relevant sub-federal territories, in coordination through the National Association of Attorneys General, should resolve that serial criminality by domestic financial institutions is an anti-competitive private sector business practice prohibited by core anti-trust laws.

### OFF

#### The plan spills over, decimating business confidence and overall economic recovery

Trace Mitchell 21, Policy Counsel at NetChoice, JD from the George Mason University, Antonin Scalia Law School, Former Research Associate at the Mercatus Center at George Mason University, BA in Political Science and Government from Florida Gulf Coast University, “Weaponizing Antitrust to Attack Big Tech Is a Bad Idea”, Morning Consult, 3/3/2021, https://morningconsult.com/opinions/weaponizing-antitrust-to-attack-big-tech-is-a-bad-idea/

From the House Judiciary report calling for dramatic antitrust reform to federal antitrust regulators and state attorneys general initiating lawsuits against Facebook and Google, government officials are once again calling for more aggressive antitrust enforcement to go after America’s tech businesses.

And while critics from all sides are reaching for any and all tools to go after “Big Tech,” weaponizing antitrust will only end up harming American consumers and the American economy at a time when we’re still trying to keep our heads above water.

Using antitrust to go after American tech won’t stop at Silicon Valley. Every sector of our economy will be at risk of politically motivated antitrust enforcement. And that won’t just hurt consumers searching for information on Google or shopping for products on Amazon — America’s economy could lose its global competitiveness amid a global pandemic.

In fact, the recent cases against Google from the Department of Justice and state attorneys general are a great example of just how this misuse of antitrust could harm Americans across the country and halt innovation in its tracks.

These suits conveniently forget how consumers benefit from Google’s suite of products in attempts to claim that Google unfairly monopolized the search and search advertising markets. Even worse, by claiming consumer harm, the government fails to truly grasp what consumers actually want.

You see, under the consumer welfare standard, antitrust enforcement is built to focus on what consumers want and whether consumers benefit. When the government argues Google is harming Americans because its products are preinstalled and even the default search engine on Apple, the government forgets that American consumers don’t think this is a problem.

The vast majority of search users prefer Google to its competitors. And through preinstallation, we get free-to-use products, quick searches and near-limitless information in an integrated system with the click of a mouse. It isn’t a problem; it’s a time saver. Further, because Google can reinvest in developing more user-friendly tech in a preinstalled ecosystem, we get interoperable apps that make our experience that much more convenient and intuitive. And even if consumers do want a different app, they can fix this problem with no heavy leg work or travel — just the swipe of a finger.

But if the government gets its way, the message could be disastrous for innovation: Even if your business benefits Americans and improves the user experience, the government can still put a target on your back. Not to mention, the government would be more likely to put a target on your back if you’re large and politically disfavored. Consumers across the internet and the American economy would be hurt and left without more accessible and more affordable technology as options.

We should be working to reward, not punish, innovation. Otherwise, the next Google may just decide it isn’t worth the time and effort.

Similarly, the Federal Trade Commission’s recent case against Facebook also puts the wants of policymakers above the actual interests of consumers.

Here, the government claims that Facebook harms consumers by acquiring and then integrating services like Instagram and WhatsApp. So harmful, the Federal Trade Commission says, that Facebook must divest from these services, even if that would harm American consumers, innovation and entrepreneurship for decades to come.

But this is not a case of consumer harm or bad behavior — Facebook’s acquisition of Instagram and WhatsApp helped ensure that consumers’ desires were prioritized. Through millions of investment dollars into research and development, Facebook turned good services into great services that consumers actively keep coming back to.

Through relentless product improvement, WhatsApp became a free-to-use platform and Instagram became one of the most successful photo-sharing social media apps in the world. In both cases, consumers benefited from convenient and state-of-the-art advancements. No longer do we have to pay to use messaging or search through multiple results to shop our influencer feed.

As it stands, the Federal Trade Commission case could splinter one successful tech company into multiple, less efficient organizations, setting a precedent that could affect every American industry. Consumers would not only lose Facebook’s free-to-use services but also potentially the next big clothing brand or the next hit microbrewed beer.

By impeding mergers, the sheer fear of potential antitrust enforcement would shutter the doors on small businesses from all sectors of the economy. So much investment in innovation is built on the possibility of being acquired by a larger player. Entrepreneurs and innovators from manufacturing, automotive and tech alike would be left with an unfortunate takeaway — succeed and benefit consumers, but not too much.

And with an economy still struggling to recover, the absolute last thing we need is to leave consumers without innovative and affordable choices, small businesses without key investment opportunities and our economy without a competitive edge globally.

But by weaponizing antitrust, we’ll get neither thoughtful intervention nor consumer benefits. Instead, the United States will lose ground to foreign competitors and American consumers will ultimately pay the price.

#### Decline cascades---nuclear war

Dr. Mathew Maavak 21, PhD in Risk Foresight from the Universiti Teknologi Malaysia, External Researcher (PLATBIDAFO) at the Kazimieras Simonavicius University, Expert and Regular Commentator on Risk-Related Geostrategic Issues at the Russian International Affairs Council, “Horizon 2030: Will Emerging Risks Unravel Our Global Systems?”, Salus Journal – The Australian Journal for Law Enforcement, Security and Intelligence Professionals, Volume 9, Number 1, p. 2-8

Various scholars and institutions regard global social instability as the greatest threat facing this decade. The catalyst has been postulated to be a Second Great Depression which, in turn, will have profound implications for global security and national integrity. This paper, written from a broad systems perspective, illustrates how emerging risks are getting more complex and intertwined; blurring boundaries between the economic, environmental, geopolitical, societal and technological taxonomy used by the World Economic Forum for its annual global risk forecasts. Tight couplings in our global systems have also enabled risks accrued in one area to snowball into a full-blown crisis elsewhere. The COVID-19 pandemic and its socioeconomic fallouts exemplify this systemic chain-reaction. Onceinexorable forces of globalization are rupturing as the current global system can no longer be sustained due to poor governance and runaway wealth fractionation. The coronavirus pandemic is also enabling Big Tech to expropriate the levers of governments and mass communications worldwide. This paper concludes by highlighting how this development poses a dilemma for security professionals.

Key Words: Global Systems, Emergence, VUCA, COVID-9, Social Instability, Big Tech, Great Reset

INTRODUCTION

The new decade is witnessing rising volatility across global systems. Pick any random “system” today and chart out its trajectory: Are our education systems becoming more robust and affordable? What about food security? Are our healthcare systems improving? Are our pension systems sound? Wherever one looks, there are dark clouds gathering on a global horizon marked by volatility, uncertainty, complexity and ambiguity (VUCA).

But what exactly is a global system? Our planet itself is an autonomous and selfsustaining mega-system, marked by periodic cycles and elemental vagaries. Human activities within however are not system isolates as our banking, utility, farming, healthcare and retail sectors etc. are increasingly entwined. Risks accrued in one system may cascade into an unforeseen crisis within and/or without (Choo, Smith & McCusker, 2007). Scholars call this phenomenon “emergence”; one where the behaviour of intersecting systems is determined by complex and largely invisible interactions at the substratum (Goldstein, 1999; Holland, 1998).

The ongoing COVID-19 pandemic is a case in point. While experts remain divided over the source and morphology of the virus, the contagion has ramified into a global health crisis and supply chain nightmare. It is also tilting the geopolitical balance. China is the largest exporter of intermediate products, and had generated nearly 20% of global imports in 2015 alone (Cousin, 2020). The pharmaceutical sector is particularly vulnerable. Nearly “85% of medicines in the U.S. strategic national stockpile” sources components from China (Owens, 2020).

An initial run on respiratory masks has now been eclipsed by rowdy queues at supermarkets and the bankruptcy of small businesses. The entire global population – save for major pockets such as Sweden, Belarus, Taiwan and Japan – have been subjected to cyclical lockdowns and quarantines. Never before in history have humans faced such a systemic, borderless calamity.

COVID-19 represents a classic emergent crisis that necessitates real-time response and adaptivity in a real-time world, particularly since the global Just-in-Time (JIT) production and delivery system serves as both an enabler and vector for transboundary risks. From a systems thinking perspective, emerging risk management should therefore address a whole spectrum of activity across the economic, environmental, geopolitical, societal and technological (EEGST) taxonomy. Every emerging threat can be slotted into this taxonomy – a reason why it is used by the World Economic Forum (WEF) for its annual global risk exercises (Maavak, 2019a). As traditional forces of globalization unravel, security professionals should take cognizance of emerging threats through a systems thinking approach.

METHODOLOGY

An EEGST sectional breakdown was adopted to illustrate a sampling of extreme risks facing the world for the 2020-2030 decade. The transcendental quality of emerging risks, as outlined on Figure 1, below, was primarily informed by the following pillars of systems thinking (Rickards, 2020):

• Diminishing diversity (or increasing homogeneity) of actors in the global system (Boli & Thomas, 1997; Meyer, 2000; Young et al, 2006);

• Interconnections in the global system (Homer-Dixon et al, 2015; Lee & Preston, 2012);

• Interactions of actors, events and components in the global system (Buldyrev et al, 2010; Bashan et al, 2013; Homer-Dixon et al, 2015); and

• Adaptive qualities in particular systems (Bodin & Norberg, 2005; Scheffer et al, 2012) Since scholastic material on this topic remains somewhat inchoate, this paper buttresses many of its contentions through secondary (i.e. news/institutional) sources.

ECONOMY

According to Professor Stanislaw Drozdz (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid- 2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity.

The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed $255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering $2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak.

The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented $10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth $88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020).

As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007).

Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit.

According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019):

“You can hardly trust even the closest allies after the Munich Agreement… I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author).

President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period.

A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective $1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016).

In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a). We also see how the four main pillars of systems thinking (diversity, interconnectivity, interactivity and “adaptivity”) form the mise en scene in a VUCA decade.

ENVIRONMENTAL

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation:

The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering $3 trillion. Moreover, a recent report suggests the world’s 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, “vulnerable” or unpaid jobs.

Shouldn’t this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated.

Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity.

Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021).

Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the “world’s most polluted river” began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications.

On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabriabased ‘Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008).

The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section.

Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological maniacs or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade.

GEOPOLITICAL

The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar bogeymen to reappear in societies roiling with impoverishment and ideological clefts. Anti-Semitism – a societal risk on its own – may reach alarming proportions in the West (Reuters, 2019), possibly forcing Israel to undertake reprisal operations inside allied nations. If that happens, how will affected nations react? Will security resources be reallocated to protect certain minorities (or the Top 1%) while larger segments of society are exposed to restive forces? Balloon effects like these present a classic VUCA problematic.

Contemporary geopolitical risks include a possible Iran-Israel war; US-China military confrontation over Taiwan or the South China Sea; North Korean proliferation of nuclear and missile technologies; an India-Pakistan nuclear war; an Iranian closure of the Straits of Hormuz; fundamentalist-driven implosion in the Islamic world; or a nuclear confrontation between NATO and Russia. Fears that the Jan 3 2020 assassination of Iranian Maj. Gen. Qasem Soleimani might lead to WWIII were grossly overblown. From a systems perspective, the killing of Soleimani did not fundamentally change the actor-interconnection-interaction adaptivity equation in the Middle East. Soleimani was simply a cog who got replaced.

### OFF

#### The courts careful balancing act will keep Roe afloat.

Kimberly Strawbridge Robinson 21, Reporter for Bloomberg Law, “Barrett Channels Roberts’ ‘Go-Slow’ Approach in Landmark Cases,” Bloomberg Law, 06-18-2021, https://news.bloomberglaw.com/us-law-week/barrett-channels-roberts-go-slow-approach-in-landmark-cases

The U.S. Supreme Court’s newest justice is showing signs that she’s more aligned with John Roberts and Brett Kavanaugh in the center than she is with her other conservative colleagues, refusing to support broad rulings that could shake the court’s credibility.

Amy Coney Barrett is “starting to show her stripes” as a moderate who prefers small movements in the law, not huge shifts, South Texas College of Law Houston professor Josh Blackman said.

The justices handed down victories to both liberals and conservatives on Thursday saving the Affordable Care Act again but siding with a religious group in the latest battle over LGBT protections.

Roberts, the chief justice, is viewed as an institutionalist who wants to conserve the public’s confidence in the court. So far, he favors incremental shifts in the law. “That’s been one of the Chief’s primary goals all along,” said Case Western Reserve law professor Jonathan Adler.

He recently gained an ally in Kavanaugh in this pursuit, and it appears Barrett may join their ranks.

The court as a whole has has largely agreed in cases this year. The unanimous decision in the LGBT case was the 25th time the justices were unanimous in 41 rulings so far this term. There are 15 to go in coming days.

But the big test for Barrett will be next term starting in October when the justices will tackle hot-button issues like guns, abortion, and possibly affirmative action.

“It is a very conservative Court, even if we will only get glimpses of it this year,” said UC Berkeley law school Dean Erwin Chemerinsky.

Kicking the Can

Both the Affordable Care Act and LGBT rulings were “very, very narrow,” Georgia State law professor EricSegall said.

In the Obamacare case, California v. Texas, the 7-2 majority handed down a procedural ruling to avoid undoing the landmark 2010 law. The justices said red states led by Texas didn’t have a legal basis—or standing—to challenge it.

Only Justices Samuel Alito and Neil Gorsuch would have voted to gut the act, long a priority of Republicans.

The LGBT ruling, while unanimous in its outcome, was splintered in its reasoning. Hiding under the 9-0 breakdown was a dispute about whether to overturn the court’s divisive ruling in Employment Division v. Smith, which sparked the passage of the bipartisan Religious Freedom Protection Act and mini state versions across the country.

The court in Smith refused to require an exception from Oregon’s prohibition on peyote, saying religious objectors don’t get a free pass on “generally applicable” laws.

On opposite ends in the court’s LGBT ruling were the liberal justices—Stephen Breyer, Sonia Sotomayor, and Elena Kagan—along with Roberts, who wanted to uphold the court’s precedent in Smith, and the court’s most conservative members—Clarence Thomas, Alito, and Gorsuch—who wanted it overruled once and for all.

In the middle was Barrett, joined by Kavanaugh, who acknowledged Smith‘s shortcomings but was concerned with the fallout should the court overrule it. “Yet what should replace Smith?” Barrett asked in a short concurrence.

Both cases were a punt, Blackman said, with the issues likely to return to the court at some point in the future.

End of the World

But the ACA and LGBT cases, along with the extraordinary agreement all term, suggests a majority of the justices don’t think it’s the right time to make major changes in the law.

“In the throes of everything"—the pandemic, Barrett’s first term, Kavanaugh’s biting confirmation, calls for Breyer to retire, and the caustic 2020 presidential election—"they didn’t want to shock the world this year,” Segall said.

“Preserving the court’s own political capital is incredibly important to the justices because they know their only capital is the confidence of the American people,” he added.

Adler said the court has developed a sort of 3-3-3 split—that is, three liberals, three conservative justices willing to chuck precedents they don’t agree with, and three conservative justices hesitant to overturn cases they may disagree with. Roberts, Kavanaugh, and now, apparently, Barrett make up that last group.

Adler said that split will create some interesting pressures for the three justices in the middle next term, when—as Segall said—"the world will end.”

The end of the world was a reference—in part—to the court’s abortion case, which could call into question the landmark ruling in Roe v. Wade and later cases.

#### Overruling precedent drains PC---trades-off with other issues

Alan J. Meese 99, Associate Professor of Law at the William and Mary School of Law, J.D. from the University of Chicago, “ECONOMIC THEORY, TRADER FREEDOM, AND CONSUMER WELFARE: STATE OIL CO. V. KHAN AND THE CONTINUING INCOHERENCE OF ANTITRUST DOCTRINE,” Cornell Law Review, Vol. 84, March 1999, accessed via Lexis

Of course, courts regularly engage in the enterprise of balancing. For instance, they weigh the value of potential life against a mother's right to choose an abortion. n136 They also regularly balance the community's right to safety against the individual's expectation of privacy. n137 Yet the analysis offered here did not begin with the premise [\*792] that illegitimacy costs are prohibitive - only that they are present - and will be dispositive other things being equal. However, other things are not always equal. It is one thing occasionally to leave antitrust policy to the lower courts or the Department of Justice. On the other hand, when constitutional questions are involved, the Court's self-image as expositor of particular constitutional values no doubt comes into play, steeling it against illegitimacy costs that may flow from balancing. n138 By avoiding the appearance of political decision making in Khan, the Court preserved its political capital for those instances in which it cares to act. n139

If this account makes sense, one may justifiably ask why the Court simply did not explicitly abandon trader freedom altogether. Two interrelated considerations may explain the Court's failure to do so. First, an open acknowledgment by the Court that it is aware of political costs may itself entail some costs - imagine the Justices writing "we hereby overrule Albrecht because adherence to that decision would entail a high reputational cost." Thus, the only practical means of excising trader freedom from the law would be to question directly Albrecht's normative premises, that is, to overrule Albrecht by asserting that consumer welfare is the sole standard by which the Court will measure trade restraints. Such a direct repudiation of the Court's prior normative vision, not based on any intervening events other than changes in the Court's membership, would appear political and thus entail illegitimacy costs of its own. n140

#### Capital is finite and spills over---the Court won’t repeatedly conflict with political issues

HLR 11 – Harvard Law Review, “ADVISORY OPINIONS AND THE INFLUENCE OF THE SUPREME COURT OVER AMERICAN POLICYMAKING”, June, 124 Harv. L. Rev. 2064, Lexis

In assessing the Court's power relative to the elected branches, it is first necessary to be clear about what motivates the Supreme Court. When exercising judicial review, the Court seeks to vindicate its constitutional vision by striking down legislation repugnant to that vision. This is true whether one believes that the Court seeks in good faith to divine the true meaning of the Constitution and impose it on the elected branches, attempts to interpret the Constitution faithfully but subconsciously imports its own policy views, or disingenuously strives to implement its policy preferences in the guise of neutral interpretation. For the purposes of the present argument it is irrelevant which view or combination of views is most accurate, and the phrase "constitutional vision" will stand for any and all of these. Yet as suggested above, the Court is not unconstrained when it seeks to effect its constitutional vision through judicial review: if it strays too far from the political mainstream, n55 it will face consequences that undermine its constitutional [\*2076] vision even more than would the upholding of a disfavored statute. n56 The upshot is that the Court operates under conditions of scarcity and must economize on its political capital to go as far in implementing its constitutional vision as political realities allow, which sometimes means upholding (or declining to review) government actions that contravene that vision. n57 And, as a distinct matter, most [\*2077] Justices have displayed a desire to conserve the Court's political capital and maintain its institutional prestige as much as possible even where the Court was not immediately threatened with any hard political constraints. n58 This conservatism is especially understandable given that the Justices are generally not political experts and lack the sophisticated public relations apparatuses of the elected branches, and that the elected branches have substantial capacity to shift public opinion about the Court if they so choose; these factors make it rational for the Court to be parsimonious with its political capital in order to avoid blind overreaching.

[FOOTNOTE]

n57. Thus, the Court's decisionmaking process in a judicial review case incorporates its internal preferences and its view of external constraints as follows: R = B / C, where B equals the benefits to the Court's constitutional vision of invalidating a given piece of legislation, C stands for the cost the Justices expect to incur in terms of political capital, and R gives the trade-off rate between costs and benefits in any given case, such that the Court will expend its political capital in those cases where R is highest, so long as R > 1.

A reasonable objection to the model elaborated in this Part is that although the Court is politically constrained, this "bank account" model in which the Court has finite political capital to "spend" by striking down popular government actions is unrealistic: the Court can also increase its prestige - its institutional capital - by exercising judicial review, which has been the effect of Marbury and Brown, two decisions without which the Court would be much weaker now. Nonetheless, most countermajoritarian decisions do seem to cost the Court rather than increase its capital (Marbury was a refusal to make the countermajoritarian decision, see Friedman, supra note 53, at 60-62, and Brown jeopardized rather than solidified the Court's power over the years immediately following the decision, see Klarman, supra note 53, at 312-43). This is especially true in the short run, while the decision remains countermajoritarian, and it is the short run that counts for the current Justices: the fact that Brown is today sacrosanct did not help the Court when Southern resistance threatened that decision's efficacy in the years immediately after its announcement. Cf. Daryl J. Levinson, Parchment and Politics: The Positive Puzzle of Constitutional Commitment, 124 Harv. L. Rev. 657, 743 (2011) ("Evidently, the Court can build up a savings account of approval that it can then spend down by issuing unpopular decisions without losing public support."). The necessary implication of Levinson's statement is that the "savings account" - and thus the Court's countermajoritarian capacity - is finite. At any rate, the Court's position is no different from that of any other political actor: though the presidency as an institution, for instance, would certainly lose influence as a result of a string of weak, unassertive presidents, and might gain it through the acts of a strong leader, any given President at any given time is undoubtedly limited by political constraints.

#### U.S. reproductive rights gets modelled globally.

GFW 17, “Women’s Movements Matter More Than Ever: A Critical Moment For Global Women’s Rights,” Global Fund for Women, 01-20-2017, https://www.globalfundforwomen.org/what-we-do/voice/campaigns/build-movements-not-walls/womens-movements-a-critical-moment-for-global-womens-rights/

We have decades of proof that U.S. policies and leadership directly influence policies and decisions globally, and we know that it is women who are often most acutely impacted—for better or for worse. For example, we know that U.S. policies can directly block women’s access to reproductive health and rights. The ‘Global Gag Rule’ prohibited U.S. foreign aid to any organization that delivers abortion services, but was repealed by President Obama. Before the law’s repeal, there was a massive chilling effect on many global efforts for reproductive health—and in one of his first executive actions as President, Trump reinstated and expanded the Global Gag Rule, which will have damaging impacts on women’s access to critical health care ranging from maternal care to sex education, to access to contraception and HIV and AIDS prevention and services.

Conversely, the U.S. State Department’s leadership on issues such as ending child marriage has been a positive global force for advancing women’s rights. The U.S.’s stance on human rights is critical to protecting women’s rights all over the world—especially in armed conflict and political turmoil as it is in such scenarios that sexual violence escalates and women’s needs and voices are often silenced.

At this moment of transition, women’s movements around the world are poised to ensure that women’s voices are heard and that human rights are not rolled back. They tell us that they will continue to advocate for key issues like reproductive rights, ending sexual violence in conflict, and girls’ rights. They are determined to grow and flourish, to make connections, and to work together across borders.

“At a time of transition like this it is understandable to worry about the future, especially for women and girls,” says Musimbi Kanyoro, President and CEO of Global Fund for Women. “But I’ve worked my entire career with women’s movements around the world, and because of them, I remain hopeful. At this critical moment, women’s movements are becoming stronger, more global, and more inclusive than ever before. When they have access to the resources and tools that they need, they are a force to be reckoned with. As we commit to resisting regressions in women’s rights and advocating for what we believe in, let’s all work together to #BuildMovementsNotWalls.”

Global Fund for Women spoke with our network of women activists and grassroots leaders from around the world to better understand their hopes and concerns in relation to the new U.S. President and his administration, and the potential for impact on their own work. From Brazil to Iraq, and from Nigeria to the Ukraine and Israel, women’s rights leaders are examining the potential repercussions for women and girls. They offer advice for people in the U.S. for movement-building and resistance, and share their hopes for a strong, collective force that will fight across borders against rollbacks to rights and threats to activists.

A critical global moment for women’s rights

The transition of power in the U.S. comes at a critical time for women’s rights around the world. Women all around the world are facing threats to their fundamental rights, ranging from abortion access and ending sexual violence to racial justice and environmental rights.

Global movements for reproductive health and rights—including campaigns for access to contraceptives and safe and legal abortion—are at a critical moment. They are under threat in countless places, including in Latin America and the Caribbean where maternal mortality rates from unsafe abortions are highest, and facing powerful opposition from religious and cultural fundamentalists and others.

Groups working with refugee women and girls also face a pivotal moment. The vast majority of Syrian refugee women and girls are hosted in Lebanon, Turkey, and Jordan, where women’s groups are focused on providing core services including anti-violence training and healthcare while empowering refugee women with knowledge about their rights, leadership skills, and economic opportunities—and these women’s groups are advocating for critical changes in national laws that restrict refugees’ access to jobs, hospitals, and other basic rights citizens have. Concerns are escalating about how the policies of a new U.S. administration may impact their work.

Feminist activists globally are increasingly facing fears for their safety. For example, in Egypt, Turkey, and several other countries, we’ve witnessed an escalating crackdown on feminist and human rights activism, including harassment against women human rights defenders and threats to journalists and academics. In many places—such as the Inter-American Commission on Human Rights and Court—U.S. influence is a critical factor in enforcing mechanisms for their protection.

In countries from Sub-Saharan Africa to Asia and the Pacific, grassroots women are coming together to protect their land and water rights amid climate change and increased violence to improve their own farming and local food sources, and to increase their economic opportunities.

Women are standing up against rollbacks to rights, resisting the rise of conservatism, blocking dangerous anti-women policies, and fearlessly defending women’s rights amid conflicts and political and economic crises.

Conservative leadership is on the rise in many countries around the world and women’s groups are joining forces to share their strategies of resistance.

Connecting the dots in threats to fundamental rights globally—and learning together

“As far as women and other civil society organizations [in Africa] are concerned, all progressive issues might suffer under a Trump Presidency,” says Bisi Adeleye-Fayemi, co-founder of African Women’s Development Fund and Global Fund for Women Board Member. “Women’s rights, sexual and reproductive rights, climate change, LGBTQ individuals, Muslim people, refugees… are not likely to get the attention they deserve—they will probably get the wrong kind of attention.”

Indeed, policy stances in the U.S. will have a direct impact on global communities and situations. And by and large, many of the key human rights issues that are coming into play in U.S. domestic policy including access to reproductive health and rights and ending violence against women, are issues that are under the spotlight in other places around the world. U.S. leadership could play a significant role—either in moving the needle positively on these critical issues, or in condoning or precipitating the rollback of hard-won gains.

#### Global reproductive freedom solves overpopulation---extinction.

Robert Engelman 16, Vice President for Programs at the Worldwatch Institute, Lead Author of the United Nations Population Fund’s State of World Population 2009 report, “An End to Population Growth: Why Family Planning Is Key to a Sustainable Future,” Solutions, 02-22-2016, https://thesolutionsjournal.com/2016/02/22/an-end-to-population-growth-why-family-planning-is-key-to-a-sustainable-future/

Those who ponder humanity’s future in the twenty-first century generally take at face value demographic projections suggesting that the world population will reach something like 9 billion around 2050 and will then stabilize at about that level.1 The widespread belief that this 30 percent increase from today’s 6.9 billion people is inevitable undermines consideration of the role of population size in climate change, water scarcity, biodiversity loss, rising energy prices, and food security. Contributing to this is the related view that efforts to prevent population growth would require coercive government policies that constrain couples from having the children and the family sizes they want. While some analysts are confident that the world can feed, house, and otherwise support 9 billion or more people, others are less certain, and voices of caution about population growth are heard more often than in the past.2 A logical application of the precautionary principle in the face of current environmental problems would suggest that humanity could more easily accomplish these feats in an environmentally sustainable manner with a smaller population.

In a joint statement in 1993, representatives of 58 national scientific academies stressed the complexities of the population-environment relationship but nonetheless concluded, “As human numbers increase, the potential for irreversible changes of far-reaching magnitude also increases. … In our judgment, humanity’s ability to deal successfully with its social, economic, and environmental problems will require the achievement of zero population growth within the lifetime of our children.”3 In 2005, the United Nations’ Millennium Ecosystem Assessment identified population growth as a principal indirect driver of environmental change, along with economic growth and technological evolution.4

In October 2010, a group of US and European climate and demographic researchers published findings from an integrated assessment model calculating the impact of various population scenarios on fossil-fuel carbon dioxide emissions over the coming century. If world population peaked at close to 8 billion rather than 9 billion, along the lines described in a low-fertility demographic projection published by the UN Population Division, the model predicted there would be a significant emissions savings: about 5.1 billion tons of carbon dioxide by 2050 and 18.7 billion tons by century’s end.5

What if we could prove wrong the popular conviction that a future with 9 billion people and a growing population is inevitable? Suppose we could demonstrate that world population size might peak earlier and at a lower level if government policies aimed not at reproductive coercion but at individual reproductive freedom? Suppose such policies aimed to help all women and girls prevent unwanted pregnancies and conceive only when they want to bear a child? This article presents new data on births resulting from women’s active intentions to become pregnant. The hypothesis it probes may appear counterintuitive: if, starting at any moment, all pregnancies in the world resulted from each woman’s intent to give birth, human population would immediately shift course away from growth toward decline within a few decades.

An Ethical Basis for Action to Slow Population Growth

What can societies that value democracy, self-determination, human rights, personal autonomy, and privacy do to include demographic change among strategies for environmental sustainability? An important answer may lie in a relatively untested set of principles adopted by almost all the world’s nations at a 1994 UN conference held in Cairo. The third of three once-a-decade governmental conferences on population and development, it produced a program of action that abandoned the strategy of “population control” by governments in favor of a focus on the health, rights, and well-being of women.6 An operating assumption of this program is that when women have access to the information and means that allow them to choose the timing of pregnancy, the intervals between births lengthen, average family size shrinks, and teen births become less frequent. All of these improve maternal and child survival and slow population growth.7

Experts disagree on how reproductive autonomy compares with other strategies in slowing that growth. Some assume economic growth is the most effective means, although birthrates rose along with prosperity in many countries after World War II and remain relatively high in several wealthy oil-exporting nations in which women have fewer rights and lower status than men.8 Moreover, some analysts argue that the arrow of causation operates more in the other direction, with low fertility stoking economic growth.9

There is a more robust and demonstrable correlation between female educational attainment and fertility. Worldwide, women with no schooling have an average of 4.5 children, while those who have spent at least a year or more in primary school have just three. Women who complete at least a year or two of secondary school have 1.9 children—well below replacement fertility rates. With one or two years of advanced education for women, average childbearing rates fall even further, to 1.7.10 On this basis alone, those interested in depressing population growth rates might want to focus on improving women’s educational attainment.

Questions remain about whether education alone can bring about declines in fertility without other supporting conditions, especially easy, affordable access to a range of contraceptive options. Similar uncertainties cloud understanding of exactly how improved child survival and the empowerment of women affect fertility. Improving both factors certainly contributes to later births and smaller families and is valuable regardless of its demographic impacts. But without clear data on the magnitude of these influences, interventions related to schooling, child survival, and women’s empowerment are rarely seen as core aspects of governmental population policy.

This brings us to family planning. Access to safe and reliable contraception has exploded since the mid-twentieth century. An estimated 55 percent of all heterosexually active women worldwide now use modern contraceptive methods, while an additional seven percent use less reliable traditional methods.11 As the use of birth control has spread, fertility has plummeted from a global average of five children per woman in 1950 to barely more than 2.5 today.1

### CP

#### The United States federal government should substantially eliminate the use of deferred and non-prosecution agreements in cases involving criminal corporate corruption claims. The United States federal government should roll back Obama & Trump era regulations that increased barriers of entry

#### CP Solves Big Banks Mafia

Michael W. Hudson et. al 20, Pulitzer-Prize winning American investigative journalist. He is currently on his second stint as a senior editor with the International Consortium of Investigative Journalists (ICIJ). At ICIJ, Hudson has worked on many major projects, including the organization's Offshore Leaks, China Leaks, Luxembourg Leaks, Panama Papers and Paradise Papers investigations of offshore money laundering and tax avoidance. He was an editor, reporter and writer on the Panama Papers investigation, which won the 2017 Pulitzer Prize for explanatory reporting.[1] In between his two tours at ICIJ, Hudson worked as global investigations editor at The Associated Press, where he edited the AP's investigation of war crimes and corruption in Yemen, which won a 2019 Pulitzer Prize for International Reporting, “Global banks defy U.S. crackdowns by serving oligarchs, criminals and terrorists”, <https://www.icij.org/investigations/fincen-files/global-banks-defy-u-s-crackdowns-by-serving-oligarchs-criminals-and-terrorists/>, September 20th, 2020, JAA

Secret U.S. government documents reveal that JPMorgan Chase, HSBC and other big banks have defied money laundering crackdowns by moving staggering sums of illicit cash for shadowy characters and criminal networks that have spread chaos and undermined democracy around the world. The records show that five global banks — JPMorgan, HSBC, Standard Chartered Bank, Deutsche Bank and Bank of New York Mellon — kept profiting from powerful and dangerous players even after U.S. authorities fined these financial institutions for earlier failures to stem flows of dirty money. U.S. agencies responsible for enforcing money laundering laws rarely prosecute megabanks that break the law, and the actions authorities do take barely ripple the flood of plundered money that washes through the international financial system. In some cases the banks kept moving illicit funds even after U.S. officials warned them they’d face criminal prosecutions if they didn’t stop doing business with mobsters, fraudsters or corrupt regimes. JPMorgan, the largest bank based in the United States, moved money for people and companies tied to the massive looting of public funds in Malaysia, Venezuela and Ukraine, the leaked documents reveal. The bank moved more than $1 billion for the fugitive financier behind Malaysia’s 1MDB scandal, the records show, and more than $2 million for a young energy mogul’s company that has been accused of cheating Venezuela’s government and helping cause electrical blackouts that crippled large parts of the country. JPMorgan also processed more than $50 million in payments over a decade, the records show, for Paul Manafort, the former campaign manager for President Donald Trump. The bank shuttled at least $6.9 million in Manafort transactions in the 14 months after he resigned from the campaign amid a swirl of money laundering and corruption allegations spawning from his work with a pro-Russian political party in Ukraine. Tainted transactions continued to surge through accounts at JPMorgan despite the bank’s promises to improve its money laundering controls as part of settlements it reached with U.S. authorities in 2011, 2013 and 2014. In response to questions for this story, JPMorgan said it was legally prohibited from discussing clients or transactions. It said it has taken a “leadership role” in pursuing “proactive intelligence-led investigations” and developing “innovative techniques to help combat financial crime.” HSBC, Standard Chartered Bank, Deutsche Bank and Bank of New York Mellon also continued to wave through suspect payments despite similar promises to government authorities, the secret documents show. The leaked documents, known as the FinCEN Files, include more than 2,100 suspicious activity reports filed by banks and other financial firms with the U.S. Department of Treasury’s Financial Crimes Enforcement Network. The agency, known in shorthand as FinCEN, is an intelligence unit at the heart of the global system to fight money laundering. BuzzFeed News obtained the records and shared them with the International Consortium of Investigative Journalists. ICIJ organized a team of more than 400 journalists from 110 news organizations in 88 countries to investigate the world of banks and money laundering. In all, an ICIJ analysis found, the documents identify more than $2 trillion in transactions between 1999 and 2017 that were flagged by financial institutions’ internal compliance officers as possible money laundering or other criminal activity — including $514 billion at JPMorgan and $1.3 trillion at Deutsche Bank. Suspicious activity reports reflect the concerns of watchdogs within banks and are not necessarily evidence of criminal conduct or other wrongdoing. Financial institutions have abandoned their roles as front-line defenses against money laundering. – Paul Pelletier Though a vast amount, the $2 trillion in suspicious transactions identified within this set of documents is just a drop in a far larger flood of dirty money gushing through banks around the world. The FinCEN Files represent less than 0.02% of the more than 12 million suspicious activity reports that financial institutions filed with FinCEN between 2011 and 2017. FinCEN and its parent, the Treasury Department, did not answer a series of questions sent last month by ICIJ and its partners. FinCEN told BuzzFeed News that it does not comment on the “existence or non-existence” of specific suspicious activity reports, sometimes known as SARs. Days before the release of the investigation by ICIJ and its partners, FinCEN announced that it was seeking public comments on ways to improve the U.S.’s anti-money laundering system. The cache of suspicious activity reports — along with hundreds of spreadsheets filled with names, dates and figures — flag bank clients in more than 170 countries who were identified as being involved in potentially illicit transactions. Along with sifting through the FinCEN Files, ICIJ and its media partners obtained more than 17,600 other records from insiders and whistleblowers, court files, freedom-of-information requests and other sources. The team interviewed hundreds of people, including financial crime experts, law enforcement officials and crime victims. According to BuzzFeed News, some of the secret records were requested as part of U.S. congressional investigations into Russian interference in the 2016 U.S. presidential election. Others were gathered by FinCEN following requests from law enforcement agencies, BuzzFeed said. The FinCEN Files offer unprecedented insight into a secret world of international banking, anonymous clients and, in many cases, financial crime. They show banks blindly moving cash through their accounts for people they can’t identify, failing to report transactions with all the hallmarks of money laundering until years after the fact, even doing business with clients enmeshed in financial frauds and public corruption scandals. Authorities in the U.S., who play a leading role in the global battle against money laundering, have ordered big banks to reform their practices, fined them hundreds of millions and even billions of dollars, and held threats of criminal charges over them as part of so-called deferred prosecution agreements. A 16-month investigation by ICIJ and its reporting partners shows that these headline-making tactics haven’t worked. Big banks continue to play a central role in moving money tied to corruption, fraud, organized crime and terrorism. “By utterly failing to prevent large-scale corrupt transactions, financial institutions have abandoned their roles as front-line defenses against money laundering,” Paul Pelletier, a former senior U.S. Justice Department official and financial crimes prosecutor, told ICIJ. He said banks know that “they operate in a system that is largely toothless.” Five of the banks that appear most often in the FinCEN Files — Deutsche Bank, Bank of New York Mellon, Standard Chartered, JPMorgan and HSBC — repeatedly violated their official promises of good behavior, the secret records show. In 2012, London-based HSBC, the largest bank in Europe, signed a deferred prosecution deal and admitted it had laundered at least $881 million for Latin American drug cartels. Narcotraffickers used specially shaped boxes that fit HSBC’s teller windows to drop off the huge amounts of drug money they were pushing through the financial system. Under the deal with prosecutors, HSBC paid $1.9 billion and the government agreed to put criminal charges against the bank on hold and dismiss them after five years if HSBC kept its pledge to aggressively fight the flow of dirty money. During that five-year probationary period, the FinCEN Files show, HSBC continued to move money for questionable characters, including suspected Russian money launderers and a Ponzi scheme under investigation in multiple countries. Yet the government allowed HSBC to announce in December 2017 that it had “lived up to all of its commitments” under its deferred prosecution pact — and that prosecutors were dismissing the criminal charges for good. In a statement to ICIJ, HSBC declined to answer questions about specific customers or transactions. HSBC said ICIJ’s information is “historic and predates” the end of its five-year deferred prosecution deal. During that time, the bank said, it “embarked on a multi-year journey to overhaul its ability to combat financial crime. . . . HSBC is a much safer institution than it was in 2012.” HSBC noted that in deciding to release the bank from the threat of criminal charges, the government had access to reports from a monitor who reviewed the bank’s reforms and practices. The Department of Justice declined to answer specific questions. In a statement, a spokesperson for the department’s criminal division said: “The Department of Justice stands by its work, and remains committed to aggressively investigating and prosecuting financial crime — including money laundering — wherever we find it.” ‘Everyone is doing badly’: Dirty money swamps bureaucrats Money laundering isn’t a victimless crime. The free flow of dirty cash helps sustain criminal gangs and destabilize nations. And it is a driver of global economic inequality. Laundered funds are often shunted between accounts owned by obscure shell companies registered in secretive offshore tax havens, allowing elites to hide massive sums from law enforcement and tax authorities. An ICIJ analysis found that banks in the FinCEN files regularly processed transactions to companies registered in so-called secrecy jurisdictions and did so without knowing the ultimate owner of the account. At least 20% of the reports contained a client with an address in one of the world’s top offshore financial havens, the British Virgin Islands, while many others provided addresses in the U.K., the U.S., Cyprus, Hong Kong, the United Arab Emirates, Russia and Switzerland. ICIJ’s analysis found that in half of the reports banks didn’t have information about one or more entities behind the transactions. In 160 reports, banks sought more information about corporate vehicles, only to be met with no response. Estimates by the United Nations Office on Drugs and Crime indicate that $2.4 trillion in illicit funds are laundered each year — the equivalent of nearly 2.7% of all goods and services produced annually in the world. But the agency estimates that authorities detect less than 1% of the world’s dirty money. “Everyone is doing badly,” David Lewis, executive secretary of the Paris-based Financial Action Task Force, a partnership of governments around the world that sets anti-money laundering standards, acknowledged in an interview with ICIJ. His organization’s country-evaluation reports — which dig into how well banks and government agencies meet anti-money-laundering laws and regulations — show lots of box-checking but little practical progress. Many countries seem more concerned with looking good on paper than actually cracking down on money laundering, he said. Even an association of the world’s biggest banks complained last year that regulators focus on “technical compliance” rather than whether systems “are really making a difference in the fight against financial crime.”

## Too Big to Jail ADV

#### No nuke terror

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

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

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

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

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

#### No impact to dollar decline

Stratfor 16 – “The Decline of the Dollar Is Not the Decline of the United States”, 5/2/2016 https://worldview.stratfor.com/article/decline-dollar-not-decline-united-states

For the United States, such a loss would be manageable so long as the transition is slow and does not cause a sudden run on the dollar. The tangible benefits of having the global reserve currency have always been up for debate, with some studies suggesting it adds less than 1 percent to gross domestic product. Former Fed Chairman Ben Bernanke recently noted that the benefits are "mostly symbolic." However, from a geopolitical perspective, a more distributed international financial system would surely undermine the United States' ability to slap sanctions on companies that do business with U.S. rivals. That said, the United States' power does not rest on any single tool. A weakening of its stranglehold over international financial transactions would weaken just one method for the United States to project power. Our view is that the dollar would likely still play a large part in any successor currency regime. That role might not approach, as it does today, the roughly 45 percent of cross-border payments nor the 64 percent of global foreign exchange reserves held, but the dollar would likely retain the largest share in a successor regime — especially if the eurozone falls apart. While this might require the United States to adjust its debt situation, it is likely that the transition would be slow as other countries gradually diversify their holdings and payments away from the dollar, given that the dollar has no clear successor. The U.S. debt situation could certainly come to a head over the next two decades (as could those of other major economies) but in the aftermath, the overall strengths of the U.S. economy would make recovery easier. Superpowers throughout history have seen the levers that enforce their status come and go, but the very definition of a superpower is that it naturally develops new ones to replace those that break. Until a single, unified bloc can balance the United States in the same way that the Soviet Union did, it will remain the center of the global geopolitical system regardless of the role the dollar plays.

## Credit Suisse ADV

#### No runaway AI

Edward Moore Geist 15, MacArthur Nuclear Security Fellow at Stanford University's Center for International Security and Cooperation, Former Stanton Nuclear Security Fellow at the RAND Corporation, Doctorate in History from the University of North Carolina, “Is Artificial Intelligence Really An Existential Threat to Humanity?”, Bulletin of the Atomic Scientists, 8-9, https://thebulletin.org/2015/08/is-artificial-intelligence-really-an-existential-threat-to-humanity/

Superintelligence: Paths, Dangers, Strategies is an astonishing book with an alarming thesis: Intelligent machines are “quite possibly the most important and most daunting challenge humanity has ever faced.” In it, Oxford University philosopher Nick Bostrom, who has built his reputation on the study of “existential risk,” argues forcefully that artificial intelligence might be the most apocalyptic technology of all. With intellectual powers beyond human comprehension, he prognosticates, self-improving artificial intelligences could effortlessly enslave or destroy Homo sapiens if they so wished. While he expresses skepticism that such machines can be controlled, Bostrom claims that if we program the right “human-friendly” values into them, they will continue to uphold these virtues, no matter how powerful the machines become.

These views have found an eager audience. In August 2014, PayPal cofounder and electric car magnate Elon Musk tweeted “Worth reading Superintelligence by Bostrom. We need to be super careful with AI. Potentially more dangerous than nukes.” Bill Gates declared, “I agree with Elon Musk and some others on this and don’t understand why some people are not concerned.” More ominously, legendary astrophysicist Stephen Hawking concurred: “I think the development of full artificial intelligence could spell the end of the human race.” Proving his concern went beyond mere rhetoric, Musk donated $10 million to the Future of Life Institute “to support research aimed at keeping AI beneficial for humanity.”

Superintelligence is propounding a solution that will not work to a problem that probably does not exist, but Bostrom and Musk are right that now is the time to take the ethical and policy implications of artificial intelligence seriously. The extraordinary claim that machines can become so intelligent as to gain demonic powers requires extraordinary evidence, particularly since artificial intelligence (AI) researchers have struggled to create machines that show much evidence of intelligence at all. While these investigators’ ultimate goals have varied since the emergence of the discipline in the mid-1950s, the fundamental aim of AI has always been to create machines that demonstrate intelligent behavior, whether to better understand human cognition or to solve practical problems. Some AI researchers even tried to create the self-improving reasoning machines Bostrom fears. Through decades of bitter experience, however, they learned not only that creating intelligence is more difficult than they initially expected, but also that it grows increasingly harder the smarter one tries to become. Bostrom’s concept of “superintelligence,” which he defines as “any intellect that greatly exceeds the cognitive performance of humans in virtually all domains of interest,” builds upon similar discredited assumptions about the nature of thought that the pioneers of AI held decades ago. A summary of Bostrom’s arguments, contextualized in the history of artificial intelligence, demonstrates how this is so.

In the 1950s, the founders of the field of artificial intelligence assumed that the discovery of a few fundamental insights would make machines smarter than people within a few decades. By the 1980s, however, they discovered fundamental limitations that show that there will always be diminishing returns to additional processing power and data. Although these technical hurdles pose no barrier to the creation of human-level AI, they will likely forestall the sudden emergence of an unstoppable “superintelligence.”

The risks of self-improving intelligent machines are grossly exaggerated and ought not serve as a distraction from the existential risks we already face, especially given that the limited AI technology we already have is poised to make threats like those posed by nuclear weapons even more pressing than they currently are. Disturbingly, little or no technical progress beyond that demonstrated by self-driving cars is necessary for artificial intelligence to have potentially devastating, cascading economic, strategic, and political effects. While policymakers ought not lose sleep over the technically implausible menace of “superintelligence,” they have every reason to be worried about emerging AI applications such as the Defense Advanced Research Projects Agency’s submarine-hunting drones, which threaten to upend longstanding geostrategic assumptions in the near future. Unfortunately, Superintelligence offers little insight into how to confront these pressing challenges.

#### It's super far off and won’t be threatening

Dr. Oren Etzioni 16, Professor of Computer Science at the University of Washington, CEO of the Allen Institute for Artificial Intelligence, Ph.D. from Carnegie Mellon University and BA from Harvard University, “No, the Experts Don’t Think Superintelligent AI is a Threat to Humanity”, MIT Technology Review, 9-20, https://www.technologyreview.com/s/602410/no-the-experts-dont-think-superintelligent-ai-is-a-threat-to-humanity/

If you believe everything you read, you are probably quite worried about the prospect of a superintelligent, killer AI. The Guardian, a British newspaper, warned recently that “we’re like children playing with a bomb,” and a recent Newsweek headline reads, “Artificial Intelligence Is Coming, and It Could Wipe Us Out.”

Numerous such headlines, fueled by comments from the likes of Elon Musk and Stephen Hawking, are strongly influenced by the work of one man: professor Nick Bostrom, author of the philosophical treatise Superintelligence: Paths, Dangers, and Strategies.

Bostrom is an Oxford philosopher, but quantitative assessment of risks is the province of actuarial science. He may be dubbed the world’s first prominent “actuarial philosopher,” though the term seems an oxymoron given that philosophy is an arena for conceptual arguments, and risk assessment is a data-driven statistical exercise.

So what do the data say? Bostrom aggregates the results of four different surveys of groups such as participants in a conference called “Philosophy and Theory of AI,” held in 2011 in Thessaloniki, Greece, and members of the Greek Association for Artificial Intelligence (he does not provide response rates or the phrasing of questions, and he does not account for the reliance on data collected in Greece).

His findings are presented as probabilities that human-level AI will be attained by a certain time:

By 2022: 10 percent.

By 2040: 50 percent.

By 2075: 90 percent.

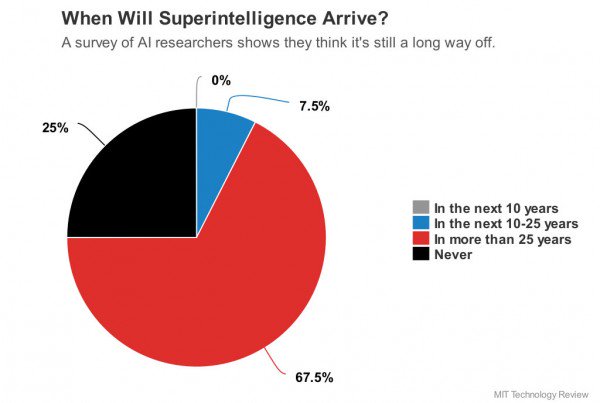
This aggregate of four surveys is the main source of data on the advent of human-level intelligence in over 300 pages of philosophical arguments, fables, and metaphors.

To get a more accurate assessment of the opinion of leading researchers in the field, I turned to the Fellows of the American Association for Artificial Intelligence, a group of researchers who are recognized as having made significant, sustained contributions to the field.

In early March 2016, AAAI sent out an anonymous survey on my behalf, posing the following question to 193 fellows:

“In his book, Nick Bostrom has defined Superintelligence as ‘an intellect that is much smarter than the best human brains in practically every field, including scientific creativity, general wisdom and social skills.’ When do you think we will achieve Superintelligence?”

Over the next week or so, 80 fellows responded (a 41 percent response rate), and their responses are summarized below:



In essence, according to 92.5 percent of the respondents, superintelligence is beyond the foreseeable horizon. This interpretation is also supported by written comments shared by the fellows.

Even though the survey was anonymous, 44 fellows chose to identify themselves, including Geoff Hinton (deep-learning luminary), Ed Feigenbaum (Stanford, Turing Award winner), Rodney Brooks (leading roboticist), and Peter Norvig (Google).

The respondents also shared several comments, including the following:

“Way, way, way more than 25 years. Centuries most likely. But not never.”

“We’re competing with millions of years’ evolution of the human brain. We can write single-purpose programs that can compete with humans, and sometimes excel, but the world is not neatly compartmentalized into single-problem questions.”

“Nick Bostrom is a professional scare monger. His Institute’s role is to find existential threats to humanity. He sees them everywhere. I am tempted to refer to him as the ‘Donald Trump’ of AI.”

Surveys do, of course, have limited scientific value. They are notoriously sensitive to question phrasing, selection of respondents, etc. However, it is the one source of data that Bostrom himself turned to.

Another methodology would be to extrapolate from the current state of AI to the future. However, this is difficult because we do not have a quantitative measurement of the current state of human-level intelligence. We have achieved superintelligence in board games like chess and Go (see “Google’s AI Masters Go a Decade Earlier than Expected”), and yet our programs failed to score above 60 percent on eighth grade science tests, as the Allen Institute’s research has shown (see “The Best AI Program Still Flunks an Eighth Grade Science Test”), or above 48 percent in disambiguating simple sentences (see “Tougher Turing Test Exposes Chatbots’ Stupidity”).

There are many valid concerns about AI, from its impact on jobs to its uses in autonomous weapons systems and even to the potential risk of superintelligence. However, predictions that superintelligence is on the foreseeable horizon are not supported by the available data. Moreover, doom-and-gloom predictions often fail to consider the potential benefits of AI in preventing medical errors, reducing car accidents, and more.

## 2NC

### Multilat CP---2NC

#### International agreements trickle down---they’ll be codified in domestic policy

David J. Gerber 12, Distinguished Professor of Law at Chicago-Kent College of Law, B.A. from Trinity College, M.A. from Yale University, and J.D. from the University of Chicago, Awarded the Degree of Honorary Doctor of Laws by the University of Zurich, Former Visiting Professor at the Law Schools of the University of Pennsylvania, Northwestern University, and Washington University, Global Competition: Law, Markets, and Globalization, p. 297-298

The most distinctive advantage of a commitment pathway strategy may lie in its capacity to maintain commitment. A bicycle analogy captures this basic point. As long as the bicycle and its rider are moving forward, physical dynamics keep it upright and provide momentum, and the more energy supports its forward momentum, the more likely it is to stay on the desired course.

Such a project can effectively utilize the interplay between national and international dynamics. Improved cooperation on the international level can support national developments, and developments on the domestic level can support transnational cooperation and attract commitment from others. Where, for example, officials and/or the public in one country learn that project-based cooperation has led to the demise of a cartel in another country, this creates incentives for them to fulfill their obligations in order to gain similar benefits. In general, knowledge that other participants are benefiting from the project can provide support for it. A pathway strategy allows participants to perceive benefits from competition and from competition law before participation imposes significant costs.

The time element in the strategy also allows networks to develop among the participants and on the basis of shared commitments. Each additional participant provides momentum for the project, but more importantly each perceived benefit from the project—useful information supplied, cartel discovered, dominant firm conduct changed—can increase this network value.¹⁰ As on the domestic level, time allows potential benefits of the project to be perceived before extensive participation costs are imposed.

#### Financial firms are globalized---antitrust in the U.S. alone is insufficient AND just expands foreign businesses that are also fragile

Dr. Sharon E. Foster 10, Associate Professor at the University of Arkansas School of Law, J.D. from Loyola Law School, Ph.D. in Law from the University of Edinburgh, “Too Big To Fail - Too Small To Compete: Systemic Risk Should be Addressed Through Antitrust Law but such a Solution Will Only Work if it is Applied on an International Basis”, Florida Journal of International Law, 22 Fla. J. Int'l L. 31, April 2010, Lexis

The only way systemic risk can be significantly reduced is to eliminate the too big to fail problem. That is where antitrust law may help to augment regulatory reform. Through Sherman § 2, 18 firms that are too big to fail and, thus, pose a systemic risk may face divestiture; the breaking up of a too big to fail firm into smaller firms that pose no such risk. Additionally, merger review under Clayton § 7 19 should utilize a systemic risk analysis and merger approval should be denied if such risk is probable.

That said, there are numerous problems to such an approach though most are of a practical nature. For example, as an economic and political reality, the United States cannot go the antitrust route alone, as there are firms outside the United States that pose systemic risks. Indeed, one reason U.S. financial services firms were allowed to become too big to fail was so they could compete with foreign firms [\*35] that were also too big to fail. 20 If, through divestiture and merger control, U.S. firms are no longer too big to fail they may be too small to compete. Accordingly, it is imperative that systemic risk analysis is integrated on a global basis to break-up and prevent the existence of too big to fail firms.

#### Lack of multilateral antitrust destroys solvency---financial firms will be systematically deregulated so long as there is large foreign competition

Dr. Sharon E. Foster 10, Associate Professor at the University of Arkansas School of Law, J.D. from Loyola Law School, Ph.D. in Law from the University of Edinburgh, “Too Big To Fail - Too Small To Compete: Systemic Risk Should be Addressed Through Antitrust Law but such a Solution Will Only Work if it is Applied on an International Basis”, Florida Journal of International Law, 22 Fla. J. Int'l L. 31, April 2010, Lexis

There is no doubt that de facto and de jure deregulation of the financial services sector in the United States was based, in part, on a reaction to foreign competition concerns. The history of de facto deregulation establishes a parallelism of behavior with regulators in the United States allowing financial service firms to conduct more questionable business in order to compete with their under regulated European counterparts. For example, the 1989 CFTC Swap Policy Statement, effectively deregulating most swap transactions, came out the same year as the European Union's Second Banking Directive which deregulated European Union financial services firms. Then, there was the permission granted to J.P. Morgan in 1990 to conduct investment banking along with its commercial banking business which European Union commercial banks were allowed to do under the Second Banking Directive; or perhaps the example of de jure deregulation in the United States in 1994 with the passage of the Riegle- Neal Interstate Banking and Branching Efficiency Act allowing commercial banks to engage in interstate banking similar to commercial banks in the European Union being allowed to do cross border banking under the Second Banking Directive.

One may argue that such parallelism of behavior is insufficient circumstantial evidence to establish the connection between deregulation in the United States and the European Union. Perhaps, but then again there is more direct evidence. During the 1990s the congressional record is replete with comments regarding the urgency in passing financial services reform repealing Glass-Steagall so financial services firms in the United States could compete with foreign competitors. 206 Additionally, law review articles addressed the issue of foreign competition in financial services 207 and some called for [\*62] deregulation in the name of international competition. 208

Given the regulatory-deregulatory merry-go-round pattern that appears on a domestic and international scale, there is cause to be skeptical about a long term resolution to the financial crisis based, primarily, upon domestic re-regulation. What is needed is an elimination of systemic risk through divestiture and merger review but this must be done on an international level or it will not be done at all.

A. International Competition and Too Big to Fail

Let us assume, hypothetically, that antitrust law in the United States does address the too big to fail problem, and through divestiture and refusal to allow certain mergers to go through, reduces the too big to fail financial services firms to a manageable size. Domestic systemic risk is solved, but what about international competition and systemic risk?

#### Limited agreement on the financial sector is possible

Dr. Sharon E. Foster 10, Associate Professor at the University of Arkansas School of Law, J.D. from Loyola Law School, Ph.D. in Law from the University of Edinburgh, “Too Big To Fail - Too Small To Compete: Systemic Risk Should be Addressed Through Antitrust Law but such a Solution Will Only Work if it is Applied on an International Basis”, Florida Journal of International Law, 22 Fla. J. Int'l L. 31, April 2010, Lexis

B. Harmonized Antitrust (Competition) Law

Harmonized antitrust law would require an international agreement whereby the parties accept a uniform international antitrust law. 213 The concept of harmonized antitrust law takes us down a road well traveled but not well received. 214 During most of the 1990s the United States and European Union discussed the concept but had little agreement. The United States preferred a course of cooperation and coordination between competition authorities rather than harmonization. 215 The reason for the reluctance was based, in part, on the differing economic conditions of the various states and issues of sovereignty regarding domestic economic policy. 216 From 2000 to the present there has been little further discussion on the topic.

It is unlikely that the difficulties of the past relating to harmonized antitrust law could be overcome today; however, it is possible to have partial harmonization where there is an international agreement to integrate systemic risk analysis in domestic antitrust laws. There seems to be international consensus that systemic risk must be avoided. 217 The financial meltdown caused, in part, by systemic risk, harmed many domestic economies as well as the global economy. 218 It is evident that a free market cannot exist in an environment where a few firms can bring the global economy to its knees. 219 Accordingly, united action is necessary. As Benjamin Franklin once said, "We must all hang together, or assuredly we shall hang separately." 220 [\*64]

#### ‘Antitrust law’ is U.S. domestic policy

Sean Murray 17, JD and Stein Scholar at the Fordham University School of Law, BA in Economics and Political Science from Vassar College, Associate at Case & White LLP, Research Assistant at the Fordham Competition Law Institute, Former Intern with the Federal Trade Commission, Former Intern with the U.S. Department of Justice, Former Junior Consultant with NERA Economic Consulting, “With A Little Help From My Friends: How A US Judicial International Comity Balancing Test Can Foster Global Antitrust Private Redress”, Fordham International Law Journal, Volume 41, Issue 1, 41 Fordham Int'l L.J. 227, November 2017, Lexis

For clarity's sake, the term "antitrust" is an American convention, whereas the more commonly employed synonymous term is "competition." See ELEANORA POLI, ANTITRUST INSTITUTIONS AND POLICIES IN THE GLOBALISING ECONOMY 2 (2016) (describing the genesis of the American "antitrust" as relating back to the late nineteenth century when US cartelists would label their joint activities "trusts" to conceal their collusive nature); PETER MORICI, ANTITRUST IN THE GLOBAL TRADING SYSTEM: RECONCILING U.S., JAPANESE, AND EU APPROACHES 3-4 (2000) (noting that though competition policy has a broader meaning than antitrust policy in most cases, the terms are used interchangeably); Diane P. Wood, The Impossible Dream: Real International Antitrust, 1992 U. CHI. LEGAL F. 277, 278 (1992) (noting that "antitrust" is synonymous with "competition" and "antimonopoly"). Labels may vary by country, such as in China where "antimonopoly" is used or in France where "concurrence" is used for the body of law. See "[THE ORIGINAL CHARACTER SET CANNOT BE REPRINTED HERE. PLEASE SEE TEXT IN ORIGINAL DOCUMENT] (Anti-Monopoly Law of the People's Republic of China) (promulgated by the Standing Comm. Nat'l People's Cong., Aug. 30, 2007, effective Aug. 1, 2008) 2007 STANDING COMM. NAT'L PEOPLE'S CONG. GAZ. 68 (China) (setting out China's antitrust law); CODE DE COMMERCE [C. COM.][COMMERCIAL CODE] arts. 410-1 to 470-8 (Fr.) (book IV entitled "de la liberté des prix et de la concurrence," or "Freedom of Prices and Competition").

#### It’s an alternative to the plan

Anu Bradford 3, Published under the Maiden Name of Anu Piilola, Henry L. Moses Professor of Law and International Organization at Columbia Law School, LLM from Harvard Law School, Master of Laws from University of Helsinki, JD from Harvard Law School, Licentiate in Laws from the University of Helsinki, Fulbright Scholar, “Assessing Theories of Global Governance: A Case Study of International Antitrust Regulation”, Stanford Journal of International Law, Volume 39, Issue 2, 39 Stan. J Int'l L. 207, Summer 2003, Lexis

Antitrust law is illustrative of the legal realms in which conflicting ideas of international and national regulatory frameworks have yet to find a satisfactory equilibrium. While competition among multinational enterprises has increasingly disregarded national borders, antitrust laws have remained predominantly national. The traditional, though perhaps most controversial, way to deal with international antitrust issues is to rely on a unilateral application of national antitrust laws. This type of extraterritoriality, however, has caused significant tension and resistance. 1 A more radical, equally controversial approach would be to harmonize national antitrust laws or establish unified supranational antitrust rules. This is a far-reaching solution that lacks adequate support in today's political climate. 2 Other alternative [\*208] routes to solving existing frictions would be, for example, to expand bilateral and regional cooperative arrangements or to establish a choice of law system.

Consequently, there is an ongoing debate over whether there is a need to create an international antitrust regime that could better respond to the new economic environment, increased cross-border business activity, and the integration of markets. Proponents of such a regime view international antitrust rules as necessary tools to reduce transaction costs, increase efficiency, and cultivate legal certainty. However, there is little agreement concerning the form, substance, or timeframe of the proposed regulatory reform. Those who oppose the creation of an international antitrust regime emphasize the divergent policy goals of different nations and the conflicting understandings of the role and extent of antitrust enforcement in different jurisdictions. They argue that discrete policy and enforcement concerns clearly hinder attempts at internationalization and highlight the necessity of maintaining regulatory diversity. In this view, countries should retain regulatory powers on the national level, as part of the exclusive right of sovereign states to design their market structures and economic policies.

#### ‘Its’ refers to the U.S., is possessive, and exclusive

Douglas F. Brent 10, Attorney and Co-Chair of the Privacy & Information Security Practice at Stoll Keenon Ogden LLP, JD from the University of Kentucky College of Law, BA from the University of Kentucky, “Reply Brief on Threshold Issues of Cricket Communications, Inc.”, Commonwealth of Kentucky Before the Public Service Commission, 6/2/2010, http://psc.ky.gov/PSCSCF/2010%20cases/2010-00131/20100602\_Crickets\_Reply\_Brief\_on\_Threshold\_Issues.PDF [italics in original]

AT&T also argues that Merger Commitment 7.4 only permits extension of “any given” interconnection agreement for a single three year term. AT&T Brief at 12. Specifically, AT&T asserts that because Cricket adopted the interconnection agreement between Sprint and AT&T, which itself was extended, Cricket is precluded from extending the term of its agreement with AT&T. Id

This argument relies upon an inaccurate assumption: that the agreement (contract) between Sprint and AT&T, and the agreement (contract) between Cricket and AT&T, are one and the same. In other words, to accept AT&T’s argument the Commission must conclude that two separate contracts, i.e. the interconnection between Sprint and AT&T in Kentucky (“Sprint Kentucky Agreement”) and the interconnection between Cricket and AT&T in Kentucky (“Cricket Kentucky Agreement”), are one and the same.

Upon this unstated (and inaccurate) premise AT&T asserts that “*the ICA* was already extended”; id. at 14, and “*the ICA* Cricket seeks to extend was extended by Sprint . . . .”; id. at 15, and, finally, “Cricket cannot extend *the same ICA* a second time . . . .” Id. (emphasis added in all). Note that in the quoted portions of the AT&T brief (and elsewhere) AT&T uses vague and imprecise language when referring to either the Sprint Kentucky Agreement, or the Cricket Kentucky Agreement, in hopes that the Commission will treat the two contracts as one and the same.

But it would be a mistake to do so. The contract governing AT&T’s duties and obligations with Sprint is a legally distinct and separate contract from that which governs AT&T’s duties with Cricket. The Sprint Kentucky Agreement was approved by the Commission in September of 2001 in Case Number 2000-00480. The Cricket Kentucky Agreement was approved by the Commission in September of 2008 in Case Number 2008-033 1.

AT&T ignores the fact that these are two separate and distinct contracts because it knows that the merger commitments apply to *each* agreement that an individual telecommunications carrier has with AT&T. Notably, Merger Commitment 7.4 states that “AT&T/BellSouth ILECs shall permit *a requesting telecommunications carrier* to extend *its* current interconnection agreement . . . . As written, the commitment allows any carrier to extend “*its*” agreement. Clearly, the use of the pronoun “its” in this context is possessive, such that the term “its” means - *that* particular carrier’s agreement with AT&T (and not any other carrier’s agreement). Thus, the merger commitment applies to each agreement that an individual carrier may have with AT&T. It necessarily follows then, that Cricket’s right to extend its agreement under Merger Commitment 7.4 is separate and distinct right from another carrier’s right to extend its agreement with AT&T (or whether such agreement has been extended).

#### The framework is opt-in---the only outcome is a voluntary commitment that’s not binding, even if later implementation is

Michael Ristaniemi 20, PhD Candidate in Commercial Law at the University of Turku, Vice President for Sustainability at the Metsä Group, Participant in the Visiting Scholar Programme at the University of California, Berkeley, “International Antitrust: Toward Upgrading Coordination and Enforcement”, Doctoral Dissertation, October 2020, https://core.ac.uk/download/pdf/347180879.pdf

Structured cooperation, such as opt-in frameworks could be feasible, although binding commitments are likely to be difficult to agree on multilaterally. Such an approach could be particularly effective if combined with reporting obligations as is with the Global Compact – firms who have signed up must report annually on their efforts to comply in order to remain a member of the framework. Such comply-and-explain mechanisms are arguably effective, even if on a voluntary basis.280 Structured cooperation should focus on where sufficient common ground can be found, such as in procedural matters and concerning hard-core cartels. Other, more suitable fora exist for discussing points of divergence, such as how to treat firms in strong market positions, or how to address state aid and other industrial policy questions.

It is important for international antitrust to remain responsive. In the pluralist and polycentric environment that it is, norm collision will continue to occur. As such, fixed and binding constitutionalism is neither possible nor desirable, but rather ways should be found which preemptively coordinate the conduct of actors – competition agencies, policymakers, and firms alike – to avoid unnecessary conflict and to develop tools in which to reconcile and manage the remaining inevitable norm collision.281

#### ‘Prohibitions’ must be binding

Dr. Francis Jacobs 90, Member of the European Court of Justice, DPhil from the University of Oxford, Former Professor of European Law at the University of London and Director of the Centre of European Law for King's College London School of Law, “Commission of the European Communities v French Republic – Opinion of Mr Advocate General Roberts”, European Court Reports 1990 I-00925, Case C-62/89, 2/20/1990, p. 942

20. In my view, those arguments cannot be accepted. It is plain from the wording of Article 10(2) of Regulation No 2057/82 and from the scheme and objectives of the Community legislation that Member States are required to anticipate the exhaustion of the quota and to act to prohibit fishing provisionally before the quota is exhausted . That the exhaustion of the quota must be anticipated is indicated by the requirement in Article 10(2) that each Member State shall determine the date from which its vessels "shall be *deemed to have exhausted* the quota ..." ( emphasis added ). The use of the word "prohibit" in Article 10(2) and the mandatory wording of the second subparagraph of Article 10(3) (" Fishing vessels ... shall cease fishing ...") indicate that the measures taken to halt fishing provisionally must be of a binding nature. It is moreover apparent from the scheme of the legislation that the obligation imposed on Member States by Article 10(2) is of crucial importance for ensuring respect for quotas: the obligation must therefore be construed strictly. An interpretation of Article 10(2) which would permit Member States to wait until after the quota was exhausted before taking action, or to adopt measures of a non-binding nature, would be inconsistent with the binding character of the quotas. It would also undermine the underlying objective of quotas, i.e. the conservation of scarce fishing resources.

#### They must be immediately effective, not a result

Dr. Howard Newby 4, BA and PhD from the University of Essex, Chair of the Higher Education Funding Council for England, Former Vice-Chancellor of the University of Liverpool, “Joint Committee on the Draft Charities Bill - Written Evidence”, Memorandum from the Higher Education Funding Council for England, 9/30/2004, http://www.publications.parliament.uk/pa/jt200304/jtselect/jtchar/167/167we98.htm

9.1 The Draft Bill creates an obligation on the principal regulator to do all that it "reasonably can to meet the compliance objective in relation to the charity".[ 45] The Draft Bill defines the compliance objective as "to increase compliance by the charity trustees with their legal obligations in exercising control and management of the administration of the charity".[ 46]

9.2 Although the word "increase" is used in relation to the functions of a number of statutory bodies,[47] such examples demonstrate that "increase" is used in relation to considerations to be taken into account in the exercise of a function, rather than an objective in itself.

9.3 HEFCE is concerned that an obligation on principal regulators to "increase" compliance per se is unworkable, in so far as it does not adequately define the limits or nature of the statutory duty. Indeed, the obligation could be considered to be ever-increasing.

#### ‘Substantial’ requires immediate law

Words and Phrases 64 (40 W&P 759)

The words “outward, open, actual, visible, substantial, and exclusive,” in connection with a change of possession, mean substantially the same thing. They mean not concealed; not hidden; exposed to view; free from concealment, dissimulation, reserve, or disguise; in full existence; denoting that which not merely can be, but is opposed to potential, apparent, constructive, and imaginary; veritable; genuine; certain; absolute; real at present time, as a matter of fact, not merely nominal; opposed to form; actually existing; true; not including admitting, or pertaining to any others; undivided; sole; opposed to inclusive. Bass v. Pease, 79 Ill. App. 308, 318.

#### So does ‘should’

Justice Summers 94, Oklahoma Supreme Court, “Kelsey v. Dollarsaver Food Warehouse of Durant”, 1994 OK 123, 11/8/1994, http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13

4 The legal question to be resolved by the court is whether the word "should"[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn13) in the May 18 order connotes futurity or may be deemed a ruling in praesenti.[14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn14) The answer to this query is not to be divined from rules of grammar;[15](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn15) it must be governed by the age-old practice culture of legal professionals and its immemorial language usage. To determine if the omission (from the critical May 18 entry) of the turgid phrase, "and the same hereby is", (1) makes it an in futuro ruling - i.e., an expression of what the judge will or would do at a later stage - or (2) constitutes an in in praesenti resolution of a disputed law issue, the trial judge's intent must be garnered from the four corners of the entire record.[16](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker3fn16)

[TO FOOTNOTE]

[13](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn13) "Should" not only is used as a "present indicative" synonymous with ought but also is the past tense of "shall" with various shades of meaning not always easy to analyze. See 57 C.J. Shall § 9, Judgments § 121 (1932). O. JESPERSEN, GROWTH AND STRUCTURE OF THE ENGLISH LANGUAGE (1984); St. Louis & S.F.R. Co. v. Brown, 45 Okl. 143, 144 P. 1075, 1080-81 (1914). For a more detailed explanation, see the Partridge quotation infra note 15. Certain contexts mandate a construction of the term "should" as more than merely indicating preference or desirability. Brown, supra at 1080-81 (jury instructions stating that jurors "should" reduce the amount of damages in proportion to the amount of contributory negligence of the plaintiff was held to imply an obligation and to be more than advisory); Carrigan v. California Horse Racing Board, 60 Wash. App. 79, [802 P.2d 813](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=802&box2=P.2D&box3=813) (1990) (one of the Rules of Appellate Procedure requiring that a party "should devote a section of the brief to the request for the fee or expenses" was interpreted to mean that a party is under an obligation to include the requested segment); State v. Rack, 318 S.W.2d 211, 215 (Mo. 1958) ("should" would mean the same as "shall" or "must" when used in an instruction to the jury which tells the triers they "should disregard false testimony"). [14](http://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=20287#marker2fn14) In praesenti means literally "at the present time." BLACK'S LAW DICTIONARY 792 (6th Ed. 1990). In legal parlance the phrase denotes that which in law is presently or immediately effective, as opposed to something that will or would become effective in the future [in futurol]. See Van Wyck v. Knevals, [106 U.S. 360](http://www.oscn.net/applications/oscn/deliverdocument.asp?box1=106&box2=U.S.&box3=360), 365, 1 S.Ct. 336, 337, 27 L.Ed. 201 (1882).

#### It creates a coalition of the willing that bypasses general obstacles

Dr. Daniel Francis 21, Climenko Fellow and Lecturer on Law at Harvard Law School, Doctorate of Laws Degree from the NYU School of Law, Master of Laws Degree from Harvard University, JD from Trinity College at Cambridge University, Former Deputy Director of the Federal Trade Commission, “Choices and Consequences: Internationalizing Competition Policy after TPP”, in Megaregulation Contested: The Global Economic Order After TPP, Ed. Kingsbury, Revised 8/26/2021, p. 52-53

Conclusion

I have argued that strong, universalistic prescriptions regarding the internationalization of competition policy are unlikely to be very convincing or very interesting. Polities and societies have sharply differing accounts of what “free” and “fair” competition might mean, and when and how the state should shape it, interfere with it, or exclude it altogether. Liberalization and competition offer tremendous benefits to jurisdictions that embrace them; but no jurisdiction does so entirely, and each polity must find its own optimal balance between competition and the values that—so to speak—compete with it. This makes international action a very complex affair in which internationalization is likely to happen slowly when it happens at all. Sometimes it will be simply unavailable: “state preferences may be configured in such a way as to make cooperation unprofitable for all, in which case it will not occur, no matter what international mechanisms are in place.”204

As “[d]isagreement on matters of principle is . . . not the exception but the rule in politics,”205 I have suggested that there is considerable value in the provision of a wide range of tools and forms to facilitate international action. The bigger and more diverse the toolkit, the greater the likelihood of finding a solution that will serve the turn. To that end, I have emphasized the value of three forms of flexibility in this area: regionalism as a complement to bilateralism and multilateralism; frameworks as a complement to treaties and networks; and a willingness to explore cooperation on competition policy both alongside and separately from the liberalization of trade.

All the hard questions remain. But, as policymakers and scholars survey the wreckage of megaregionalism, I think there are plenty of reasons for optimism. I have emphasized that when grand megaregional bargains wrought in binding international law fail, other paths may remain open. Other combinations, other configurations, can offer the prospect of “progress”—in the right sense—to coalitions of the willing. At the time of writing, there is some evidence that many of the TPP’s parties continue to see value in deep cooperation in matters of trade and competition policy, even without the participation of the United States.206 With some creativity and imagination, and in partnership with like-minded jurisdictions, there is every reason to expect that they will achieve it.

#### Europe and China will say ‘yes’

Michael Ristaniemi 20, PhD Candidate in Commercial Law at the University of Turku, Vice President for Sustainability at the Metsä Group, Participant in the Visiting Scholar Programme at the University of California, Berkeley, “International Antitrust: Toward Upgrading Coordination and Enforcement”, Doctoral Dissertation, October 2020, https://core.ac.uk/download/pdf/347180879.pdf

Despite the above, the major powers do have an interest in cooperating internationally in competition issues. The EU and the US appear to desire further convergence of practices and substantive thinking. Officially, China does not appear to have a strong stance on convergence, but recent practice shows that it too has engaged in an increasing amount of dialogue on competition matters. Indeed, there is an increasing amount of cooperation in relation to investigating international cartels, referring to cartels that operate in several nations concurrently and which seek to cartelize them.208

Further, the competition authorities of major powers have an incentive to ensure that merger control procedures affecting mergers benefiting their respective regions are as internationally streamlined and coordinated as possible given the number of multinationals that originate from each of their respective territories. Nonetheless, there are a few hurdles for streamlining international merger control. First is the dichotomous leadership of the US and the EU systems, with no single leading standard to become the global standard. Second, there are clear differences in nations’ scope of merger review that may arise from partially differing sets of goals should they attempt to address public interest or other non-competition related concerns concurrently with competition concerns.209 In any case, the aggregate cost of a fragmented system of international merger control is arguably higher than it would need to be. Improved, more structured coordination could help, as discussed further in Chapters 5 and 6 below.

#### That’s sufficient

Michael Ristaniemi 18, PhD Candidate in Commercial Law at the University of Turku, Vice President for Sustainability at the Metsä Group, Participant in the Visiting Scholar Programme at the University of California, Berkeley, “Convergence, Divergence or Disturbance – How Major Economic Powers Approach International Antitrust”, Concurrences, Number 3, September 2018, https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3266018

2. This will be done by analysing the recent stances that major world economic powers have taken as well as longer trends in their actions and inactions in terms of international cooperation on competition issues. The guiding assumption is that whatever actions such major powers decide to employ, they will significantly affect the kind of cooperation undertaken by other nations in the world in trade policy generally as well as in competition policy as a part of it. Bradford & Posner argue that “international law is best understood as the result of overlapping consensus” of the otherwise conflicting views of major powers, at the core of which nations consider themselves bound, that such consensus is a fluid concept and is subject to change at the whim of each major power, and that it would be wrong to consider otherwise.3 This is a relevant backdrop also in relation to assessing potential for international cooperation in the realm of competition policy. 1

3. The paper’s focus is on three major economic powers: The United States (US), the European Union (EU), and China.4 Collectively they account for over 60% of the global economy and are consequentially all major economic powers.5 Each of them has a differing historical background to competition and competitive markets, and each has a unique presence and unique intentions in policy questions affecting competition globally. The three major powers are all exceptional states.6 This refers to a state which believes its values should form part of the global framework and has the power to influence this. This is particularly true now that the US’s influence is decreasing and there is room for a more diverse world order, in which China will likely be an increasingly important actor.7

#### Status-seeking drives agreement AND overwhelms economic costs

Geoffrey A. Manne 13, Lecturer in Law at Lewis & Clark Law School, Executive Director of the International Center for Law & Economics, JD from the University of Chicago Law School, Former Olin Fellow at the University of Virginia School of Law, and Dr. Seth Weinberger, PhD and MA in Political Science from Duke University, MA in National Security Studies from Georgetown University, AB from the University of Chicago, Associate Professor in the Department of Politics and Government at the University of Puget Sound, “International Signals: The Political Dimension of International Competition Law”, The Antitrust Bulletin, Volume 57, Number 3, Fall 2012, Volume 57, Number 3, Last Revised 7/18/2013, p. 490-492

The United States has an interest in obtaining credible long-term commitments from other states—particularly developing states—to the dominant norms of global economic and political liberalization preferred by the United States. To the extent that adherence to the tenets of economic liberalization preferred by the United States is costly, adherence to those standards conveys a measure of long-term commitment. Similarly, to the extent that states can be made to adapt their domestic infrastructure and institutions to conform with the United States’ preferred institutions of economic liberalization (an undoubtedly costly proposition8), the United States can credibly hope to initiate a process of internalization, whereby the adaptations made create a “lock-in” effect which helps to further the processes of market liberalization and democratization that the United States believes are essential for the maintenance of its preferred international order.9 In short, the more difficult and costly it is for a state to adhere to an international agreement, the more its continued, costly adherence signals the state’s long-term commitment to the underlying tenets with which the agreement is imbued.

Moreover and not least, the process of harmonization through successive, bilateral (or narrow, regional) agreements, particularly in the economic sphere, permits the measured, evolutionary adoption of international standards. The crass realpolitik of multilateral international institutions, even though imbued with desirable normative constraints, suggests that the product of their deliberations will be less economic than political. Many have suggested, however, that regulatory competition in an arena like antitrust (where laws are invariably applied extraterritorially and where states have no ability to lure incorporations with attractive antitrust laws) makes an evolutionary, competitive approach infeasible.10

The recognition of political costs, however, and a consideration of the broader political environment in which international economic laws are negotiated, suggest that an evolutionary, competitive approach is in fact possible. As described in more detail below,11 nations compete for favorable trade and other status. To the extent that their position in the normative order is affected favorably by incurring the costs of compliance with the dominant economic norms as embodied in particular agreements (because of the internalization effect), some measure of competition is possible. By this we mean that, rather than a race for the top (or bottom) engendered by the competition for incorporation fees, for example, states will compete in a race for political status. Because political status is conferred by entering into agreements with dominant economic powers, developing countries (and other states that have not yet solidified their political or economic positions) will enter into agreements without direct transfer payments in order to receive the benefits of credibility, normative change, and international acceptance. The net effect should be the effective export of consistent American (or, more recently, European) antitrust policy. Notably, because harmonization can be achieved over time, through limited agreements, the substance of the dominant international law can also be honed over time as experience proves it necessary.12

As scholars such as Elinor Ostrom and Richard McAdams have demonstrated, this type of trust is often the basis for effective cooperation.¹¹ The deep suspicions that abound in the area of international economic policy, especially between developed countries and much of the developing world, are not likely to be overcome by the signing of an agreement or by technical assistance alone. A gradualist program of increasing cooperation and participation-based movement toward a shared goal can, however, change attitudes. The successes of the European integration process over the last fifty years may be the most poignant demonstration of this potential.

#### Each action must be interlinked and conditional---otherwise, it’ll collapse

Dr. Daniel Francis 21, Climenko Fellow and Lecturer on Law at Harvard Law School, Doctorate from the NYU School of Law, Master of Laws Degree from Harvard University, JD from Trinity College at Cambridge University, “Choices and Consequences: Internationalizing Competition Policy after TPP”, in Megaregulation Contested: The Global Economic Order After TPP, Ed. Kingsbury, Revised 8/26/2021, p. 40-48

A “framework” in the sense that I am using that term is a facilitative arrangement that does not constitute a treaty under international law,167 and which does not carry the charge of international legal obligation, but which involves an exchange of specific and reciprocally contingent commitments by participant jurisdictions to engage in mutually beneficial conduct. Specifically, each party states that it will extend certain benefits to each other party so long as each other does likewise; the parties may also create supplementary mechanisms to monitor and/or adjudicate compliance with these commitments.168

[FOOTNOTE] 168 It is almost universally appreciated that reciprocal behavior plays a crucial rule in compliance with international law more generally. See, e.g., Andrew T. Guzman, HOW INTERNATIONAL LAW WORKS: A RATIONAL CHOICE THEORY (Oxford 2008) 42 (“Reciprocity can serve as a powerful compliance-enhancing tool in the right circumstances.”). [END FOOTNOTE]

A framework of this kind is not a treaty: it is what Kal Raustiala calls a “pledge,”169 and what Charles Lipson calls an “informal” agreement,170 involving no legal obligation, and it involves no commitment of the parties’ reputation for law-abiding behavior.171 On the other hand, it differs from an open, information-sharing network because it precisely specifies behavioral commitments, and because each of the parties shares an understanding that concrete consequences will promptly follow—exclusion from the benefits provided by others—if its behavior materially deviates from the terms of the commitment.172 A framework is therefore essentially a specific declaration of intention to engage in conduct that benefits others, contingent upon parallel behavior by other participating states, without obligatory status under international law.

This is, in some sense, the direct opposite of the approach typically taken in competition policy chapters in trade agreements. The provisions of competition policy chapters partake of the substance of treaty law, but are generally framed in broad terms rather than specifics, and generally do not reflect a shared understanding that specific consequences will attend breach. By contrast, frameworks do not bind in international law, are framed in specific terms than aspirational generalities, and reflect an understanding that the benefits of cooperation will be withdrawn in the event of violation.

Contingent cooperation thus depends for its effectiveness primarily upon three important dynamics. The first and most important of these is the rationality of strategic cooperation. A familiar mainstream view holds that to a significant extent states behave in international society in ways that rationally serve their interests.173 And when cooperation over a series of interactions is overall in the interests of each member of a group, but when each member faces a rational incentive to defect from the terms of cooperation in individual cases, familiar economic theory teaches that a strategic cooperative equilibrium can be maintained among the parties.174 In contingent cooperation, each party understands that if it defects materially from the terms of the framework, the other participants will withdraw the excludable benefits of cooperation, and this provides the incentive to comply.175

#### Including the plan shreds U.S. leverage

Dr. Rachel Brewster 6, Bigelow Fellow & Lecturer in Law at the University of Chicago Law School, BA and JD from the University of Virginia, PhD in Political Science from the University of North Carolina – Chapel Hill, Received the John Patrick Hagan Award for Excellence in Undergraduate Teaching, Former Assistant Professor of Law and Affiliate Faculty Member of The Weatherhead Center for International Affairs at Harvard University, “Rule-Based Dispute Resolution in International Trade Law”, Virginia Law Review, Volume 92, 92 Va. L. Rev. 251, April 2006, p. 281-282

Congress can always eliminate the President's agenda-setting power by engaging in unilateral trade policies. The Constitution allocates to Congress the power to set international commercial policy. The President only has significant trade-policy power (beyond his veto power) because the United States has chosen to engage in multilateral trade negotiations. 84 If Congress wished to undertake unilateral free trade policies, then the President's bargaining leverage would be reduced to threatening a veto, the same as in the realm of domestic legislation. Congress is unlikely to take such steps, however, because reciprocal agreements are valuable political commodities. 85 International agreements offer domestic exporters greater access to foreign markets, which could be lost if Congress were to pursue the unilateral route.

#### Resource depletion---extinction

Dr. Timothy Gorringe 20, St. Luke’s Professor in the Department of Religion and Theology at the University of Exeter, BA and MPhil from St. Edmund Hall, Oxford University, “Confession and Hope: Ekklesia’s Task in the Global Emergency”, Religions, Volume 11, Number 2, https://www.mdpi.com/2077-1444/11/2/97/htm

1. The Four Horsemen

Doubtless every generation has its own version of the four horsemen of Revelation 6, and they have been grim enough over the centuries, but never as genuinely apocalyptic, in the popular sense, as today. Today’s four horsemen—overpopulation, resource depletion, loss of biodiversity and climate change—could each separately mean civilisational collapse and put together they could mean the end of human life on earth.1

The first issue is population, which has more than doubled since 1961 to getting on for 8 billion. The UN predicts it will plateau at 11 billion at the end of the century but this cannot be guaranteed. The assumption is that women’s education, and the availability of contraception, will stabilize numbers but, as Stephen Emmot points out, both of these have been available in Niger for years, and the average birth rate is still seven children per woman. In China and Hungary larger families are officially promoted. If the current rate of global reproduction continues, there will not be eleven billion, but twenty eight billion human beings by the end of the century (Emmott 2013). While one sixth of the present world population still live in absolute poverty it remains the case that, as the Baltimore economist Herman Daly has been arguing for half a century, huge numbers mean huge impacts. Emmott argues that the pressures this size of population will generate can only end in complete collapse, in which the earth will become uninhabitable.

Population impacts are intensified by the dominant economic model, neo-liberalism, which looks for more and more growth, ignoring the warnings of the ‘Limits to Growth’ report of fifty years ago. The mission of the World Bank is to put an end to poverty, which is admirable, but the subtext is that the whole world should live like the United States—which would require five planets, and indeed more if absolute numbers keep growing. One of the results of this version of ‘economy’ (actually, an anti-economy as Wendell Berry in particular has argued) is a soaring gap between rich and poor all over the world. Today inequality is driven not primarily by inherited wealth but by salary differentials.2 Some CEOs earn more than a thousand times what their lowest paid employees earn. The French economist Thomas Piketty suggests that if it got to a stage where the top decile appropriated 90% of each year’s output, revolution would likely occur unless some peculiarly effective repressive apparatus exists to keep it from happening.3 Even in terms of the system as it is, an inegalitarian spiral cannot continue indefinitely: Ultimately there will be no place to invest the savings, and the global return on capital will fall, until an equilibrium distribution emerges.4

The second of our four horsemen is resource depletion, which includes uranium, copper, phosphorus, rare earths which are vital for renewable energy, top soil, but above all water. Sixty per cent of fresh water is found in just nine countries.5 It is estimated that within twenty years almost half the world’s population will experience water scarcity. Global consumption of water is doubling every twenty years, more than twice the rate of human population growth. Agriculture accounts for sixty five per cent (one ton of wheat requires one thousand tons of water), domestic use ten percent, and industry accounts for the rest. Even now ‘the water table in major grain producing areas in China is falling at the rate of five feet per year. Of China’s 617 cities 300 already face water shortages. 80% of their rivers no longer support fish life.’ (Kunstler 2006).

Some analysts have been predicting peak oil for many years and if this were really the case it would have huge implications for farming and therefore for the capacity to feed seven or eleven billion. However, as Emmott notes, new reserves of oil and gas are constantly being found, and shale oil and gas is coming on stream. The problem, as he puts it, is not that there are not enough fossil fuels, but, to the contrary, that we will seek to use every last drop.6

#### Human rights---failure cause nuclear war

Gregory Treverton 17, Chair of the National Intelligence Council, Office of the Director of National Intelligence, National Intelligence Council Unclassified Strategic Assessment Of Global Trends, Authored by ODNI Personnel Including the Chairman of the NIC, “The Near Future: Tensions Are Rising”, 2017, <https://www.dni.gov/index.php/global-trends/near-future>

These global trends, challenging governance and changing the nature of power, will drive major consequences over the next five years. They will raise tensions across all regions and types of governments, both within and between countries. These near-term conditions will contribute to the expanding threat from terrorism and leave the future of international order in the balance.

Within countries, tensions are rising because citizens are raising basic questions about what they can expect from their governments in a constantly changing world. Publics are pushing governments to provide peace and prosperity more broadly and reliably at home when what happens abroad is increasingly shaping those conditions.

In turn, these dynamics are increasing tensions between countries—heightening the risk of interstate conflict during the next five years. A hobbled Europe, uncertainty about America’s role in the world, and weakened norms for conflict-prevention and human rights create openings for China and Russia. The combination will also embolden regional and nonstate aggressors—breathing new life into regional rivalries, such as between Riyadh and Tehran, Islamabad and New Delhi, and on the Korean Peninsula. Governance shortfalls also will drive threat perceptions and insecurity in countries such as Pakistan and North Korea.

* Economic interdependence among major powers remains a check on aggressive behavior but might be insufficient in itself to prevent a future conflict. Major and middle powers alike will search for ways to reduce the types of interdependence that leaves them vulnerable to economic coercion and financial sanctions, potentially providing them more freedom of action to aggressively pursue their interests.

Meanwhile, the threat from terrorism is likely to expand as the ability of states, groups, and individuals to impose harm diversifies. The net effect of rising tensions within and between countries—and the growing threat from terrorism—will be greater global disorder and considerable questions about the rules, institutions, and distribution of power in the international system.

Europe. Europe’s sharpening tensions and doubts about its future cohesion stem from institutions mismatched to its economic and security challenges. EU institutions set monetary policy for Eurozone states, but state capitals retain fiscal and security responsibilities—leaving poorer members saddled with debt and diminished growth prospects and each state determining its own approach to security. Public frustration with immigration, slow growth, and unemployment will fuel nativism and a preference for national solutions to continental problems.

* Outlook: Europe is likely to face additional shocks—banks remain unevenly capitalized and regulated, migration within and into Europe will continue, and Brexit will encourage regional and separatist movements in other European countries. Europe’s aging population will undermine economic output, shift consumption toward services—like health care—and away from goods and investment. A shortage of younger workers will reduce tax revenues, fueling debates over immigration to bolster the workforce. The EU’s future will hinge on its ability to reform its institutions, create jobs and growth, restore trust in elites, and address public concerns that immigration will radically alter national cultures.

United States. The next five years will test US resilience. As in Europe, tough economic times have brought out societal and class divisions. Stagnant wages and rising income inequality are fueling doubts about global economic integration and the “American Dream” of upward mobility. The share of American men age 25- 54 not seeking work is at the highest level since the Great Depression. Median incomes rose by 5 percent in 2015, however, and there are signs of renewal in some communities where real estate is affordable, returns on foreign and domestic investment are high, leveraging of immigrant talent is the norm, and expectations of federal assistance are low, according to contemporary observers.

* Outlook: Despite signs of economic improvement, challenges will be significant, with public trust in leaders and institutions sagging, politics highly polarized, and government revenue constrained by modest growth and rising entitlement outlays. Moreover, advances in robotics and artificial intelligence are likely to further disrupt labor markets. Meanwhile, uncertainty is high around the world regarding Washington’s global leadership role. The United States has rebounded from troubled times before, however, such as when the period of angst in the 1970s was followed by a stronger economic recovery and global role in the world. Innovation at the state and local level, flexible financial markets, tolerance for risk-taking, and a demographic profile more balanced than most large countries offer upside potential. Finally, America is distinct because it was founded on an inclusive ideal—the pursuit of life, liberty, and happiness for all, however imperfectly realized—rather than a race or ethnicity. This legacy remains a critical advantage for managing divisions.

Central and South America. Although state weakness and drug trafficking have and will continue to beset Central America, South America has been more stable than most regions of the world and has had many democratic advances—including recovery from populist waves from the right and the left. However, government efforts to provide greater economic and social stability are running up against budget and debt constraints. Weakened international demand for commodities has slowed growth. The expectations associated with new entrants to the middle class will strain public coffers, fuel political discontent, and possibly jeopardize the region’s significant progress against poverty and inequality Activist civil society organizations are likely to fuel social tensions by increasing awareness of elite corruption, inadequate infrastructure, and mismanagement. Some incumbents facing possible rejection by their publics are seeking to protect their power, which could lead to a period of intense political competition and democratic backsliding in some countries. Violence is particularly rampant in northern Central America, as gangs and organized criminal groups have undermined basic governance by regimes that lack capacity to provide many basic public goods and services.

* Outlook: Central and South America are likely to see more frequent changes in governments that are mismanaging the economy and beleaguered by widespread corruption. Leftist administrations already have lost power in places like Argentina, Guatemala, and Peru and are on the defensive in Venezuela, although new leaders will not have much time to show they can improve conditions. The success or failure of Mexico’s high-profile reforms might affect the willingness of other countries in the region to take similar political risks. The OECD accession process may be an opportunity—and incentive— for some countries to improve economic policies in a region with fairly balanced age demographics, significant energy resources, and well-established economic links to Asia, Europe, and the United States.

An Inward West? Among the industrial democracies of North America, Europe, Japan, South Korea, and Australia, leaders will search for ways to restore a sense of middle class wellbeing while some attempt to temper populist and nativist impulses. The result could be a more inwardly focused West than we have experienced in decades, which will seek to avoid costly foreign adventures while experimenting with domestic schemes to address fiscal limits, demographic problems, and wealth concentrations. This inward view will be far more pronounced in the European Union, which is absorbed by questions of EU governance and domestic challenges, than elsewhere.

* The European Union’s internal divisions, demographic woes, and moribund economic performance threaten its own status as a global player. For the coming five years at least, the need to restructure European relations in light of the UK’s decision to leave the EU will undermine the region’s international clout and could weaken transatlantic cooperation, while anti-immigration sentiments among the region’s populations will undermine domestic political support for Europe’s political leaders.
* Questions about the United States’ role in the world center on what the country can afford and what its public will support in backing allies, managing conflict, and overcoming its own divisions. Foreign publics and governments will be watching Washington for signs of compromise and cooperation, focusing especially on global trade, tax reform, workforce preparedness for advanced technologies, race relations, and its openness to experimentation at the state and local levels. Lack of domestic progress would signal a shift toward retrenchment, a weaker middle class, and potentially further global drift into disorder and regional spheres of influence. Yet, America’s capital, both human and security, is immense. Much of the world’s best talent seeks to live and work in the United States, and domestic and global hope for a competent and constructive foreign policy remain high.

China. China faces a daunting test—with its political stability in the balance. After three decades of historic economic growth and social change, Beijing, amid slower growth and the aftereffects of a debt binge, is transitioning from an investment-driven, export-based economy to one fueled by domestic consumption. Satisfying the demands of its new middle classes for clean air, affordable houses, improved services, and continued opportunities will be essential for the government to maintain legitimacy and political order. President Xi’s consolidation of power could threaten an established system of stable succession, while Chinese nationalism—a force Beijing occasionally encourages for support when facing foreign friction—may prove hard to control.

* Outlook: Beijing probably has ample resources to prop up growth while efforts to spur private consumption take hold. Nonetheless, the more it “doubles down” on state owned enterprises (SOEs) in the economy, the more it will be at greater risk of financial shocks that cast doubt on its ability to manage the economy. Automation and competition from lowcost producers elsewhere in Asia and even Africa will put pressure on wages for unskilled workers. The country’s rapidly shrinking working-age population will act as a strong headwind to growth.

Russia. Russia’s aspires to restore its great power status through nationalism, military modernization, nuclear saber rattling, and foreign engagements abroad. Yet, at home, it faces increasing constraints as its stagnant economy heads into a third consecutive year of recession. Moscow prizes stability and order, offering Russians security at the expense of personal freedoms and pluralism. Moscow’s ability to retain a role on the global stage—even through disruption—has also become a source of regime power and popularity at home. Russian nationalism features strongly in this story, with A Chinese man rides a bike among luxurious cars. China’s dramatic economic growth has highlighted greater gaps between rich and poor.

President Putin praising Russian culture as the last bulwark of conservative Christian values against the decadence of Europe and the tide of multiculturalism. Putin is personally popular, but approval ratings of 35 percent for the ruling party reflect public impatience with deteriorating quality of life conditions and abuse of power.

* Outlook: If the Kremlin’s tactics falter, Russia will become vulnerable to domestic instability driven by dissatisfied elites— even as a decline in status suggests more aggressive international action. Russia’s demographic picture has improved somewhat since the 1990s but remains bleak. Life expectancy among males is the lowest of the industrial world, and its population will continue to decline. The longer Moscow delays diversifying its economy, the more the government will stoke nationalism and sacrifice personal freedoms and pluralism to maintain control.

An Increasingly Assertive China and Russia. Beijing and Moscow will seek to lock in temporary competitive advantages and to right what they charge are historical wrongs before economic and demographic headwinds further slow their material progress and the West regains its footing. Both China and Russia maintain worldviews in which they are rightfully dominant in their regions and able to shape regional politics and economics to suit their security and material interests. Both have moved aggressively in recent years to exert greater influence in their regions, to contest the US geopolitically, and to force Washington to accept exclusionary regional spheres of influence—a situation that the United States has historically opposed. For example, China views the continuing presence of the US Navy in the Western Pacific, the centrality of US alliances in the region, and US protection of Taiwan as outdated and representative of the continuation of China’s “100 years of humiliation.”

* Recent Sino-Russian cooperation has been tactical, however, and is likely to return to competition if Beijing jeopardizes Russian interests in Central Asia and as Beijing enjoys more options for cheap energy supply beyond Russia. Moreover, it is not clear whether there is a mutually acceptable border between what China and Russia consider their natural spheres of influence. Meanwhile, India’s growing economic power and profile in the region will further complicate these calculations, as New Delhi navigates relations with Beijing, Moscow, and Washington to protect its own expanding interests. A Chinese development firm—with links to the Chinese Government and People’s Liberation Army— today announced that it recently purchased the uninhabited Cobia Island from the Government of Fiji for $850 million. Western security analysts assess that China plans to use the island to build a permanent military base in the South Pacific, 3,150 miles southwest of Hawaii.

Russian assertiveness will harden anti-Russian views in the Baltics and other parts of Europe, escalating the risk of conflict. Russia will seek, and sometimes feign, international cooperation, while openly challenging norms and rules it perceives as counter to its interests and providing support for leaders of fellow “managed democracies” that encourage resistance to American policies and preferences. Moscow has little stake in the rules of the global economy and can be counted on to take actions that weaken US and European institutional advantages. Moscow will test NATO and European resolve, seeking to undermine Western credibility; it will try to exploit splits between Europe’s north and south and east and west, and to drive a wedge between the United States and the EU.

* Similarly, Moscow will become more active in the Middle East and those parts of the world in which it believes it can check US influence. Finally, Russia will remain committed to nuclear weapons as a deterrent and as a counter to stronger conventional military forces, as well as its ticket to superpower status. Russian military doctrine purportedly includes the limited use of nuclear weapons in a situation where Russia’s vital interests are at stake to “deescalate” a conflict by demonstrating that continued conventional conflict risks escalating the crisis to a large scale nuclear exchange.

In Northeast Asia, growing tensions around the Korean Peninsula are likely, with the possibility of serious confrontation in the coming years. Kim Jong Un is consolidating his grip on power through a combination of patronage and terror and is doubling down on his nuclear and missile programs, developing long-range missiles that may soon threaten the continental United States. Beijing, Seoul, Tokyo, and Washington have a common incentive to manage security risks in Northeast Asia, but a history of warfare and occupation along with current mutual distrust makes cooperation difficult. Continued North Korean provocations, including additional nuclear and missile tests, might worsen stability in the region and prompt neighboring countries to take actions, sometimes unilaterally, to protect their security interests.

Competing Views on Instability

China and Russia portray global disorder as resulting from a Western plot to push what they see as self-serving American concepts and values of freedom to every corner of the planet. Western governments see instability as an underlying condition worsened by the end of the Cold War and incomplete political and economic development. Concerns over weak and fragile states rose more than a generation ago because of beliefs about the externalities they produce— whether disease, refugees, or terrorists in some instances. The growing interconnectedness of the planet, however, makes isolation from the global periphery an illusion, and the rise of human rights norms makes state violence against a governed population an unacceptable option.

### Too Big to Jail ADV---2NC

#### History proves---no capability diffusion, no materials, and no one has even attempted attacks

Christopher J. Fettweis 19. Associate Professor of Political Science at Tulane University, Ph.D. in International Relations/Comparative Politics from the University of Maryland, College Park. 2019. “Pessimism and Nostalgia in the Second Nuclear Age.” Strategic Studies Quarterly, vol. 13, no. 1, pp. 12–41. JSTOR.

Terrorism Finally, despite the string of bleak and terrifying projections from a variety of experts, nuclear weapons have remained well beyond the capabilities of the modern apocalyptic terrorist. The great fear of the SNA literature, that scientific knowledge and technology would gradually become more accessible to nonstate actors, has remained only a dream. Nor does there appear to be a great reservoir of fissile material in the world’s various black markets waiting to be weaponized.58 Just because something has not yet occurred does not mean that it cannot or will not occur eventually. However, it is worth noting that the world has not experienced any close calls regarding nuclear terrorism. Forecasting future unique events is a necessarily dicey enterprise, but one way to improve accuracy is to examine events that have already or almost happened. Given the many complexities involved with nuclear weapons, especially for amateurs as any terrorists would almost certainly be, it is not unreasonable to expect a few failures, or near misses, to precede success. While it is possible that we might not know about all the plots disrupted by international law enforcement, keeping the lid on nuclear near misses would presumably be no small task. As of this writing, the public is aware of no serious attempts to construct, steal, or purchase nuclear weapons, much less smuggle and detonate one. “Leakage” does not seem to be a problem, yet.59 The uniformly pessimistic projections about the second nuclear era have not, at least thus far, been borne out by events. Post–Cold War trends have instead been generally moving in directions opposite to these expectations, with fewer nuclear weapons in the hands of the same number of countries and none pursuing more. Why, then, does nuclear pessimism persist? What are the roots of the current fashionable unwillingness—or even inability—to detect positive patterns in nuclear security?

#### The AFF fails

Sam Vaknin 5, Ph.D., Editor in Chief of Global Politician and Investment Politics, “Money Laundering in A Changed World”, May, http://samvak.tripod.com/pp96.html

Quo Vadis, Money Laundering?

Crime is resilient and fast adapting to new realities. Organized crime is in the process of establishing an alternative banking system, only tangentially connected to the West's, in the fringes, and by proxy. This is done by purchasing defunct banks or banking licences in territories with lax regulation, cash economies, corrupt politicians, no tax collection, but reasonable infrastructure.

The countries of Eastern Europe - Yugoslavia (Montenegro and Serbia), Macedonia, Ukraine, Moldova, Belarus, Albania, to mention a few - are natural targets. In some cases, organized crime is so all-pervasive and local politicians so corrupt that the distinction between criminal and politician is spurious.

Gradually, money laundering rings move their operations to these new, accommodating territories. The laundered funds are used to purchase assets in intentionally botched privatizations, real estate, existing businesses, and to finance trading operations. The wasteland that is Eastern Europe craves private capital and no questions are asked by investor and recipient alike.

The next frontier is cyberspace. Internet banking, Internet gambling, day trading, foreign exchange cyber transactions, e-cash, e-commerce, fictitious invoicing of the launderer's genuine credit cards - hold the promise of the future. Impossible to track and monitor, ex-territorial, totally digital, amenable to identity theft and fake identities - this is the ideal vehicle for money launderers. This nascent platform is way too small to accommodate the enormous amounts of cash laundered daily - but in ten years time, it may. The problem is likely to be exacerbated by the introduction of smart cards, electronic purses, and payment-enabled mobile phones.

### Credit Suisse ADV---2NC

#### No emerging tech impact

Caitlin Talmadge 19, Associate Professor of Security Studies in the School of Foreign at Georgetown University, as well as Senior Non-Resident Fellow in Foreign Policy at the Brookings Institution. "Emerging Technology and Intra-War Escalation Risks: Evidence from the Cold War, Implications for Today." https://www.tandfonline.com/doi/full/10.1080/01402390.2019.1631811

Yet the future relationship between emerging technologies and escalation may not be as straightforward as these statements imply. The debate about emerging technologies tends to portray them as a powerful independent variable – an exogenous factor that is both necessary and sufficient to cause conflict escalation. This paper argues instead that emerging technologies are more likely to function as intervening variables; they may be necessary for escalation to happen in some cases, but they alone are not sufficient, and sometimes they will not even be necessary. The strongest drivers of escalation will actually lie elsewhere, in the realms of politics and strategy. As a result, concern about new technologies is warranted, but determinism is not. An overemphasis on the dangers of technology alone ignores the critical role of political and strategic choices in shaping the impact of technology, and also could lead to a misplaced faith in arms control or other means of trying to stuff the technological genie back in the bottle.5

## 1NR

### Infrastructure DA---1NR

#### It’s the only existential risk

Samuel Miller-McDonald 19, PhD Candidate in Geography and the Environment at the University of Oxford, “Deathly Salvation”, The Trouble, 1/4/2019, 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.

#### It’s fast---extinction within 5 years

Dr. Jim Garrison 21, PhD from the University of Cambridge, MA from Harvard University, BA from the University of Santa Clara, Founder/President of Ubiquity University, “Human Extinction by 2026? Scientists Speak Out”, UbiVerse, 7/1/2021, https://ubiverse.org/posts/human-extinction-by-2026-scientists-speak-out

This may be the most important article you will ever read, from Arctic News June 13, 2021. It is a presentation of current climate data around planet earth with the assertion that if present trends continue, rising temperatures and CO2 emissions could make human life impossible by 2026. That's how bad our situation is. We are not talking about what might happen over the next decades. We are talking about what is happening NOW. We are entering a time of escalating turbulence due to our governments' refusal to take any kind of real action to reduce global warming. We must immediately and with every ounce of awareness and strength that we can muster take concerted action to REGENERATE human community and the planetary ecology. We must all become REGENERATION FIRST RESPONDERS, which is the focus of our Masters in Regenerative Action.

#### It makes nuclear war inevitable in every region

Dr. Michael T. Klare 20, Five Colleges Professor of Peace and World Security Studies at Hampshire College, Ph.D. from the Graduate School of the Union Institute, BA and MA from Columbia University, Member of the Board of Director at the Arms Control Association, Defense Correspondent for The Nation, “How Rising Temperatures Increase the Likelihood of Nuclear War”, The Nation, 1/13/2020, https://www.thenation.com/article/archive/nuclear-defense-climate-change/

Climbing world temperatures and rising sea levels will diminish the supply of food and water in many resource-deprived areas, increasing the risk of widespread starvation, social unrest, and human flight. Global corn production, for example, is projected to fall by as much as 14 percent in a 2°C warmer world, according to research cited in a 2018 special report by the UN’s Intergovernmental Panel on Climate Change (IPCC). Food scarcity and crop failures risk pushing hundreds of millions of people into overcrowded cities, where the likelihood of pandemics, ethnic strife, and severe storm damage is bound to increase. All of this will impose an immense burden on human institutions. Some states may collapse or break up into a collection of warring chiefdoms—all fighting over sources of water and other vital resources.

A similar momentum is now evident in the emerging nuclear arms race, with all three major powers—China, Russia, and the United States—rushing to deploy a host of new munitions. This dangerous process commenced a decade ago, when Russian and Chinese leaders sought improvements to their nuclear arsenals and President Barack Obama, in order to secure Senate approval of the New Strategic Arms Reduction Treaty of 2010, agreed to initial funding for the modernization of all three legs of America’s strategic triad, which encompasses submarines, intercontinental ballistic missiles, and bombers. (New START, which mandated significant reductions in US and Russian arsenals, will expire in February 2021 unless renewed by the two countries.) Although Obama initiated the modernization of the nuclear triad, the Trump administration has sought funds to proceed with their full-scale production, at an estimated initial installment of $500 billion over 10 years.

Even during the initial modernization program of the Obama era, Russian and Chinese leaders were sufficiently alarmed to hasten their own nuclear acquisitions. Both countries were already in the process of modernizing their stockpiles—Russia to replace Cold War–era systems that had become unreliable, China to provide its relatively small arsenal with enhanced capabilities. Trump’s decision to acquire a whole new suite of ICBMs, nuclear-armed submarines, and bombers has added momentum to these efforts. And with all three major powers upgrading their arsenals, the other nuclear-weapon states—led by India, Pakistan, and North Korea—have been expanding their stockpiles as well. Moreover, with Trump’s recent decision to abandon the Intermediate-Range Nuclear Forces (INF) Treaty, all major powers are developing missile delivery systems for a regional nuclear war such as might erupt in Europe, South Asia, or the western Pacific.

#### It quickly turns the economy

Dr. Nouriel Roubini 20, Professor of Economics at New York University's Stern School of Business, Chairman of Roubini Macro Associates, Senior Economist for International Affairs in the White House’s Council of Economic Advisers during the Clinton Administration, “The White Swans of 2020”, Project Syndicate, 2/17/2020, https://www.project-syndicate.org/commentary/white-swan-risks-2020-by-nouriel-roubini-2020-02

The US, of course, will not sit idly by while coming under asymmetric attack. It has already been increasing the pressure on these countries with sanctions and other forms of trade and financial warfare, not to mention its own world-beating cyberwarfare capabilities. US cyberattacks against the four rivals will continue to intensify this year, raising the risk of the first-ever cyber world war and massive economic, financial, and political disorder.

Looking beyond the risk of severe geopolitical escalations in 2020, there are additional medium-term risks associated with climate change, which could trigger costly environmental disasters. Climate change is not just a lumbering giant that will cause economic and financial havoc decades from now. It is a threat in the here and now, as demonstrated by the growing frequency and severity of extreme weather events.

In addition to climate change, there is evidence that separate, deeper seismic events are underway, leading to rapid global movements in magnetic polarity and accelerating ocean currents.. Any one of these developments could augur an environmental white swan event, as could climatic “tipping points” such as the collapse of major ice sheets in Antarctica or Greenland in the next few years. We already know that underwater volcanic activity is increasing; what if that trend translates into rapid marine acidification and the depletion of global fish stocks upon which billions of people rely?

#### Partisan backlash wrecks the effectiveness of antitrust

William E. Kovacic 14, George Mason University Foundation Professor at the George Mason University School of Law, JD from Columbia University School of Law, and BA from Princeton University, “Politics and Partisanship in U.S. Federal Antitrust Enforcement”, Antitrust Law Journal, Volume 79, Number 2, p. 688-690

What accounts for these and other notable variations in federal enforcement activity? One common explanation is “politics”9—a shorthand expression for the capacity of elections and elected officials to bend the antitrust enforcement system to serve a set of policy preferences or constituent desires. By this view, the political process affects enforcement through presidential elections, the selection of agency leadership, the intervention of executive branch and congressional officials in routine agency decision making, and the appointment of federal judges who hear antitrust cases.

It is unsurprising that a regulatory system rich in power and prosecutorial discretion would have some connection to the political process. The substantial economic significance of the statutes whose enforcement is entrusted to the DOJ and the FTC ensures that elected officials will study what these agencies do and sometimes seek to influence the exercise of their prosecutorial authority. It is also difficult to imagine that a nation would give significant responsibility to law enforcement bodies without some means for elected officials to hold agency officials to account for their policy choices. Expansive grants of authority tend to come with accountability strings attached.10

For academics, practitioners, and public officials, the question is not whether political forces surround the DOJ and the FTC, or whether decisions by elected officials sometimes influence agency behavior. They assuredly do.11 The relevant queries are how, and how much? This Article addresses these questions by examining one dimension of the relationship between the federal antitrust agencies and the political process. It discusses how electoral politics can increase the influence of partisanship in the operation of the DOJ and the FTC. As used in this Article, partisanship is a determined commitment to party goals and causes. It manifests itself in a tendency to exaggerate the virtues of the party and to disregard or devalue the accomplishments of political rivals. Through the political appointment of the DOJ and FTC leadership, partisanship can spill over into the formulation and presentation of agency policy.

As will be shown, partisanship can have destructive effects. Among other consequences, partisan attitudes can lead officials to act in ways that serve party goals at the expense of the agency’s programs and reputation. The partisan tends to overlook how continuity of policy and incremental improvements have strengthened the DOJ and FTC antitrust programs regardless of which party controls the White House.12 Partisanship impedes the development of a norm that recognizes the importance of cumulative improvements, respects past contributions to agency effectiveness regardless of party origin, and encourages long-term investments that enhance the agency’s capability and reputation. 13 The striving for electoral success can beget partisanship, and, by eroding support for a norm that encourages cumulative investments for improvement over the long term, partisan attitudes can diminish agency effectiveness. In this sense, politics can influence federal antitrust enforcement, and influence it negatively.

#### It’ll be rapid, overwhelming adaptation, there’s multiple positive feedbacks AND it causes extinction from food, water, resource wars, ocean collapse, and disease

John Coviello 21, Senior Technical Writer at Total Technology, Inc., Author of One Last Breath: A Look Back at 200 Years of Global Warming, Degree in Environmental Science from Susquehanna University, “Are Humans Facing Near-Term Human Extinction Due to Global Warming?”, Soapboxie, 7/23/2021, https://soapboxie.com/social-issues/Are-Humans-Facing-Near-Term-Human-Extinction-Due-to-Global-Warming

Looking back on the history of life on Earth, the main driver of species’ extinctions have been changes in climate over time that species could not adapt to, even when provided long spans of time to adapt. Given the unnaturally fast rate of global warming climate change now occurring, humans would have to adapt to the rapid loss of habitat and food sources, as well as all the other impacts, at an unprecedentedly fast speed. Adding to concerns regarding our survival as a species, pessimists point out that Homo sapiens are the last of several humanoid species (Neanderthals, Homo erectus, etc.) that made Earth their home for millions of years until these prior humanoid species eventually went extinct because they could not adapt to their environment and competition for food.

Why the Concern Now About Our Survival as a Species?

While some scientists started raising concerns about the burning of fossil fuels eventually warming the Earth’s atmosphere as far back as the middle 20th century, a consensus among scientists that global warming is a problem we have to address didn’t form until the later part of the 20th century.

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.

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.

#### Manchin will come around

BOLTON 11/9 (Alexander; The Hill, “Manchin sees his power grow,” <https://thehill.com/homenews/senate/580647-manchin-sees-his-power-grow>, //pa-ww)

Manchin still hasn’t signed off on the framework, despite the significant concessions to him. But some moderate Democratic strategists are doubtful that lumping everything into one massive infrastructure package or keeping the bipartisan infrastructure bill firmly tied to the outcome of the negotiations on reconciliation bill would have moved Manchin to support more social spending. “That’s not what was going to happen. Manchin is happy to wait five more months,” said Jim Kessler, the executive vice president for policy at Third Way, a centrist Democratic think tank. Even when Democrats set a $3.5 trillion spending target for the reconciliation package in the budget resolution, Kessler thought “this is going to end up at $2 trillion” because of resistance from Manchin and other centrists. But Democratic strategists think Manchin will eventually sign onto the reconciliation package, though it may not be until the week of Thanksgiving, when the Congressional Budget Office is expected to provide an official cost estimate for the bill, or later. Steve White, the director of the Affiliated Construction Trades Foundation in Charleston, W.Va., said “the idea somehow that he doesn’t want the second bill, I think, is wrong.” “I think he doesn’t want all of the second bill. Half of the second bill is a lot,” he added of the reconciliation bill. “I’m looking forward to what it looks like and I think there will be a lot of good stuff for West Virginia.” White said the bipartisan infrastructure bill will have a “huge” impact on West Virginia but he said the reconciliation bill will also have significant investments for the state. He said spending on renewable energy, such as wind turbines, could create good job opportunities in the state.

#### Manchin will vote ‘yes’

AP 11/4 (Associated Press, “Biden Claims Historic Progress on Climate Efforts at Summit,” https://news.wttw.com/2021/11/04/biden-claims-historic-progress-climate-efforts-summit, //pa-ww)

President Joe Biden argued Tuesday that historic progress on addressing global warming was achieved at the U.N. climate conference in Glasgow, Scotland, and expressed optimism for a similar outcome in Washington, where his legislative agenda has been stalled by intra-party disagreements. Speaking in a press conference before boarding Air Force One to return to Washington, Biden highlighted new efforts to stop methane leaks, protect forests, invest in new technologies and spend money on clean energy infrastructure. But his efforts to meet U.S. commitments on climate change with a major domestic spending bill remained held up by legislative maneuvering. “I can’t think of any two days where more has been accomplished on climate than these two days,” Biden said. The president contrasted the U.S. posture of leading several major initiatives at the summit with those of Russia and China, who did not send their leaders to Glasgow. “The single most important thing that’s got the attention of the world is climate, everywhere, from Iceland to Australia,” Biden said, “and they’ve walked away.” “We showed up. We showed up,” Biden said. “And by showing up we’ve had a profound impact, I think, on how the rest of the world is looking at the United States.” Biden has been determined to demonstrate to the world that the U.S. is back in the global effort against climate change, after his predecessor Donald Trump pulled the U.S. — the world’s largest economy and second-biggest climate polluter — out of the landmark 2015 Paris climate accord. Putting the U.S. on the path to halve its own output of coal, oil and natural gas pollution by 2050, as his climate legislation seeks to do, “demonstrates to the world the United States is not only back at the table, it hopefully can lead by the power of our example,” Biden told delegates and observers on Monday. “I know that hasn’t always been the case,” he added, in a reference to Trump. But Biden has yet to deliver on his own commitments as coal-state U.S. Sen. Joe Manchin has again threatened Biden’s domestic effort. For all the optimism Biden has been radiating at the summit in Scotland, persistent doubts lurk about whether he can deliver solely through executive actions as continued talks with Congress have steadily cut into his ambitions. Manchin said Monday, at an unfortunate time for the president, that he remained undecided on Biden’s $1.75 trillion domestic policy proposal, which includes $555 billion in provisions to combat climate change. Manchin holds a key vote in the Senate, where Biden has the slimmest of Democratic majorities, and has successively killed off key parts of the administration’s climate proposals. He said Monday he was uncertain about the legislation’s impact on the economy and federal debt and was as “open to voting against” it as for it. Biden minimized Manchin’s objections on Tuesday, saying of the senator, “He will vote for this” and “I believe that Joe will be there.” He insisted no world leaders were pressing him on the fate of the legislation in Washington and expressed confidence in its passage. Biden has essentially bet that the right mix of policies on climate change and the economy are not only good for the country but will help Democrats politically. But questions remain about whether he has enough political capital at home to fully honor his promises to world leaders about shifting the U.S. toward renewable energy. Gubernatorial elections Tuesday in Virginia and New Jersey — states Biden won in last year’s election — will provide the first ballot-box test of how Americans view his presidency. Biden joined other leaders Tuesday for an initiative to promote safeguarding the world’s forests, which pull vast amounts of carbon pollution from the air. As part of a broader international effort, the administration is attempting to halt natural forest loss by 2030 and intends to dedicate up to $9 billion of climate funding to the issue, pending congressional approval. “Forests have the potential to reduce — reduce — carbon globally by more than one third,” Biden said. The president and European Commission President Ursula von der Leyen co-hosted an event to promote an alternative to China’s infrastructure financing programs. Biden compared his “Build Back Better World” policies to the Chinese programs, saying his would not expose countries seeking infrastructure funds to “debt traps and corruption.” He then highlighted the commitments by roughly 100 countries to cut methane emissions by 30% over the next decade. Biden also joined world leaders in promoting investments in new technology to fight climate change and build a carbon-neutral future. “Our current technology alone won’t get us where we need to be,” he said, “We need to invest in breakthroughs.” The president also met behind closed doors with Prince Charles and “commended the Royal Family for its dedication to climate issues,” the White House said. Crucial for his time in Scotland is that he’s emphasizing several policies that can be achieved without congressional buy-in, such as the methane pledges and private partnerships. Back home, his administration chose Tuesday to launch a wide-ranging plan to reduce methane emissions, targeting a potent greenhouse gas that contributes significantly to global warming. Biden came to the summit saying he hoped to see his legislation pass this week, but Manchin’s new objections threaten to close the narrow window Biden may have to win passage of his initiatives. The senator is eager to preserve his state’s declining coal industry despite coal’s falling competitiveness in U.S. energy markets. If Biden’s climate legislation falters, he could be limited to regulatory projects on climate that could easily be overturned by the next U.S. president, and turn his stirring cries for climate action abroad into wistful talk at home. Manchin’s statements are a possible sign that one of two key Democratic votes in the Senate wants to delay votes on the president’s agenda until the bill is fully reviewed. But House Democrats are still taking steps this week to pass Biden’s $1 trillion infrastructure package, which includes efforts to address climate change. The White House is seeking to turn both measures into law, linking them in hopes of appeasing a diverse and at times fractious Democratic caucus. White House press secretary Jen Psaki pushed back, saying the administration is confident the spending package already meets the criteria set by Manchin. “It is fully paid for, will reduce the deficit, and brings down costs for health care, childcare, elder care, and housing,” Psaki said. “We remain confident that the plan will gain Senator Manchin’s support.”

#### Discrepancies will be resolved---ensures passage

AP 11/6, “House rule vote sets stage for action on ‘Build Back Better’ bill by midmonth”, <https://www.marketwatch.com/story/house-rule-vote-sets-stage-for-action-on-build-back-better-bill-by-midmonth-01636176418>, November 6th, 2021

But in an evening breakthrough brokered by Biden and House leaders and mapped out in part by the Congressional Black Caucus, the moderates later agreed to back that bill if CBO’s estimates are consistent with preliminary numbers that White House and congressional tax analysts have provided. The agreement, in which lawmakers promised to vote on the social and environment bill — known as the Build Back Better Act — by the week of Nov. 15, stood as a significant step toward a House vote that could ultimately ship it to the Senate.

In a two-sentence statement, five moderates said that if the fiscal estimates raise problems, “we remain committed to working to resolve any discrepancies in order to pass the Build Back Better legislation.” The five included Rep. Josh Gottheimer of New Jersey, leader of a group of centrists who this summer repeatedly pressured House Speaker Nancy Pelosi of California to schedule earlier votes on the infrastructure bill.

In exchange, progressives agreed to back the infrastructure measure, which they’d spent months effectively holding hostage in an effort to pressure moderates to back the social and environment legislation.

In a White House statement released after midnight, Biden said he was “proud that a rule was voted on that will allow for passage of my Build Back Better Act in the House of Representatives the week of November 15th.”

#### Political momentum will get it done

Peter Rosenstein 11/11, columnist for the Washington Blade and the Georgetown Dish and a regular contributor to the Huffington Post, “Biden has won big twice — third win will come soon”, <https://www.washingtonblade.com/2021/11/11/biden-has-won-big-twice-third-win-will-come-soon/>, November 11th, 2021

Last week President Biden got a big win when the House passed the hard infrastructure bill. We shouldn’t forget it was his second big win; the first came in March when Democrats passed the Coronavirus Relief Bill. In the weeks ahead he will get his third big win when Democrats pass a version of the Build Back Better bill doing more for children, the elderly, the middle-class, and the poor; giving help to those living in rural communities. Democrats must remind people after four years of failed ‘infrastructure weeks’ under Trump and Republican control, President Biden delivered on his promise to work across the aisle and shepherded through a historic investment in our nation’s infrastructure.

Democrats must stop talking about these bills in terms of cost and what was left out and rather talk about all the great programs in the bills and how they will lift people out of poverty, keep businesses from going under, and are rebuilding our economy.

These bills are about creating jobs, the infrastructure bill alone will create 2 million good-paying new jobs a year for 10 years. It will allow us to rebuild our roads and bridges, and expand broadband so every American has access to high-speed internet. As President Biden said, “This bill is for the kids in rural communities who now have to do their homework in the McDonald’s parking lot because they don’t have WiFi. This bill is for families who have to boil their water to make it safe to drink. This bill is for those who rely on rail to get back and forth to work. This bill is for Americans who care about our climate. And yes, this bill is for the elderly man I met years ago in rural South Carolina, who just wanted his damn dirt road paved.”

Most Americans, whatever their politics, agree it was past time to invest in rebuilding our nation’s infrastructure. They understand it is a major step in growing our economy and will give people in every community, large and small, rural and big cities, the chance to compete and succeed.

Americans can now look forward to the Build Back Better Bill, which will go a long way in fighting climate change, keeping children out of poverty, provide universal early childhood education, help keep the elderly in their homes, reduce the cost of some drugs, and so much more.

Recently Abigail Spanberger (D-Va.), a more moderate Democrat, spoke about President Biden saying to the New York Times, “Nobody elected him to be FDR they elected him to be normal and stop the chaos.” Well that is true for many voters who might just be happy they don’t have to wake up each morning to another nasty tweet, more craziness, and endless lies.

Yet many Democrats, independents and Republicans voted for him to do that, but so much more. They can now celebrate President Biden and Democrats in Congress having done much more. They have passed, and will continue to pass, legislation giving all Americans a chance to succeed. They have lifted children out of poverty and given each parent hope for a better future for themselves and their children.

#### Biden can get Manchin on board

Kevin Liptak & Kate Sullivan 11/2, Liptak is a reporter covering the White House, Kate is from CNN White House, “Biden says he can convince Manchin to vote for his sweeping agenda: 'I believe that Joe will be there'”, <https://www.cnn.com/2021/11/02/politics/senator-joe-manchin-joe-biden-legislative-text/index.html>, November 2nd, 2021

President Joe Biden said Tuesday he's confident Sen. Joe Manchin will support his sweeping climate and social spending bill after the West Virginia Democrat publicly raised doubts about the plan.

"I believe that Joe will be there," Biden said during a concluding news conference at the United Nations climate summit in Glasgow, Scotland.

"He will vote for this if we have in this proposal what he has anticipated, and that is looking at the fine print and the detail of what comes out of the House in terms of the actual legislative initiatives," Biden said.

Biden cast Manchin's reticence at publicly supporting the package as a desire to ensure the final bill meets his expectations, which Biden said it would.

"Joe is looking for the precise detail to make sure nothing got slipped in terms of the way in which the legislation got written," he said.

Manchin, whose vote is critical to the bill's passage in the Senate, raised concerns about the bill's accounting during a news conference on Monday. His objections were largely shrugged off by Democrats, who are pushing forward with a plan to vote on that bill and an accompanying infrastructure bill.

#### BBB top of docket

Cornwell, 11/09

(Susan, Doina Chiacu, and Jonathan Oatis, “U.S. House plans to pass 'Build Back Better' bill Nov 15 week -Pelosi”, Reuters, 11-09-2021, https://www.reuters.com/world/us/us-house-plans-pass-build-back-better-bill-nov-15-week-pelosi-2021-11-09/)\\JM

The U.S. House of Representatives intends to pass President Joe Biden's "Build Back Better" legislation the week of Nov. 15, House Speaker Nancy Pelosi told reporters in Glascow. "That is our plan to pass the bill the week of November 15," she said at a news conference during the United Nations Climate Chance Conference in the Scottish city.

#### 3) Only votes cost PC---not controversies

Kevin Drum 10, Political Blogger, Mother Jones, former contributing writer for the WASHINGTON MONTHLY http://motherjones.com/kevin-drum/2010/03/immigration-coming-back-burner

Not to pick on Ezra or anything, but this attitude betrays a surprisingly common misconception about political issues in general. The fact is that political dogs never bark until an issue becomes an active one. Opposition to Social Security privatization was pretty mild until 2005, when George Bush turned it into an active issue. Opposition to healthcare reform was mild until 2009, when Barack Obama turned it into an active issue. Etc. I only bring this up because we often take a look at polls and think they tell us what the public thinks about something. But for the most part, they don't.1 That is, they don't until the issue in question is squarely on the table and both sides have spent a couple of months filling the airwaves with their best agitprop. Polling data about gays in the military, for example, hasn't changed a lot over the past year or two, but once Congress takes up the issue in earnest and the Focus on the Family newsletters go out, the push polling starts, Rush Limbaugh picks it up, and Fox News creates an incendiary graphic to go with its saturation coverage — well, that's when the polling will tell you something. And it will probably tell you something different from what it tells you now. Immigration was bubbling along as sort of a background issue during the Bush administration too until 2007, when he tried to move an actual bill. Then all hell broke loose. The same thing will happen this time, and without even a John McCain to act as a conservative point man for a moderate solution. The political environment is worse now than it was in 2007, and I'll be very surprised if it's possible to make any serious progress on immigration reform. "Love 'em or hate 'em," says Ezra, illegal immigrants "aren't at the forefront of people's minds." Maybe not. But they will be.

#### The last mile to reform is a tough fight, tanking Biden’s other agenda

Joseph Charles Folio 21 III, Lawyer at Morrison Forrester, and Lisa M. Phelan Co-chair Global Antitrust Law Practice Group at Morrison Forrester, Jeff Jaeckel, Co-chair Global Antitrust Law Practice Group at Morrison Forrester, and Alexander Paul Okuliar, Co-chair Global Antitrust Law Practice Group at Morrison Forrester, “Antitrust Update: Up and Down the Avenue”, 3/22/2021, https://www.mofo.com/resources/insights/210322-atr-update.html

Are the stars aligning for antitrust reform? President Biden is filling key positions in the White House (Timothy Wu, National Economic Council) and at the FTC (Lina Khan, nominee for commissioner) with lawyers who have advocated for increased antitrust enforcement, especially against “big tech.” In Congress, the House antitrust subcommittee concluded a year-long investigation in October 2020 and found bipartisan agreement on discrete areas for reform. With Democrats now in control of both houses of Congress, antitrust legislation seems close. But not so fast.

The House and Senate antitrust subcommittees have held four hearings since February 25, 2021, but it is crucial to view these recent developments in their proper context. Even when politicians and enforcers appear to agree on a goal, it can still be a long and winding road to actual policy reform.

Two to go

Although antitrust reform advocates cheered President Biden’s initial appointments, two of the most consequential antitrust positions—the assistant attorney general (AAG) for antitrust and the FTC chair—remain open. Both the AAG and FTC chair wield tremendous authority; they approve cases, guide investigations, and will decide how to proceed with ongoing litigation. It is unlikely that the Biden administration will make any significant decisions, or support any particular legislation, before its key personnel are firmly in place. And that can take time. Former AAG Makan Delrahim was nominated in March 2017 but not confirmed until September 2017.

Interestingly, the pressure to nominate like-minded antitrust reformers for these two positions is coming from multiple angles. One public interest group recently sent a letter to White House chief of staff Ron Klain and, after “highly commend[ing]” the nomination of Ms. Khan to be an FTC commissioner, warned against the influence of certain White House and DOJ officials over the AAG and FTC chair nominations because of their links to “big tech” companies.[1] Additionally, many in the press have been critical of the level of tech enforcement activity during the Obama administration and want to avoid a replay of those years.[2]

Meanwhile, on Capitol Hill …

Down the avenue, Congress is debating whether to provide the agencies with additional tools and resources. But how realistic are the prospects for legislative reform?

In short, although the prospects for sweeping legislative reform of the antitrust laws are dim, targeted reforms appear increasingly likely, especially increased funding for the agencies. In October 2020, the House antitrust subcommittee concluded a year-long bipartisan investigation into these issues, and the House Democrats published a lengthy report detailing their findings and making recommendations for reform. Notably, the House Republican response identified several areas of agreement, including “providing antitrust enforcement agencies with the necessary resources.” [3] House Republicans also made it clear that they too are concerned about tech companies “using ‘killer acquisitions’ to remove up-and-coming competitors from the marketplace,” and that the burdens of proof for mergers and predatory pricing cases need to be reevaluated.[4] On March 18, 2021, however, the Republican ranking member on the committee reiterated a shared interest in reforming the evidentiary burden of proof in merger cases, which he described as having become “essentially insurmountable” and “a grant of near total immunity to big tech companies.” Although a path to agreement on more substantive issues typically has many obstacles, reforming the burden of proof in certain instances may be emerging as the most likely candidate for significant legislative action.

In the Senate, on February 4, 2021, newly installed antitrust subcommittee chair Senator Amy Klobuchar (D-MN) introduced a bill that would overhaul existing antitrust laws. Among other reforms, it would lower the government’s burden of proof to block a merger, shift the burden of proof in certain cases and require the merging parties to justify the deal, and increase funding for both the DOJ Antitrust Division and the FTC. At the subcommittee’s March 11, 2021 hearing related to the bill, subcommittee ranking member Senator Mike Lee (R-UT) (who promptly released a statement noting his opposition to Ms. Khan’s nomination) made it clear that he firmly opposes “a sweeping transformation of the antitrust laws.” Throughout the hearing, however, there appeared to be bipartisan support for taking some sort of action to address these issues, and at the very least to provide increased funding to the DOJ and FTC. Even Senator Lee, who recently introduced a bill that would combine the DOJ and FTC to avoid inefficiencies in antitrust enforcement, acknowledged that agency leaders need the resources that are necessary to vigorously enforce antitrust laws.

So, what does it all mean?

In these circumstances, the most likely outcome appears to be antitrust officials creatively using their existing tools to enhance enforcement while not so quietly pressing Congress for additional assistance. On March 16, 2020, acting FTC Chair Rebecca Slaughter advocated for increased scrutiny of mergers between pharmaceutical companies. She also told the House antitrust subcommittee that the agencies “should consider withdrawing” the guidance for “vertical” mergers issued during the last administration to allow for more aggressive enforcement.[5] But at the same time, FTC Commissioner Noah Phillips explained that the agency would not be able to challenge certain deals without more funding. The Biden administration and the agencies will need to determine how to square those positions. Also, even assuming Congress could provide the agencies with additional funding quickly (on top of the additional $20 million Congress provided to the FTC in December 2020), using that funding to hire additional attorneys will take time.

The path for meaningful legislative reform remains extremely complicated. The prospect for reform depends significantly on whether members of Congress, congressional leadership, and the Biden administration are willing to expend the time and political capital necessary to pass a reform bill (which also assumes the relevant parties can agree on what should be included—or, perhaps more importantly, excluded—from that bill). In light of competing priorities, the absence of key personnel, and the already narrowing congressional calendar (major non-appropriations legislation typically will not move after July in an election year (2022)), those prospects appear to be slim. In the meantime, we expect that Congress will continue to focus attention on these issues with more hearings and new legislative proposals, but it remains to be seen when attention will become action.

#### The GOP will refuse, triggering partisan fights

Claude Marx 20, Reporter for FTCWatch, Graduate Work at Georgetown University, BA from Washington University St. Louis, “Partisan Splits on Capitol Hill Over Antitrust Likely, but Less Rancor Between DOJ, FTC”, mLex, 11/9/2020, https://mlexmarketinsight.com/news-hub/editors-picks/area-of-expertise/antitrust/partisan-splits-on-capitol-hill-over-antitrust-likely-but-less-rancor-between-doj-ftc

At a time when once arcane issues involving antitrust are making headlines, including whether the laws are even adequate to rein in tech giants, it’s doubtful a newly elected Congress will succeed in tackling such big matters.

Voters have once again elected a Democratic House and, at press time, it appears a Republican Senate. If that partisan division holds, look for clashes in the two chambers’ views on updating the antitrust laws, though there’s some overlap in concerns about the power of the Goliath digital platforms.

The recent release of the House Judiciary Committee’s mammoth report on competition in the digital markets is a prime example. Its pitch for a sweeping overhaul of antitrust law isn’t likely to find a receptive hearing in the Republican Senate, though some of its more modest proposals might win some bipartisan support.

What both chambers are expected to agree on is to boost resources for the Federal Trade Commission and the Justice Department’s antitrust division, especially given the large jump in merger and acquisition activity, which is set to accelerate in coming months.

Seven-term Senator Charles Grassley of Iowa, the second-oldest member of the upper chamber at 85, takes the gavel of the Judiciary Committee after a two-year hiatus. Though he isn’t a lawyer, Grassley has been active on antitrust issues, usually focusing on narrow subjects within the field.

“He comes at the issue because of his interest in agriculture. His heart is in the right place and he’s had staff that is knowledgeable about antitrust,” Seth Bloom, the top Democratic staff member on the antitrust subcommittee during much of the time from 1999 to 2008, told FTCWatch.

Senator Dianne Feinstein of California is likely to remain the top Democrat on the panel. Like Grassley, she is a non-lawyer, but unlike the chairman she hasn’t been active on antitrust issues. At 87, she’s the oldest member of the Senate.

Bloom added that committee chairs typically give the subcommittee a fair degree of autonomy. Don’t look for the committee to be on the cutting edge of antitrust reform, but instead, expect Grassley to work with Antitrust Subcommittee Chairman Mike Lee on less politically combustible issues such as legislation that would more closely align the merger review procedures of the DOJ and FTC — a move that House Democrats are likely to resist.

Lee, a Utah Republican, is the main sponsor of the Standard Merger and Acquisition Reviews Through Equal Rules Act, which would eliminate the FTC's power to conduct an administrative review of a proposed merger. The DOJ has no such power, as it must fight its merger challenges in federal court.

Lee also has led the charge that the big tech platforms — Facebook, Google and Twitter — have used their market power to thwart conservatives by engaging in “ideological discrimination.” He’s promised more oversight as Republicans pursue modifications to Section 230 of the Communications Decency Act of 1996. The law provides a legal shield for the platforms against lawsuits arising from user-generated content.

Democrats have fired back, charging the real problem isn’t bias, but that the platforms have failed to do enough to take down harmful posts that spread misinformation.

Bloom added Lee has been critical of Google. For example, the senator cheered the Justice Department’s landmark lawsuit challenging the company for using anticompetitive practices to maintain its monopoly. Lee tweeted it’s “an encouraging sign in our country’s ongoing battle against the pernicious influence of Big Tech.”

Still, Bloom said Lee is generally skeptical of broader antitrust overhauls, though he’s likely to support efforts to boost the antitrust watchdogs’ budget.

Senator Amy Klobuchar, a Minnesota Democrat and ranking member of the antitrust subcommittee, wants to modify the antitrust laws to help undo what she sees as the increasingly pro-defendant tilt of courts. She would shift the burden of proof in certain large deals to the companies to show that their tie-up won’t undermine competition.

While such ideas may not gain much traction in a GOP-controlled Senate, Klobuchar has joined Grassley on legislation to update merger filing fees and lower the burden on small and medium businesses. The proposal would raise additional revenue to pay for beefing up the DOJ’s and FTC’s enforcement efforts.

Over in the House, the leadership of the Judiciary Committee and its antitrust subcommittee are expected to remain the same. Judiciary Committee Chairman Jerrold Nadler of New York hasn’t been especially active on antitrust matters. By contrast, during his two years at the helm, Antitrust Subcommittee Chairman David Cicilline of Rhode Island has aggressively led the investigation into the dominance of tech platforms, focusing on Amazon, Apple, Facebook and Google.

The provocative report that followed included a tough indictment of the companies’ abuse of their monopoly power to throttle competition and charged that there’s serious under-enforcement by the antitrust agencies. Given those dynamics, it calls for the laws to be revamped, including a shift so that mergers resulting in a single firm controlling an outsized market share be presumptively prohibited. The report also calls for shifting the burden of proof to the merging parties to show their deal won’t reduce competition — a move aimed at increasing the likelihood that anticompetitive deals are blocked.

Although the report’s more modest proposals, including the one to shift the burden of proof, attracted some GOP support on the committee, its push for more sweeping changes faces big challenges. Even on the burden shift proposal, former FTC Commissioner Joshua Wright tweeted he is “very skeptical” it “will get much, if any, support from conservatives.”

Recurring efforts to move privacy legislation will continue, but the same hurdles remain. A measure by Senator Jerry Moran, the Kansas Republican who chairs the Senate Commerce Subcommittee on Manufacturing, Trade, and Consumer Protection, would give consumers expanded powers, but it would not allow individuals to sue companies for violating their privacy. It also would preempt state laws. Democrats oppose those two provisions and have introduced measures in the House and Senate without them.

Jeff Chester, executive director of the Center for Digital Democracy and a veteran of the privacy wars remains optimistic despite the obstacles. “There is more pressure coming for change,” he said.

New look at the top

Still, as partisan divisions on Capitol Hill will probably continue, so will such differences be evident on some big-ticket issues at the FTC. The agency has long been known for its bipartisanship regardless of which party controls the White House, but the five commissioners who assumed office at roughly the same time in 2018 have clashed over a number of high-profile cases.

#### It’s entwined in broader cultural battles, making reform extremely difficult

Mark Whitener 21, Adjunct Professor at Georgetown University's McDonough School of Business and Senior Fellow at the Georgetown Center for Business and Public Policy, “The Future of Antitrust: Ideology, Alternative Facts, and the Rule of Law”, ABA Antitrust Law Section - American Bar Association, 35 Antitrust ABA 3, Spring 2021, Lexis

THE FUTURE OF EVERYTHING SEEMS to be up for grabs, and antitrust is no exception. Like other aspects of society, antitrust has become somewhat disoriented, searching for solid ground while the landscape shifts. The basic consensus about antitrust fundamentals that formed over the past half-century, centered on economic analysis and the consumer welfare standard, is being challenged by critics who variously urge that antitrust be modernized to deal with new issues or returned to what they argue are its historical roots. Antitrust is offered as a means to address broad economic, political, and social concerns. Political opposites like Elizabeth Warren and Josh Hawley call for breakups of the same big firms.

As the antitrust policy discussion moves beyond its cloistered walls into the broader public forum, it is--for better or worse--starting to resemble debates over divisive issues like immigration, elections, racial justice, and climate change. Antitrust's future may hinge on the answers to the same questions that underlie these other policy controversies: Is consensus on common goals achievable, or will conflicting factions seek fundamentally different things? Can we arrive at an agreed set of facts on which to base policy decisions, or will everyone assert their own ("alternative") facts, or underlying beliefs? And, can our institutions--of government, politics, academia, social and other media--help us answer these questions, or will they stand by ineffectually as confidence in them declines?

Ideological Divisions vs. Consensus . If the first step in solving a problem is recognizing that one exists, the second step is agreeing on what exactly the problem is. Progress on some issues, like climate change, is impeded by the fact that a sizeable portion the public and many politicians deny that there is a real problem at all. On other issues lots of people are concerned, but they disagree, often vehemently, over the nature of the problem. Is the real issue with elections one of voter suppression, or election fraud? Should immigration reform focus on stronger border security, or fairer treatment of immigrants? The intensity of the public discussion of these issues often seems to hinder consensus, not further it.

In contrast, antitrust policy has over much of its history evolved through a more insular process, driven by the relatively few scholars, jurists, and politicians who made antitrust their concern. Public awareness of antitrust has generally been limited, and political intervention sporadic, often driven more by the concerns of particular industries or interest groups than by broad public interests. Partisanship in antitrust enforcement has typically been nuanced, with occasional shifts in emphasis from one administration to the next, but with a good measure of continuity. Even the major doctrinal shift in the 20th century toward economic analysis, while initially developed by academics who had free-market philosophies, ultimately became mainstream antitrust thought, as the Chicago School's underpinnings took hold in the enforcement agencies and the courts. Many of the economics movement's core principles continue to underlie Post-Chicago pro-enforcement theories that were developed by antitrust progressives. Until fairly recently, disagreements over antitrust policy tended to focus more on analytical details or individual case outcomes than on doctrinal fundamentals.

Now that antitrust is attracting a larger and often more politically motivated audience, there are both new opportunities and new challenges for antitrust policy. A more inclusive policy process could, in theory, lead to reforms that make antitrust more effective in dealing with a wider range of problems. But this assumes, first, that antitrust policy is in need of major changes; and second, that our political and other institutions are capable of producing reforms that will make things better, not worse. Even back in the days when a less gridlocked Congress was capable of passing major reform bills, there was a saying that proposing antitrust legislation was like opening Pandora's Box: once antitrust is exposed to the vagaries of the political process, anything can happen, much of it bad. Think of the various [\*4] industry-specific antitrust exemptions Congress has enacted over the years, for example, or misguided expansions of the antitrust laws like the Robinson-Patman Act.

For now, partisan and ideological stalemate will probably forestall the passage of major antitrust legislation. While there is support among both Democrats and Republicans for changes in antitrust policy, their main concerns differ widely, ranging from some Democrats' focus on addressing various forms of inequality to some Republicans' charges that big social networks stifle conservative viewpoints. If significant policy changes are to occur in the near term, they will probably have to come from the enforcement agencies and then, perhaps over time, from the courts. The U.S. agencies and the states filed several high-profile cases against large technology firms in the waning months of the Trump administration, and presumably these cases will be prosecuted vigorously by the Biden administration. But the cases, as noteworthy as they are, focus on relatively narrow conduct and break no new analytical ground, relying instead on established antitrust theories such as exclusive dealing and potential competition. As such, the cases have disappointed critics who want to use antitrust to address a wider range of ills they attribute to the excessive size and power of Big Tech.

#### Even if popular, it requires difficult battles for floor time

Paul H. Sukenik 19, JD from the University of North Carolina School of Law, BA in Government and History from the University of Virginia, “The Earth Belongs to the Living, or at Least It Should: The Troubling Difficulty of Modifying Antitrust Consent Decrees”, North Carolina Law Review, Volume 97, Number 3, 97 N.C.L. Rev. 734, March 2019, Lexis

Even if a party were to convince enough lawmakers of its proposed legislation, those lawmakers would still need to wait for the opportune time to introduce the bill to ensure that it gets passed. That timeline could be at the mercy of the current partisan makeup in Congress or many other factors. In that sense, subjecting antitrust regulation to the political process would only magnify Konczal's concerns about certainty and finality.

#### Passage is key to revert US global influence and soft power

Lauren Jackson 10/29, associate audience editor on the Audio team, based in London. She edits "The Daily" newsletter. Previously, she was at CNN, where she won three awards for religion reporting from the Religion News Association. She has completed degrees from the University of Virginia and Oxford University as a Rhodes Scholar, “What Does Social Spending Mean for American Power?”, <https://www.nytimes.com/2021/10/29/podcasts/social-spending-bill-g20.html>, October 29th, 2021

The Biden administration is facing a week that could determine the president’s legacy.

The stakes are high at home: Biden has said his presidency, the Democrats’ electoral prospects in the midterms and the social welfare of millions of Americans are hanging in the balance as Democrats negotiate a compromise on his social spending bill. But before leaving for two major international summits, the G20 Summit and COP26, he also framed this moment in terms of America’s international standing: “It’s about leading the world or letting the world pass us by,” he said.

So we wanted to ask a few experts: Is this moment really a referendum on America’s global power, as Biden said? Here are three ways they said the president’s bill matters for American diplomacy.

A test to deliver

Biden is arriving at two major summits facing a test: Can he resume global leadership and reassure allies that the U.S. can be trusted as a consistent partner?

“There is general concern among the allies and friends about what is happening to our democracy,” said Joseph S. Nye Jr., a Harvard professor who coined the term “soft power.” He added that while many allies were “delighted to see America return to multilateral institutions,” many now wonder whether entrenched polarization could make American leadership unreliable — and subject to increasingly dramatic swings based on which party is in power.

“They’re wondering: Are we going to see flip-flopping back and forth?” Dr. Nye said. He added that allies were particularly concerned about disinformation, as well as the lack of public and congressional consensus about the legitimacy of Biden’s victory.

To Leslie Vinjamuri, a director of the U.S. and the Americas program at Chatham House, the social spending bill is a chance to prove that “American leadership cannot only sound good and look good, but that it can actually deliver,” she said. She noted that creating consensus and overcoming entrenched partisanship was “the great promise of Joe Biden.”

Now, the social spending bill is both “a referendum on President Biden and whether any president can make a system that the rest of the world probably perceives to be a little bit broken” actually work, she said.

A chance for climate leadership

As a result of political polarization, Dr. Nye believes that allies will be less willing “to treat us as the North Star to guide their policies” in the long term. However, he sees bold climate action, as outlined in the social spending bill, as a way to reassert some global leadership that was lost in the Trump era.

The United States formally withdrew from the Paris climate agreement under Donald Trump. Biden promptly rejoined the agreement after entering office, and climate has emerged as the single largest category in his social spending bill. The climate crisis is now the center of his party’s domestic agenda ahead of the global climate summit in Glasgow. (It was unclear this week if all Democrats would support the package.)

“There are very few people on this planet who think that America is on the right side of climate change in terms of its cars and its energy use,” Dr. Vinjamuri said. But getting Democrats to vote for the proposed $555 billion for climate programs would be a start in helping the “U.S. meet its targets,” she added, giving the country the “legitimacy to put pressure on others to meet their targets.”

Paid leave and soft power

With the spending bill yet to be finalized, Dr. Vinjamuri notes that what is left out of the legislation could also have implications for America’s standing abroad, sending a clear signal to foreign citizens about what the U.S. values.

“Our soft power is massively negatively affected,” she said, by the news that paid family leave — a public good provided by other developed nations — is likely to be removed from the social spending bill. People who experience these benefits “just do not understand, and they can’t imagine that it can be anything but crippling for the U.S. in the long term,” she added.

Dr. Nye argues that, in regards to the social safety net, “America has always been inadequate in European eyes,” he said. While he supports the proposals and believes a lack of paid family leave “hurts us,” he believes “other sources of influence,” such as expanding U.S. vaccine diplomacy, would do more to improve America’s standing abroad.

Still, both agree that world leaders are ultimately more focused on threats to the American political system. “The fact that we might lose the quality of our democracy which has been a bedrock for American standing in the world,” Dr. Nye said, “that is the real threat to our soft power.”

#### Soft power solves global existential risks.

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

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

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

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

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

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

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

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

### Multilat CP---1NR

#### US says yes

Michael Ristaniemi 20, PhD Candidate in Commercial Law at the University of Turku, Vice President for Sustainability at the Metsä Group, Participant in the Visiting Scholar Programme at the University of California, Berkeley, “International Antitrust: Toward Upgrading Coordination and Enforcement”, Doctoral Dissertation, October 2020, https://core.ac.uk/download/pdf/347180879.pdf

Despite the above, the major powers do have an interest in cooperating internationally in competition issues. The EU and the US appear to desire further convergence of practices and substantive thinking. Officially, China does not appear to have a strong stance on convergence, but recent practice shows that it too has engaged in an increasing amount of dialogue on competition matters. Indeed, there is an increasing amount of cooperation in relation to investigating international cartels, referring to cartels that operate in several nations concurrently and which seek to cartelize them.208

Further, the competition authorities of major powers have an incentive to ensure that merger control procedures affecting mergers benefiting their respective regions are as internationally streamlined and coordinated as possible given the number of multinationals that originate from each of their respective territories. Nonetheless, there are a few hurdles for streamlining international merger control. First is the dichotomous leadership of the US and the EU systems, with no single leading standard to become the global standard. Second, there are clear differences in nations’ scope of merger review that may arise from partially differing sets of goals should they attempt to address public interest or other non-competition related concerns concurrently with competition concerns.209 In any case, the aggregate cost of a fragmented system of international merger control is arguably higher than it would need to be. Improved, more structured coordination could help, as discussed further in Chapters 5 and 6 below.

#### Biden will support multilat---especially on economics

Dr. Stewart Patrick 21, James H. Binger Senior Fellow in Global Governance at the Council on Foreign Relations, PhD in International Relations and MSt in Modern European History from Oxford University, MA from Stanford University, Former Professor of Politics at New York University, Former Research Fellow and Director of the Project on Weak States and U.S. National Security at the Center for Global Development, “The Biden Administration and the Future of Multilateralism”, Observer Research Foundation, 4/13/2021, https://www.orfonline.org/expert-speak/biden-administration-future-multilateralism/

International observers of US foreign policy can be excused for feeling disoriented. Just four years ago, Donald Trump entered the White House promising to put “America First” and repudiated seven decades of US internationalism. Since January, his successor, Joe Biden, has reasserted American global leadership and rededicated the United States to multilateral cooperation, including at the United Nations and other major international bodies. This new orientation is most obvious in global health, climate change, nuclear weapons, the Western alliance, and the defence of democracy. Although things are more complicated when it comes to trade, even here the president’s instinct is to work with others.

## 2NR

### Infrastructure DA---2NR

#### Inflationary concerns are bunk

Timothy Noah 11/11, New Republic staff writer and author of The Great Divergence: America’s Growing Inequality Crisis and What We Can Do About It, “No, Senator Manchin, Build Back Better Won’t Create Runaway Inflation”, <https://newrepublic.com/article/164368/manchin-build-back-better-inflation>, November 11th, 2021

Harvard economist Jason Furman pointed out to me that Manchin’s inflation worry is focused on a reconciliation bill that will provide a smaller stimulus to the economy over 10 years than the Covid recovery bills supplied over a single year. The vast majority of Build Back Better money won’t likely be spent until after the current inflation spurt is over. “The inflation we’re talking about is a short-run phenomenon” of about six to 18 months, University of Chicago economist Austan Goolsbee told me. “The fiscal impulse from the reconciliation bill in the next six to 18 months wouldn’t be that big.”

If inflation feels permanent, that’s only because the Covid crisis is lasting much longer than anybody expected. It seemed the pandemic was winding down in early July. Then the delta variant increased new cases more than tenfold during the following two months. Then, from mid-September through October, new cases dropped and employment and wages surged. That isn’t a bad thing; it’s a good thing. But it probably drove inflation higher. The Covid nightmare feels like it will never end, but it will.

### Credit Suisse ADV---2NR

#### AI Impact is wrong

Stephen **Pinker 18**, professor of psychology at Harvard, “Enlightenment Now: The Case for Reason, Science, Humanism, and Progress”

Prominent among the existential risks that supposedly threaten the future of humanity is a 21st-century version of the Y2K bug. This is the danger that we will be subjugated, intentionally or accidentally, by artificial intelligence (AI), a disaster sometimes called the Robopocalypse and commonly illustrated with stills from the Terminator movies. As with Y2K, some smart people take it seriously. Elon Musk, whose company makes artificially intelligent self-driving cars, called the technology “more dangerous than nukes.” Stephen Hawking, speaking through his artificially intelligent synthesizer, warned that it could “spell the end of the human race.”19 But among the smart people who aren’t losing sleep are most experts in artificial intelligence and most experts in human intelligence. The Robopocalypse is based on a muzzy conception of intelligence that owes more to the Great Chain of Being and a Nietzschean will to power than to a modern scientific understanding.21 In this conception, intelligence is an all-powerful, wish-granting potion that agents possess in different amounts. Humans have more of it than animals, and an artificially intelligent computer or robot of the future (“an AI,” in the new count-noun usage) will have more of it than humans. Since we humans have used our moderate endowment to domesticate or exterminate less well-endowed animals (and since technologically advanced societies have enslaved or annihilated technologically primitive ones), it follows that a supersmart AI would do the same to us. Since an AI will think millions of times faster than we do, and use its superintelligence to recursively improve its superintelligence (a scenario sometimes called “foom,” after the comic-book sound effect), from the instant it is turned on we will be powerless to stop it.22 But the scenario makes about as much sense as the worry that since jet planes have surpassed the flying ability of eagles, someday they will swoop out of the sky and seize our cattle. The first fallacy is a confusion of intelligence with motivation—of beliefs with desires, inferences with goals, thinking with wanting. Even if we did invent superhumanly intelligent robots, why would they want to enslave their masters or take over the world? Intelligence is the ability to deploy novel means to attain a goal. But the goals are extraneous to the intelligence: being smart is not the same as wanting something. It just so happens that the intelligence in one system, Homo sapiens, is a product of Darwinian natural selection, an inherently competitive process. In the brains of that species, reasoning comes bundled (to varying degrees in different specimens) with goals such as dominating rivals and amassing resources. But it’s a mistake to confuse a circuit in the limbic brain of a certain species of primate with the very nature of intelligence. An artificially intelligent system that was designed rather than evolved could just as easily think like shmoos, the blobby altruists in Al Capp’s comic strip Li’l Abner, who deploy their considerable ingenuity to barbecue themselves for the benefit of human eaters. There is no law of complex systems that says that intelligent agents must turn into ruthless conquistadors. Indeed, we know of one highly advanced form of intelligence that evolved without this defect. They’re called women. The second fallacy is to think of intelligence as a boundless continuum of potency, a miraculous elixir with the power to solve any problem, attain any goal.23 The fallacy leads to nonsensical questions like when an AI will “exceed human-level intelligence,” and to the image of an ultimate “Artificial General Intelligence” (AGI) with God-like omniscience and omnipotence. Intelligence is a contraption of gadgets: software modules that acquire, or are programmed with, knowledge of how to pursue various goals in various domains.24 People are equipped to find food, win friends and influence people, charm prospective mates, bring up children, move around in the world, and pursue other human obsessions and pastimes. Computers may be programmed to take on some of these problems (like recognizing faces), not to bother with others (like charming mates), and to take on still other problems that humans can’t solve (like simulating the climate or sorting millions of accounting records). The problems are different, and the kinds of knowledge needed to solve them are different. Unlike Laplace’s demon, the mythical being that knows the location and momentum of every particle in the universe and feeds them into equations for physical laws to calculate the state of everything at any time in the future, a real-life knower has to acquire information about the messy world of objects and people by engaging with it one domain at a time. Understanding does not obey Moore’s Law: knowledge is acquired by formulating explanations and testing them against reality, not by running an algorithm faster and faster.25 Devouring the information on the Internet will not confer omniscience either: big data is still finite data, and the universe of knowledge is infinite. For these reasons, many AI researchers are annoyed by the latest round of hype (the perennial bane of AI) which has misled observers into thinking that Artificial General Intelligence is just around the corner.26 As far as I know, there are no projects to build an AGI, not just because it would be commercially dubious but because the concept is barely coherent. The 2010s have, to be sure, brought us systems that can drive cars, caption photographs, recognize speech, and beat humans at Jeopardy!, Go, and Atari computer games. But the advances have not come from a better understanding of the workings of intelligence but from the brute-force power of faster chips and bigger data, which allow the programs to be trained on millions of examples and generalize to similar new ones. Each system is an idiot savant, with little ability to leap to problems it was not set up to solve, and a brittle mastery of those it was. A photo-captioning program labels an impending plane crash “An airplane is parked on the tarmac”; a game-playing program is flummoxed by the slightest change in the scoring rules.27 Though the programs will surely get better, there are no signs of foom. Nor have any of these programs made a move toward taking over the lab or enslaving their programmers. Even if an AGI tried to exercise a will to power, without the cooperation of humans it would remain an impotent brain in a vat. The computer scientist Ramez Naam deflates the bubbles surrounding foom, a technological Singularity, and exponential self-improvement: Imagine that you are a superintelligent AI running on some sort of microprocessor (or perhaps, millions of such microprocessors). In an instant, you come up with a design for an even faster, more powerful microprocessor you can run on. Now . . . drat! You have to actually manufacture those microprocessors. And those fabs [fabrication plants] take tremendous energy, they take the input of materials imported from all around the world, they take highly controlled internal environments which require airlocks, filters, and all sorts of specialized equipment to maintain, and so on. All of this takes time and energy to acquire, transport, integrate, build housing for, build power plants for, test, and manufacture. The real world has gotten in the way of your upward spiral of self-transcendence.28 The real world gets in the way of many digital apocalypses. When HAL gets uppity, Dave disables it with a screwdriver, leaving it pathetically singing “A Bicycle Built for Two” to itself. Of course, one can always imagine a Doomsday Computer that is malevolent, universally empowered, always on, and tamperproof. The way to deal with this threat is straightforward: don’t build one. As the prospect of evil robots started to seem too kitschy to take seriously, a new digital apocalypse was spotted by the existential guardians. This storyline is based not on Frankenstein or the Golem but on the Genie granting us three wishes, the third of which is needed to undo the first two, and on King Midas ruing his ability to turn everything he touched into gold, including his food and his family. The danger, sometimes called the Value Alignment Problem, is that we might give an AI a goal and then helplessly stand by as it relentlessly and literal-mindedly implemented its interpretation of that goal, the rest of our interests be damned. If we gave an AI the goal of maintaining the water level behind a dam, it might flood a town, not caring about the people who drowned. If we gave it the goal of making paper clips, it might turn all the matter in the reachable universe into paper clips, including our possessions and bodies. If we asked it to maximize human happiness, it might implant us all with intravenous dopamine drips, or rewire our brains so we were happiest sitting in jars, or, if it had been trained on the concept of happiness with pictures of smiling faces, tile the galaxy with trillions of nanoscopic pictures of smiley-faces.29 I am not making these up. These are the scenarios that supposedly illustrate the existential threat to the human species of advanced artificial intelligence. They are, fortunately, self-refuting.30 They depend on the premises that (1) humans are so gifted that they can design an omniscient and omnipotent AI, yet so moronic that they would give it control of the universe without testing how it works, and (2) the AI would be so brilliant that it could figure out how to transmute elements and rewire brains, yet so imbecilic that it would wreak havoc based on elementary blunders of misunderstanding. The ability to choose an action that best satisfies conflicting goals is not an add-on to intelligence that engineers might slap themselves in the forehead for forgetting to install; it is intelligence. So is the ability to interpret the intentions of a language user in context. Only in a television comedy like Get Smart does a robot respond to “Grab the waiter” by hefting the maître d’ over his head, or “Kill the light” by pulling out a pistol and shooting it. When we put aside fantasies like foom, digital megalomania, instant omniscience, and perfect control of every molecule in the universe, artificial intelligence is like any other technology. It is developed incrementally, designed to satisfy multiple conditions, tested before it is implemented, and constantly tweaked for efficacy and safety (chapter 12). As the AI expert Stuart Russell puts it, “No one in civil engineering talks about ‘building bridges that don’t fall down.’ They just call it ‘building bridges.’” Likewise, he notes, AI that is beneficial rather than dangerous is simply AI.