

CUSTOMS REGULATORY FRAMEWORK ANALYSIS IN THE EARLY PHASES OF THE COVID-19 PANDEMIC IN TERMS OF INTERNATIONAL TRADE COOPERATION

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Abstract

To create a framework for customs administration based on international cooperation, it is necessary to apply fundamentally new technologies. Trade facilitation is especially important for many countries affected by the crisis. Amidst this global crisis, international cooperation on trade facilitation will remain essential for maintaining trade flow. Continued aid for trade will be particularly important to help developing countries implement trade facilitation measures required during the crisis. The article concludes that, in the context of global digital transformation, new opportunities are opening up for the customs regulatory framework, based on the introduction of large-scale data analysis technologies, immersive technologies, blockchain, use of innovative methods for obtaining and processing customs information (satellite tracking, radio frequency identification) and introduction of artificial intelligence technologies in customs control processes.

Keywords: *customs administration; customs rules; customs tariff; international trade; COVID-19;*

JEL Classification: *F02, F15*

I. INTRODUCTION

As markets integrate across borders and trade frictions due to tariffs, they are becoming less and less a concern, trade decision-makers are increasingly focusing on regulatory activities as potential barriers to economic and trade integration. The unnecessary regulatory divergence between jurisdictions is perceived as a potential increase in trade costs and an unjustified deterrent to international trade in the context of global value chains.

A key challenge for all border regulatory agencies, especially customs administrations, is to balance the application of controls with trade facilitation efforts. When trade boomed in the second half of the twentieth century, the emphasis was naturally on facilitation. Priorities changed after the terrorist attacks in the United States on September 11, 2001. Thereafter, the emphasis in most countries has shifted to border protection. By focusing on security, businesses incur direct and indirect costs at the border, facing serious procedural delays amid a lack of regulatory predictability.

II. LITERATURE ANALYSIS

The Russian Federation, the United States of America, Japan, China, the European Union occupy the leading positions in the world in terms of industrial potential, agricultural production volume, natural resources volume and have a favourable geographical position, which contributes to ensuring their economic security. However, these countries significantly differ in the above criteria, as well as in the state mechanism for regulating their national economies (Григорьева, 2015).

Among the tasks of customs regulations, we can highlight the formation of a legally defined system of obstacles (barriers) for a free crossing of the customs border or the removal of certain objects before, during or after crossing the customs border within economic security. Specialized papers indicate that the priority tasks of customs policy are not the creation of a system of obstacles (barriers) for a free crossing of the customs border, but the crossing system streamlining, channelling it into a legislative direction, which will result in the import of high-quality commodities (raw materials) into a given country (which are usually not produced in such country and are necessary for the functioning of domestic industry and the satisfaction of consumer needs) and the replenishment of the state budget to the detriment of taxes and duties, which form the core of economic security (Ireland, 2009).

International customs cooperation is now commonly understood as the co-operative direction of international organizations, states represented by their customs administrations, which consists in the joint

coordination of their efforts in the field of public relations related to ensuring the customs authorities' order and rules for the movement of commodities across the customs border. As the author Kostin notes, the further development of cooperation with the customs services of foreign states and international organizations will expand and strengthen the contractual and legal framework of customs cooperation in a bilateral and multilateral format, to speed up the work on the interaction of customs services, paying attention to the convergence of customs legislation, development of information technologies and simplification of movement of customs orders and state borders of commodities and vehicles (Костин, 2014).

III. RESEARCH RESULTS

Trade facilitation reforms are gaining increasing attention as a tool for development, recognizing that trade is a way to achieve sustained growth and poverty reduction. The area has also significantly grown in the context of lower barriers to market entry following rounds of multilateral and regional trade negotiations. Various estimates show that trade costs reduce the impact of tariffs on trade flows.

The extent of the COVID-19 pandemic is a consequence of international trade and globalization, the virus spreading along set out trade and travel routes. However, the pandemic is also affecting international trade through reductions in both supply and demand.

The coronavirus pandemic has shaken the global economic model and created risks for long-term growth associated with a reduction in demand, reduction and closure of production capacities, deterioration in the quality of human capital, disruption of production and technological chains, and identified the most vulnerable points of national economies and became a test of strength for most integration associations in the world.

Although most economic shocks are precipitated by either reduction in demand (for example, due to bank failures and loss of revenue) or supply (for example, due to a sharp increase in prices and rising production costs), COVID-19 has simultaneously created both situations.

For example, as per BDI data, on April 24, 2020, more than 80 countries and customs territories have introduced export bans or restrictions as an immediate response to the pandemic. In a world of integrated and often just-in-time production processes, these actions led to marked reductions in the supply of manufactured commodities, first in China and then in other countries. Labour shortages in ports caused by the pandemic have further slowed the movement of commodities. Meanwhile, job closures in many countries and subsequent wage losses have reduced demand for retail commodities and traded services. Many of these trends are expected to continue as new lockdowns are introduced in response to the second wave of infections.

The COVID-19 pandemic is a factor of change in the international environment, a risk multiplier and a catalyst for changing the world order (Claudia, 2020). China-US trade relations are currently the most complicated in the world. It covers a wide range of sensitive issues; however, having so much at stake, the two nations must maintain their cordial relationship. According to the latest WTO trade dispute settlement statistics, the United States has filed 15 cases against China, while China has filed eight cases against the United States (both of which are the highest on the WTO Dispute Map). The main causes are supported by the US government, such as the manipulation of foreign exchange mechanisms, protectionist industrial policies, and infringement of intellectual property rights by China; on the contrary, the Chinese government complains about US protectionist industrial policies, discriminatory treatment of China as a non-market economy and its trade remedies.

Faced with growing cases of trade tensions, both China and the US customs authorities have realized the importance of strengthening cooperation and managing supply chain compliance, for example, in terms of mutual exchange of information, mutual support in law enforcement and mutual recognition in customs control, which supports efforts to combat and prevent the escalation of illegal trade in mutual exchanges of blows. To this end, the two sides have strengthened confidence-building, as regards the security of supply chain and trade facilitation, exchange of information and personnel, joint operational exercises for the identification and prohibition of illegal and illicit commercial activities, such as infringing intellectual property rights. However, trade tensions are a comprehensive issue that goes far beyond customs control.

Trade-restrictive measures on exports have received particular attention during recent crises, including both the global financial crisis and the COVID-19 crisis. According to the World Trade Organization, in the early stages of the COVID-19 pandemic, some countries used temporary export bans for essential commodities to address the lack of domestic supply of these commodities. By the end of April 2020, 80 countries and customs territories had implemented export restrictions (see Figure 1), and by November 2020 this number had increased to 86 commodities (Bacchetta & Bekkers, 2021). These measures primarily targeted medical supplies (e.g., medical face masks and shields), pharmaceuticals and medical equipment (e.g. ventilators), but several measures have also been imposed on other consumer commodities, such as foodstuffs and toilet paper (Figure 1).

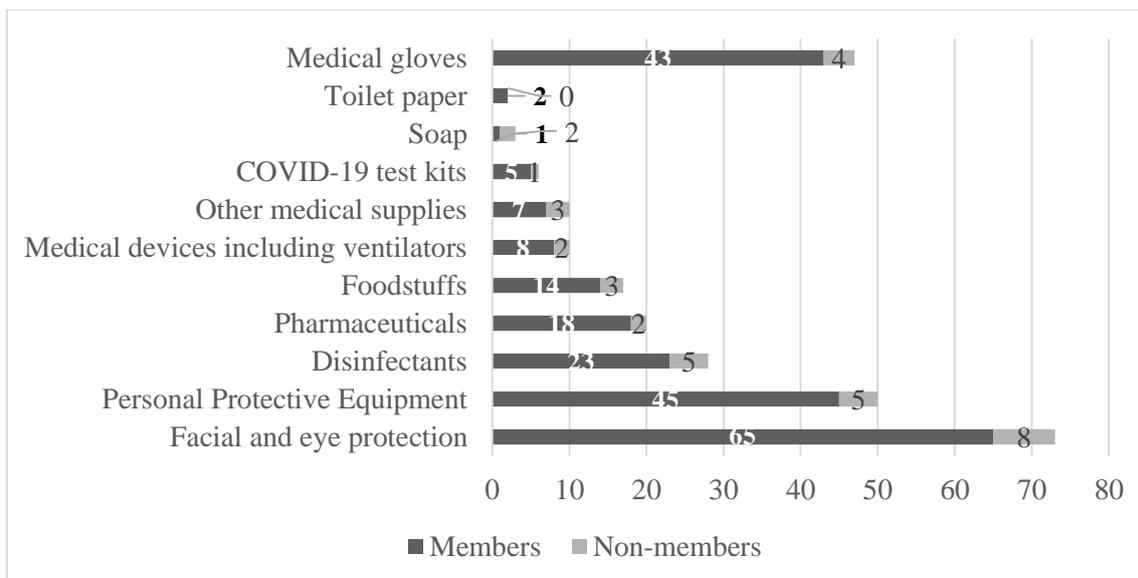


Figure 1 – Number of COVID-19 export-restricted savings
Source: Elaborated by the author based on bibliographic sources

Export restrictions have also been placed on vaccines and their randomized products. Based on the confirmed information, 32 countries have restricted the export of at least one product, while 21 countries have used export bans and 11 countries have used export licensing schemes. Several measures have been withdrawn, but others are still in force or have been renewed. Many vaccine production materials could potentially be affected, and because different vaccine manufacturers use different materials, they are differently affected by restrictions.

Trade-restrictive export measures have also been implemented in response to other types of shocks. For example, export bans were used in 2006-2008 in response to increases in commodity prices (Evenett & Frit, 2020). In the case of natural disasters, restrictive measures are also common and tend to be primarily focused on the agricultural sector. These policies are often unwise. A shock impact simulation shows that the implementation of trade restraint measures reduces the ability of a country to access critical commodities during a shock and increases recovery-related efficiency costs.

Finally, restrictive trade policies can also be a direct strategy for mitigating certain shocks. For example, travel restrictions, reduced trade and quarantine of commodities and people were the most effective measures to overcome epidemics before the development of modern medicine.

By the end of July 2020, 40 WTO members had suspended taxes on essential medical supplies, and approximately 39% of the COVID-19 restrictive measures on commodities had been repealed by mid-October. In most countries, customs procedures and customs clearance of medical suppliers have been simplified to speed up imports of critical commodities; special channels have been set up to simplify imports of medical products and to facilitate the movement of healthcare workers; and exceptional government procurement, as well as intellectual property (IP), measures have been implemented to speed up the provision of medical services, facilitate innovation and facilitate access to new technologies.

Blockchain technology, which underpins cryptocurrencies and decentralized information exchange systems, is also important to solve problems and tasks in the customs regulatory system.

The greatest potential of blockchain technology is predicted in the following areas:

- I. Customs sharing information on the supply chain of participants in foreign economic activity to other regulators through the blockchain, in particular to tax authorities for tax control purposes;
- II. Programming the commodities tracking system similar to smart contract technology;
- III. Comprehensive analysis of product supply chains to improve the risk management system;
- IV. Verification of commodities certificates of origin and control of commodities country of origin.

Developed countries more intensively regulate the agri-food sector and manufactured products than developing countries and underdeveloped countries. While the least developed countries have, on average, seven non-tariff measures for each imported agri-food product, the developed countries have 13.

Historically, tariff regulation has developed based on a constant struggle between protectionist and free trade approaches in regulating foreign economic activity. The protectionist approach aims at creating more favorable conditions for the development of domestic production and the domestic market (List, 1973). Its main goals are achieved by setting a high level of customs duties on imported goods, while free trade approaches involve

a minimum level of customs duties and are aimed at encouraging the importation of foreign commodities into the domestic market.

The global customs area includes countries with different levels of protection of national markets and tariffs harmonization, which is confirmed by the analysis of the customs profiles of individual countries (Table1).

Table 1. Differences between the WTO Member States in terms of Tariff Protection Levels

Countries	Tariff harmonization (%)	The mandatory arithmetic average (marginal) tax rate	The arithmetic average rate of CNF duty (MFN customs duty)
Brazil	100	31.5	13.4
Israel	74.7	22.6	4.5
India	74.5	48.4	13.3
Indonesia	96.4	37.1	6.8
E.U.	100	4.8	5.1
Canada	99.6	6.8	4.2
China	100	10.1	10.1
Mexico	100	36.1	7.1
U.A.E.	100	14.5	4.7
The U.S.A.	100	3.4	3.5
Singapore	69.7	9.5	0.2
Turkey	50.2	28.7	10.7
Japan	99.6	4.33	4.0

Source: Elaborated by the author based on bibliographic sources

Tariff issues are often voiced by countries as hindering trade liberalization. Therewith, the regulation of the customs space (hence, the regulation of commodities flows, customs and logistics infrastructure, ensuring space security, etc.) is not limited to tariff instruments. The study of foreign experience shows the spectral nature of national economic security in different countries of the world and the goals of a customs policy. For example, in the US, a customs policy is understood as an optimal system of goals, principles, functions, directions of customs activities. In Australia, this is a system of measures used by the State to establish a specific system of customs taxation of commodities imported into the country and their customs clearance. In China, it is part of the state's foreign trade activity, which regulates the volume, structure and conditions of export and import of commodities. In the EU, customs regulation ensures the most efficient use of customs control and trade regulation instruments in the customs territory, participation in the implementation of trade and policy tasks in terms of protecting the domestic market, stimulating the national economy and supporting national and regional security (Widdowson, and Stephen, 2020).

The Network of European Agreements is characterized by the diversity of trading partners involved, both in terms of the level of development and geography. With the notable exception of Russia, Central Asia and some countries, which are excluded from the foreign policy for obvious reasons (Iran, North Korea, Venezuela, Cuba, Libya), there is almost no region of the world that has not been affected by the dynamism of European trade diplomacy.

As has been experienced since the beginning of the COVID-19 pandemic, tariffs are not the only impediment to trade diversification. Several factors, such as the customs classification of medical ingredients for vaccine production or requirement for original certificates of conformity or certificates of origin on paper may delay the import of essential goods and discourage traders from diversifying their sources of supply. The WTO Trade Facilitation Agreement (TFA), which entered into force in 2017, contains measures to speed up the movement, release and customs clearance of commodities, including transit commodities; to improve cooperation between customs authorities and other authorities on trade facilitation and customs compliance and for technical assistance and capacity building in this field.

The most common category of trade facilitation provisions in the RTA (Regional Trade Agreements) relates to the exchange of information, primarily for enforcement purposes. Procedures for appealing or reviewing

customs decisions and other administrative decisions are also common. While most RTA trade facilitation chapters do not go beyond the requirements of Article VIII (“Duties and Formalities related to Import and Export”) of the GATT 1994 in terms of duties and customs duties, several RTAs promote the international use (especially of a global customs). World Customs Organization (WCO) Standards for Import, Export and Transit Formalities. Others engage in legal harmonization by adopting directly enforceable customs codes or rules to be implemented by the parties to such RTAs in their national legislation. E-customs has significant potential for trade facilitation and paperless trading features in RTAs between countries that have access to relevant technology.

More multilateral or regional trade cooperation, underpinned by strong international trade rules, can support the various internal strategies pursued to avoid and mitigate risks and to prepare for, manage and recover from shocks. Risk reduction measures and resilience policies in a country may have positive effects in other countries, but if global coordination is lacking, the adoption of such policies by individual countries is likely to be less than optimal from a global perspective. Cooperation may also help to limit the use of policies that may hurt trading partners, such as export restrictions or subsidies.

Trade cooperation can contribute to more open markets and more inclusive, stable and predictable trade, which promotes the diversification of products, suppliers and markets, thus improving impact resistance. Cooperation can also promote greater transparency, information exchange and predictability in the global market, helping countries to better assess production capacity, avoid bottlenecks, manage stockpiles and prevent overstocking, increasing their ability to respond to crises. An example of resilience-enhancing information exchange is the *Agricultural Market Information System (AMIS)*, a platform for international agencies, including the WTO, aimed at supplying important agricultural products, reassuring countries when deliveries are adequate and providing a forum for coordinated policy responses when needed.

WTO contributions to trade cooperation include reduced trade barriers, simplified customs procedures, encouraging greater transparency and predictability of customs policies, strengthening trade capacity in poorer countries and working with other international organizations to strengthen the global economy.

Improving the efficiency of trade-affected domestic services also plays an essential role in building and sustaining economic resilience. Slow customs procedures and processes, such as refusal to release commodities until full payment is received, delays in determining which commodities are exempt from tariffs and burdensome documentation requirements can impede the delivery of emergency supplies during crises. Landlocked countries are particularly vulnerable to disruptions in the delivery of essential goods due to transit problems. Several countries have taken trade facilitation measures since the outbreak of the COVID-19 pandemic, for example, giving priority to customs clearance of critical supplies (e.g., foodstuffs and medical supplies), temporarily suspending certain customs duties and expanding the capacity of its commercial infrastructure.

Increased cooperation to improve the predictability and transparency of measures affecting cross-border mobility is also important to reduce barriers to the provision of cross-border services and the delivery of essential goods. Global e-commerce rules could further facilitate the delivery of services and goods. Promoting access to public procurement and international coordination of domestic procurement policies could allow for more efficient use of public resources, especially in the procurement of medical products, including vaccines. New intellectual property and investment initiatives could also promote access to relevant technologies in low- and middle-income countries.

V. CONCLUSION

The World Customs Organization offers a broad vision for customs in the 21st century, which is to support international development, security and peace by providing and facilitating international trade. In a rapidly changing globalized world, an enhanced connection between all agencies/parties involved in international trade and travel supply chains is essential. As two important bodies in trade facilitation, both customs and port authorities should better serve the business community. Improving capacity and developing a service mindset are two principal ways to expand support for trade. Refocusing customs authorities from revenue collection toward an emphasis on trade facilitation would bring huge benefits to the country by promoting growth in trade, investment and growth.

Overall, the data show that customs reform leads to important results, including lower trade costs and the potential to improve the economic welfare of countries with fewer trade restrictions. On average, developed countries tend to do better in terms of customs and border administration measures i.e., trade facilitation, than developing countries. For the success of developing countries, should focus on building institutions such as central banks and ministries of finance that explicitly look for ways to minimize the macroeconomic volatility associated with globalization.

Although trade policy and international trade can play an important role in building and sustaining economic resilience, they cannot overcome other obstacles that can prevent the full realization of economic resilience. Given the wide spectrum of risks and shocks, and the cross-cutting nature of economic resilience, strengthening cooperation between the WTO and international and regional organizations specializing in issues

that are important for economic resilience, such as risk prevention, disaster relief, public health, climate change, environmental protection and financial stability are essential to promote coordination and coherence in the various efforts to build and sustain economic resilience.

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