

May 15, 2020

# Export Restrictions in Response to the COVID-19 Pandemic

## Overview of Export Restrictions

In response to the COVID-19 pandemic, countries all over the world, including the United States, have imposed temporary restrictions on exports of certain medical goods and some foodstuffs in order to mitigate potential shortages of key supplies. Many measures are not explicit bans, but vary from licensing requirements to mandates for sales to the state. These restrictions have raised debate about the consistency of such actions with World Trade Organization (WTO) rules and the potential impact on the global trading system. Some markets depend heavily on countries that have implemented restrictions. Most leading exporters are also major importers of critical supplies, with integrated supply chains at risk. The proliferation of such measures has prompted some countries to commit to limit restrictions or to abide by certain principles in their temporary application. Members of Congress have weighed in on both sides of the issue, both in terms of the immediate disruption from COVID-19, but also on the future of supply chains.

## WTO Rules

In general, WTO agreements are flexible in permitting emergency measures related to national security or health that may contravene WTO obligations; they require, however, that such restrictions be targeted, temporary, and transparent, and do not unnecessarily restrict trade. Article XI of the 1994 General Agreement on Tariffs and Trade (GATT) broadly prohibits export bans and restrictions, other than duties, taxes or other charges. However, it allows members to apply restrictions temporarily “to prevent or relieve critical shortages of foodstuffs or other products essential” to the exporting country, among other circumstances. In the case of foodstuffs, the WTO Agreement on Agriculture requires members to give “due consideration to the effects on food security” of importing countries. In addition, general exceptions (e.g., GATT Article XX) within WTO rules provide for policy flexibility, including to protect health, provided restrictions do not “constitute a means of arbitrary or unjustifiable discrimination,” or a “disguised restriction on international trade,” among other conditions.

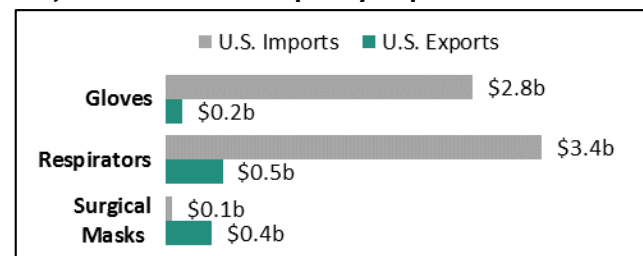
WTO leadership has emphasized the downside risks of curbs on exports and urged members to restrain their use and minimize disruptions to supply chains. The WTO has also called on members to abide by notification obligations and improve transparency on any trade-related measures taken in response to COVID-19.

## Recent U.S. Actions

In recent decades, restrictions on U.S. exports typically have been applied to defense articles, dual-use goods and technologies, crude oil, or sanctioned entities. On April 7, 2020, the Federal Emergency Management Agency (FEMA), pursuant to the Defense Production Act (DPA)

and other authorities, issued a temporary final rule banning the export of certain personal protective equipment (PPE), including certain respirators, certain surgical masks, and certain medical gloves, without explicit approval from FEMA. The rule includes various exemptions, including exports of subject goods that are destined for either Canada or Mexico. The rule also requires FEMA to consider the need to minimize disruption to supply chains, the humanitarian impact of a restriction, as well as other diplomatic considerations. The ban applies to an estimated \$1.1 billion of U.S. exports (**Figure 1**).

**Figure 1. U.S. Imports and Exports of Goods now subject to FEMA's Temporary Export Restrictions**



**Source:** U.S. Census Bureau, U.S. imports for consumption and U.S. exports for 2019. Based on HTS codes subject to FEMA restrictions.

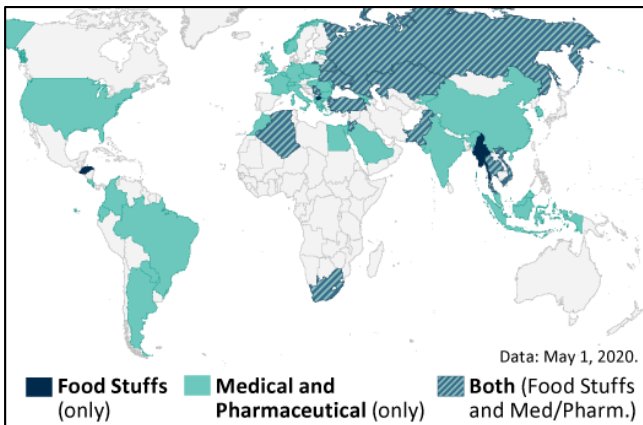
Advocates of the policy argue that the measure is necessary to prevent evasion of U.S. domestic anti-hoarding actions by exporting goods to markets where they can command higher prices. Furthermore, advocates contend, the measure is not an outright ban, but rather prioritizes American demand and grants FEMA the discretion to allow the export of excess goods. Critics note that the United States imports many more of the goods subject to the restriction than it exports, thus imperiling U.S. supplies of those goods should more of its major trading partners take similar actions (**Figure 1**). Moreover, the United States is a net importer of other kinds of PPE and critics worry that counter export restrictions by U.S. trading partners might quickly encompass other goods. Still others are concerned about the impact of such restrictions on countries in Latin America and the Caribbean, many of which rely on U.S. exports of the goods subject to restrictions. As one trade economist noted, “Jamaica ... gets more than half of its total imports of respirators, masks, and gloves from the United States.”

## Export Restrictions Globally

By the end of April, at least 80 countries had introduced export restrictions as a result of the COVID-19 pandemic, according to the WTO. Since January 2020, countries have taken more than 117 actions banning or limiting the export of certain products, according to Global Trade Alert (**Figure 2**). The products covered by these export curbs vary, but have broadly fallen into two categories: medical goods (medical supplies, pharmaceuticals, and equipment) and foodstuffs. Getting an accurate picture of the total

number of export restrictions is difficult, as many WTO members, including China and the United States, have not yet officially notified the WTO's Secretariat of those restrictions. With respect to medical supplies, some analysts have argued that Chinese government actions in February 2020, including prioritizing domestic use (which was not reported to the WTO) and making large state-backed purchases on the international market, fueled global PPE scarcity and prompted the global restrictions. Currently, the Chinese government is selectively releasing PPE for export, with destinations seemingly chosen according to political calculations. See CRS Report R46304, *COVID-19: China Medical Supply Chains and Broader Trade Issues*, coordinated by Karen M. Sutter.

**Figure 2. Export Restrictions on Foodstuffs and/or Medical and Pharmaceutical Products**



**Source:** Global Trade Alert, Actions Taken January I -May I, 2020.

### Medical and Sanitation Supplies

As of May 1, at least 50 countries have taken at least 95 actions to impose export restrictions on medical goods, a category that includes general medical supplies (such as PPE), medical equipment, pharmaceuticals (the largest category in terms of actions), chemicals, sanitation products, and other medical goods. The United States imports more than \$130 billion of such goods annually from countries that have added restrictions since January.

### Foodstuffs

As of May 1, at least 17 countries have taken 22 actions to impose bans or licensing requirements on exports of foodstuffs, despite little evidence of shortages. For example:

- Russia, Kazakhstan, and Romania's restrictions on the export of wheat.
- Vietnam's restrictions on the export of rice.
- Turkey's restrictions on onions, lemons, and potatoes.

The impact of such restrictions could be severe. Russia, for example, is the world's top exporter of wheat. While some analysts note that such measures often accompany domestic policies to control prices (to discourage exporting goods to take advantage of noncontrolled prices abroad), others warn that such policies could lead to artificial shortages.

### Economic Impact

A growing economic literature has assessed the impact of past export curbs during crises, in particular related to raw materials and the food sector, on resource allocation, trade, and the competitiveness of industries. These studies have generally concluded that export restrictions, particularly by

larger producers, can have ripple effects throughout the global economy, affecting both the level and volatility of supply and prices. In the short run, export curbs by larger exporters may result in lower domestic prices and increase domestic availability of scarce medical products. At the same time, such measures can reduce the total global supply and limit the availability of such goods for countries with limited domestic manufacturing capacity. In addition, domestic price restrictions in exporting countries can reduce incentives for firms to produce and sell at home. Economists have also noted that export restrictions can lead to retaliatory measures that further cut off countries from essential supplies, disrupt supply chains, and create uncertainty.

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"Taken collectively, export restrictions can be dangerously counterproductive. What makes sense in an isolated emergency can be severely damaging in a global crisis. Such measures disrupt supply chains, depress production, and misdirect scarce, critical products and workers away from where they are most needed. Other governments counter with their own restrictions. The result is to prolong and exacerbate the health and economic crisis — with the most serious effects likely on the poorer and more vulnerable countries."

IMF and WTO, April 24, 2020

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### Reactions and Global Coordination

Countries and intergovernmental organizations have taken some coordinated action as concerns have mounted about growing export restrictions. In March 2020, for example, Germany, France, and the European Commission negotiated an end to intra-European export restrictions on medical supplies. That same month, G-20 countries stated that any emergency measures taken must be "targeted, proportionate, transparent, and temporary," and must not "create unnecessary barriers to trade or disruption to global supply chains." In April, the G-20 Agriculture Ministers issued a broadly similar statement in the context of food security. In May, 42 WTO members pledged to lift emergency measures as soon as possible; the United States, the European Union, and China did not participate in the pledge. Following expressions of concern, some countries, such as Turkey and Romania, have removed restrictions.

Some observers view the trade response to COVID-19 as reinforcing the need for a plurilateral agreement on medical goods to address broader trade issues, including the phasing out of export restrictions. For example, Singapore and New Zealand recently entered into an open agreement to remove tariffs, not to impose export restrictions, and to remove nontariff barriers on a list of COVID-19 related products. The two countries have invited others to join. Economists have favored this multilateral approach to helping diversify the supply chain and have advocated for a coordinated effort with close allies to prepare rapidly for a potential second wave of COVID-19 in the fall.

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