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Supervisor: Barbara Magalhaes Teixeira  
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# Smile and Waive?

A critical case study of the TRIPS waiver for COVID-19 products  
using World-Systems Theory and Realism

David Alexanderson



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*Edward Murrow: "Who owns the patent on this vaccine?"*  
*Jonas Salk: "Well, the people, I would say. This is - could you patent the sun?"*  
- Jonas Salk (1914-1995): inventor of the polio vaccine

*What happens to poor people is never divorced from the actions of the powerful*  
- Paul Farmer (1959-2022): lifelong advocate of health equity

Dedicated to those  
Who have struggled and toiled  
For the health of all

# Abstract

The COVID-19 pandemic has been one of the deadliest health crises in modern history. Increasing production of all relevant medical goods and ensuring their equitable distribution has been argued as a necessity to contain the pandemic, which led to the South African and Indian delegation in the TRIPS Council of the World Trade Organization to propose the implementation of a TRIPS waiver to ensure that intellectual property does not pose a barrier to increased production. However, deliberations on the waiver have gone on since October 2020 without reaching a consensus. This thesis is a case study of the TRIPS waiver and aims to analyze the statements made by the delegations of the EU, the US, India, South Africa and Chad to understand how their position in the core-periphery division can explain their behavior. The issues of health equity and intellectual property have been well researched in the fields of medical and judicial research, but by using a political scientific perspective this thesis aims to make a contribution by describing structural causes for global health inequity. World-Systems Theory and Realism are used as a theoretical framework and predicts that core states have an interest in maintaining unequal exchange through intellectual property and thus are unlikely to support the waiver, while peripheral states who lack an interest in upholding pharmaceutical monopolies and have been unable to secure sufficient medical goods are likely to support the waiver. The findings show that the EU, India, South Africa and Chad have behaved as predicted, but the US delegation acted partially unpredictably: supporting the waiver but only for vaccines.

Keywords: World-Systems Theory, Marxist-Realism, COVID-19, Health Equity, TRIPS waiver, Intellectual Property, Core-periphery division, World Trade Organization

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# 1. Introduction

## 1.1 COVID-19: a pandemic of the periphery

The COVID-19 pandemic has been one of the deadliest pandemics in human history. Since January 2020 when Chinese authorities first identified cases of pneumonia as being caused by a novel coronavirus, the official death toll has been north of 6 million, and these official statistics are most likely underestimating the full effects of the pandemic on global health. Studies analyzing excess mortality show that the true loss of life is vastly higher; between 17,1 to 19,6 million (Wang et al. 2022) and 14,3 to 24,3 million (The Economist 2022). These excess mortality studies not only reveal that the pandemic has been deadlier than previously thought, but also that contrary to what official data would suggest *this is primarily a pandemic of the periphery*.

An initial look at official data shows a bewildering pattern, richer countries have significantly higher COVID-19 mortality rates than poorer ones. According to data from Johns Hopkins University (see figure 1), High-Income Countries (HICs) supposedly suffered more deaths per capita than UMICs, LMICs and LICs *combined* while Low-Income Countries suffered a negligible death rate. However, it seems highly likely that this statistical pattern is due to differences in capacities to sufficiently and accurately collect data, rather than some inexplicable positive correlation between income and COVID-19 mortality. This is what Gill and Schellekens (2021) argue using excess mortality data from The Economist, showing that mortality rates are far higher in developing countries compared to official data (see figure 2). In terms of mortality shares (see figure 3), official data purports that HICs suffered 45% of global excess deaths but when using excess mortality rates this pattern reverses (see figure 3).

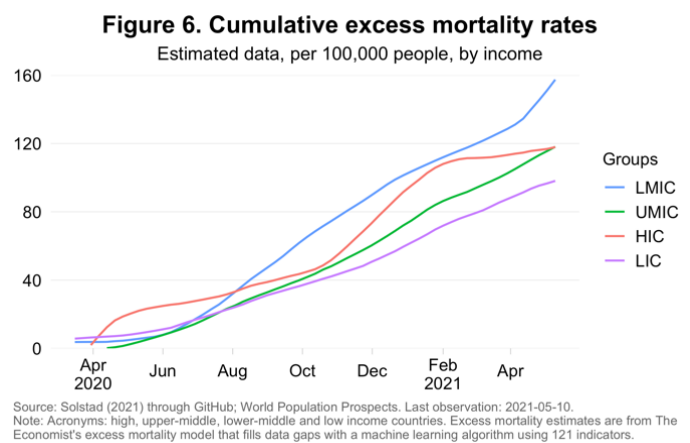
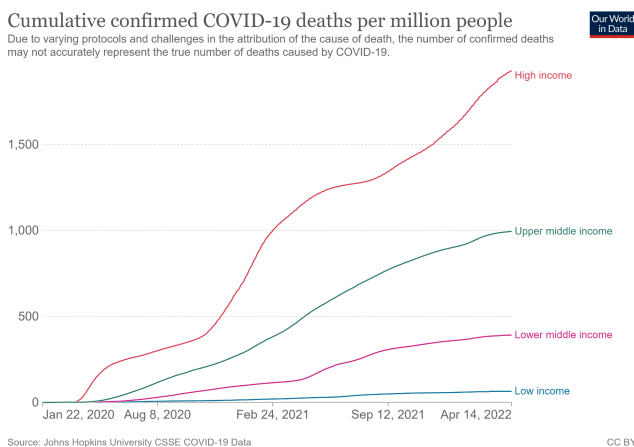
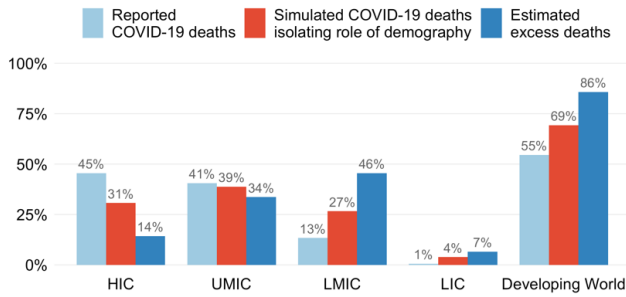


Figure 1 (left): Official data, positive correlation between income and mortality?

Figure 2 (right): Excess mortality estimates reveals a different picture

**Figure 9. The global mortality distribution**

Share in cumulative global mortality, by income



Source: Schellekens and Sourrouille (2020); Solstad (2021) through GitHub; JHU CSSE; WPP. Date: 2021-05-10.  
 Note: Acronyms: high, upper-middle, lower-middle and low income countries. Simulations isolate role of demography (population size and age structure) by assuming common epidemiological parameters across countries: everyone gets infected equally (same infection prevalence ratio across countries and age cohorts); age groups face everywhere the same age-adjusted infection fatality risk (IFRs by Verity 2020, Lancet Infect Dis 2020-20). Excess mortality estimates are from The Economist's excess mortality model that fills data gaps with a machine learning algorithm using 121 indicators.

Figure 3: Mortality shares exceed expectations derived from demography in LMICs and LICs

In addition, poorer countries have the ‘demographic advantage’ of a younger population yet excess deaths exceed predictions based on the role of demography (figure 3), meaning that COVID-19 infections and deaths are *even more severe* in the peripheral world due to other structural reasons such as urban density and poverty (Gill - Schellekens 2021). Furthermore, a new excess mortality study by WHO calculates that 15 million have died from COVID-19, far higher than the official total of 6 million. (Nolen - Singh 2022).

These excess mortality studies support the view that the peripheral world has and is currently bearing the brunt of the COVID-19 pandemic in terms of the global health burden attributable to the virus. This leads to the other equally important pattern of this pandemic: *the inequitable global distribution of COVID-19 medical goods*. Medical goods in this thesis refers to resources that can be used to directly combat the COVID-19 health emergency by identifying infection, decreasing infection rates, treating symptoms etcetera. This includes vaccines but also diagnostics, medicines and non-medical products such as algorithms used to predict and prevent future infections.

By early 2021 vaccines were developed at record speeds, bringing hope for an end to the pandemic. However, many were beginning to sound the alarms that a familiar pattern of global health crises was repeating itself: vaccine nationalism. Richer countries were hoarding vaccines for themselves: “We now face the real danger that even as vaccines bring hope to those in wealthy countries, much of the world could be left behind” (Ghebreyesus 2021). More than a year later these fears have materialized; while HICs (74%) and UMICs (77%) have been able to fully vaccinate large shares of their populations, LMICs (51%) and LICs (12%) have been left unable to do the same (Ritchie et al., 2020). Such inequity<sup>1</sup> is not only a humanitarian issue but a highly ineffective way of curbing the COVID-19 pandemic, instead prolonging the crisis and worsening its effects, since avoidable continuation of infections in the periphery increases the risk of mutations which make the virus vaccine-resistant, more infectious and deadlier (Chinazzi et al. 2020; Çakmaklı et al. 2021; Ye et al. 2022; Liao 2022).

Some have tried to explain this disparity as a result of developing countries having high rates of vaccine hesitancy, examples being news outlets such as the The New York Times

<sup>1</sup> This thesis uses “inequity” instead of “inequality”, as the former refers to inequalities of health outcomes which are specifically *unfair and avoidable* (Global Health Europe 2009).

(Chutel - Fisher 2021), the US' president and press secretary (Psaki 2021), and Pfizer's CEO: "the percentage of hesitancy in [those low- and middle-income countries] will be way, way higher than the percentage of hesitancy in Europe or in the US or in Japan etcetera etcetera. I think that will be the issue of getting those people vaccinated *and not the availability* [emphasis added]" (IFPMA 2021). However, studies on vaccine attitudes refute this, showing widespread acceptance rates in African countries (Africa CDC 2021) and "considerably higher willingness to take a COVID-19 vaccine" in low- and middle-income countries than the US (Arce et al. 2021). While vaccine hesitancy is a genuine issue that needs to be addressed (not least regarding communities that have been subjected to unethical medical practices and colonialism), it is a variable which is insufficient to explain the low vaccination rates of peripheral countries. Instead, this thesis argues that variables such as vaccine nationalism and pursuit of accumulation can explain this inequity through a marxist-realist lens.

This inequitable distribution of medical goods is irrational in the sense that health inequity prolongs and worsens the pandemic's effects for all. Thus, how states behave in the context of such inequity is both academically relevant and socially significant. This thesis will analyze such state behavior through a case study of the TRIPS Council of the World Trade Organization (WTO), the WTO body responsible for monitoring and administering the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS agreement): the organization's rules on intellectual property (IP). Specifically, the analysis will concern itself with deliberations of select delegations (EU, US, South Africa, India, Chad) on the role of IP during COVID-19 and the purported necessity of implementing a TRIPS waiver to improve equity.

## 1.2 The Case: COVID-19, WTO and the TRIPS waiver

The inequity of COVID-19 vaccine distributions has not gone unnoticed, not least by the very countries which suffer from this inequity. Criticisms that global vaccine manufacturing has been insufficient to meet global demand led to the South African and Indian delegation proposing IP/C/W/669 (hereinafter called the TRIPS waiver) in the TRIPS Council, a text which would temporarily waive certain obligations under the TRIPS agreement in order to prevent intellectual property (IP) from constituting barriers to the development, scale-up and accessibility of COVID-19 medical goods globally, including in peripheral economies which have historically been unable to build up its manufacturing capacity. Médecins Sans Frontières (2020A; 2020B; 2020C) among others have described extensively how IP has created barriers to medicines and technologies in the past, causing a Tragedy of the Anti-Commons, and that the COVID-19 pandemic is no exception, supporting the case for a waiver to meet public health needs.

Various proponents of IP on COVID-19 products argue that this measure is unnecessary since voluntary approaches and flexibilities in the TRIPS agreement (i.a. compulsory

licensing) can address supposed adverse effects of IP. However, past experiences show that these are insufficient, especially during a health crisis.

First, voluntary licenses allow generic production of patented medicines with consent from the right-holder. Such generic production would allow increased production of needed medical products at potentially more affordable prices, increasing access. However, such licenses have historically involved secretive and restrictive terms from right-holders, which limit the public health benefits such licenses are supposed to generate (MSF 2020D).

Compulsory licenses allow the generic production of patented products without needing consent from right-holders and is a right of WTO members re-confirmed by the Doha Declaration. Yet core states (e.g. US, EU, Japan, Switzerland) undermine this right through bilateral pressure and restrictive trade agreements (MSF 2020A), defying a UN High-level Panel calling on actors to refrain from using “threats, tactics or strategies” for such purposes (UN 2016). Article 31bis of the TRIPS agreement allows peripheral countries lacking manufacturing capacity to use compulsory licenses for imports of patented medical products<sup>2</sup> and was first used in 2007 by Rwanda (importer) and Canada (exporter); an endeavor which was fraught with challenges i.a. the administrative burdens were considerable *and* fell on the importing and expectedly resource-poor country, showing that the mechanism was cumbersome in ‘normal’ circumstances and expected to be “unworkable” in health emergencies (Vincent 2020). Article 31bis has not been used since.

Furthermore, voluntary contributions of IP, data and know-how have been limited during COVID-19 (MSF 2020A), an important example being that C-TAP (a platform established by WHO to facilitate such contributions in order to scale-up production of COVID-19 products) has only received two contributions at time of writing: from Spain’s High Council of Scientific Research (UNAIDS 2021) and the National Institutes of Health (Santos 2022), both publicly funded research institutions. No private company has chosen to do the same, despite having received at least 56 billion USD in mainly public funding (Global Health Center 2021). Even Pfizer, which has been quite vocal about not having received any public funding for its vaccine, has in fact received 2 billion USD from guaranteed US orders while its partner BioNTech has received over 560 million USD for its vaccine development (Oxfam 2022). Furthermore, several vaccines developed in record times have relied on technologies with their origins in government funded university research such as mRNA and nanolipids (Allen 2021). Additionally, a representative of the pharmaceutical industry has explicitly stated its unwillingness to engage with the project (IFPMA 2020).

Lastly, several defendants of vaccine nationalism point to COVAX, the initiative driven by GAVI, CEPI, WHO and UNICEF to promote equitable access to COVID-19 vaccines, as

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<sup>2</sup> This is otherwise prohibited by Article 31(f) which states that “any use described in the article shall be authorized predominantly for the supply of the domestic market of the Member authorizing such use.”



evidence of the core acting in the common interest. Admittedly, core states have given significant donations of money and vaccines to the initiative; however, (i) these donations have been insufficient as COVAX has been continuously underfunded and (ii) the same core states have undermined the initiative by relying on bilateral purchases thus compromising the initiative's ability to secure doses, diversify the vaccine portfolio and lower prices through collective bargaining (Berkley 2020; MSF 2020A; Ravelo 2021; Taylor 2021).

### 1.3 Purpose and research question

While the TRIPS waiver was proposed on 20 October 2020, discussions in the TRIPS council on the proposal have gone on for over 18 months without a conclusion (at time of writing). Due to the potential of the TRIPS waiver to improve equity and lessen the health burden of the pandemic this thesis aims to analyze the political process of states in the WTO advocating or opposing the waiver, establish which states have what positions and what their explicit or potential motivations are based on theoretical reasoning. This thesis aims to highlight how the nationalistic pursuit of self-interest, particularly through the promotion of quasi-monopolies in the form of patented pharmaceuticals, leads to certain behaviors among core states which conflict with health equity.

In this thesis I will analyze the statements made by select state delegations (EU, US, India, South Africa, Chad) in the TRIPS council on the subject of IP, COVID-19 and the TRIPS waiver. The thesis will use World-Systems Theory (WST) and Realism, a marxist-realist synthesis, as a theoretical framework which predicts that states will behave according to their hierarchical position in the core-periphery division, thus following systemic rules of the capitalist world-economy.

The research question is as following:

*How can one understand from a perspective of World-Systems Theory and Realism the positions and behaviors of states in the TRIPS Council and the debate on the necessity of a TRIPS waiver?*

### 1.4 A structural contribution to previous research

The COVID-19 pandemic is no novel phenomenon. Such health crises are well documented in the historical record and scientific literature suggests that they will occur more frequently, be more infectious and have higher mortality rates due to anthropological drivers of ecological disruption (IPBES 2020). Two recent health crises, H1N1 and HIV/AIDS, also reveal patterns of how states react to such events.

The H1N1 virus which emerged in 2009 prompted fears of a potential pandemic. Vaccines appeared to be the only meaningful way of preventing infection and core states displayed

vaccine nationalistic tendencies, laying claim to virtually all the world's total production capacity through advance purchase agreements (Brown 2009); eventually donating small amounts (which still left the periphery with a limited supply) *only after* the virus was shown to have mild symptoms and it was shown that one dose sufficed for immunization, effectively doubling their vaccine supply (Fidler 2010).

The HIV/AIDS crisis is one of the deadliest in modern history having killed over 36.3 million since its beginning, 680 000 deaths having occurred in 2020 (UNAIDS 2021). While progress has been made as the mortality rate has decreased significantly, this was achieved *despite* the intellectual property regime which has historically and is currently hampering the proliferation of and access to lifesaving medicines. In 1983, when HIV was first discovered, there was no known treatment and infection was considered a death sentence. Over a decade later, triple combination therapy revolutionized HIV treatment and created hope for HIV patients to live long, healthy lives; problem being that the patented medicines were prohibitively expensive with the best discounted prices reaching 10 000 USD per patient per year and consequently being out of reach for most patients especially in the peripheral world (Bhardwaj et al. 2019). HIV treatment accessibility was only achieved in 2001 by India's generics industry which was unhindered by patent laws, thus able to produce HIV medicines that were 99% cheaper and introduced fixed dose combinations which dramatically simplified treatment (ibid.).

These two previous cases show two important patterns: (i) the case of H1N1 shows that richer states in the core of the core-periphery division are inclined to prioritize their own populations through nationalistic strategies, and (ii) the case HIV/AIDS shows that IP poses barriers to accessibility yet is arguably maintained since its function to promote quasi-monopolies and profitability overrides the pursuit of health equity.

Due to the social significance of these types of issues, there exists an extensive literature addressing the areas of health equity, previous health crises and the effects of IP and institutions such as WTO on public health and economic development. However, such previous research comes primarily from medical and judicial studies. This thesis aims to contribute to this area by using a political science perspective to analyze how political structures and actors, namely the modern world-system and states, affect health equity and the handling of health emergencies.

## 2. Theory

World-Systems Theory (WST) is sometimes depicted as divergent from and irreconcilable with other theories of international relations as it grants economic factors explanatory primacy for state behavior, rather than international anarchy theoretically leading to specific state behaviors or prescriptive conclusions concerning conflict and cooperation. I argue (in the same vein as Cartwright (2018) who writes more specifically about

international political economy) that WST as developed by Wallerstein (2004) and structural realism as summarized by Donnelly (2013) are highly compatible; the former emphasizing capital's necessity for expansion into new markets and the latter emphasizing states' pursuit for security and power, both feeding into each other, leading to a hierarchical interstate system in which states pursue relative gain and maintaining the status-quo rather than greater absolute gains as it potentially undermines the goals of both capital and (strong) states.

In the first section I will first describe the respective theories, then argue what the theoretical benefits are for combining them and how such a synthesis helps explain the case of the TRIPS waiver. In the second section I will discuss how one can look at global health through other aspects than a perspective focused on international relations, in this way aiming to improve theoretical understanding of the issue through a less state-centric lens.

## 2.1 Towards a marxist-realism framework

### **The Modern World-System**

Beginning with WST, Wallerstein argues that the world is organized by political structures called world-systems, the current one being a *capitalist world-economy*: a geographic zone which today encompasses the globe and contains multiple cultures, an axial division of labor and multiple political centers (ibid., 98-99). Capitalism in WST does not refer to the mere existence of persons or firms who produce for the sake of obtaining a profit nor to the existence of wage-labor, instead it refers specifically to a system which gives *priority to endless accumulation of capital* through structural mechanisms which reward and punish various actors according to systemic rules i.e. maximization of profits is rewarded while compromising profits regardless of motive is punished (ibid.). It is this priority of accumulation which characterizes the modern world-system and has led to the high efficacy of wealth creation which holds the world-system together in spite of its lack of cultural homogeneity (ibid., 24).

In mainstream discourses it is often claimed that capitalism implies free markets in which firms freely compete, only the best ones survive and consumers end up with superior products at lower prices. In fact, such free markets run counter to the capitalist aim of endless accumulation. Imagining a world where factors of production were unrestricted, with large numbers of buyers and sellers who have perfect information of the costs of production, accumulation would be infeasible since consumers could negotiate down to a miniscule level of profit. Consequently, capitalists will ultimately desire high degrees of monopolization since this allows sellers to set high prices compared to costs, realize high rates of profits and thus accumulate capital. *Quasi-monopolies* which are - compared to perfect monopolies - fairly easy to create and maintain only require a relatively strong state

to enforce it through various means such as patent laws, protectionism, tax benefits, subsidies, large-scale public purchasing (often above market prices), regulations which eliminate smaller firms unable to absorb the imposed burden and ensuring that significant costs of production are externalized from certain firms such as costs of toxicity (e.g. industrial waste, ecological damage), material exhaustion (e.g. overfishing, deforestation) and transportation (e.g. infrastructure, roads, bridges). (Wallerstein 2004, 25-26, 48-49)

States intervene domestically and internationally in order to prevent less profitable competition, leading to oligopolies with quasi-monopolies on *leading products* (new products with an important share of the world market); a system which suffices for the purposes of accumulation. By the end of a quasi-monopoly's 'life cycle' accumulated capital is moved to new leading products or *new leading industries*, the result being a self-perpetuating cycle (requiring state support) of new quasi-monopolies acting as new sources of accumulation (Wallerstein 2004, 25-27) and core-like processes of today becoming peripheral processes tomorrow. Since quasi-monopolies depend on the patronage of relatively strong states, and states have an interest in reaping the benefits of accumulation, this creates a geographical core-periphery division in which stronger states are able to contain a disproportionately high share of core-like processes thus becoming core states, weaker states are less able to affect the axial division of labor and thus contain a disproportionately high share of peripheral processes becoming peripheral states while semi-peripheral states contain an even mix of core-like and peripheral products. This asymmetrical relationship leads to unequal exchange in which surplus-value constantly flows from producers of peripheral products to producers of core-like products (Wallerstein 2004, 28). Since core states benefit from such unequal exchange, they are most incentivized to follow and enforce systemic rules. More peripheral states, disadvantaged by the modern world-system, are most incentivized to promote *anti-systemic* measures, oppose the core-periphery division and pursue its dissolution; though this is weighed against the risks of retaliation from the core.

On the international level, state strength is external and refers to the state's ability to intervene in the affairs of weaker (and theoretically sovereign) states to establish, expand and enforce core-periphery linkages such as pressuring weaker states to keep the flows of beneficial factors of production unrestricted while rebuffing demands for reciprocation and conversely, the ability to resist such coercion (Wallerstein 2004; 53, 55). Strong states in the core are inherently rivals as they represent different firms, aim to increase the market share of their respective quasi-monopolies and are thus caught in a zero-sum competition of accumulation; yet they also hold a common interest in maintaining and enforcing the modern world-system, leading them to be continuously pulled in opposite directions: towards anarchic competition and hierarchical cooperation (*ibid.*, 56). Semi-peripheries find themselves in a similar rivalry as they all aspire to ascend the core-periphery hierarchy, not least by competing to attract industries from core states to relocate into their economies (*ibid.*, 57).

Internal strength (i.e. effective territorial control of domestic production processes) being necessary for states to intervene internationally, it is important to address the role of nationalism in the modern state. A significant tool to achieve effective state control of its territory is cultural homogenization of the populace, turning a collection of diversity into a unitary identity: a nation. In this sense “nations” are socially constructed identities, the state apparatus having a central role in its promotion through various means such as invoking a common history (often embellished or invented) and defining common characteristics (whether or not these apply to all in the group). The *nation-state* is an asymptote, an ideal that all states aspire towards but never fully reach as local/regional identities are ever-persistent. Nationalism as a status-group identity is “perhaps the one most crucial to maintaining the modern world-system” (Wallerstein 2004, 54) and is secured most strongly through hostility to enemies (ibid., 66) and makes the modern nation-state incentivized and inclined to prioritize the interests of the *state-nation*.

### **Anarchy and Security**

When it comes to structural realism, Waltz (1979) argues that political structures are defined by their ordering principles, differentiation of unit functions and distribution of unit capabilities. The only two ordering principles being whether units stand in relations of authority and subordination, or not: hierarchy or anarchy. States are the basic unit in the international system which lacks a higher authority able to guarantee the enforcement of international rules, thus the system is defined by anarchy and functional differentiation is largely eliminated since every state is in the same position of having to secure its own security and interests since there are no guarantees in the international system. Due to this, states always have to address the concern that any peer could become a future enemy and therefore are prone to *balancing* both internally (e.g. reallocating resources to national security) and externally (e.g. using alliances or signing (in-)formal agreements). Weak states are unable to affect the balance of power and thus pursue early alignment in the hope that a correct choice provides benefits whereas strong states, posing more significant threats to each other, are incentivized to balance against other strong states. Anarchic balancing creates a prisoner’s dilemma in which more beneficial scenarios (e.g. cooperation and disarmament) are not pursued since states are concerned with *relative rather than absolute gain*, making it possible for states to even be satisfied with scenarios that leave themselves absolutely worse off. (Donnelly 2013, 33-35)

At the same time, these are *ceteris paribus* assumptions about the international system. The structure of anarchy will push states towards certain considerations and behaviors e.g. balancing of power, but they do not fully determine outcomes since states are subjected to numerous pressures and influences which vary in significance and effects. Waltz himself admits that “structurally we can describe and understand the pressures states are subjected to. We cannot predict how they will react to the pressures without knowledge of their internal dispositions” (Waltz 1979: 71). One such important pressure is the impact of

norms and institutions which are empirically shown to affect states to consider and often comply with ethical and humanitarian ‘obligations’, contrary to Machiavellian claims that neither men nor states “do good unless necessity drives them to it” (Machiavelli 1970: Book 1, Chapter 2, 58). Appeals to the doctrine of *raison d’état*, which holds that in international affairs the national interest outweighs all other values, presuppose *what the national interest is* and seeing as states often do include value-laden objectives in their definition of the national interest, state actions often diverge from purely amoral calculations. (Donnelly 2013, 39-43)

## **Marxist-realism and The Case**

The international system is characterized by anarchy since there exists no more supreme political unit than the nation-state, yet it is also undeniably hierarchical. Both realism and WST aim to explain constancy in the international system focusing on two different aspects which are assumed to hold explanatory primacy (or at least a high significance): the political aim to guarantee security of the self in international anarchy, and the economic aim to increase one’s share of core-like production in the capitalist world-economy. I argue that it is possible to argue both (i) that a state’s political aims of self-preservation and economic aims of accumulation can be seen as isolated goals that are (at different times, to various extents) pursued for their own sake and (ii) these goals are often interconnected and both imply and reinforce each other.

Consider the state’s desire for self-preservation. This is pursued through internal and external balancing. Internal balancing refers to resources being redirected towards national security (Donnelly 2013, 33), yet this requires an economic base that is able to provide resources to redirect. A strong economic base is acquired through accumulation, meaning that a state interested in guaranteeing its own security must accumulate surplus-value, the most effective method being control of core processes, due to the medium- and long-term limits of plundering. Since accumulation is a zero-sum process, states need to quasi-monopolize certain production processes to make them core-like i.e. more profitable. Internally this means diminishing the effect of local actors who deprive the state of core process surplus-value, externally this requires intervening in foreign economies. The only sure way for states to accomplish such interventions is by being strong enough to do so, utilizing military force to make effective threats and committing its troops when such threats are not heeded.

The desire for self-preservation is in this way dependent on accumulation, and the desire for accumulation inherently leads to international antagonism which contributes to creating conditions in which national security becomes a fundamental issue in international relations. As soon as a state wishes to solitarily guarantee its own security, which it is likely to do in anarchy, then it will also pursue accumulation and vice versa. Both increase the necessity of the other. Both accumulation and security are issues concerned with *relative*

gains, which turn the international system into a geopolitical zero-sum game that rewards cynicism, greed and aggression. Again, these theories explain which behaviors are rewarded in the current international system: which behaviors are *systemic* and to be expected. At the same time, anti-systemic behavior is always possible but theoretically incentivized in the periphery and far less so in the core. WST in this way complements Realism by adding a variable, position in the core-periphery division, that allows one to assume an important aspect of states' (in the words of Waltz) internal disposition and thus allows one to predict how states are likely to react to various pressures.

Combining both theories also further clarifies the prominent role of nationalism and the 'state-nation' in state behavior. A unifying identity furthers the pursuit of accumulation and is most strongly secured through hostility to enemies (Wallerstein 2004, 66) or more generally indifference to *the other*. This legitimizes exploitation of the other, e.g. peripheral populations, since this promotes the interests of the more important *self*. Accumulation in this way is reliant on maintaining the state-nation identity and once this identity has gained increased prominence the state will in turn experience higher pressure to promote the state-nation's interests over other groups, creating a feedback loop. Security is an inherent issue for the state apparatus due to the nature of anarchy (Donnelly 2013, 34), but also for the state-nation due to the constant threat of a genuine or constructed enemy. The construction of such dangers in the absence of existing ones are incentivized since service in the armed forces are one of the main ways that states spread nationalism domestically (Wallerstein 2004, 54), but real threats are likely simple to find due to antagonism being inherent to the capitalist world-economy.

When it comes to the case, the WTO is a fairly unique IGO in the sense that it has concrete capabilities to hold states accountable through "dispute settlement mechanisms" if they fail to comply with its rules (WTO n.d. B), which initially seems irrational on the part of powerful states who are generally averse to allowing IGOs and in turn the periphery to have such concrete capacities; and thus potentially able to punish the core. Marxist-realism explains this by referring to the organization's purpose: enforcing rules which generally favor core economies. Peripheral states also are unlikely to hold the core accountable since (i) the rules already favor developed economies, (ii) the core can threaten reprisals (or promise benefits to 'cooperative' states) and (iii) the costs of mounting such a dispute case are too high (Wade 2010). The last point regarding cost also applies to every aspect of the organization (and IGOs in general) since richer countries can afford to employ sizable, permanent delegations which compared to poorer countries' delegation, often stretched thin or non-existent, are in far better positions to influence the outcomes of negotiations and what gets put on the agenda and voted on to begin with.

The TRIPS waiver aims to improve COVID-19 equity by minimizing the barriers created by IP and can be described as an *anti-systemic* measure since this would counteract state interventions that quasi-monopolize the pharmaceutical industry. By going further than

licensing flexibilities the waiver could lead to the peripheralization of the pharmaceutical industry, decreasing profitability but increasing overall participation in the development and production of COVID-19 medical goods; thus utilizing more global productive potential and improving public health. This would however imply the loss of a leading industry, meaning that core states are heavily inclined to oppose such a measure to preserve its quasi-monopolies.

Based on premises derived from the marxist-realist framework this thesis hypothesizes that:

(i) Core states which are inclined to pursue accumulation through the creation and promotions of quasi-monopolies will accordingly be unwilling to support a TRIPS waiver as this would turn their core-like, leading products (e.g. patented vaccines and other medical products) into peripheral, competitive products; thus surrendering a significant economic advantage and slowing surplus flows of value into the core. On the other hand, due to the *extraordinary* nature of this situation (i.e. world-wide pandemic), core states will be subject to considerable anti-systemic pressures for compromise. To balance these factors, core states are likely to prolong discussions (thus profiting during high demand) while negotiating for a ‘soft’ waiver for minimal quasi-monopoly concessions.

(ii) Peripheral states which experience extraction of surplus value, barriers to pursue profitable ventures (i.e. core industries and leading products) and an inability to meet domestic needs (e.g. combating COVID-19) due to core state nationalism will be inclined to pursue anti-systemic strategies such as opposing monopoly mechanisms in pursuance of the peripheralization of important core-like products to promote competitiveness and abundance. Thus, peripheral states will be inclined to support a ‘hard’ TRIPS waiver to pursue maximal peripheralization of COVID-19 medical products. However, these states also find themselves in a precarious position since pursuing anti-systemic strategies can lead to punishment and coercion by core states aiming to maintain the world-economic status quo.

## 2.2 Core-periphery division of Global Health

Marx and Engels foresaw that capitalism required endless expansion: “The need of a constantly expanding market for its products chases the bourgeoisie over the entire surface of the globe. It must nestle everywhere, settle everywhere, establish connexions everywhere” (Marx - Engels 1848). Accumulation necessitates expansion since profitability diminishes over time without capitalistic state interventions. Such expansion can occur in a multitude of ways and involve different aspects of economic and social life, an important example being the capitalist expansion into pharmaceutical production.



Wallerstein (2004, 86) argues that in the later half of the 20th century, centrist and rightist coalitions worked to counteract a global trend of diminishing profitability by intervening in all three components of cost: reducing remuneration levels, re-externalizing cost of inputs and reducing taxation for the benefit of the welfare state. Developmentalism was abandoned for globalization, calling for the free flow of goods and capital. The Thatcher and Reagan regimes took the lead in advocating the theory of neoliberalism, promoted by the World Economic Forum, and policies of the Washington consensus, implemented and enforced through institutions such as the World Bank and IMF which accomplished this through Structural Adjustment Programs, loans to Global South economies granted in exchange for economic liberalization and deregulation, which a growing literature shows worsen public health in developing countries (Forster et al. 2020).

In this context, the WTO serves to reinforce the core-periphery division and maintain the flow of unequal exchange by contributing to the core 'kicking away the ladder' before the periphery gets to climb, shrinking the development space for peripheral states to adopt the same types of industry and technology policies that allowed for the recent growth of East Asian economies and the historical enrichment of Western economies (Wade 2010). This is especially true concerning pharmaceutical products since the quasi-monopolization of this industry is a fairly new phenomenon. For centuries, states did not view pharmaceutical quasi-monopolization as being in the public interest. Half of all countries party to the 1883 Paris Convention on the Protection of Industrial Property *actively excluded* pharmaceutical patenting, while others provided patents that had limited terms or only applied to production processes instead of end products (t Hoen et al. 2011). TRIPS ended this legislative diversity by requiring all WTO members to introduce and enforce 20-year patents on products from *all* fields of technology. The TRIPS agreement further limits the periphery by serving as merely a starting point for core states to negotiate *even tougher TRIPS-plus standards* in bilateral trade and investment treaties (Wade 2010); and while the Doha Agreement of 2001 improved poorer countries' access to medicines through the use of compulsory licenses, it did not address restrictions regarding technology transfers that would allow peripheral states to acquire the productive capacities necessary to provide themselves with needed pharmaceutical products (ibid.).

The WTO implementation of TRIPS, a global application of intellectual property to the pharmaceutical industry, represents capitalist expansion into an under-commercialized production process, serving as a capitalist fix through the creation of a new leading industry and source of accumulation. Thus, the pharmaceutical industry has become a quasi-monopoly which through substantial state support avoids competition and maintains profitability. The 'core-ification' of the pharmaceutical industry can be observed trends such as (i) the industry has grown remarkably in the past two decades with revenues having grown from 390 billion USD in 2001 to 1.27 trillion USD in 2020 (Mikulic 2021) and (ii) since 2000 the industry has become highly financialized which has led to the sector increasingly deriving income from the ownership of intellectual property rather than from

developing, producing and selling drugs (Fernandez - Klinge 2020). Increases in patent protections have also coincided with an increase in new drugs which show no therapeutic benefit over existing products (t Hoen et al. 2011) and using patenting strategies to prolong market exclusivity to maximize profits and delay generic competition has become standard practice in the pharmaceutical industry (Amin- Kesselheim 2012; Sampat - Shadlen 2017).

While it is undeniable that promises of profits compel higher economic activity, this is not necessarily a social boon, especially when it comes to public health and health equity: there is little profit to be made in treating the poor, those who are most likely to suffer from diseases and health conditions. Heller and Eisenberg (1998) argued decades ago that intellectual property could *deter* innovation in a *Tragedy of the Anti-Commons* which describes *underutilization* of scarce resources, referring specifically to biomedical research. Buchanan and Yoon (2000) took on the challenge of developing an economic model for this idea, describing the dilemma: “[t]o the extent that, through exclusive licensing rights, the holders of a [patent] seek to exploit the rental value, the follow-on potential developer is inhibited from securing the value that might otherwise have been available”.

I argue that such a metaphor is applicable to global health in general. Anti-commons in the form of intellectual property rights incentivize rent-seeking and monopolistic gatekeeping by right-holders, leading to *underutilization* of medical knowledge and resources and thus *undertreatment* of the global population, increasingly so for peripheral populations. I further argue that such a Tragedy of the Anti-Commons is inherent to the current global health regime and was an inevitable development in the capitalist world-economy since profit-seeking would eventually lead to the deepened commercialization of the pharmaceutical industry when other core industries’ profitability diminished, prompting the search of a new source of accumulation. Such Anti-Commons effects are also empirically documented, for example a report by MSF (2021) concludes that “[t]he global R&D system is skewed towards the development of highly priced drugs for diseases most prevalent in high-income countries” and a WHO commission report stated that there was “no evidence” that the implementation of TRIPS in developing countries would boost R&D for diseases primarily affecting poorer populations and little reason to believe otherwise since market incentives for such investments would be insufficient (CIPIH 2006, 85).

## 3. Methodology

### 3.1 Method: Case study

This thesis will utilize a qualitative text analysis and considers states to be the unit of analysis and the international system as the level of analysis. As the purpose of this study is to highlight the power dynamics and diverging interests of the core-periphery division in the international system, and presupposing that such a division emerges in the proceedings

of IGOs as states promote their respective interests, analyzing how states behave in response to the COVID-19 pandemic in the TRIPS council is appropriate as well as academically and socially relevant.

There are several limitations with such a method. The qualitative nature of this approach makes subjectivity an important aspect of the analytical results (though subjectivity is arguably inherent to all research) and thereby intersubjectivity becomes increasingly important to reveal the theoretical perspectives used to analyze the material. Case studies are often criticized for their findings being less applicable once one goes outside the scope of the particular study. However, since previous cases of health crises (e.g. H1N1 and HIV/AIDS) display patterns such as the core state behavioral tendency of pursuing inefficient (vaccine) nationalistic strategies and recurring instances of IP creating barriers to access while a marxist-realist framework argues that such outcomes are predictable and attributable to the global political structure, this case arguably has higher generalizability and will be more applicable to other cases of health emergencies and health inequity.

### 3.2 Material: Meeting minutes

In order to analyze the behavior of states and the values/interests that they promote, this thesis will use the meeting minutes published by WTO. Since the TRIPS waiver was proposed the TRIPS council has held dozens of formal meetings. Reading summaries of these official meetings from 30 July 2020 and onward on the WTO website served as a way to identify meetings in which there were discussions specifically on the issue of the TRIPS waiver, as well as assessing how the discussions on the waiver developed over the months and at which time points there were significant development; thereby identifying meetings of relevance and interest. For example, meeting summaries that stated that delegations repeated “well-known positions” on the issue was a motivation to exclude those meetings for analysis. After this initial ‘overview’ stage, four meeting minutes published by WTO were selected as material for analysis. The analysis will delineate to only analyze the agenda items of the minutes in which delegations specifically discuss COVID-19, the role of IP and proposed waivers. The documents in question are the following:

**i) Agenda Item 14 in IP/C/M/95/add.1**

in which delegations discuss i.a. the role of IP during the pandemic

**ii) Agenda Item 15 in IP/C/M/96/add.1**

in which delegations discuss i.a. the recently proposed TRIPS waiver (IP/C/W/669)

**iii) Agenda Item 13 in IP/C/M/100/add.1**

in which delegations discuss i.a. the revised TRIPS waiver (IP/C/W/669/Rev.1)

**iv) Agenda Item 13+14 in IP/C/M/103/add.1**

in which delegations discuss i.a. high-level ‘Quad’ meetings on a draft text

As of the time of writing, later meeting minutes are not available and are thus not used as material for analysis (see figure 4).<sup>3</sup>

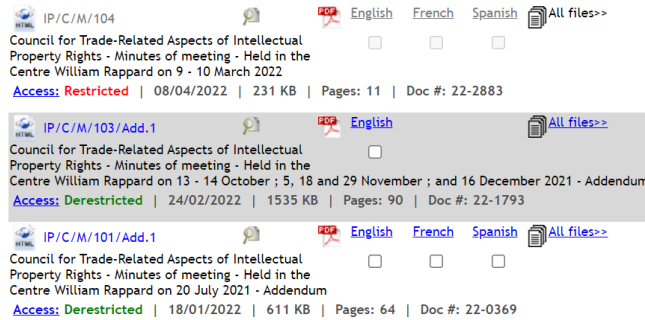


Figure 4: TRIPS council meeting minutes are sometimes publically unavailable

The analysis will also, due to the high number of meeting participants, limit itself to analyze solely the statements made by select delegations considered most relevant and the combination of which is considered interesting and representative of the wider debate. The delegations of the European Union and United States represent core states and are expected to oppose the TRIPS waiver to preserve unequal exchange, yet the latter changed its position from being explicitly opposed to supportive in early June 2020, an unexpected development which prompts several questions: why would such a prominent core state take such an unexpected position, how substantive was this change of position etcetera. India and South Africa, both semi-peripheries, proposed and advocated for the adoption of the TRIPS waiver and are thus arguably among if not the most relevant actors. Chad, on behalf of the LDC (Least Developed Countries) Group, represents the most peripheral states and thus together with the previous four makes for a group which more or less represents the interests of the entire core-periphery spectrum.

## 4. Analysis

### 4.1 The Periphery and the TRIPS waiver

This thesis hypothesized that peripheral states are expected to pursue anti-systemic measures and the peripheralization of important COVID-19 products, thus likely to support a 'hard' waiver. Following a reading of the selected meeting minute, this prediction has been supported by the material.

Significantly, the South African and Indian delegation pursued a 'broad' approach to go beyond existing TRIPS flexibilities to promote equity by i.a. addressing *all* types of products relevant to COVID-19, addressing several types of IP that would pose as barriers and emphasizing not only the *increase* but also the *diversification* of production. Chad,

<sup>3</sup> Though, in this case, IP/C/M/104 would likely not be used as only the addendums provide delegation statements.

representing the LDC Group, generally stated little else but support for the two delegations' statements or TRIPS waiver proposal.

Throughout the various meetings, including before proposing the initial TRIPS waiver, both the South African and Indian delegations emphasize the fact that containing COVID-19 requires a diversity of medical products and preventing shortages and barriers of access to any of these products are important for the Council to address; thus the revised waiver, after members asked for a more 'focused' text, includes "health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components" (TRIPS Council 2021C). The revision also adds a specific duration (3 years instead of undetermined) after which the General Council would review whether the "exceptional circumstances justifying the waiver" still exist (*ibid.*).

Further, the two delegations point to numerous examples of how these relevant medical goods are covered by different types of IP beyond patents such as copyrights, industrial designs and undisclosed information. Since TRIPS flexibilities only address patents, but not other forms of IP, flexibilities such as compulsory licensing are inherently limited because as the delegations argue (TRIPS Council 2020B, 1167a-b; *ibid.* 2021B, 247)<sup>4</sup> knowledge not included in patents such as know-how and data gathered during the developmental and manufacturing process are essential for an effective response to the pandemic, which motivates the inclusion of "methods and means of manufacture" of relevant health products and technologies (*ibid.* 2021C) in the revised TRIPS waiver.

There is unlikely any delegation which has not argued for taking measures to increase the production of medical goods, but India and South Africa also make a point of emphasizing the need to *diversify* this production through technology transfers and sharing of knowledge, criticizing monopolies (TRIPS Council 2020A, 497; *ibid.*, 2020B, 1162, 1165) and arguing for the facilitation of production in numerous countries, especially where such capacity is lacking (TRIPS Council 2020B, 1167e ; *ibid.* 2021B, 245-246). This diversification and generic production is presented as the best way to create medium- and long-term access to medical products for peripheral states, since limited competition results in higher prices and lower quantities of the respective products (*ibid.* 2020B, 1167b).

Both the Indian and South African delegations continuously criticize voluntary approaches and compulsory licenses for not sufficing as solutions during the pandemic: "[v]oluntary arrangements and donations, while helpful, have not been sufficient to result in equitable distribution" (TRIPS Council 2021B, 409). The delegations have numerous times referred to the fact that voluntary licenses' terms are generally secretive and restrictive (*ibid.* 2020A, 435, 497 ; *ibid.* 2020B, 869, 1161 ; *ibid.* 2021B, 409), often leaving poorer markets unserved and contribute to inequity; an example being Gilead which has signed secretive voluntary licenses for its COVID-19 therapeutic Remdesivir (received over 70 million USD in public

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<sup>4</sup> Since the meeting minutes lack page numbers, citations will refer to points in the documents instead.

funding) that exclude nearly half the global population, most of the supply has been reserved for richer countries and the prices are prohibitively high (ibid. 2020B, 1160). The fact that no pharmaceutical company has shared its IP with C-TAP is used as further evidence that private actors are not likely to voluntarily yield market advantages by granting nonexclusive licenses to facilitate global access (ibid., 2020B, 869).

India and South Africa also bring up issues with compulsory licenses, one being that many states lack legislation that explicitly implements the right to issue compulsory licenses for various circumstances, meaning that for those states such a flexibility is less viable as a mechanism for public health. Further, states face legal, technical and institutional challenges in utilizing flexibilities like compulsory licenses (TRIPS Council 2020A, 434). Due to the case-by-case approach of issuing compulsory licenses, it becomes a complex and cumbersome procedure to utilize (ibid. 2020B, 1155). Article 31bis being of certain importance to states dependent on imports, the delegations argue, the fact that this mechanism creates additional administrative burdens for its users makes it especially maladaptive since the very states in most need of using it have the least institutional capacity to exercise it; additionally the mechanism might not cover crucial medical devices (ibid. 2020B, 870). Moreover, this mechanism was long thought to be a lifeline during health emergencies, but due to the requirements of using it making it time consuming and onerous, it is rendered of little practical utility during such a health emergency (ibid.). Not to mention the fact that using compulsory licensing or improving national legislation to make possible the use of this flexibility has been met with political pressure from the EU and the US through various ways, for instance, as South Africa points out, their respective *IP enforcement* and *Special 301* reports, both of which condemn and criticize states that use these rights afforded to them by their WTO membership (ibid. 2020B, 1157).

Throughout the various meetings, both delegations refute that IP played a *decisive* role in the successful development and manufacturing of new COVID-19 medical products. Instead, the health emergency itself is argued to have mobilized action of and collaboration between multiple stakeholders, many of which hold skills and knowledge primarily funded by taxpayers and which were fundamental for the progress that IP is purported to have caused (TRIPS Council 2020B, 1168-1169). The delegations argue that while R&D is a risk-filled venture, this does not legitimize monopolies during COVID-19 since tens of billions USD of public funding eliminated such risk and need to recoup investments (ibid., 868). Thus, such funding should come with strings attached to guarantee that public investments also lead to public benefits in the form of access and equity, instead of private companies bearing none of the risk but gaining all of the profit (ibid., 1166, 1168d) which would also come at the cost of worsened public health.

Finally, it is pertinent to bring up the sense of urgency that India, South Africa and Chad act with when it comes to aiming to reach a conclusion regarding the TRIPS waiver. When the revised waiver was introduced, India and South Africa stated that they expected to

enter text-based negotiations as the health emergency was a continuously time-sensitive issue, showing a willingness to compromise: “it is not an ideological debate, we are not against incentives for R&D and innovation while at the same time we acknowledge the importance of public health” (TRIPS Council 2021A, 405); going on to call for line-by-line negotiations on the revised waiver and aiming to conclude negotiations by the end of July 2021 (ibid., 409). In the following months repeating such calls and lamenting that “[t]he discussions that we have had in the past few months under the pretext of a text-based process have regrettably stalled any constructive engagement on the waiver text” (ibid. 2021B, 301).

I argue that these states which represent the (semi-)periphery have engaged in anti-systemic behavior, prioritizing the promotion of public health over the upholding of quasi-monopolies even if through a temporary waiver of IP. Though, this waiver was also advocated for in tandem with the goal of diversifying productive capacities in the periphery, something that would arguably have permanent effects even after the waiver ceases to apply since peripheral economies would become better able to supply themselves with needed medical products instead of relying on import from the core. In this way, unequal exchange would be counteracted and accumulation in the core would diminish, allowing more surplus-value to remain in the periphery barring capitalist interventions to remedy this change.

## 4.2 The Core and the TRIPS waiver

This thesis hypothesized that core states are expected to pursue systemic measures and the maintained quasi-monopolization of important COVID-19 products, however the extraordinary nature of COVID-19 would create significant anti-systemic pressure on the core to compromise, thus likely to prolong negotiations and support a ‘soft’ waiver. Following a reading of the selected meeting minute, this prediction has been partially supported by the material.

The core delegations of the US and the EU differ from one another more than India and South Africa do each other, though all of them state frequently during the meetings that they are ‘committed to access and equity’. The US and EU behaved very similarly at first, with a divergence occurring when the US started supporting the proposed TRIPS waiver. In contrast to the peripheral delegations’ ‘broad’ approach, the US and EU arguably use a ‘narrow’ approach to advocate more for the status-quo in various ways such as by minimizing the number of types of medical products included in the waiver debate, arguing that IP does not pose barriers and that existing mechanisms and state actions suffice to promote public health.

The US was initially fully opposed to a TRIPS waiver: “[w]eakening IP protection and enforcement would be counterproductive to our global fight against COVID” (TRIPS Council

2020B, 1049). Later on the delegation switched position, arguing that in order to reach an expeditious consensus efforts should be focused on vaccines specifically (ibid 2021A 379) and later warning that “unless Members are able to make some real compromises, we worry that there may be the possibility of no outcome” (ibid. 2021B, 365) likely referring to co-sponsors of the TRIPS waiver pursuing a broader outcome at the potential risk of getting nothing. Otherwise the US delegation became quite passive in the TRIPS waiver debate following its switch in position.

Before this position shift, both the US and EU delegations repeated many of the same arguments: (i) IP functions as a crucial, nonnegotiable incentive for innovation, R&D and increased production (TRIPS Council 2020A, 530-532, 571-574, 582-583 ; ibid. 2020B, 1027, 1044-1045), (ii) voluntary licensing and voluntary sharing of IP are optimal for equity (ibid. 2020A, 524-525, 575-576, 1046) and (iii) *if* voluntary approaches fail the EU argues that the TRIPS agreement already provides sufficient flexibilities such as compulsory licensing (ibid. 2020A, 526 ; ibid. 2020B, 1038-1039) while the US at this point states that it “respects” the right of members to issue such licenses but “urges” them not to as it would diminish the incentives which patents create and thus compromise future investments in R&D (ibid. 2020A, 579, 584-585).

The shift in the US position coincides with the EU delegation introducing IP/C/W/680 (TRIPS Council 2021D), a text which the EU seemingly presents as an alternative to the TRIPS waiver (ibid. 2021A, 277). However, as India and South Africa point out (ibid. 2021B, 252-258, 378-382), the EU proposal’s aim to improve Article 31 and 31bis by granting legal clarity (on matters which were never in dispute) is confounding since clarity was never the issue, the administrative burden of executing the mechanism is. Most of the proposal is effectively meaningless as it does nothing but reaffirm already existing rights, except for if it were interpreted as a direct and automatic waiver of Article 31(f) meaning that it *could* replace the suboptimal 31bis mechanism. This does not seem to be the intention, though if it were one could also criticize the proposal for not using more effective options such as using Article 30 to make exports expected from patent rights, thus a compulsory license would not have to be issued in the first place, or Article 73 to allow members to suspend IP to protect “essential security interests”<sup>5</sup>.

From a critical view this EU proposal can be seen as partially a straightforward way to contest the TRIPS waiver in the political arena, but also as an effort to prolong or distract from the TRIPS waiver to excuse one’s own unwillingness to engage in the line-by-line negotiations that the waiver’s co-sponsors have been calling for. The South African delegation has called for moving beyond the “binary” between the TRIPS waiver and the EU proposal and engaging in text-based negotiations arguing that “it is negotiations that lead to convergence and not the other way around” (TRIPS Council 2021B, 462) while the EU delegation seems to argue the opposite “[i]n order to advance, we first must find a

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<sup>5</sup> As suggested by ‘t Hoen - Boulet (2021).



common ground for everyone to work on” (ibid., 473). The Indian delegation seems to insinuate that while co-sponsors of the TRIPS waiver have engaged in good faith on possible responses to the pandemic, including the EU proposal, “a similar zeal to reach an outcome or even to start a negotiation has been lacking on the TRIPS Waiver Proposal” (ibid., 417) from the side of those still opposed, including the EU delegation.

I argue that the EU delegation has engaged in systemic behavior, seemingly not having engaged in good faith negotiations with the co-sponsors of the TRIPS waiver and arguably contributing to delaying the Council from reaching a conclusion on the issue; in this way promoting unequal exchange during the pandemic and during peak demands of quasi-monopolized medical products. While this might have caused absolute losses for the global community or possibly the core states themselves, marxist-realism predicts that these core states concern themselves more with the acquired relative gains (i.e. accumulation). The US delegation is more difficult to judge as it clearly behaved systemically at first, advocating for the existing IP regime and outright rejecting the waiver, only to partially reverse its position and support a limited form of the TRIPS waiver. This might be understood as the result of anti-systemic pressure from within or without, pushing the delegation to support the waiver, while its core state inclinations stopped the delegation from supporting anything broader than a waiver on vaccines.

## 5. Conclusion

This thesis aimed to answer the question: How can one understand from a perspective of World-Systems Theory and Realism the positions and behaviors of states in the TRIPS Council and the debate on the necessity of a TRIPS waiver? From a marxist-realist framework the thesis hypothesized that (semi-)peripheral states were likely to support a ‘hard’ TRIPS waiver as this would counteract IP i.e. the quasi-monopolies that cause unequal exchange as well as limit capacities to meet public health needs, which is a more important issue for the periphery which has been left with fewer resources to contain COVID-19; while the opposite was hypothesized for core state. The hypotheses were mostly correct in their predictions with an exception for the US delegation which ended up being a relatively early supporter of the waiver, though in a much more limited form. The position of the US delegation is thus an interesting matter which warrants more research to understand how to explain this core state’s behavior in regards to the TRIPS waiver.

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## Figures:

### Figure 1

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### Figure 2

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Figure 3

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Figure 4

Screenshot taken on WTO's *Documents Online* online database. The specific documents (IP/C/M) are available and were found in the following section:

Council for Trade-Related Aspects of Intellectual Property Rights →

Technical and Administrative Information →

Administrative Information →

General (IP/C) →

Minutes (IP/C/M)

[https://docs.wto.org/dol2fe/Pages/FE\\_Browse/FE\\_B\\_009.aspx?TopLevel=4482](https://docs.wto.org/dol2fe/Pages/FE_Browse/FE_B_009.aspx?TopLevel=4482) [accessed 13 May 2022]