

Compendium of resources on trade in times of crisis and pandemic

In support of “building back better” after COVID-19, the United Nations, in collaboration with WTO and other organizations from civil society, academia and the private sector have launched an *Initiative on Model Provisions for Trade in Times of Crisis and Pandemic in Regional and other Trade Agreements*.¹ As part of the initiative, a 45-day Policy Hackathon has been organized to gather relevant inputs from all interested stakeholders from government, academia, civil society and private sector. Written contributions received during the Policy Hackathon will support the development of provisions in regional and other trade and/or economic partnership agreements that may provide better guidance on national trade policies and more effectively facilitate trade and transport during and after a crisis or pandemic.

In this context, this compendium provides references to – and summarizes content of – key documents produced by international and other organizations and individuals which may be useful to Policy Hackathon participants. It brings together ideas, recommendations, measures, commitments, actions, initiatives and existing agreements related to trade in times of crisis and pandemic that have already been put forward.

For ease of reference, the compendium is generally structured according to the framework of issues featured in the guidance document made available to all Hackathon participants.² The last two sections of the compendium also provide information and links to regional and other agreements where model provisions thought to be developed might be incorporated, as well as to policy measures and commitments already undertaken by some countries in response to the COVID-19 crisis.

The Compendium is a living document that will continue to be updated based on inputs received from the experts and organizations supporting the *Initiative*.³

¹ The *Initiative* is coordinated by the United Nations Economic and Social Commission for Asia and the Pacific (UN ESCAP). More information available at: <https://www.unescap.org/resources/initiative-model-provisions-trade-times-crisis-and-pandemic-regional-and-other-trade>

² <https://www.unescap.org/events/policy-hackathon-model-provisions-trade-times-crisis-and-pandemic-regional-and-other-trade>

³ Organizers of the *Initiative* are grateful to Mathilde Liger for preparing and maintaining the compendium during her graduate internship at the Trade Policy and Facilitation Section, UN ESCAP. Gabrielle Marceau and her colleagues at WTO also contributed valuable inputs throughout the document.

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1 - ESSENTIAL GOODS

Key reference documents

- World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

<http://documents.worldbank.org/curated/en/509521585605825305/pdf/Do-s-and-Don-ts-of-Trade-Policy-in-the-Response-to-COVID-19.pdf>

- World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic.*

http://www.wcoomd.org/-/media/wco/public/global/pdf/media/important-notice/pscg-covid_19_en.pdf?db=web

- OECD, *COVID-19 and international trade: Issues and actions*

<https://www.oecd.org/coronavirus/policy-responses/covid-19-and-international-trade-is-sues-and-actions/>

Summary of recommendations

*** Facilitate access to essential COVID-19 related medical goods and supplies by⁴**

- Reducing to zero import tariffs on COVID-19 related medical goods.
- Exempting from VAT imports of COVID-19 related medical services and goods.
- Waiving withholding taxes (advance income taxes) on imports of COVID-19 related goods.
- Committing to refrain from imposing export bans or taxes on COVID-19 medical goods or services.

*** Expedite the Clearance of Essential Goods and Workers to Support and Maintain Essential Services⁵ :**

- Carriers of all modes of transport provide essential and lifesaving services in these challenging times. We propose that governments recognize as “essential services” carriers and their conveyances, equipment, staff and crews, freight forwarders, customs brokers and delivery services including last mile transportation to the final destination so that they can continue supplying and delivering goods in medical, food, manufacturing and many other critical supply chains. Pilots, crews and drivers who do not interact with the public in the performance of their jobs, and have no symptoms of coronavirus, should be exempt from local 14-day quarantine requirements.
- Customs administrations and other government agencies regulating the movement of goods across borders must clearly differentiate between essential products and non-essential products and ensure that regulatory requirements for essential products are flexible.
- It should be noted that there must be flexibility, since what is essential on day 1 of the pandemic may not be the same as on day 50 or day 100.

⁴ World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*.

⁵ World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic.*

- Tariff relief should be considered for essential products, such as critical medical supplies as well as other essential goods.
- All medical supplies and equipment needed to provide relief of the COVID-19 crisis should be granted first priority to cross borders, where practicably possible.
- Apart from critical medical supplies and equipment, essential goods include but are not limited to basic supplies such as food, hygienic products, and fuels, especially in the early days of crisis. We live in a time of interconnected economies, and many of these supplies are imported. These goods should also be allowed to flow through borders with simplified procedures and regulations, keeping in mind the staff shortages in the public and private sector to operate infrastructure and keep cargo moving.
- Where “fast lanes” are part of infrastructure or may be designated as such, these should be used to give essential goods priority for clearance.

*** Keep global supply chains going, especially for essentials⁶**

An important priority is keeping the key supply chains for essential goods for the crisis – including medical supplies, food products and ICT goods and services – open and functioning.

In the short term, some practical things can be done to keep trade flowing and to increase how trade can support the fight against COVID-19, including:

- **Speeding up border checks for medical products and food and minimizing the need for physical interaction between Customs and other border officials and traders at borders, by digitizing processes to the extent possible.** Also important will be efforts to expedite standard formalities to leave room for any necessary additional COVID-19 controls. Efforts to boost international co-operation on risk management will also be important in tackling the virus and facilitating movement of goods, as will continued assistance for lower income countries.
- **Making it cheaper and easier for people to stay connected to jobs, markets – and each other – by:** reducing tariffs on information and communication technology goods and measures affecting access to digitally enabled services; temporarily increasing de minimis thresholds to cut delays in cross-border e-commerce; and keeping trade moving without physical contact through enacting regulations to enable e-payments, e-signatures and e-contracts.
- **Helping medical researchers co-operate on COVID-19 through enabling data flows.** Access to detailed health information is critical to finding a cure for COVID-19. Yet health data are often subject to strict localisation requirements and cross-border data flow restrictions. Governments could enable processing and cross-border transfer of sensitive data to monitor epidemics, and promote the use of restricted access and secure sandboxes to pool health data on COVID-19.

⁶ OECD, *COVID-19 and international trade: Issues and actions*.

2 - TRADE FACILITATION

Key reference documents

- World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*
<http://documents.worldbank.org/curated/en/509521585605825305/pdf/Do-s-and-Don-ts-of-Trade-Policy-in-the-Response-to-COVID-19.pdf>
- World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic.*
http://www.wcoomd.org/-/media/wco/public/global/pdf/media/important-notice/pscg-covid_19_en.pdf?db=web
- OECD, *Trade Facilitation and the COVID-19 Pandemic*
https://read.oecd-ilibrary.org/view/?ref=130_130609-v8jn83j1j3&title=Trade-facilitation-and-the-covid-19-pandemic
- UNCTAD, *Case Study: China's Trade Facilitation responses to the COVID-19 Pandemic*
<https://unctad.org/en/pages/newsdetails.aspx?OriginalVersionID=2328>
- UNCTAD, *COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic.*
https://unctad.org/en/PublicationsLibrary/presspb2020d3_en.pdf
- UN Global Survey on Digital and Sustainable Trade Facilitation, *Interactive visualization of Trade Facilitation & Paperless Trade data – and regional and global reports on implementation*
unftsurvey.org
- UN/CEFACT Draft Recommendation on cross border facilitation measures for disaster relief
<https://uncefact.unece.org/display/uncefactpublicreview/Public+Review%3A+Cross+Border+Facilitation+Measures+For+Disaster+Relief>

Summary of recommendations

*** Contribute to macroeconomic policy efforts to shield the economy from COVID related downturn by⁷**

- reducing to zero import tariffs on all goods and streamlining regulations affecting trade in services
- waiving withholding taxes on imports of all goods and services
- Allowing importers to defer VAT payments for an initial period of 12 weeks
- intake of the poor will boost immune systems and contribute to the ability to resist the virus.
- refraining from imposing export bans or taxes on critical food staples

*** Support for Business Resumption and Recovery⁸**

⁷ World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19.*

⁸ World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic.*

The following are some ideas to improve cash flow for these businesses and prepare them for recovery.

- Provide for waiver/reduction or deferments, additional days for payment of customs duties, taxes and fees as well as other customs debts.
- Grant financial relief measures and reduce or eliminate, for example, fees for import licenses required under other regulation.
- Suspend periodic customs audit or inspection during 2020 for enterprises which have no record of non-compliance.
- Waive interest charges for late payments.
- Extend time frames for filing claims, appeals, and other trade measures.
- Prepare, update and activate business continuity and trade recovery plans to ensure the timely, smooth and orderly resumption of trade and manufacturing. Industry will require raw materials, parts and machinery to generate goods and services as recovery begins. Governments in general, and border agencies in particular, including Customs administrations should coordinate and provide actions to ensure the borders are open and move the flow of goods across border with maximum efficiency.
- Ensure the possibility of extensive consultation with stakeholders in the private sector before implementation of new programmes, given the challenges of providing for meaningful Customs-business dialogue during recovery, communication between all government agencies at the border and the private sector will be critical to recovery.

*** Making border processes faster and safer ⁹**

In the current extremely challenging context, trade facilitation measures such as those set out in the WTO Trade Facilitation Agreement (TFA) offer a solid basis for dematerializing a significant part of the border process, so as to ensure that physical interactions between Customs and other border officials and traders are kept to a minimum.

Trade facilitation measures – such as digitizing and streamlining border processes – speed up processing while reducing person-to-person interactions

- All paperwork related to the movement of goods, including declaration, assessment and payment of duties, and release and clearance of goods can be carried out without physical contact – given sufficient digital infrastructure. This can be important in reducing the need for face-to-face interactions between traders and border officials, reducing risks of COVID-19 infection.
- The TFA requires that all border controls deemed necessary by authorities are undertaken in the most transparent, simplified and streamlined way. This continues to apply to all shipments, meaning that the necessary checks on those from heavily affected regions should still be transparent and as simple and streamlined as possible.
- Expediting standard formalities for the movement of goods not only reduces the time spent in physical interactions, but also makes space and time for additional controls and

⁹ OECD, *Trade Facilitation and the COVID-19 Pandemic*

sanitary measures required in light of COVID-19. This is particularly important for perishable products, such as agro-food and time-critical medical products, which are essential in the COVID-19 crisis.

- Implementation of the TFA's requirements on transparency, on enhanced controls and inspections, and on information in case of detention of goods, would enable traders to adjust to the new demands and requirements with the least delay and disruptions. Indeed, in the current environment, G20 Trade Ministers have underscored the importance of transparency in trade regulation³.

Ports, airports and land borders across Europe, Asia-Pacific and the Americas already have the tools in place to keep goods flowing

- Mechanisms limiting physical interaction – such as electronically lodging documents in advance, electronic payment of all trade-related taxes, digital certificates and signatures, or 24/7 automated processing of trade declarations – are already available in Europe and Central Asia, North America, Asia-Pacific, and Latin America and the Caribbean.
- Several economies have already implemented trade facilitation measures at their borders to address the current challenges, including “green lanes” or “corridors” for fast clearance of essential goods (such as, for instance, at intra-EU borders) or acceptance of digital trade-related documents, including sanitary and phytosanitary certificates, in place of physical copies.
- Those economies able to implement pre-arrival and 24/7 processing can also maximise use of special lanes for time-sensitive medical products and food stuffs.
- Single Windows also play an important role in speeding up border procedures, allowing “one stop shop” processing. Many economies across Asia-Pacific, Europe and the Americas already have trade Single Windows in place and can increase their use by making available more targeted user manuals for both border officers and traders.

*** Facilitating e-commerce**

- With lockdown measures seriously restraining brick and mortar commercial activity, cross-border and domestic e-commerce can be important means for meeting essential needs, as well as sustaining demand and thus economic activity in all sectors. Moreover, given the significant difficulties already faced by the logistics sector in ensuring timely distribution, increased efficiency of government controls is even more important.
- TFA provisions allow for pre-arrival processing and electronic payment and for appropriate risk management mechanisms to be maintained. They also require that fees and charges applied are proportional to the processing cost. These are all important in keeping essential controls in place, while keeping costs down so that e-commerce can help fill the gap created by containment measures on conventional commercial activity.
- For both individual consumers and firms in e-commerce, transparency and availability of information are essential – to know what taxes need to be paid, how they can be paid, or which documents are necessary. To help enable e-commerce, agencies should improve what – and how – information is made available online.

* **Helping firms hit hardest by the crisis**

Trade facilitation is particularly important for MSMEs:

- Firms of all sizes – but especially MSMEs – and from all sectors of the economy are severely affected by the current crisis. Governments have rightly taken a wide range of measures to support firms, notably MSMEs including suspending or deferring payment of customs duties and tariffs. However, there is scope to do more to help MSMEs via trade facilitation.
- While trade facilitation helps all firms, OECD work shows that improvements in the trade facilitation environment benefit smaller firms more than they benefit larger firms. Trade facilitation reforms reduce fixed and variable trade costs, helping MSMEs not only become importers and exporters, but also helping MSMEs that already export and import increase their volumes.
- Especially in developing countries, trade facilitation can have an important impact on the propensity of MSMEs to engage in exporting and importing.
- Similarly, while more efficient customs procedures help both large and small firms integrate into global value chains (GVCs), they also help MSMEs more.
- Of the range of trade facilitation reforms, measures such as streamlining of procedures, automation of the border process, simplification of fees, inclusion of MSMEs in consultation processes, or efficiency of appeal procedures have the largest differentiated impacts on MSMEs relative to larger firms.

* **China's trade facilitation response¹⁰**

Measures taken by China

- Simplify business registration and help with clearance formalities.
- Expedite the clearance of imported equipment and raw materials.
- Facilitate the import of food and agricultural products.
- Support businesses in export expansion.
- Simplify sanitary approval for imported special medical supplies.
- Simplify extension formalities for processing trade enterprises.
- Simplify write-off formalities and reduce on-site audits.
- Simplify and expedite administrative penalty procedures.
- Enhance international coordination and cope with external trade restrictions.
- Ensure efficiency with support of "Internet + Customs ».

* **UN/CEFACT Draft Recommendation on cross border facilitation measures for disaster relief**

Extract from the recommendation (currently under public review):

This high-level policy recommendation advocates to governments the importance of building national capacity and capability to cope with a large influx of humanitarian relief. [...] This policy recommendation supports governments by providing key considerations and practices for implementing preparedness measures for the facilitation of a

¹⁰ UNCTAD, *Case Study: China's Trade Facilitation responses to the COVID-19 Pandemic*

large influx of humanitarian relief after a disaster. Specific attention is provided to the immediate emergency response phase of a sudden onset disaster scenario. For the purposes of this recommendation and as a high-level indicator, this has been defined as 0 - 15 days following a disaster. This recommendation focuses on the affected country leadership and coordination required as well as import, transit, and temporary admission scenarios for the movement of relief goods and equipment in response to a sudden-onset natural disaster.¹¹ This recommendation is provided for situations when a country has made a request for international assistance or accepted international assistance. This may occur in situations when a state of emergency has or has not been declared by the affected state.

This recommendation recognizes cross-border regulatory agencies as key actors that need to be involved in disaster management preparedness and relief planning and implementation. There are many existing international conventions and non-binding instruments that require or recommend national administrators to adopt specific facilitation measures for disaster relief. [...] These guidelines extend beyond this current international legal framework to provide more specific technical guidance for cross-border regulatory agencies and describe what ideal measures for disaster relief border control can look like.

In the light of the need to preserve the well-being and livelihoods of people affected by disasters, UN/CEFACT at its XX##XX Plenary session on XX date XX in Geneva, encourages national administrations to:

1. Develop preparedness plans and procedures to facilitate the cross-border movement of prioritized disaster relief utilizing existing mechanisms to the extent possible to mitigate risks and ensure the smooth return to business as usual based on current international standards and legal framework (refer to Annex I).
2. Align common preparedness measures for the cross-border movement of disaster relief across government authorities and key stakeholders while applying proportionate border movement controls.
3. Support the reduction of administrative and financial burdens on the cross-border movement of disaster relief goods and equipment.

¹¹ This policy recommendation and associated guidelines does not specifically consider complex, protracted or slow-onset crises.

3 - SANITARY AND PHYTOSANITARY MEASURES

Key reference documents

- UNCTAD, COVID-19 : A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic.

(https://unctad.org/en/PublicationsLibrary/presspb2020d3_en.pdf)

- World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic.*

http://www.wcoomd.org/-/media/wco/public/global/pdf/media/important-notice/pscg-covid_19_en.pdf?db=web

Summary of recommendations

*** Governments need to ensure that health measures are implemented in ways that minimize interference with international traffic and trade¹².**

*** Apply the Principles of “Social Distancing” to Border Processes¹³**

The safety of staff of Customs and other border agencies, as well as those in the private sector involved in the movement and clearance of goods, is critical now and must be a high priority.

- Use automation, electronic data processing and e-payments, replacing any paper processes and thus avoiding physical contact during the clearance process.

- Allow the electronic submission of data prior to the arrival of goods and initiate risk assessment in order to release all priority and low-risk shipments upon arrival.

- Reduce physical inspection to only those shipments identified through risk assessment as high risk.

- Where possible, give “fast track” priority and cargo prioritization to AEO operators as well as TIR operators and apply risk-based post-clearance audit for controls, if any.

- Accept e-signatures or email authority on documents currently requiring wet ink signatures.

¹² UNCTAD, COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic.

¹³ World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic.*

4 - TECHNICAL BARRIERS TO TRADE

Key reference documents

- UNCTAD, *COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic*.

(https://unctad.org/en/PublicationsLibrary/presspb2020d3_en.pdf)

- Work Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

<http://documents.worldbank.org/curated/en/509521585605825305/pdf/Do-s-and-Don-ts-of-Trade-Policy-in-the-Response-to-COVID-19.pdf>

- World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic*.

http://www.wcoomd.org/-/media/wco/public/global/pdf/media/important-notice/pscg-covid_19_en.pdf?db=web

Summary of recommendations

* **Prioritize technical assistance**¹⁴ => Many of these measures require investment in human, institutional and technological capacities and should thus be given priority immediate technical support by development partners.

* **Do streamline regulatory and border procedures to facilitate access to COVID-19 related medical goods and essential food products by**¹⁵

- Removing the need for applications, permits, and licenses for products that pose minimal risk to human health, environmental safety or consumer protection;
- streamlining the procedures for those that are required, utilizing web-based or automated options for requesting and obtaining the documents; prioritizing the issuance and regulatory approval of imports of all covid-19 related medical goods, essential food items and perishables; and suspending fees and charges associated with the issuance of any licenses, permits and certificates required for these products
- Recognizing certificates or systems of conformity for medical equipment, essential food items and farming inputs from accredited agencies in countries with similar or higher standards
- Implementing risk management to allow low-risk critical supplies to quickly pass clearance controls.
- Enhancing border management coordination mechanisms, both at the policy level (such as the National Committee on Trade Facilitation) and at the operational level (ports, airports and border posts); and supporting increased internal and external border agency

¹⁴ UNCTAD, *COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic*.

¹⁵ Work Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

collaboration. For example, customs and agencies responsible for Sanitary and Phytosanitary (SPS) standards should work together to design special regimes for expedited clearance for essential medical goods, food products and farming inputs

- Improving business continuity through greater use of ICT, flexible working schedules, longer border opening hours, expanded access to telephone and online enquiry points; all of which can increase efficiency and limit the physical presence and interaction of logistics workers and officials at facilities and border crossing points.
- Supporting cooperative arrangements among small-scale cross-border traders to organize their supply chains, reducing movement and interaction of people but enabling business continuity, particularly in cases where borders are closed to the movement of people.

*** Strive for Efficiencies and Simplification for All Clearances¹⁶**

While it is now important for Customs and other border agencies to give high priority to essential goods, governments should also ensure that all other shipments are being cleared rapidly.

- Waive storage charges for goods not cleared in time, or held.
- Promote the use of Coordinated Border Management.
- View any penalty applied in the context of the current environment and waive all minor penalties applied to avoid delays at the border and avoid holding vehicles in ports for long periods of time.
- Provide clarity for return of goods when goods are non-deliverable due to business closure.
- Streamline AEO processing, where useful, and implementing virtual processes for this.
- Reduce the number of audits during this period.
- Promote regional harmonization.

¹⁶ World Customs Organization, *The Private Sector Consultative Group outlines solutions to humanitarian, government and business needs amidst the COVID-19 pandemic*.

5 - PAPERLESS TRADE / CONTACTLESS TRADE / DIGITALIZATION

Key reference documents

- UNCTAD, COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic.

(https://unctad.org/en/PublicationsLibrary/presspb2020d3_en.pdf)

- OECD, Dealing with digital security risk during the Coronavirus (COVID-19) crisis

<https://www.oecd.org/coronavirus/policy-responses/dealing-with-digital-security-risk-during-the-coronavirus-covid-19-crisis/>

- OECD, COVID-19 in Emerging Asia : Regional socio-economic implications and policy priorities

https://read.oecd-ilibrary.org/view/?ref=130_130765-idjokqfnuf&title=COVID-19-in-Emerging-Asia_Regional-socio-economic-implications-and-policy-priorities

- WTO, e-commerce, trade and the covid-19 pandemic

https://www.wto.org/english/tratop_e/covid19_e/ecommerce_report_e.pdf

Summary of recommendations

* Health actions must meet immediate needs and strengthen healthcare systems

* Support for the most vulnerable should accompany lockdown and curfew measures

* Monetary, fiscal policies must be well-timed to spur growth

* Countries must ease economic shocks for workers and rethink the nature of work

* Governments must embrace the digital economy

* **The Covid-19 outbreak has demonstrated the importance of digitalisation in countries' ability to absorb the shocks linked to crisis situations.** Education, work environments, administrative services and access to healthcare have all been disrupted by policies of lockdown and curfew measures. In a state of confinement, the digitalisation of these sectors is imperative to guarantee the continuity of essential services. For instance, countries could envisage developing tools for online education. More generally, the practice of teleworking already used in some Emerging Asian countries could be supported with appropriate infrastructure and regulatory frameworks. Moreover, health experts have warned about the risks of handling contaminated coins and banknotes. In this context, the digitalisation of payment systems becomes essential. These tasks may prove particularly challenging for countries lagging behind in this area, but they must be accomplished to integrate them properly into the modern global economy.

* **Go paperless**¹⁷ => As physical contact between people needs to be minimized, electronic submissions and paperless transactions become ever more important. Although goods still need to be moved physically, clearance operations and the exchange of information should make use of existing electronic data interchange as much as possible.

* **Countries are already taking steps to counter heightened digital security risks**¹⁸ :

Across OECD countries, government agencies in charge of digital security are responding to the crisis by raising awareness, monitoring the threat landscape, providing assistance where appropriate, and co-operating with all relevant stakeholders, including at the international level.

- The United States' Cyber and Infrastructure Security Agency (CISA) set up on its website a new section entirely dedicated to security risks related to the COVID-19 crisis (www.cisa.gov/coronavirus). It includes alerts and recommendations regarding COVID-19-related scam and phishing campaigns, guidance on teleworking and a note on Risk Management for novel coronavirus.
- The European Commission, ENISA, CERT-EU and Europol released a statement on 20 March highlighting their cooperation to track COVID-19 related malicious activities, alert their respective communities and help protect confined citizens.
- The Canadian Centre for Cybersecurity published an alert assessing that the COVID-19 pandemic presents an increased level of risk to the digital security of Canadian health organisations involved in the national response to the pandemic. The Centre recommends that these organisations remain vigilant and take the time to ensure that they are engaged in cyber defense best practices. It also raises awareness to all organisations in Canada.
- In light of the evidence found during the resolution of the Brno Hospital incident, the Czech National Office for Cyber and Information Security (NÚKIB) ordered selected healthcare entities to carry out measures to enhance the security of key ICT systems. NÚKIB offered consultations and support to these entities.

In addition, many businesses, as well as industry and professional groups, are communicating to the public about digital security risks related to the COVID-19 crisis. They have created one-stop shops and resource libraries, and provide advice on specific topics such as secure telework.

* **The general public is encouraged to adopt personal security measures to protect themselves and others:**

- Treat with caution all communication related to the coronavirus crisis, even indirectly (e.g. teleworking tools) including emails, messages on social media, links, attachments and SMS.

¹⁷ UNCTAD, *COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic*.

¹⁸ OECD, *Dealing with digital security risk during the Coronavirus (COVID-19) crisis*

- Keep computers, smartphones and other devices up to date with recent security patches.
- Regularly back up content, especially important data.

*** Governments and other stakeholders are encouraged to¹⁹ :**

- Raise awareness on the increasing digital security risk related to COVID-19, in particular regarding phishing campaigns, ransomware and DDoS attacks. Offer practical guidance practical and tools (posters, diagrams, case studies) that can be picked up easily by other stakeholders.
- Publish information and guidelines for public sector organisations, businesses and individuals, including on emerging threats and good practices for digital security hygiene and teleworking.
- Support vulnerable groups, particularly the elderly and SMEs, as they will likely be spending more time online and may be less familiar with threats.
- Monitor the threat landscape (e.g. phishing, ransomware) and alert targeted communities.
- Encourage operators of critical activities, in particular in the health sector, to raise the level of digital security and provide them with specific assistance, as appropriate, in line with the OECD 2019 *Recommendation of the Council on Digital Security of Critical Activities* (OECD, 2019).
- Facilitate cooperation and information exchange on digital security risk between key stakeholders, both nationally and internationally, and at the sectoral level (e.g. health care).

*** Consumers habits²⁰**

- The enforcement of social distancing, lockdowns and other measures in response to the COVID-19 pandemic has led consumers to ramp up online shopping, social media use, internet telephony and teleconferencing, and streaming of videos and films.
- This has resulted in spikes in business-to-consumers (B2C) sales and an increase in business-to-business (B2B) e-commerce.² The increase in B2C sales is particularly evident in online sales of medical supplies, household essentials and food products.
- Demand has also increased for internet and mobile data services. The network capacity and spectrum to accommodate the shift to online activities has urgently had to be adapted by both operators and governments. Demand has fallen, however, for certain services with a large online component, such as tourism services.
- E-commerce for goods and services trade has been adversely impacted by the same factors that have caused disruption in supply and demand overall. Such disruptions have resulted in delivery delays or outright cancellation of orders. Several other e-commerce-related challenges have arisen or been further amplified during this pandemic. These include price gouging (i.e. increasing prices to unreasonably high levels), product safety

¹⁹ OECD, *COVID-19 in Emerging Asia : Regional socio-economic implications and policy priorities*

²⁰ WTO, *e-commerce, trade and the covid-19 pandemic*

concerns, deceptive practices, cybersecurity concerns, the need for increased bandwidth, and development-related concerns.

- The pandemic has highlighted the glaring need to bridge the digital divide, both within and across countries, given the central role the digital economy has played during the crisis. Many traditional obstacles have been accentuated and have continued to hamper greater participation in e-commerce activities by small producers, sellers and consumers in developing countries, particularly in least-developed countries (LDCs). This has underscored the need for efficient and affordable information and communications technology (ICT) services, such as telecommunication, computer and other IT services and emerging technologies.
- Governments have adopted new measures, and the private sector has also acted, to respond to and ensure that e-commerce can help to alleviate some of the challenges faced in combatting the virus. These have included increasing network capacity, offering expanded data services at little or no cost, lowering or scrapping transaction costs on digital payments and mobile money transfers, improving delivery services and other logistics, using digital tools to enforce measures and disseminate information, promoting telehealth services, and leveraging ICT for surveillance.
- The global nature of COVID-19 and its impact on e-commerce may encourage strengthened international cooperation and the further development of policies for online purchases and supply. The pandemic has made it clear that e-commerce can be an important tool/solution for consumers. E-commerce can also support small businesses and, by making economies more competitive, be an economic driver for both domestic growth and international trade.
- The pandemic has highlighted the importance of digital technologies in general, but also several vulnerabilities across the world. The resulting experiences and lessons are relevant to various discussions in the WTO, including those on electronic commerce, which could benefit from looking at greater international cooperation to facilitate the cross-border movement of goods and services, narrow the digital divide, and level the playing field for micro, small and medium-sized enterprises (MSMEs).

6 - TRANSPARENCY

Key reference documents

- OECD, *COVID-19 and international trade: Issues and actions*

<https://www.oecd.org/coronavirus/policy-responses/covid-19-and-international-trade-issues-and-actions/>

- UNCTAD, *COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic.*

https://unctad.org/en/PublicationsLibrary/presspb2020d3_en.pdf

- WTO, *Transparency – why it matters at times of crisis*

https://www.wto.org/english/tratop_e/covid19_e/transparency_report_e.pdf

- WTO, *Transparency Mechanism for RTAs*

https://www.wto.org/english/tratop_e/region_e/trans_mecha_e.htm

Summary of recommendations

***Boost confidence in trade and global markets by improving transparency^{21 22}**

A strong, shared, transparent information base is critical in underpinning sound national policy responses and the international co-operation to keep trade flowing. It will be critical that countries honor their commitments to notify trade-related measures taken in response to COVID-19 to the World Trade Organisation (WTO). The OECD is sharing information on trade-related country actions on COVID-19 with WTO colleagues, and assessing the likely impact of these actions to help support policy makers dealing with the crisis.

Building on our annual Monitoring and Evaluation of Agricultural Policies we are tracking and assessing the impact of country measures in relation to agrifood production and trade in response to COVID-19. We are bringing this information to AMIS (Agricultural Market Information System), where we work with other international organisations and governments to ensure accurate, up-to-date information on market developments and country policies in critical commodities for the global food system.

*** A possible agreement among countries could include elements such as:**

Ensuring transparency: AMIS, created in the wake of the food price crisis of 2007-8 for governments to share information on markets, policies and stocks for key commodities has underscored the value of timely information and transparency in preventing crises induced by panic buying, hoarding or export restrictions. Ensuring transparency in relation to trade-related measures related to medical supplies, such as through sharing information with the WTO, can play an important role in maintaining confidence in global supply.

²¹ OECD, *COVID-19 and international trade: Issues and actions*

²² UNCTAD, *COVID-19: A 10-point action plan to strengthen international trade and transport facilitation in times of pandemic.*

***Under the WTO Trade Policy Review Mechanism, members are called upon to enhance transparency through country-specific trade policy reviews and regular monitoring and reporting on the implementation of trade and trade-related measures.** ²³

- The WTO Agreements promote international transparency in trade measures via formal, publicly available notifications of all laws and regulations affecting trade.
- Transparency notifications submitted by WTO members are included in WTO searchable databases covering a vast array of trade-policy measures.
- WTO members are required to establish or maintain Enquiry Points in many areas of trade, to answer enquiries from governments, traders and other interested parties – information which can be crucial in emergency situations.
- Transparency is one of the most important principles of the WTO Agreement. For example, the WTO Trade Facilitation Agreement, which contains provisions for expediting the movement, release and clearance of goods and sets out measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues, encourages members to publish trade-related information, and in certain instances even requires members to publish this information, including on the internet.
- Transparency obligations in WTO agreements are discussed in relevant WTO committees, which often include question-and-answer sessions.

A) WTO Transparency Mechanism for RTAs²⁴

On 14 December 2006, the General Council established on a provisional basis a new transparency mechanism for all RTAs. The new transparency mechanism — negotiated in the Negotiating Group on Rules — provides for early announcement of any RTA and notification to the WTO. Members will consider the notified RTAs on the basis of a factual presentation by the WTO Secretariat.

Procedures to Implement the Transparency Mechanism on RTAs :

a) Early Announcement

Members participating in new negotiations aimed at the conclusion of an RTA should inform the WTO Secretariat of such negotiations. Members which are parties to a newly signed RTA should send to the Secretariat information on the RTA, including its official name, scope, date of signature, any foreseen timetable for its entry into force or provisional application, relevant contact points and/or website addresses, and any other relevant unrestricted information. Members are encouraged to submit information on new negotiations or newly signed RTAs in electronic form, e.g. email to the RTA Section of the Secretariat, copy of a relevant press release or official website address where the information can be found. The Secretariat will post this information on the WTO website and periodically provide Members with a synopsis.

²³ WTO, *Transparency – why it matters at times of crisis*

²⁴ WTO, *Transparency Mechanism for RTAs*

b) Notification

The notification of an RTA by Members should take place as early as possible, in general no later than the parties' ratification of the RTA or any party's decision on the application of the relevant parts of an agreement and before the application of preferential treatment between the parties. Parties should specify under which provision(s) of the WTO agreements the RTA is notified and provide the full text and any related schedules, annexes and protocols, in one of the WTO's official languages. Electronic format is preferable for these submissions, where possible. Members are encouraged to use the notification format for RTAs, agreed by the CRTA (document [WT/REG/16](#)). References to related official internet links should also be supplied.

The CRTA is responsible for implementing the Transparency Mechanism (TM) with regard to RTAs falling under GATT Article XXIV and GATS Article V. The Committee on Trade and Development, convening in dedicated session, will implement the decision with regard to notifications falling under the Enabling Clause.

c) Procedures to Enhance Transparency

The consideration by Members of a notified RTA shall be normally concluded within one year after the date of notification. The WTO Secretariat will draw up a precise timetable for the consideration of the RTA in consultation with the parties at the time of the notification. Parties to an RTA shall make data (described in detail in the Annex to the Transparency Decision) available to the Secretariat, if possible in electronic format, as soon as possible, but normally within a period of ten weeks (or 20 weeks in the case of RTAs involving only developing countries) after the date of notification of the agreement.

Timeline for Factual Presentations

As a rule, a single formal meeting will be devoted to the consideration of each notified RTA; any additional exchange of information should take place in written form. The WTO Secretariat's factual presentation, as well as any additional information submitted by the parties, is to be circulated in all WTO official languages not less than eight weeks in advance of the relevant CRTA meeting. Members' written questions or comments on the RTA under consideration are to be transmitted to the parties through the Secretariat at least four weeks before the CRTA meeting and will be distributed, together with the replies, to all Members at least three working days before the meeting.

d) Subsequent Notification and Reporting

Any changes affecting the implementation of an RTA, or the operation of an already implemented RTA, should be notified to the WTO as soon as possible after changes occur. The parties should provide a summary of the changes made, as well as any related texts, schedules, annexes and protocols, in one of the WTO official languages and, if available, in electronic format.

At the end of the RTA's implementation period, the parties shall submit to the WTO a short written report on the realization of liberalization commitments in the RTA as originally notified.

e) Preparation of Factual Abstracts

Article 22(b) of the Transparency Mechanism calls for a factual abstract to be prepared by the Secretariat to present the features of RTAs for which the CRTA has concluded the “factual examination” by 31 December 2006.

B) WTO Regional Trade Agreement Database²⁵

The WTO's RTA database (<http://rtais.wto.org>) was established in January 2009 as part of the WTO's surveillance of RTAs under the Transparency Mechanism for RTAs. It makes available to the public all the RTA texts, annexes and tariff and trade data provided by parties to RTAs to the WTO as well as links to Committee documents such as the factual presentations and responses provided by RTA parties to WTO Members' questions.²⁶ In addition, it provides information on the most frequently found topics in RTAs that have been notified and are in force. Such topics include the rules of origin, technical standards and trade defence as well as services and investment provisions and general rules regarding dispute settlement mechanisms, intellectual property rights, and exceptions that are present in RTAs. The database can be searched for any of these topics across all RTAs notified to the WTO and currently in force.

Now after a rehaul, the WTO database will provide even more information. The principal changes involve:

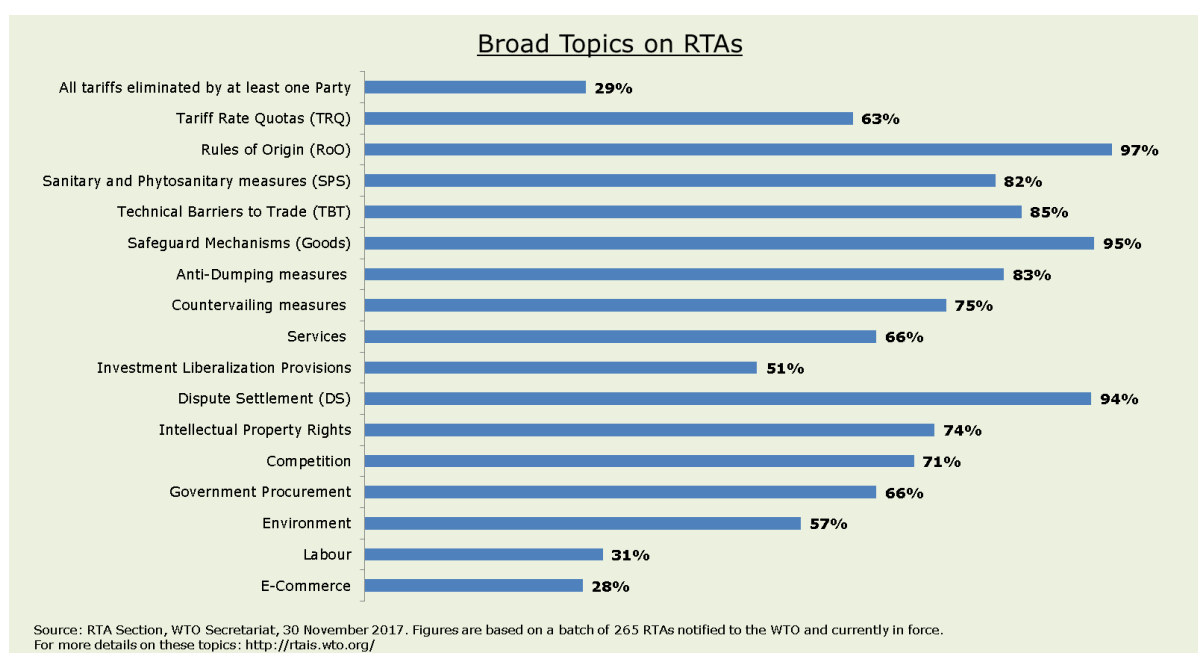
- an expanded list of topics and provisions which can be searched across all notified RTAs currently in force (previously only a subset of RTAs was covered);
- interactive graphs on the evolution of RTA notifications to the GATT and the WTO; and
- an analysis of the preferential tariff (on a tariff line basis) as it is expected to be implemented by the RTA.

An expanded list of topics covered in RTAs

The number of broad topics covered has been expanded to 41, and the topics have been further sub-divided into 72 provisions. This will permit users to search the database for RTAs that contain one or several of these topics or provisions. An example of some of the broad topics covered by RTAs is shown below.

²⁵ Contribution from Rohini Acharya, Regional Trade Agreements Section, TPRD, WTO

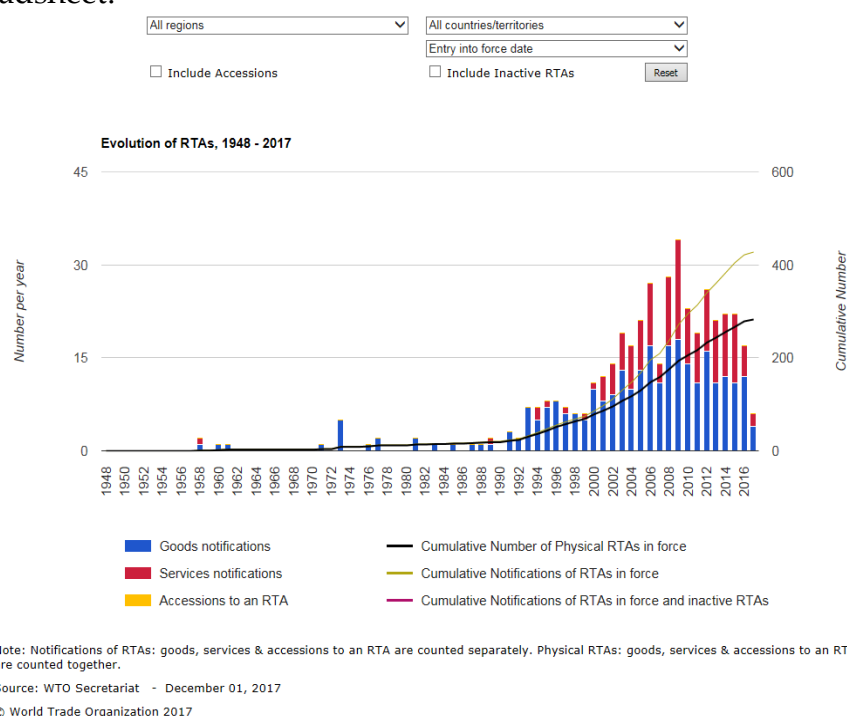
²⁶ A number of other RTA databases are also maintained by other organizations, often covering recent agreements not yet notified to the WTO. See for example, <https://www.unescap.org/content/aptiad/>



The database can also be searched for more detailed provisions, for example, on technical barriers to trade. Similar detailed provisions can be found with regard to a number of the other broad topics identified above.

Interactive graphs

A series of interactive graphs allows the user to produce graphs showing the evolution of RTAs notified to the GATT and WTO by country or region, or by date of entry into force, signature or notification. The underlying data used to produce the graphs can be exported to an Excel spreadsheet.



Preferential tariff search

The third new feature allows the user to search the preferential tariff offered by individual members of the WTO under their RTAs, compared to their latest MFN tariff as notified to the WTO. The search function is provided at the tariff line level. Thus, an exporter in a given country could analyze the preferential tariffs in distinct export markets for a given product or products and compare them to the MFN tariff.

Source: WTO, Regional Trade Agreements Information System (RTA-IS), Extracted on 01/12/2017 11:30

Preferential Market: Korea, Republic of

Exporter(s): Australia; Bangladesh; Brunei Darussalam; Cambodia; Canada; Chile; China; Colombia; European Union; Iceland; India; Indonesia; Lao People's Democratic Republic; Myanmar; New Zealand; Norway; Peru; Philippines; Singapore; Sri Lanka; Switzerland; Thailand; Turkey; United States of America; Viet Nam

Years: 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033.

Product(s): 010290

Agreements	Implementation Period	HS Version	Exporter	Tariff Line	ILS	Excluded Line	Description	2015	2016	2017	2018	2019	2020
MFN	-	-	All	0102901000			Pure-bred breeding anima	\$9.10	\$9.10	\$9.10			
MFN	-	-	All	0102901010			For milk	40.00	40.00	40.00			
MFN	-	-	All	0102901020			For meat	40.00	40.00	40.00			
MFN	-	-	All	0102901090			Other	0.00	0.00	0.00			
Canada - Korea, Republic of 2015-2032		HS 2012	Canada	0102901000			Pure-bred breeding anima	0.00	0.00	0.00	0.00	0.00	0.00
Canada - Korea, Republic of 2015-2032		HS 2012	Canada	0102909010			For milk	40.00	40.00	40.00	40.00	40.00	40.00
Canada - Korea, Republic of 2015-2032		HS 2012	Canada	0102909020			For meat	40.00	40.00	40.00	40.00	40.00	40.00
Canada - Korea, Republic of 2015-2032		HS 2012	Canada	0102909090			Other	0.00	0.00	0.00	0.00	0.00	0.00
China - Korea, Republic of 2015-2034		HS 2012	China	0102901000			Pure-bred breeding anima	0.00	0.00	0.00	0.00	0.00	0.00
China - Korea, Republic of 2015-2034		HS 2012	China	0102909010			For milk	40.00	40.00	40.00	40.00	40.00	40.00
China - Korea, Republic of 2015-2034		HS 2012	China	0102909020			For meat	40.00	40.00	40.00	40.00	40.00	40.00
China - Korea, Republic of 2015-2034		HS 2012	China	0102909090			Other	0.00	0.00	0.00	0.00	0.00	0.00
Korea, Republic of - Chile 2004-2020		HS 2002	Chile	0102901000			Milch cows	40.00	40.00	40.00	40.00	40.00	40.00
Korea, Republic of - Chile 2004-2020		HS 2002	Chile	0102902000			Beef cattle	40.00	40.00	40.00	40.00	40.00	40.00
Korea, Republic of - Chile 2004-2020		HS 2002	Chile	0102909000			Other	0.00	0.00	0.00	0.00	0.00	0.00
Korea, Republic of - Turkey 2013-2023		HS 2012	Turkey	0102901010			For milk	\$9.10	\$9.10	\$9.10	\$9.10	\$9.10	\$9.10
Korea, Republic of - Turkey 2013-2023		HS 2012	Turkey	0102901020			For meat	\$9.10	\$9.10	\$9.10	\$9.10	\$9.10	\$9.10
Korea, Republic of - Turkey 2013-2023		HS 2012	Turkey	0102901090			Other	\$9.10	\$9.10	\$9.10	\$9.10	\$9.10	\$9.10
Korea, Republic of - Turkey 2013-2023		HS 2012	Turkey	0102909010			For milk	40.00	40.00	40.00	40.00	40.00	40.00
Korea, Republic of - Turkey 2013-2023		HS 2012	Turkey	0102909020			For meat	40.00	40.00	40.00	40.00	40.00	40.00

The information generated by the database will permit users not only to identify RTAs with the provisions they are interested in, it will also provide a clearer picture of any common features of RTAs and the evolution of emerging trends in RTAs. Many RTAs today build on existing WTO rules and develop new rules where WTO rules do not currently exist. While the additional market access generally negotiated by RTAs adds an element of discrimination towards non-RTA members, the discrimination may be less marked with respect to RTA rule making. The practices of WTO members in their individual RTAs could provide useful lessons for the WTO membership as a whole.

7 - EXPORT RESTRICTIONS

Key reference documents

- World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

<http://documents.worldbank.org/curated/en/509521585605825305/pdf/Do-s-and-Don-ts-of-Trade-Policy-in-the-Response-to-COVID-19.pdf>

- WTO, *Export prohibitions and restrictions*

https://www.wto.org/english/tratop_e/covid19_e/export_prohibitions_report_e.pdf

Summary of recommendations

- **Support exporters to maintain jobs and foreign exchange earnings by²⁷**
 - removing all bans, quantitative restrictions and taxes on exports
 - waiving withholding taxes on exports
 - review all export applications, licenses and permits and remove those that not required to maintain market access or to protect health, safety and security.
 - reimburse exporters that have lost overseas sales VAT that was paid on inputs in the expectation that it would be refunded on export for the duration of the crisis.
- The COVID-19 pandemic presents the world with an unprecedented public health challenge. Measures to curb the spread of the disease have shut down large swathes of the world economy. Worldwide demand for medical products to fight the pandemic is unprecedented. All countries depend on international trade and global value chains to source these products. This is challenging in light of ongoing disruptions to international transport, particularly air cargo, which often goes together with passenger travel²⁸.
- An additional complicating factor is the growing number of export prohibitions and restrictions, which some WTO members have introduced to mitigate critical shortages at the national level. Responding to COVID-19 urgently requires sharp increases in global production of essential medical supplies. Well-functioning value chains can help quickly ramp up production while containing cost increases. As new production becomes available, trade will be essential to move supplies from where they are abundant to where they are lacking, especially as the disease peaks at different times in different locations. However, a lack of international cooperation risks hampering the urgently required supply response.
- The information available thus far suggests that 80 countries and separate customs territories have introduced export prohibitions or restrictions as a result of the COVID-19 pandemic, including 46 WTO members (72 if EU member states are counted individually) and

²⁷ World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

²⁸ WTO, *Export prohibitions and restrictions*

eight non-WTO members. Most of these have been described as temporary measures. At least two members have already removed some of those restrictions.

- The products covered by these new export prohibitions and restrictions vary considerably; most have focused on medical supplies (e.g. facemasks and shields), pharmaceuticals and medical equipment (e.g. ventilators), but others have extended the controls to additional products, such as foodstuffs and toilet paper.
- While Article XI of the General Agreement on Tariffs and Trade (GATT) 1994 broadly prohibits export bans and restrictions, it allows members to apply them temporarily to prevent or relieve critical shortages of foodstuffs or other essential products. If members move to restrict exports of foodstuffs temporarily, the Agreement on Agriculture requires them to give due consideration to the food security needs of others. WTO rules also contain more general exceptions, which could be used to justify restrictions provided that they do not constitute a means of arbitrary or unjustifiable discrimination between countries, or a disguised restriction on international trade.
- Export prohibitions and restrictions applied by large exporters may in the short run lower domestic prices for the goods in question and increase domestic availability. But the strategy is not costless: the measures reduce the world's supply of the products concerned and importing countries without the capacity to manufacture these products suffer. And exporters also risk losing out in the long run. On the one hand, lower domestic prices will reduce the incentive to produce the good domestically, and the higher foreign price creates an incentive to smuggle it out of the country, both of which may reduce domestic availability of the product. On the other hand, restrictions initiated by one country may end-up triggering a domino effect. If trade does not provide secure, predictable access to essential goods, countries may feel they have to close themselves from imports and pursue domestic production instead, even at much higher prices. Such a scenario would likely result in lower supply and higher prices for much-needed merchandise. The long-term effects could be significant.
- Transparency at the multilateral level is lacking. In principle, all these measures should be notified as soon as possible to the WTO pursuant to the 2012 "Decision on Notification Procedures for Quantitative Restrictions" (QR Decision), while those relating to foodstuffs should also be notified to the Committee on Agriculture. However, to date, 13 WTO members (39 if EU member states are counted individually) have notified the introduction of new measures under the QR Decision and three have notified export restrictions on foodstuffs pursuant to Article 12 of the Agreement on Agriculture.
- Economic operators and members are having to cope with a high degree of uncertainty, as it remains unclear what measures have been adopted by which countries, and new measures are being introduced regularly. Insufficient information makes it hard for them

to efficiently adjust their purchasing decisions and find new suppliers. This could be particularly damaging for those seeking to procure materials needed for the fight against the COVID-19 pandemic.

- The G20 Ministerial Statement of 30 March 2020 stressed that "emergency measures designed to tackle COVID-19, if deemed necessary, must be targeted, proportionate, transparent, and temporary, and that they do not create unnecessary barriers to trade or disruption to global supply chains, and are consistent with WTO rules." More recently, the G20 Agriculture Ministers Statement of 21 April 2020 reaffirmed the "agreement not to impose export restrictions or extraordinary taxes on food and agricultural products purchased for non-commercial humanitarian purposes by the World Food Programme (WFP) and other humanitarian agencies".
- WTO Director-General Roberto Azevêdo has urged members to exercise maximal restraint in the use of export restrictions and other measures that could disrupt supply chains. He has also called on WTO members to improve transparency on any new trade-related measures introduced as a result of the COVID-19 pandemic.
- Possible actions to improve transparency in this area include:
 - i. Ensuring that the new measures are adequately published at the national level and, when possible, making them available in the website(s) of the relevant national authorities.
 - ii. Notifying as soon as possible any new export restriction to the WTO pursuant to the QR Decision; in case these restrictions affect foodstuffs, notifying them to the Committee on Agriculture as well.
 - iii. Updating as necessary the information under the "transparency notification" of Article 1.4 of the Agreement on Trade Facilitation, including the relevant enquiry points.
 - iv. Endeavoring to provide additional information to other members beyond that required by the notifications, whenever possible.

8 - INVESTMENTS

Key reference documents

- World Bank Group President Malpass, *Remarks to the Development Committee*
<https://www.worldbank.org/en/news/statement/2020/04/17/world-bank-group-president-malpass-remarks-to-the-development-committee>
- World Bank/IMF Spring Meetings 2020, *Development Committee Communiqué*
<https://www.worldbank.org/en/news/press-release/2020/04/17/world-bankimf-spring-meetings-2020-development-committee-communique>
- OECD, *OECD investment policy responses to COVID-19*
https://read.oecd-ilibrary.org/view/?ref=129_129922-gkr56na1v7&title=OECD-Investment-Policy-Responses-to-COVID-19
- UNCTAD, *The IPA Observer: Investment Promotion agencies striving to overcome the COVID-19 challenge*
https://unctad.org/en/PublicationsLibrary/diaepcbinf2020d2_en.pdf

Summary of recommendations

Multilateral cooperation is needed to contain the pandemic and mitigate its health, social, and economic consequences. The World Bank Group (WBG) is uniquely positioned to tackle these complex issues and to play a leading role via its lending, investments, knowledge, and convening capacity²⁹³⁰.

** WBG's response to the COVID-19 crisis*

A program based on three pillars:

- protect the poorest and most vulnerable households;
- support businesses and save jobs, which IFC and MIGA are working with private sector clients to do by supporting trade and working capital lines; and
- help developing countries implement emergency health operations and strengthen economic resilience.

Financial services =>

Most importantly, it is necessary to protect the World Bank's financial capacity to provide sustained high levels of positive net flows. It's important that beneficiary countries use the additional resources to respond to COVID-19 and fully disclose their public sector financial commitments.

Many difficult steps are needed to provide debt transparency and improve the quality of investment. To name just five:

- 1 Disclosure of loan contract terms and payment schedules;
- 2 Full disclosure of the stock of public and publicly guaranteed debt, SOE liabilities, and debt-like instruments;

²⁹ World Bank Group President Malpass, *Remarks to the Development Committee*

³⁰ World Bank/IMF Spring Meetings 2020, *Development Committee Communiqué*

- 3 Steps by borrowers to request relief from excessive confidentiality clauses in order to proceed with transparent data reporting;
- 4 Effective and prudent use of collateral and liens in sovereign borrowing; and
- 5 Insistence that borrowers and lenders avoid violations of legal requirements of other creditors, such as negative pledge clauses.

Transparency will help bring in new high-quality investment, with an increasing amount from private sector investors.

* **Countries that face sudden portfolio outflows must carefully assess policy trade-offs in the short run to avoid dramatic and prolonged financial disturbance; international coordination can help achieve better outcomes**³¹. For now, governments have relaxed policies across the board. They have: eased monetary policy, boosted USD liquidity through international swap lines, introduced fiscal stimulus, offered credit guarantees, relaxed prudential policies and engaged in regulatory forbearance. Some countries have eased measures on inflows.

* **In severe outflow situations, the optimal policy-mix must match the country's position at the onset of the crisis.** Fiscal policy may be constrained by the initial level of debt. Monetary policy is a double-edged sword: easing rates protects domestic balance sheets where debt burdens are already high – but may accelerate outflows. Decisions to intervene in the foreign exchange markets will take into account the initial level of over- or undervaluation of the domestic currency, and the capacity to intervene largely depends on the initial level of international reserves. Wherever countries were able to build buffers in the upward phase of the cycle, **macro-prudential measures may be relaxed**. As for capital account policy, **easing inflow controls can be considered** and has proven helpful in slowing exchange rate depreciation in some cases. **International cooperation is particularly important to find the best means of ensuring finance stability**, including through multilateral platforms and frameworks such as those provided by the OECD's Capital Movements Code.

***Government measures should protect essential security objectives while still promoting openness to foreign investment.** Some countries have adjusted their instruments that enable them to prevent potential acquisitions of sensitive assets that are exposed due to pandemic-related valuation changes or that are currently critical for the supply of healthcare goods.

In a period where economies need foreign investment, FDI review mechanisms can increase uncertainty and costs and delay transactions. It is thus paramount that policy design and implementation are **guided by principles of non-discrimination, transparency, predictability, proportionality and accountability**, and measures should be closely tailored to specific threats to essential security interest as set out in the OECD Guidelines for Recipient Country Investment Policies relating to National Security.

³¹ OECD, *OECD investment policy responses to COVID-19*

*** Ensuring sufficient supply of goods and services needed to fighting the pandemic should be the immediate priority for trade and investment policymakers.** Pharmaceuticals, medical supplies and equipment, and increasingly healthcare provision, depend much more than in the past on global value chains (GVCs) and international investment.

*** In addressing the medical supply shortage, governments should leverage investor networks and investment promotion agencies** to encourage and support businesses that can shift their production toward essential healthcare goods and services. Some governments have been quick to embrace this approach, by facilitating imports, providing incentives and engaging with multinationals, and enabling alternative ways of producing essential goods to meet domestic needs. In turn, some businesses have seized these initiatives to temporarily reorient their production lines in less-affected regions and deliver the essential goods to where they are needed.

*** Extraordinary restrictive measures to address the health crisis should be “targeted, proportionate, transparent and temporary ».**

*** Value chains are essential beyond the immediate crisis response and need to be rethought and rebuilt for the recovery and beyond.** The crisis has exposed weaknesses, dependencies and bottlenecks that were hitherto unknown or tacitly accepted. Strong, resilient supply chains are crucial to future-proof essential functions of our societies, including and beyond health services.

*** FDI strengthens the resilience of economies and supply chains.** Linkages between companies allow them and, by extension, economies to absorb future shocks and stress that may result from crises, pandemics or climate-change – in addition to other benefits associated with FDI such as the strengthening of R&D capacity, and dissemination of responsible business conduct and management practice.

*** Vulnerable economies in particular need support to avoid development setbacks and the risk of a resurgence of COVID-19 or other new epidemics in the near future.**

*** Donor and investment policy communities should coordinate to help counter the socio-economic impacts of the crisis in developing countries,** and create additional incentives to maintain investment in these countries.

*** Responsible business conduct should be part of business and government responses during and after the COVID-19 crisis.** The COVID-19 crisis has exposed major vulnerabilities in company operations and supply chains linked to conditions of work, disaster preparedness and corporate governance. In a period of crisis, it is important to strike the right balance between a quick recovery, the continuity of certain enterprises and sectors, and the application of environmental, social and other regulatory safeguards and protections.

***Preparing an inclusive, fair, green and resilient recovery**

Governments currently address the urgent needs of their societies and economies, but will soon turn their attention to **ensuring a swift and sustainable recovery**. While the starting point of a recovery is still uncertain, principles of **openness, transparency, fairness and sustainability, as stipulated by the OECD investment instruments**, are important during the crisis and will continue being important in its aftermath.

*** Examples of what a few countries have done so far³²**

Selection of innovative and proactive measures taken by IPAs in response to the COVID-19 outbreak :

- * Andorra => Organisation of a series of webinars on the impact of the pandemic on strategic sectors of the country to get access to government support measures.
- * Australia => IPA's website contains detailed information about support measures for business as well as market inset analysis.
- * Austria => A section which provendes regular updates on COVID-19 that are relevant for the business community and investors.
- * Brazil => Development of a comprehensive platform with tools to support exporters and investors.
- * Germany => Special website ensuring the investment community that it will « continue to provide its full portfolio of virtual services during the current crisis ».
- * India => Creation of dedicated outreach teams including a « business reconstruction team », « stakeholder outreach team » and « supplier outreach team » and organization of targeted webinars and information sessions for each target group.
- * Italy => Management of an initiative which grants incentives to companies to temporarily transform or extend their production towards medical and personal protection equipment and devices to fight the pandemic.
- * Netherlands => A roadmap for business which guides companies through Dutch national organizations that can provide information and advice.

³² UNCTAD, *The IPA Observer: Investment Promotion agencies striving to overcome the COVID-19 challenge*

9 - COMPETITION POLICY

Key reference documents

- OECD, *OECD competition policy responses to COVID-19*

https://read.oecd-ilibrary.org/view/?ref=130_130807-eqxgniyo7u&title=OECD-competition-policy-responses-to-COVID-19

Summary of recommendations

Competition policy is an essential element of the legal and institutional framework for the health sector. To date, efforts to establish a general agreement on competition policy in the framework of the international trading system have been unsuccessful. The WTO Working Group on the Interaction between Trade and Competition Policy, which was active from 1997 through 2003 and which considered the case for a more general agreement on competition policy in the WTO, has been inactive since 2004. It is, nonetheless, available as a potential resource for stocktaking of developments and reflection on relevant issues. The COVID-19 pandemic indicates some emerging challenges in the area of competition policy, which might benefit from international cooperation.

Nonetheless, provisions relating to competition policy are already incorporated in the WTO General Agreement on Tariffs and Trade (GATT 1994); the General Agreement on Trade in Services (GATS); the Agreement on Trade-Related Intellectual Property Rights (TRIPS Agreement); the Agreement on Trade-Related Investment Measures (TRIMs Agreement); and other WTO instruments. Effective national competition policies are also essential to realizing the benefits derivable from participation in the WTO Agreement on Government Procurement (see related discussion in the section on government procurement). The competition-related provisions in the TRIPS Agreement are of specific interest for the health sector. Beyond this, the recognition of competition policy as a fundamental complement for trade is explicitly incorporated in many RTAs, and recent RTAs increasingly include detailed provisions on competition policy in order to achieve the benefits of opening markets through trade.³³

It is not uncommon for competition law enforcement to have an important international dimension. Examples include: the investigation and prosecution of price fixing and market sharing arrangements that often spill across national borders and, in important instances, encircle the globe; multiple recent, prominent cases of abuses of a dominant position in high-tech network industries; and major corporate mergers that often need to be simultaneously reviewed by multiple jurisdictions. Relevant cooperation and experience-sharing has taken and is taking place in various fora, such as in the context of international trade negotiations, in particular RTAs and through the work of organizations such as the International

³³ Anderson, Robert D., William E. Kovacic, Anna Caroline Müller, and Nadezhda Sporysheva. 2019. "Competition policy, trade and the global economy: An overview of existing WTO elements, commitments in regional trade agreements, some current challenges and issues for reflection " In *Global Forum on Competition* Paris, France: OECD.

Competition Network (ICN), UNCTAD and the OECD. The COVID-19 pandemic has further highlighted the relevance and importance of such international efforts in identifying possible policy responses to global challenges.

- **OECD Guidelines**³⁴

The COVID-19 crisis led competition authorities to adapt competition policy in several ways:

Many competition authorities increased efforts to monitor and, where needed, take action against price-gouging. Several competition authorities also issued additional guidance on the application of competition policy in times of urgency and limited supply and clarified whether and when coordination between firms in order to respond to crisis needs could be permitted at least temporarily. Experience-sharing between competition authorities was of crucial importance during the pandemic.

Beyond the crisis-response phase, competition authorities are expected to focus on how competition policy can support economic recovery and facilitate a return to optimal levels of competition. In that regard, application of competitive neutrality rules and other competition policy principles to government support measures can help to avoid unnecessary market distortions.

Finally, competition policy may be adapted to support countries' long-term economic crisis resilience. In that vein, there may be greater focus on applying competition policy with the aim to enable innovation-enhancing mergers and innovation-facilitating private sector co-operation (e.g. in the area of research and development).

***Role for clear and transparent competitive neutrality rules**

- Countries may need to ensure that sufficient liquidity remains available to businesses and to prevent the twin shocks to demand and supply from resulting in the exit of efficient firms. This may take the form of grants, subsidies³⁵, bank guarantees, and other state support. Nonetheless, there is a danger that, if not carefully designed, state support may create competition distortions between companies that receive aid and competitors that do not.
- General aid based on objective criteria, clear rules and applicable to all businesses in an industry (e.g. deferring taxes, or subsidizing short-time work across all sectors), should not raise any issues from the competitive neutrality perspective.

***Industrial policy should not lead to protectionist measures**

- Governments should:

- Request and be receptive to competition agency advice when planning market interventions to ascertain that support is necessary and proportionate to address a market

³⁴ OECD, *OECD competition policy responses to COVID-19*

³⁵ "Unless otherwise specified herein, the term 'subsidy' used in this document does not necessarily reflect the definition set forth in the WTO SCM Agreement."

failure identified in a particular market as a result of the crisis. They should ensure that any support measures adopted is transparent and temporary and that positive effects from state measures are not outweighed by the negative ones deriving from the distortion of competition.

- Carefully design any measures targeted at specific companies during this critical period, narrowly tailor support measures to solve the issue identified and on a temporary basis with monitoring. Avoid selective aid to firms that were failing or had significant structural issues before the crisis.
- Exit investments as soon as conditions permit and in a manner that promotes competition and rely on the advice of competition authorities when designing such exit strategies already in planning phase of the measures to be taken.
- Appropriately and transparently reimburse firms in cases where the crisis reveals the need to impose on firms new public service obligations.

- Competition Authorities should:

- Help governments implement the state support measures by providing inputs and advice, or where have powers to approve such measures to prioritize such cases.
- Issue opinions/guidance to governments on how to ensure a level playing field and avoid market distortions by providing clear, general and objective rules applicable to all firms in the economy, sector or region.
- Step up advocacy with government explaining the competition principles that should be respected to ensure markets remain competitive following the crisis, which will be crucial for an economic recovery. They should advocate for industrial policies that focus on pro-competitive alternatives to any planned government interventions that may risk long-term harm to markets.
- Co-operate with other jurisdictions to ensure a degree of international agreement in the approach that is taken to ensure a level playing field also amongst countries and continue to advocate against protectionist measures.

***Avoid suspicious pricing behavior**

During a crisis, there may be a sharp price increase of certain goods. While price spikes may be the legitimate consequence of a change in market circumstances due to the crisis, such as shortages of products in high demand or disruptions in international supply chains, there is a risk that firms might strategically exploit consumers in a distressed economy. Consumer exploitation through pricing policies (e.g. excessive pricing) is often referred to as price gouging when it involves significant and rapid price increase after some type of shock in the demand or supply (e.g. as a result of an earthquake or a pandemic).

In these situations, firms may increase prices relative to costs, or reduce output to maximise gains related to prior stocks acquired at lower prices. In some jurisdictions, excessive pricing may be considered an exploitative abuse of dominance.

***Co-operation agreements between competitors**

Co-operation between competitors may indeed increase consumer welfare by making more products available, and most competition laws allow for competitor co-operation when there are efficiencies and consumer benefits.

However, competition authorities should ensure that such co-operation does not spill over into hard-core restrictions of competition, such as price fixing (see below “crisis cartels”). Moreover, competition authorities should ensure that any short-term co-operation does not extend any longer than necessary to address the crisis.

***Competition authorities should carefully assess crisis cartels**

- Competition authorities should :

- Monitor closely any significant and rapid price increases. In the short term, this may include enforcement actions to identify where and when prices increased in the supply chain, as well as the use of interim measures or warning letters to stop the conduct quickly when appropriate.
- Co-ordinate actions with consumer protection agencies, or rely on consumer protection powers (if available) to protect consumers from unfair pricing practices.
- Use advocacy powers to highlight the risks of price control measures implemented by governments, including those related to distorting price signals that may encourage production and undermine incentives for new entrants to address shortages.
- Clarify to business in a timely manner how they will consider efficiencies in arrangements between competitors (e.g. open fast-track channels to provide advice on specific cases of co-operation), in particular those dealing with priority sectors in the crisis, such as medical products and food supply chains.

They should ensure that legitimate co-operation between competitors are necessary and limited in time. They should not include hard-core restrictions such as price fixing.

- Carefully assess justifications put forward in support of crisis cartels. Any exempted cartel should be granted a finite lifetime and be subject to review according to pre-specified criteria.

***Competition authorities should scrutinize carefully failing firm defenses**

Financial and economic difficulties will force some firms to exit the market in the aftermath of the crisis. Consequently, competition authorities will probably be called upon to scrutinize a number of urgent and critical mergers and to ensure that authorizations of anti-competitive mergers based on public interest considerations remain limited in scope.

Merger review might become particularly challenging for so-called rescue mergers in which the merging parties claim that the target firm would exit the market but for the merger (the “failing firm defense”) and request authorization for transactions that would have otherwise restricted competition. If an asset would leave the market anyway, the merger may be more pro-competitive than just letting the firm go bankrupt, despite the increased market power of the resulting entity. Competition authorities will therefore need to continue to carefully analyse such mergers and ensure that the parties meet the standard of proof

to demonstrate that the failing firm defense should indeed apply. Otherwise, the competition authorities run the risk of approving anti-competitive mergers with a long-lasting negative structural impact on the marketplace.

***Competition authorities should continue to look carefully at public interest considerations**

Competition authorities will come under pressure to clear certain mergers for the sake of public policy objectives, including the preservation of national champions or to ensure the production of certain products in their territory. The crisis may further call into question some elements of the traditional analytical framework of competition policy with an increased emphasis on the evaluation of dynamic efficiencies and leading to a reflection on the need to also take into account supply chain, social cohesion and environmental considerations.

Competition authorities should:

- Closely review claims of rescue mergers and only accept failing firm defenses following scrutiny of the evidence, to avoid achieving short-term benefits at the cost of longer-term and higher costs.

Competition authorities and governments should:

- Authorize anti-competitive mergers based on other public policy considerations only in exceptional circumstances and in a transparent manner.

10 - BUILDING RESILIENCE

Key reference documents

- OECD, *a systemic resilience approach to dealing with Covid-19 and future shocks*

https://read.oecd-ilibrary.org/view/?ref=131_131917-kpfefrdfnx&title=A-Systemic-Resilience-Approach-to-dealing-with-Covid-19-and-future-shocks

Summary of recommendations

The new approach to resilience will focus on the ability of a system to anticipate, absorb, recover from, and adapt to a wide array of systemic threats. [Strategic Policy Interventions for Covid]³⁶

A) Recovery and Building Resilience in the Local Economy

Strategic Need : Preserve and Recover from Disruptions to Local Economies

Policy Response: Identify interventions to improve business recovery post Covid-19. Funding should be prioritized based on immediate needs for economic recovery at the system level that includes consideration of local demand and regional/global supply chain and impact of the region to regional, state, and global economy.

Economic Action : Prioritize and invest within critical economic sectors and businesses based upon value-added to local community (i.e., the dollar/euro yielded for taxes, salaries, local spending per dollar/euro invested into the company).

OECD Response : Assist governments (both national and local) to prioritize (a) critical economic sectors, and (b) critical industries/businesses that have a socially and economically net-positive contribution to society. Any low-interest loans or targeted investment/disbursement should be targeted, rather than prioritizing businesses or industries with social or economic net negatives/harms to broader society (i.e., high downstream costs with low immediate benefits via exploitative wages and sending money outside of the local economy). For example, renewable energy should be subsidized, industries based on extraction should not.

B) Household Resilience

Strategic Need : Bolster consumer/household resilience to shock.

Policy Response : Identify interventions to improve household recovery post-Covid-19. As the core of economic growth, individual households need to be provided resources/support at the system level across necessary goods, services, and social/cognitive support. Optimisation should be based on individual/community resilience to avoid the impact of shocks and optimise recovery.

Economic Action : Revisit recommended assumptions upon household budgets, and identify areas of required slack/redundancy in household spending/savings.

³⁶ OECD, *a systemic resilience approach to dealing with Covid-19 and future shocks*

OECD Response : First, analyse government stimulus proposals based upon their ability to meet all or most of the critical household needs of various segments of the population disrupted by the crisis.

Second, adopt recommendations to prevent household brittleness or fragility to shock (high cost of core essentials like housing, food, utilities, education, public health, etc.). Identify governmental investments and policy options to mitigate rising cost concerns of core industries and incentivize 'slack', or household savings to accommodate disruption of lost wages.

C) Company/Business Resilience

Strategic Need : Prevent Company Bankruptcies, Layoffs, and/or Shutdown While Complying With Pandemic Response Requirements

Policy Response : Identify critical companies whose disruptions and layoffs would reduce national capacities to deliver goods and services in a non-linear fashion (i.e., lost synergy, social capital, institutional memory, etc.)

Economic Action : Targeted loans and investments into select companies and large corporations whose disruptions are not easily recoverable, and losses in institutional memory/social capital would have long-term ramifications.

OECD Response : Identify industries who historically have had difficulties in recovery post-disruption (i.e., the 'Dot Com Bubble', the September 11th Terrorist Attacks, the Financial Crisis/Great Recession of 2007-2009, etc.). Within those industries, identify economic interventions (low/zero interest loans or other investment) that have policy requirements of keeping sections of their labour force on payroll throughout the crisis and during recovery. Require the company to cover a portion of their payroll (i.e. 1 day each week), with government investments covering the majority of that time (i.e. 4 days each week). Labour covered by government investment should be in full compliance with WHO recommendations regarding social distancing and pandemic response requirements. This proposal will (a) prevent mass lay-offs of high-intensity corporations that require considerable institutional and technical knowledge to operate, and (b) remove the need for such workers to seek new economic opportunities for lost wages and remain in compliance with pandemic response requirements.

11 - INTELLECTUAL PROPERTY

Key reference documents / Useful links

- WTO webpage on TRIPS and Public Health
https://www.wto.org/english/tratop_e/trips_e/pharmapatent_e.htm
- WTO webpage on discussions in the TRIPS Council on Innovation Policy and the TRIPS Agreement
https://www.wto.org/english/tratop_e/trips_e/innovationpolicytrips_e.htm
- WTO webpage on discussions in the TRIPS Council on Intellectual Property and the Public Interest
https://www.wto.org/english/tratop_e/trips_e/trips_and_public_interest_e.htm
- WTO webpage on technology transfert
https://www.wto.org/english/tratop_e/trips_e/techtransfer_e.htm
- WHO-WIPO-WTO Study on Access to Medical Technologies and Innovation (2013, 2nd edition to be launched shortly)
https://www.wto.org/english/tratop_e/trips_e/trilat_5feb13_e.htm
- World Intellectual Property Organization, WIPO COVID-19 IP Policy Tracker
<https://www.wipo.int/covid19-policy-tracker/#/covid19-policy-tracker/access>
- WTO, COVID-19: Measures related to trade-related intellectual property rights
https://www.wto.org/english/tratop_e/covid19_e/trade_related_ip_measure_e.htm
- International Chamber of Commerce, *How intellectual property can strengthen our response to climate change and COVID-19*
<https://iccwbo.org/media-wall/news-speeches/how-intellectual-property-can-strengthen-our-response-to-climate-change-and-covid-19/>
- SOUTH CENTRE, *Intellectual Property and Trade Measures to Address the Covid-19 Crisis*
<https://www.southcentre.int/wp-content/uploads/2020/03/SC-note-Covid19-edited.pdf>
- WHO, *Solidarity Call to Action*
<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/global-research-on-novel-coronavirus-2019-ncov/covid-19-technology-access-pool/solidarity-call-to-action>
- WHO, *WHO and Costa Rica launch landmark COVID-19 Technology Access Pool*
<https://www.who.int/news-room/detail/29-05-2020-international-community-rallies-to-support-open-research-and-science-to-fight-covid-19>

Main ideas

A) Development and access to covid-19 health technologies through IP³⁷

A full response to COVID-19 is likely to require access to a wide range of inputs and medical products, ranging from existing protective equipment to new vaccines and treatments that are yet to be developed. IP – particularly patents, know-how and rights over clinical trial

³⁷ Information received from the WTO Secretariat.

data – may be a significant factor in facilitating access to existing technologies, and in supporting the creation and dissemination of new technologies. It is also well established that the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) provides wide latitude for national governments to take action to protect public health.

Most new medical technologies entail the incorporation of multiple inputs from different sources, and they must be rigorously tested for safety and efficacy before being distributed to the public. Therefore, the sharing of relevant IP and the exchange of clinical trial data can facilitate cooperation for research and development (R&D). Such action could help expedite the development and marketing of tests, treatments and vaccines.

Relevant action at the level of government to promote the R&D phase could include: encouraging the sharing of intellectual property rights; enhancing transparency of the outcome of COVID-19 relevant clinical trials; expediting patent examination procedures for COVID-19-relevant healthcare technologies; ensuring maximum transparency with respect to relevant patent information through easily accessible and searchable databases; and providing incentives to companies to transfer technology and know-how which would, for example, enable countries to develop, adapt or apply diagnostics.

The second phase is to consider how to ensure that the IP system can function best to facilitate the availability of new technologies once they are ready to be distributed to the public. A wide array of measures is available, ranging from action by research institutions and private firms to government action, either in the form of encouraging beneficial policies on the part of the public sector and private firms, or specific legal and administrative interventions.

Examples of voluntary action by private actors include licensing or not enforcing patent rights, pooling patents on relevant healthcare technologies and making copyright-protected content freely available. The flexibilities in the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), reaffirmed and clarified by the Doha Declaration on the TRIPS Agreement and Public Health, as implemented in domestic law, are also available to governments. Relevant policy options include:

- An exception to patent rights for research and experimental use purposes which allows for the use of the patented invention for scientific experimentation during the lifetime of the patent and without the consent of the right holder.
- A regulatory review exception that allows for the use of the patent-protected invention for the purpose of obtaining early regulatory approval of a generic product.
- The granting of compulsory or government-use licences under Article 31 of the TRIPS Agreement to allow the manufacturing or the import of technologies protected by patents. All WTO members may grant such licences for healthcare technologies, such as medicines, vaccines and diagnostics, as well as any other product or technology needed to combat COVID-19.
- Use of the Special Compulsory Licensing System under [Article 31bis of the TRIPS Agreement](#) to import healthcare technologies. Eligible importers are developing countries with insufficient or no manufacturing capacities and least developed countries. Notification of specific needs will allow exporting members to grant a special

compulsory licence for the manufacturing of generic products exclusively for export to countries that rely on the import of needed products. According to paragraph 1 of the [Annex to the amended TRIPS Agreement](#), such licences may cover pharmaceutical products, including medicines, vaccines and diagnostics, needed to address epidemics.

- The definition of the grounds for compulsory and government-use licences. National practice has varied in this area; some members have used these mechanisms in the context of enabling access to needed healthcare technologies.
- The determination of what constitutes a national emergency or extreme urgency so as to waive certain requirements otherwise applicable to compulsory licences under Article 31 of the TRIPS Agreement.
- The easing of procedures to grant compulsory or government-use licences.

B) Debate/Opposing views

*** An effective COVID-19 requires strong IP protections³⁸**

In response to the devastating economic and human consequences of COVID-19, ICC is working with the WHO to collect information on how businesses are responding to the pandemic and to help identify solutions to prevent its spread.

While the demand for medicines and medical supplies is increasing, production is decreasing. As panic stricken buyers stock up on medicines, the ones who need them the most may not have access at all.

Dr David Nabarro, special envoy to WHO on COVID-19, released a special video message to the ICC Commission on Intellectual Property, which emphasized the importance of IP rights in protecting against the manufacturing and dissemination of counterfeit essential medical supplies, such as face masks and medicines.

“[Supply] shortages and high levels of demand provide opportunities for an increase in the manufacture and distribution of counterfeit and adulterated goods everywhere. This is manifested and driven by consumer’s needs or perceived need in time of crisis,” explained Dr Nabarro.

In addition, the COVID-19 pandemic has triggered stockpiling of medicines across the globe, especially in the developing countries, where medicines are already not easily available. Face masks and medicines which are not only fake, but also ineffective have been seized across Asia and Africa.

*** Intellectual Property and Trade Measures to Address the Covid-19 Crisis³⁹**

As the Covid-19 virus continues to spread globally, immediate actions to fight the pandemic is a major priority for all governments. In this time of crisis, the timeliness of response is critical.

³⁸ International Chamber of Commerce, *How intellectual property can strengthen our response to climate change and COVID-19*

³⁹ SOUTH CENTRE, *Intellectual Property and Trade Measures to Address the Covid-19 Crisis*

A coordinated global effort is required to ensure access to affordable, safe and effective treatments, diagnostics and vaccines that are developed, as well as access to medical supplies and devices.

The South Centre views with concern the attempts by some governments and industry players to monopolize the availability of those products for their own nationalist agenda or to maximize profit, ahead of societal interest in tackling this global public health emergency. The private enforcement of patents and government trade restrictions may pose a dire threat to the containment of the Covid- 19 pandemic.

Governments should act swiftly to put in place legislation and plans to ensure that patents and trade measures do not become barriers for access to treatments, diagnostics, medicines, medical supplies and devices needed.

The South Centre invites governments to take the following actions:

Call to Action

- Take policy and legislative measures to ensure that patents and other intellectual property do not erect barriers to access to medicines, diagnostics, vaccines and medical supplies and devices.
- Streamline and plan to make use of the legislative measures to permit the compulsory licensing or government use of products that are protected by patents.¹
- Provide for exceptions and waivers in case data exclusivity regulations would prevent the marketing approval of generics and biosimilars.
- Condone export restrictions of any essential medical supplies, devices or technologies including diagnostics, medicines and vaccines.
- Take measures to facilitate the local manufacturing or import of essential medical supplies, devices or technologies including diagnostics, medicines and vaccines.

The South Centre offers its policy and legal expertise to support governments' actions, in accordance with international intellectual property and trade rules.

C) Solidarity Call to Action^{40 41}

The COVID-19 pandemic has revealed the fallibility of traditional ways of working when it comes to equitable access to essential health technologies. This initiative sets out an alternative, in line with WHO's efforts to promote global public health goods, based on equity, strong science, open collaboration and global solidarity.

As a complement to the WHO COVID-19 Strategic Preparedness and Response Plan and the Access to COVID-19 Tools (ACT) Accelerator, we hereby call on key stakeholders and the global community to commit to undertaking the following actions which are urgently needed to advance the pooling of knowledge, intellectual property and data that will benefit all of humanity:

⁴⁰ WHO, *Solidarity Call to Action*

⁴¹ WHO, *WHO and Costa Rica launch landmark COVID-19 Technology Access Pool*

***Governments and other research and development funders**

- Take action to promote innovation, remove barriers, and facilitate open sharing of knowledge, intellectual property and data necessary for COVID-19 detection, prevention, treatment and response, including through national legal and policy measures, and international collaboration on regulatory practices, to ensure availability, affordability and assured-quality of the concerned products;
- Promote that all COVID-19 publicly-funded and donor-funded research outcomes are affordable, available and accessible to all on a global scale through appropriate provisions in funding agreements, and include specific provisions regarding accessibility to and affordability of resulting COVID-19 related health products through global non-exclusive voluntary licensing, transparency and, when necessary, other commitments to expand access by sharing, for example, other intellectual property rights, know-how and data;
- Encourage that all research outcomes are published under open licenses that allow access free of charge, use, adaptation and redistribution by others with no or limited restrictions, including through initiatives such as the FAIR Guiding Principles for scientific data management and stewardship;
- Encourage open and collaborative approaches in pre-competitive drug discovery and work together with international organizations towards equitable distribution and access to products needed for COVID-19;
- Ensure that research results are registered and published in line with WHO's *Joint statement on public disclosure of results from clinical trials*;

***Holders of knowledge, intellectual property or data to existing or new therapeutics, diagnostics and vaccines**

- Voluntarily license such rights on a non-exclusive and global basis to the Unitaid-established and supported Medicines Patent Pool and/or through other public health research and development mechanisms, consortia or initiatives that facilitate global and transparent access; and/or voluntary non-enforcement of intellectual property rights, as appropriate, during the COVID-19 pandemic, to facilitate the widescale production, distribution, sale and use of such health technologies throughout the world;
- Facilitate equitable, affordable and timely access to their products for all countries;
- Share voluntarily the relevant knowledge, intellectual property and data to enable widescale and worldwide production, distribution and use of such technologies and necessary raw materials through mechanisms such as the Technology Access Partnership TAP hosted by the UN Technology Bank or the Open COVID Pledge Initiative;

***Researchers**

- Share relevant SARS-CoV-2 genetic sequence information and data through publicly accessible databases such as the Global Initiative on Sharing All Influenza Data (GISAID), recognizing the need for fair and equitable access to health products that are developed using genetic sequence information;

***All stakeholders**

- Place, in the WHO Global Observatory on Health Research and Development, information and analyses on COVID-19 research and development activities, information and analyses to build on existing data and reports from a wide range of data sources, and gather new information, where needed and feasible, with the aim of enabling decisions on priorities in research and development;
- Place, in the WHO COVID-19 Technology Access Pool or its implementing partner platforms, references to shared information and/or commitments to all relevant technologies, knowledge, intellectual property, and data on terms that facilitate their use in research, development and innovation and manufacturing and that would permit effective technology transfer and early access to key technologies for the detection, prevention, treatment and response of COVID-19;

***Patients and communities, inter-governmental, non-governmental and civil society organizations**

- Advocate for, facilitate and actively engage in the implementation of this Solidarity Call to Action.

12 - GOVERNMENT PROCUREMENT

Key reference documents

- OECD (2020), *COVID-19: Competition and emergency procurement*, available at: <https://www.oecd.org/competition/COVID-19-competition-and-emergency-procurement.pdf>
- Open Contracting Partnership (2020), *Emergency procurement for COVID-19: Buying fast, smart, and open*. Available at: <https://www.open-contracting.org/what-is-open-contracting/covid19/> and <https://www.open-contracting.org/2020/03/25/emergency-procurement-for-covid-19-buying-fast-open-and-smart/>
- OECD (2020), *COVID-19: Competition and emergency procurement*, available at: <https://www.oecd.org/competition/COVID-19-competition-and-emergency-procurement.pdf>

Summary of main ideas/recommendations

Public procurement represents a significant share of global spending in the public health sector. The World Health Organization estimates that over the period of 2000-2017, public spending on health grew at 4.3% a year and constituted USD 7.8 trillion in 2017.

The WTO plurilateral Agreement on Government Procurement (GPA), which currently covers 48 Members, is directly relevant to the public health care sector, specifically in regard to the procurement of medicines, pharmaceutical products, and health services covered by the Agreement. The GPA sets binding minimum standards for transparent, fair and open public procurement procedures based on international best practices. The GPA recognizes, however, that in times of unforeseeable extreme urgency, it may not be possible to adhere to all those standards without exception.

1. Flexibilities for emergency procurement

The GPA notably provides two types of flexibilities to address emergency situations. First, it offers flexibilities with regard to procedural requirements. Thus, GPA Parties may resort to limited tendering, under which procuring entities may directly contact suppliers of their choice without giving notice of intended procurements and by setting shorter than usual deadlines (Article XIII:1(d)). Second, GPA Parties may take government procurement-related measures that are necessary to protect human life or health, provided they are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a disguised restriction on international trade (Article III:2(b)). Such flexibilities enable procuring entities to enhance the efficiency of the government procurement process and speed up the conduct of government procurement procedures.

2. Transparency and e-procurement

The GPA also allows and in fact encourages GPA Parties to use electronic means for government procurement (Preamble). E-procurement offers substantial benefits in emergency situations, as it saves time and lowers costs. It can also enhance transparency.

Many GPA Parties have put in place new rules governing their emergency government procurement activities or have issued additional guidance to their procuring entities regarding the availability under their domestic legal frameworks of existing flexibilities. A number of GPA Parties have already published their new rules or guidance, which is important for suppliers and other stakeholders as well as other GPA Parties.

The GPA recognizes that not all transparency obligations can realistically be followed in situations of extreme urgency. Some transparency requirements are still applicable to emergency procurements. The GPA provides that no later than 72 days after contracts have been awarded through limited tendering procuring entities are to publish a notice providing certain information, including a description of the goods or services procured, the name of the successful supplier and the value of the successful tender (Article XVI:2). Such after-the-fact transparency is critically important to ensuring responsible management of public resources and to preventing or combating corrupt practices or conflicts of interest on the part of procuring entities – in line with the general principles of the GPA (Article IV:4).

Box 1 Best practice guidance on emergency public procurement - OECD⁴²

The OECD recommends that public procurement entities should:

*Follow national and international rules and guidelines on emergency and COVID-19 related procurement.

*Use direct awards only to respond to current, urgent and unforeseeable needs.

*Check first whether they can renew or extend existing contracts before a direct award.

*Ensure that the supplier with whom they intend to contract is the only one able to provide the required goods, services and/or works on time. If there are a number of possible alternative suppliers consider whether there is time to conduct a fast-track competitive procedure. If there is no time, a direct award to one or more of the available suppliers can be justified.

*Use, to the extent possible, existing market intelligence to inform decisions on emergency purchases. Existing procurement data on observed prices, suppliers, capacities, etc. could be useful to get an overall picture of market conditions before the pandemic, and negotiate prices and delivery terms during the crisis.

*Pool forces and conduct joint procurements to attract suppliers, achieve economies of process and limit price spikes through economies of scale and exercise of purchasing power.

Phase out direct award procedures and contracts as needs become foreseeable and start planning competitive tendering for the medium and long-term needs resulting from the crisis.

Competition authorities should:

*Intensify their competition advocacy initiatives vis-à-vis procurement entities to alert them to the risks and conditions that should be met for emergency direct awards to be considered.

⁴² OECD (2020), COVID-19: Competition and emergency procurement

*Be vigilant and monitor suspicious selling patterns (i.e. high prices) in COVID-19 emergency procurements.

Further transparency can be achieved through adherence to open contracting data standards in e-procurement, which improve civil society's options for monitoring government spending related to COVID-19 measures. Further transparency can, in turn, make a significant contribution to preventing corrupt practices and conflicts of interest. The Open Government Partnership has published some suggestions on monitoring of expenditure building on experiences of various governments ([Link in English](#)).

Box 2 Best practice guidance on using e-procurement in emergency situations – Open Contracting Partnership⁴³

The Open Contracting Partnership recommendations focus on the following:

Policy: Make emergency procedures public and open. This includes coordinating and centralizing procurement, setting a clear test and a written justification for emergency procedures, publishing open data, targeting price gouging, and requiring timely reporting.

Coordination: Set clear goals and priorities and consolidating emergency committees for quick decision-making.

Data: Use open procurement data to analyze and share information to predict and manage critical supply chains. Collecting tagging all contracting processes and budget lines with COVID-19 to ensure high-quality, open and complete data, disclose technical comments from suppliers, and publishing all contract awards under the emergency framework.

Innovative partnerships: Build innovative partnerships with business and civil society. Issue a list of essential medicines and devices so markets can react accordingly and encourage start-ups and data-driven civil tech projects.

Civic monitoring: Trust and support civil society to play an important role in monitoring efficient spending and delivery of goods and services.

3. Pooled regional procurement initiatives

As one of the options recommended by the OECD, some GPA Parties have used joint government procurement procedures within a regional integration framework. Joint procurement helped to increase their bargaining power and purchasing options in a context of short supply of certain COVID-19 critical medical goods and services.

Box 3 Joint procurement in the European Union⁴⁴

The European Commission launched four different calls for tender for medical equipment and supplies on 28 February (gloves and surgical gowns), 17 March (personal protective equipment for eye and respiratory protection, as well as medical ventilators and respiratory equipment), and 19 March (laboratory equipment, including testing kits), with participation of up to 25 Member States (see press release). These initiatives are proving successful as the

⁴³ Open Contracting Partnership (2020), Emergency procurement for COVID-19: Buying fast, smart, and open

⁴⁴ OECD (2020), COVID-19: Competition and emergency procurement

Commission announced that offers covered and in some cases exceeded the quantities requested. The European Commission has a coordinating role, while the Member States purchase the goods.

13 - OTHER MATTERS/ISSUES

Key reference documents

- World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

<http://documents.worldbank.org/curated/en/509521585605825305/pdf/Do-s-and-Don-ts-of-Trade-Policy-in-the-Response-to-COVID-19.pdf>

- International Institute for Sustainable Development, *Draft agreement for the coordinated suspension of investor state dispute settlement with respect to COVID-19 related measures and disputes.*

<https://www.dropbox.com/s/2wo3563eyr3mlzi/ISDS-suspension-COVID-EN.pdf?dl=0>

Summary of recommendations

A) Legal

Address early on legal implications for commercial parties⁴⁵ => The unprecedented disruptions associated with the pandemic and its massive socioeconomic consequences are giving rise to a plethora of legal issues affecting traders across the globe (for example, delays and performance failure, liability for breach of contract, frustration and force majeure). The effects of such issues may lead to business losses and bankruptcies, and overwhelm courts and legal systems. Industry and traders need to be encouraged to waive some of their legal rights and agree on moratoriums for payments, performance and the like, where appropriate.

B) Confidence

Maintain confidence in global markets and co-operation, there is a need to avoid further escalation in ongoing trade tensions.

With firms rocked by the collapse in demand and the ongoing uncertainty regarding the duration and severity of COVID-19 and associated containment measures, now is also not the time to impose further costs, including through unnecessary policy uncertainty. Imposing additional costs on firms and consumers through tariffs not only causes hardship for those already suffering from lost income due to the crisis, but also risks increasing the size of the government assistance needed to support those same firms and consumers. A positive step in boosting confidence and reducing burdens would be for *governments to commit not to impose new tariffs or trade restrictive measures.*

C) Subsidies⁴⁶

Even now, as governments are in crisis mode, there is a need to pay attention to the design of essential support. There is a wealth of experience on minimizing the competitive distortions from support on which to draw, including in relation to government-invested firms. Some *key principles* include that support granted is:

⁴⁵ World Bank, *Do's and Don'ts of Trade Policy in the Response to COVID-19*

⁴⁶ Unless otherwise specified herein, the term 'subsidy' used in this document does not necessarily reflect the definition set forth in the WTO SCM Agreement.

- transparent ; including with regard to the terms of any support through the financial system;
- non-discriminatory amongst similarly affected firms and targeted at those experiencing the most disruption, while avoiding rescue for those who would have failed absent the pandemic;
- time bound, and reviewed regularly to ensure that it is hitting its target and remains necessary;
- targeted at consumers, leaving them for to decide how to spend any support, rather than tied to consumption of specific input and final goods and services.

D) Suspension of investor-state dispute settlement⁴⁷

Agreement for the coordinated suspension of investor-state dispute settlement with respect to COVID-19 related measures and disputes

This instrument sets out an agreement between signatory states to suspend the operation of the investor-state dispute settlement (ISDS) provisions in all investment treaties concluded between them, in relation to disputes involving challenges to COVID-19 related measures. These measures are defined to encompass a range of state actions to protect public health and manage national economies in relation to the COVID-19 pandemic. In the definition of COVID-19 related measures, the reference to December 1, 2019 reflects the date of the first identified case of COVID-19 in Wuhan, China. The suspension will apply to the ISDS provisions in the respective investment treaty until the threat of COVID-19-related ISDS claims ceases to exist under that treaty.

⁴⁷ International Institute for Sustainable Development, *Draft agreement for the coordinated suspension of investor state dispute settlement with respect to COVID-19 related measures and disputes*.

14 - AGREEMENTS WHERE THE MODEL PROVISIONS MAY BE USED

A) Types of agreements where the model provisions may be used

- In Regional Trade Agreements, including bilateral and regional Free Trade Agreements, Economic Partnership Agreements
- In transit or transport agreements
- In WTO agreements
- In disaster assistance or aid agreements at the bilateral, regional or multilateral level

B) Examples of agreements where the model provisions may be used

- **Bilateral and regional trade agreements found in**
 - **WTO RTA Database** :_WTO has a database of Regional Trade Agreements that can be extremely helpful to search existing RTAs on a particular sector.
<http://rtais.wto.org/UI/PublicMaintainRTAHome.aspx>
 - **Asia-Pacific Trade and Investment Agreement Database – APTIAD**:_An online database of trade agreements in the Asia-Pacific region. The database contains information on all preferential agreements within the region, an agreement-country matrix, and an advanced search engine allowing to locate agreements by country, agreement name, status, scope, WTO notification status, and keywords.
<https://www.unescap.org/content/aptiad/>

See also: WTO RTA Glossary:_This Glossary has been prepared by the Regional Trade Agreement Section of the WTO Secretariat and represents research in progress. The opinions expressed in this Glossary are not intended to represent the positions or opinions of the WTO or its members and are without prejudice to members' rights and obligations under the WTO. [http://rtais.wto.org/USERGUIDE/Glossary MT Eng.pdf](http://rtais.wto.org/USERGUIDE/Glossary_MT_Eng.pdf)

- **Agreement on establishing the SAARC food bank**
http://saarc-sec.org/digital_library/detail_menu/agreement-on-establishing-the-saarc-food-bank

The Governments of the SAARC (South Asian Association for Regional Cooperation) Member States comprising Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka hereinafter referred to as “Member Countries”; [..] **NOW THEREFORE**, in a spirit of solidarity and mutual cooperation, have agreed as follows:

ARTICLE I

Establishment of the SAARC Food Bank

1. The Member Countries hereby agree to establish a SAARC Food Bank (hereinafter referred to as “the Food Bank”) for the purposes and on the conditions described in this Agreement.

2. The Food Bank shall be administered by the SAARC Food Bank Board (hereinafter referred to as “the Board”), as provided for in **Article X**.

ARTICLE II

Objectives

The objectives of the Food Bank shall be:

- a. to act as a regional food security reserve for the SAARC Member Countries during normal time food shortages and emergencies; and
- b. to provide regional support to national food security efforts; foster inter-country partnerships and regional integration, and solve regional food shortages through collective action.

15 – COVID-19 POLICY RESPONSES

Useful links:

- **WTO's dedicated COVID-19 page;** WTO has created this dedicated page to COVID-19 on the WTO website. It provides up-to-the minute trade-related information including relevant notifications by WTO members, the impact the virus has had on exports and imports and how WTO activities have been affected by the pandemic.

https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm

- **IMF, a policy tracker summarizing the economic responses every government is taking in each country to avoid economic disruptions due to the COVID-19 crisis.**

<https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19>

- **European countries, State aid rules and coronavirus, frameworks made by the EU to support the economy in the context of the coronavirus outbreak.**

https://ec.europa.eu/competition/state_aid/what_is_new/covid_19.html

- **OECD, Crisis response in ASEAN member states, Response measures taken by ASEAN member states.**

https://read.oecd-ilibrary.org/view/?ref=129_129949-ehsuoqs87y&title=COVID-19-Crisis-Response-in-ASEAN-Member-States

- **Trade facilitation agreement facility and WTO, COVID-19 trade facilitation resource repository,** a joint platform of actions and initiatives (the COVID19 Trade Facilitation Repository) adopted by organizations that aims at consolidating this information on trade-facilitation measures adopted by key stakeholders, which aims at facilitating access to this information by making it user-friendly, easily accessible, searchable and unifying in one single database (avoiding multiple searches in different engines and platforms). It contains a useful listing of all such initiatives and is broken down by organization, type of measure, and subject matter.

<https://www.tfafacility.org/covid19-trade-facilitation>

A) Proposals to WTO by its Members

Key reference documents

- Proposal to WTO from Australia; Brazil; Canada; Chile; Colombia; Costa Rica; European Union; Hong Kong, China; Japan; Republic of Korea; Malawi; Mexico; New Zealand; Paraguay; Peru; Qatar; Singapore; Switzerland; The Separate Customs Territory of Taiwan, Penghu, Kinmen And Matsu; Ukraine; United Kingdom; United States; and Uruguay, *Responding to the COVID-19 pandemic with open and predictable trade in agricultural and food products.*

https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm#proposals

- Proposal to WTO from Singapore, *Measures relating to the COVID-19 pandemic: Declaration on trade in essential goods for combating the COVID-19 pandemic.*

https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm#proposals

- Proposal to WTO from New Zealand, *Measures in response to the COVID-19 pandemic: Measures to ensure the free flow of trade in essential goods for combatting the COVID-19 pandemic.*

https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm#proposals

- Proposal to WTO from Australia, Brunei Darussalam, Canada, Chile, Myanmar, New Zealand and Singapore, *Joint Ministerial Statement affirming commitment to ensuring supply chain connectivity amidst the COVID-19 situation.*

https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm#proposals

- Proposal to WTO from Australia, Canada, Korea, New Zealand, Singapore, *Joint ministerial statement on action plans to facilitate the flow of goods and services as well as the essential movement of people*

https://www.wto.org/english/tratop_e/covid19_e/proposals_e.htm

Summary of recommendations/measures

• **Essential vs. Non-essential goods**

- As Members take measures to address the pandemic, it is imperative that these measures do not adversely affect trade in agriculture and agri-food products which would ultimately have negative impacts on the food security, nutrition and health of Members and their populations.

- Maintaining agriculture supply chains and preserving the ability of Members to import agriculture and agri-food products to meet their domestic needs. Maintaining effective transport and logistical services will be crucial to the proper functioning of the food supply chain.

• **Market Access (Export Restrictions)**

- Avoid export restrictive measures : The application of export restrictions and similar trade restrictive measures on agriculture and agri-food products create an unpredictable trading environment that would adversely affect food availability and result in price spikes, increased price volatility, and leads to shortages of important food products.

• **Trade Facilitation⁴⁸**

Those countries are committed =>

a. To ensure that supply chains remain open and connected so that international markets can continue to function in supporting the movement of agricultural products and agriculture inputs, which plays an instrumental role in avoiding food shortages and ensuring global food security.

b. To exercise restraint in establishing domestic food stocks of agricultural products that are traditionally exported so as to avoid disruptions or distortions in international trade.

c. Not to impose agriculture export restrictions and refrain from implementing unjustified trade barriers on agriculture and agri-food products and key agricultural production inputs.

d. That emergency measures related to agriculture and agri-food products designed to tackle COVID-19 must be targeted, proportionate, transparent, and temporary, and not

⁴⁸ Proposal to WTO from Australia; Brazil; Canada; Chile; Colombia; Costa Rica; European Union; Hong Kong, China; Japan; Republic of Korea; Malawi; Mexico; New Zealand; Paraguay; Peru; Qatar; Singapore; Switzerland; The Separate Customs Territory of Taiwan, Penghu, Kinmen And Matsu; Ukraine; United Kingdom; United States; and Uruguay, *Responding to the COVID-19 pandemic with open and predictable trade in agricultural and food products.*

create unnecessary barriers to trade or disruption to global supply chains for agriculture and agri-food products.

e. To inform the WTO as soon as practicable of any trade related COVID-19 measures affecting agriculture and agri-food products, including providing scientific evidence in accordance with WTO agreements if necessary, to ensure transparency and predictability.

f. To ensure that updated and accurate information on levels of food production, consumption and stocks, as well as on food prices is widely available, including through existing international mechanisms.

g. To support the efforts of the WTO and other international organizations in analysing the impacts of COVID-19 on global agriculture and agri-food trade and production.

h. To engage in a dialogue to improve our preparedness and responsiveness to regional or international pandemics, including multilateral coordination to limit unjustified agriculture export restrictions, in particular at the WTO.

• **Tariff Elimination and Implementation** ⁴⁹

- Eliminate all customs duties and all other duties and charges of any kind on essential goods.

• **Export Restrictions**

- Not apply export prohibitions or restrictions on essential goods.

• **Non-tariff Barriers**

- Intensify consultations with a view to removing non-tariff barriers on essential goods.

• **Measures to Facilitate the Importation of Medical and Hygiene Products** ⁵⁰

- New Zealand is eliminating MFN applied tariffs on a range of products, including medical and hygiene products, which are needed for the COVID-19 response. These measures will reduce the cost of imports and facilitate access to them from the widest possible range of overseas suppliers. The measures are designed to ensure that trade in these products continues to flow and demonstrate New Zealand's commitment to keeping supply chains open.

• **Exportation of Essential Goods**

- As part of the Declaration, New Zealand has also reconfirmed its commitment not to introduce export restrictions in a manner inconsistent with the General Agreement on Tariffs and Trade 1994.

• **Working to ensure the Flow of Goods in Global Supply Chains** ⁵¹

- Expedite customs procedures with a view to reducing processing times and related administrative burdens in accordance with national laws and regulations.

⁴⁹ Proposal to WTO from Singapore, *Measures relating to the COVID-19 pandemic: Declaration on trade in essential goods for combating the COVID-19 pandemic*.

⁵⁰ Proposal to WTO from New Zealand, *Measures in response to the COVID-19 pandemic: Measures to ensure the free flow of trade in essential goods for combatting the COVID-19 pandemic*.

⁵¹ Proposal to WTO from Australia, Brunei Darussalam, Canada, Chile, Myanmar, New Zealand and Singapore, *Joint Ministerial Statement affirming commitment to ensuring supply chain connectivity amidst the COVID-19 situation*.

- Encourage more use of electronic means for customs processing, which minimize face-to-face interactions without lengthening processing times.
- Ensure facilitation of transport and customs clearances of essential goods, such as food, critical medical supplies and personal protection equipment.
- Facilitate the timely flow of goods including essential supplies by ensuring operation of logistics networks via air, sea, and land freight. - Work out bilateral and/or multilateral cooperative arrangements to expedite necessary approval procedures for air crew and to utilise additional aircraft for cargo operations.
- Promote transparency of import and export regulations to facilitate continued movement of goods.
- Refrain from the introduction of export prohibitions or restrictions, tariffs and non-tariff barriers on essential goods, including food, pharmaceuticals, and critical medical supplies. This underscores the importance of preserving the ability of countries to import essential medical supplies, pharmaceuticals and food to meet their domestic needs. - If such measures are instituted, - Ensure that measures are targeted, proportionate, transparent, temporary and consistent with WTO rules.
- Establish a consultation mechanism between the relevant authorities of the signatory countries to identify and address trade disruptions that affect the trade in essential goods.

- **Facilitating the Essential Movement of People⁵²**

- Facilitate the resumption of essential cross-border travel, with mutual assurance of health standards, while ensuring the safeguarding of public health in line with our efforts to combat the pandemic as well as to minimize the socio-economic impacts of COVID-19.
- Establish guidelines to allow, on an exceptional basis, essential cross-border travel for purposes such as maintaining global supply chains, including essential business travel, in accordance with national laws and regulations, without undermining the efforts to prevent the spread of the virus.

- **Minimizing the Negative Impacts on Trade and Investment arising from the Pandemic to facilitate an inclusive and sustainable economic recovery**

- Reiterate and garner strong support for the rules-based international trade system, including WTO rules, and work closely with key multilateral economic institutions.
- Provide relevant information to affected countries and to the WTO in a timely manner when adopting a measure with a foreseeable impact on international trade and investment.
- Develop and share best practices including those for ensuring flows of goods and services, minimizing restrictions on people movement, and aiding sectors that are adversely affected by the pandemic.
- Engage actively with the private sector to design and implement measures in a business-friendly manner and to work together for creative solutions.

⁵² Proposal to WTO from Australia, Canada, Korea, New Zealand, Singapore, *Joint ministerial statement on action plans to facilitate the flow of goods and services as well as the essential movement of people.*

B) Commitments from ASEAN^{53 54}

Key reference documents

- ASEAN, *Japan Economic Ministers' Joint Statement on Initiatives on Economic Resilience in Response to the Corona Virus Disease (COVID-19) Outbreak*

<https://asean.org/storage/2020/04/AJ-EM-Joint-Statement-on-Economic-Resilience-in-Response-to-COVID-19-FI....pdf>

- ASIAN, *Strengthening ASEAN's economic resilience in response to the outbreak of the coronavirus disease (covid-19)*

<https://asean.org/storage/2020/03/AEMR-26-Statement-on-COVID-19-FINAL-10.03.2020.docx.pdf>

Summary of recommendations/Commitments

- In order to mitigate the adverse impact of the COVID-19 outbreak on the economy, the Ministers express their commitment to make utmost efforts to keep markets open and prevent stagnation of economic activities in order to maintain the regional and global supply chain, for the smooth flow of essential goods, including food, commodities, medicine, medical and health supplies and equipment, in accordance with the rights and obligations under the World Trade Organization (WTO) covered agreements.

- The Ministers emphasize the need to explore creative solutions with industrial stakeholders, including micro, small and medium enterprises (MSMEs), to minimize disruptions in the conduct of trade and investment between ASEAN and Japan. These would include encouraging the use of digital technologies in business activities to overcome constraints caused by recent travel restrictions and measures adopted to contain the further spread of COVID-19.

- Recognizing that the outbreak of COVID-19 has highlighted the importance of risk management and business continuity plans in order to avoid supply chain disruptions, the Ministers affirm their commitment to strengthen cooperation on building resilient supply chains to enhance the region's position as a global trade and investment hub. In this regard, noting that ASEAN and Japan are making collaborative efforts to successfully implement MPAC 2025, it is therefore necessary to take into account multifaceted perspectives such as diversification, complementarity, transparency, redundancy and sustainability to realize resilient supply chains, which will enable businesses to achieve a better balance between risk management and cost competitiveness.

⁵³ ASEAN, *Japan Economic Ministers' Joint Statement on Initiatives on Economic Resilience in Response to the Corona Virus Disease (COVID-19) Outbreak*

⁵⁴ ASIAN, *Strengthening ASEAN's economic resilience in response to the outbreak of the coronavirus disease (covid-19)*

- RECOGNIZE the adverse impacts of the COVID-19 outbreak on the economy, particularly including but not limited to the travel and tourism, manufacturing, retail and other services sectors as well as the disruption of supply chains and the financial markets;
- EMPHASIZE the urgent need for concerted efforts to avoid further adverse impacts in the global economy brought about by the COVID-19 outbreak;

AGREE that counter-measure restrictions on cross-border movements should be based on public health considerations, and should not unnecessarily restrict trade within the region; and

AGREE to take a collective course of action to mitigate the economic impact of COVID-19, and RESOLVE to:

- remain committed in keeping the ASEAN market open for trade and investment;
- strengthen regional information sharing and coordination and collaboration efforts in responding to the economic challenges brought about by the COVID-19 outbreak;
- work closely with industry stakeholders to install confidence in Southeast Asia as a trade and investment hub, and tourism destination in the region;
- leverage on technologies and digital trade to allow businesses, especially the micro, small and medium enterprises (MSMEs) to continue operations amidst the COVID-19 outbreak;
- strengthen a long-term supply chain resilience and sustainability, including through better transparency, agility, diversification and, in particular, the implementation of the Master Plan on ASEAN Connectivity (MPAC) 2025;
- enhance ASEAN economic cooperation with external and development partners to include initiatives aimed at strengthening regional supply chains to make them more resilient and less vulnerable to internal and external shocks;
- build on existing trade facilitating platforms in ASEAN, such as the ASEAN Single Window (ASW), to promote and support supply chain connectivity;
- refrain from actions that can create unnecessary inflationary pressures or adversely impact on food security in the region, and endeavor to ensure the availability of basic goods and commodities; and
- continue addressing non-tariff barriers, particularly those that impede the smooth flow of goods and services in supply chains, and refrain from imposing new and unnecessary non-tariff measures.

C) Measures taken to support SMEs and MSMEs^{55 56}

Key reference documents

- OECD, *SME Policy Responses*

[https://read.oecd-ilibrary.org/view/?ref=119_119680-di6h3qgi4x&title=Covid-19 SME Policy Responses](https://read.oecd-ilibrary.org/view/?ref=119_119680-di6h3qgi4x&title=Covid-19_SME_Policy_Responses)

- The WTO should publish its database on government measures introduced to support SMEs by the end of June, it will be added later.

⁵⁵ OECD, *SME Policy Responses*

⁵⁶ - The WTO should publish its database on government measures introduced to support SMEs by the end of June, it will be added later.

- Informal working group on MSMES

https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueId-List=257654,257616,257416,257397,257239,257137,256142,255928,255239,255024&CurrentCatalogueIdIndex=5&FullTextHash=&HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True

Summary of recommendations

Regional and Free Trade Agreements have included SME-related provisions in several chapters, ranging from the e-commerce chapter to the investment chapter. Out of 312 RTAs notified to the WTO Secretariat, 166 include SME-related provisions (53%). The WTO secretariat has compiled and analyzed these provisions by chapter and made publicly available this compilation in 2019 (INF/MSME/W/6/Rev.1).⁵⁷

In their response to the crisis, governments have been quick to acknowledge the specific circumstances of SMEs, and have put in place policies to support them. Across countries, the policy response frequently followed this sequence of measures:

- Health measures, and information for SMEs on how to adhere to them;
- Measures to address liquidity through a wide range of measures, such as payment deferrals, grants, loans or quicker tax credit refunds;
- Measures to supply extra and more easily available credit to strengthen SME resilience;;
- Measures to avoid, or mitigate the consequences of, unorganized lay-offs by extending possibilities for temporary redundancies and wage subsidies, and;
- Measures to support SMEs interested in trade, such as through the supply of market information or transport services;
- to encourage SMEs to adopt digital technologies and to diversify their supply chain partners with a view to building resilience against future disruptions;

Many countries have introduced SME specific policy measures:

- Several countries have introduced measures related to working time shortening, temporary lay-off and sick leave, some targeted directly at SMEs. Similarly, governments provide wage and income support for employees temporarily laid off, or for companies to safeguard employment. In many cases, countries have introduced measures specifically focused on the self-employed.
- In order to ease liquidity constraints, many countries have introduced measures towards the deferral of tax, social security payments, debt payments and rent and utility payments. In some cases, tax relief or a moratorium on debt repayments have been implemented. Also, some countries are taking measures regarding procedures for public procurement and late payments.

⁵⁷ Informal working group on MSMES

- Several countries have introduced, extended or simplified the provision of loan guarantees, to enable commercial banks to expand lending to SMEs.
- In some cases, countries have stepped up direct lending to SMEs through public institutions.
- Several countries are providing grants and subsidies to SMEs and other companies to bridge the drop in revenues.
- Increasingly, countries are putting in place structural policies to help SMEs adopt new working methods and (digital) technologies and to find new markets and sales channels to continue operations under the prevailing containment measures. These policies aim to address urgent short-term challenges, such as the introduction of teleworking, but also contribute to strengthening the resilience of SMEs in a more structural way and support their further growth.
- Some countries have introduced specific schemes to monitor the impact of the crisis on SMEs and enhance the governance of SME related policy responses.

Reduction of working hours and temporary unemployment => Various countries are opening up existing arrangements for companies to reduce working hours of their employees and their temporary redundancy.

Wage support => Some countries put in place specific wage support schemes for partial unemployment and working hour reduction.

Sick leave => There is large variation in the form and intensity of government financial contributions to costs related to sick leave and wage costs due to (partial) unemployment.

Specific measures for the Self-employed => Several countries have introduced specific measures to support the self-employed, as many of these face a large drop in their income. Compared to employees, the self-employed are not insured for sick leave or (temporary) unemployment. Measures range from providing sick leave payments and unemployment benefits, to lump sum subsidies.

Deferral of tax, social security payments, debt payments, and rent and utility payments => Most OECD countries have put in place measures that enable SMEs to postpone payments, in order to avoid further eroding their liquidity. Most countries have introduced such deferrals in corporate and income tax payments, although several countries include value added tax (VAT), social security and pension contributions.

Income/corporate tax => Deferral of tax most often is introduced for corporate and income tax. In some countries, deferral of income and corporate tax has been targeted to specific sectors.

Tax Relief => In some countries, next to deferral, tax relief is offered by lowering rates or waiving payment. The distinction between deferral and relief is often ambiguous, especially when deferral is combined with a waiver of interest payments. However, tax relief (the reduction of tax rates or the cancelling of tax payments) is more akin to a grant or subsidy.

Value Added Tax (VAT) => Several countries introduced possibilities for deferral of VAT. In some cases, deferrals are focused on specific sectors such as tourism and transportation

Social security and pension contributions => A number of countries enable deferral of social security contributions and pension payments. Given the wide differences in social security and pension systems, measures differ widely. In some cases, the focus of deferral is on specific sectors.

Rent/utilities/local tax => Some countries or local governments have extended deferrals to payments of local and property tax.

Debt payment moratorium => In some countries, a deferral of debt payments was introduced in the form of a debt moratorium

Loan guarantees => Many governments have introduced and extended measures that incentivize commercial banks to expand their lending to SMEs. In some countries, central banks have lifted reserve requirements for banks, to allow them to increase their lending. In other cases, through unconventional monetary policy measures central banks have bought packages of loans to SMEs and others to boost further lending.

Available funding => Several countries have significantly raised the amount of funding available for loan guarantees.

Level of public guarantee => Furthermore, countries have increased the level of guarantees that governments are offering on credit.

Administrative procedures => Some countries have simplified administrative procedures to ease the access to loan guarantees.

Direct lending to SMEs => Next to providing guarantees to commercial banks to support their SME lending, a large number of governments have also enhanced direct lending to SMEs.

New loan schemes => Several countries have set-up specific new loan schemes to support companies affected by the outbreak.

Grants and subsidies => A number of countries, regions and cities have started to provide direct financial support to SMEs. In many cases these are direct lump sum subsidies; in other cases they regard tax exemptions. In some cases existing instruments are being used.

Measures to find new and alternative markets => Some countries have adopted measures to support SMEs in recovering markets or finding new or alternative markets. Belgium, for instance, has opened up existing financial instruments for SMEs – such as the SME growth subsidy – as to support firms to find alternative markets, particularly where supply chains are impacted. China is encouraging large enterprises to cooperate with SMEs, by increasing

their support in supply chains, in terms of loan recovery, raw material supply, and project outsourcing.

Measures to support teleworking and digitalisation => Many SMEs find it harder to adopt teleworking, new sales channels and other digital solutions that may help mitigate the impact of the outbreak and containment measures. Several countries have introduced measures to support SMEs adopting teleworking

Measures to support innovation => Similarly, countries offer support for innovation by SMEs. In some cases, these measures aim to support start-ups and SMEs to help find solutions to the COVID-19 outbreak.

Measures to support training and redeployment => Several countries have opened up existing programmes for training and skills development by SMEs in the context of the outbreak, or launched new initiatives for this purpose. Enabling SMEs to maintain access to skills during the crisis, as well as develop further skills, constitutes an important aspect of the required structural policy response to the crisis.

Monitoring of impact and governance of policy responses => Several governments have set up coordination mechanisms to monitor the outbreak and develop responses. In most cases, the focus of such coordination is on health aspects. In some countries, SME aspects are explicitly considered in these coordinated efforts, as are multi-level governance matters, since regional and local governments play an important role in the SME policy response.

D) Measures to support local employment and economic development⁵⁸

Key reference document

- OECD, *From pandemic to recovery: Local employment and economic development*

https://read.oecd-ilibrary.org/view/?ref=130_130810-m60ml0s4wf&title=From-pandemic-to-recovery-Local-employment-and-economic-development

Summary of recommendations

Local actions are an essential part of the recovery, from helping the disadvantaged to supporting firms or mobilizing the social economy => National policies in response to COVID-19 that may appear uniform (or place-blind) are not place neutral and will affect communities differently.

* **Supporting workers and firms during the COVID-19 crisis: what are subnational governments doing?**

Helping workers and firms navigate national programmes, including wage subsidies and emergency income support

⁵⁸ OECD, *From pandemic to recovery: Local employment and economic development*

- Local authorities in the United Kingdom (including core cities such as Manchester and Leeds) are active in **providing information to local firms** about how they can access grants covering up to 80% of the salary of workers (up to GBP 2 500 per month) if companies keep them on their payroll, rather than lay them off.
- Cities in Canada (including Toronto, Hamilton, Kitchener, and Montreal) are providing **information to low-income individuals, the self-employed as well as recently laid-off workers** about how to apply to receive support from the *Canada Emergency Response Benefit* which provides a taxable benefit of CAD 2 000 per month for up to 4 months to eligible workers who have lost their income due to COVID-19.
- West Michigan Works (a Local Workforce Investment Board) in the United States is **guiding local workers through the unemployment claim process** by supporting them to do their online application through phone and email.
- **Barcelona Activa**, the city's economic development agency, manages a network of labour law information centres that are nowadays providing on-line and telephone information on COVID-19 and employment, such as temporary lay-offs, teleworking arrangements, work risk prevention and workplace sanitation.
- In the **Basque Country (Spain)**, the region's government has mobilized the public service *Inplantalariak*, which usually provides technology solutions to SMEs. *Inplantalariak* is subsidizing up to 50% of costs for teleworking equipment for Basque SMEs and the self-employed. It is also helping SMEs and the self-employed navigate teleworking technology use to continue activities from home.

Serving as an implementation partner for national governments

- In **Italy**, the *Cura Italia* decree-law provides EUR 5 billion for a national redundancy fund, and regulates the distribution of resources among the regions. Regions, in turn, are responsible for working with social partners to disburse the funds.
- **Denmark**: The national government announced plans to “freeze” the economy by paying companies 75% of an employee's salary. Any unavoidable lay-offs will be managed within a decentralized employment system of 94 job centres that actively help job seekers return to work.
- Municipalities across **the Netherlands** are implementing a national temporary bridging measure for the self-employed (Tozo) and freelance workers. This includes income support up to EUR 1 500 per month and business loans to a maximum of EUR 10 157.

Providing direct financial assistance to firms and social protection to vulnerable workers

- **Berlin (Germany)** has allocated more than EUR 100 million in **support of small and micro enterprises** (with a maximum of five employees) and freelance workers. Grants are limited to EUR 5 000, with the possibility of renewal. Freelance workers will be able to re-apply after six months, and small businesses after three. The subsidy complements the City's Emergency Aid Package, which targets small and medium-sized enterprises with up to 250 employees.
- The Province of **Quebec (Canada)** has introduced a programme to provide financial assistance to workers who cannot earn all of their normal employment income because they are in isolation to counter the spread of COVID-19. Similarly, the Province of **Ontario**

(Canada), introduced the Employment Standards Amendment Act 2020, which provides job-protected leave for employees who are in isolation or quarantine due to COVID-19, or those who need to be away from work to care for children because of school or day care closures or to care for other relatives.

Providing job facilitation to address immediate hiring needs in sectors that provide essential services during COVID-19

- The National Association of State Workforce Agencies (NASWA) (United States) announced the launch of [NeedAJobNow.us](https://www.NeedAJobNow.us), a job site dedicated to providing a centralized location for displaced workers to access employment opportunities from US companies with immediate hiring needs due to COVID-19.
- Similarly, Australia has set up a dedicated web portal (www.dese.gov.au/covid-19/jobs-hub/employers-multiple-jobs-opportunities) to provide job vacancy information by state with immediate short-term hiring needs at the local level in the face of COVID-19.
- The Province of Trento (Italy) recently took measures to re-engage workers excluded from the labour market in the distribution process of essential goods. Specific tasks include sanitizing tools used in grocery shops, overseeing customer flows in and out of grocery shops and preparing bags for delivery from online orders. The project is part of the so-called Progettone, which has the objective of engaging unemployed people in socially useful work.

Offering access to skills development programmes to facilitate training and adjustment

- To support local jobs, the region of Occitanie (France) has launched a plan to promote training rather than firing (Former plutôt que licencier), consisting of more than EUR 4 million to support access to skills development opportunities. The region is also expanding its plans to provide workers and job seekers with access to e-learning opportunities, by reinforcing its existing programme (Occitanie e-formation).

***An accelerated digital transition with implications for job location and access to services**

- Rise in teleworking, both within cities and in rural areas
- Online delivery of local education and training, and other public services
- Shift from brick and mortar to online commerce
- Increased pressure on digital infrastructure

*** Revisiting the pros and cons of globalisation**

- **Re-localisation of production:** Disruptions in global supply chains and shortages in medical equipment or pharmaceuticals produced abroad have opened up new questions in the debate on the pros and cons of globalisation. Re-shoring of production activities could become more common, notably in relation to priority goods in health care. Shorter food production chains may also be promoted. This re-shoring will be facilitated by the flattening differences of production costs globally and easier in countries that are already more diversified. This will require further understanding of the relevant business cases for possible reshoring or redundancy in supply chains. There may be some new opportunities for local economies to diversify economic activity and restore some middle-skill jobs, but such a trend could also negatively affect local economies specialized in trade-able goods.

- **Restrictions on international movements of people:** Countries have also put unprecedented restrictions on the international movement of people, with border closures a common feature of national responses. This immediate response to COVID-19 could reduce the openness of many communities to international visitors and migrants, which could translate into a desire over the longer-term to be less open, however many local economics are dependent on immigrant workers, whether seasonal or year-round.