

Export Restrictions in Response to the COVID-19 Pandemic

Overview of Export Restrictions

In response to the Coronavirus Disease 2019 (COVID-19) pandemic, countries all over the world, including the United States, imposed temporary restrictions on exports of certain medical goods and some foodstuffs in order to mitigate potential shortages of key supplies. According to the World Trade Organization (WTO), for G-20 countries, export bans accounted for more than 90% of trade restrictions related to the pandemic. Many measures are not explicit bans, but vary from licensing requirements to a right of first refusal for the government of the exporting country. These restrictions have raised debate about the consistency of such actions with WTO rules and the potential impact on the global trading system. Some markets depend heavily on countries that have implemented trade restrictions. Most leading exporters are also major importers of critical supplies, which put integrated supply chains at risk. The proliferation of such measures prompted some countries to lift restrictions or to abide by certain principles in their temporary application.

WTO Rules

In general, WTO agreements are flexible in allowing the use of emergency trade restrictions related to national security or health that might otherwise contravene WTO obligations; the agreements require, however, that such restrictions be targeted, temporary, and transparent. 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. It allows members to apply restrictions temporarily “to prevent or relieve critical shortages of foodstuffs or other products essential” to the exporting country. 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.

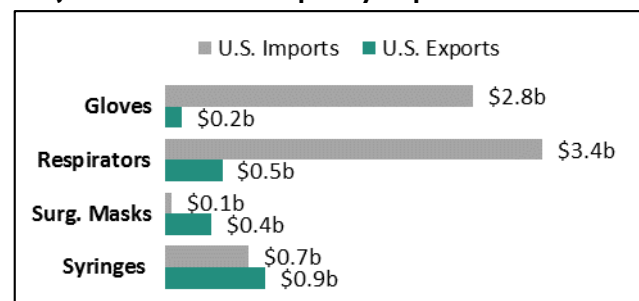
WTO leadership has emphasized the downside risks of curbs on exports and urged members to restrain their use and minimize disruptions to supply chains. The WTO has called on members to abide by notification obligations and improve transparency on COVID-related trade measures.

Recent U.S. Actions

In recent decades, U.S. export restrictions typically have 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 included various exemptions, including exports of subject goods that are destined for either Canada or Mexico. The rule also required FEMA to consider the need to minimize disruption to supply chains, the humanitarian impact of a restriction, as well as other diplomatic considerations. The restriction applies to an estimated \$1.1 billion of U.S. exports (**Figure 1**). On December 31, 2020, FEMA extended this temporary rule to June 30, 2021, and added syringes and needles to the list of restricted products.

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 it is necessary to prevent evasion of U.S. domestic anti-hoarding actions by exporting goods to markets where they can command higher prices. Advocates contend the measure was not an outright ban, but rather prioritized U.S. demand and granted 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. With the United States a net importer of other kinds of PPE, 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 restricted goods. As one trade economist noted, “Jamaica . . . gets more than half of its total imports of respirators, masks, and gloves from the United States.”

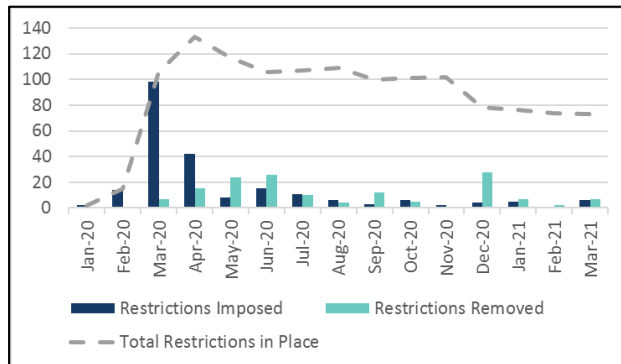
Export Restrictions Globally

Between January 2020 and the beginning of April 2021, countries took more than 220 actions banning or limiting the export of certain products for COVID-19-related reasons, according to Global Trade Alert (**Figure 2**). The products covered by these export curbs vary, broadly falling into two categories: medical goods (medical supplies, pharmaceuticals, and equipment) and foodstuffs.

Most of the export restrictions came early in the pandemic, peaking in March and April 2020. While many of the restrictions have been rescinded, as of April 1, 2021, more than 45 countries have more than 70 restrictions in force, most of which apply to medical goods.

An accurate picture of the number of restrictions is elusive, as many WTO members were slow or failed to notify the WTO Secretariat of all measures. As of mid-April 2021, 7 export restrictions and 64 quantitative restrictions had been notified. With respect to medical supplies, some analysts have argued that Chinese government actions in early 2020, including prioritizing domestic use and making large state-backed purchases on the international market, fueled global PPE scarcity and prompted the global restrictions. China has selectively released 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*.

Figure 2. Export Restrictions During COVID-19



Source: Global Trade Alert, January 1, 2020–April 1, 2021.

Economic Impact

A growing economic literature assesses 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 these goods for countries with limited manufacturing capacity. In addition, domestic price restrictions in exporting countries can reduce incentives for firms to produce and sell at home. Economists assert that export restrictions can lead to retaliatory measures that further cut off countries from essential supplies, disrupt supply chains, and create uncertainty.

Reactions and Global Coordination

Countries and intergovernmental organizations have taken some coordinated action, as concerns 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 emergency measures must be “targeted, proportionate,

transparent, and temporary,” and must not “create unnecessary barriers to trade or disruption to global supply chains.” In May 2020, 42 WTO members pledged to lift emergency measures as soon as possible; the United States, EU, and China did not participate. Following expressions of concern, some countries removed restrictions. The WTO reported that G-20 countries had lifted approximately 30% of trade restrictions by October 2020. At the same time, 63% of pandemic-related measures facilitated trade.

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. In December, a group of 13 WTO members proposed a “trade and health” initiative calling for cooperation in various areas, including tariffs and export policies. The WTO’s 1994 Agreement on Trade in Pharmaceutical Products addresses tariff liberalization of selected goods, but only applies to some WTO members. Economists have advocated for a coordinated effort to prepare for mitigating new virus variants and for global vaccine distribution.

“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

Vaccines and Trade

Economists and policymakers have expressed concern that if countries repeat the patterns observed in early 2020, they might hinder the production and equitable distribution of COVID-19 vaccines, as well as therapeutics. Some countries have considered or imposed export controls on vaccines or inputs necessary for production. Such actions would likely have a severe impact on vaccine availability in low-income countries. Others, such as the United States and India have more subtle restrictions, such as contract terms or informal agreements with vaccine or input manufacturers that prioritize output for the domestic population. In January 2021, the EU announced a “temporary export transparency and export authorization mechanism,” in effect through June, which would restrict certain vaccines under advance purchase contracts. There are exemptions, including for exports to certain low- and middle-income countries. In the first action taken, in March, the Italian government utilized the EU mechanism to deny a shipment to Australia. EU officials emphasize that shipments have been authorized to more than 30 countries.

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