

Countries around the world continue to enact policies aimed at mitigating the spread of COVID-19 that both recognize the importance of trade to their respective economies, but also seek to address domestic demand for key goods – especially medical supplies – related to the crisis. Similarly, some recent government policies around the world have shifted focus inward on ensuring domestic food security and this may contribute to food insecurity in other parts of the world that rely on imports. In the US, administration officials and members of Congress continue their efforts to support US businesses impacted by the pandemic.

### Trade and Supply Chains

**Food (in)security mounts around the world.** The COVID-19 crisis has forced many governments around the world to reconsider trade policies, including those related to food security. The food supply chain is increasingly struggling amid COVID-19 quarantines, the related labor shortages and shipping interruptions that left food rotting before getting to market. Since the end of March 2020, a number of countries have [imposed](#) export restrictions on food and agriculture. For example, Russia proposed a 7 million tones grain export quota for April through June, Serbia stopped shipments of sunflower oil altogether and Vietnam temporarily suspended rice export contracts until March 28. Additional restrictions will likely follow to ensure domestic consumption needs are met, creating a “[multiplier effect](#)” on food prices that will likely disproportionately affect less developed countries. Benchmark rice prices in Thailand have already risen [more](#) than 11% since the end of February and the price of wheat futures trading in Chicago has [risen](#) 15% since mid-March.

The G-20 leaders pledged on March 27, 2020, to inject over US\$5 trillion into the global economy to preserve jobs, maintain trade flows and prevent the disruption of food supply chains. The US\$2.2 trillion Coronavirus Aid, Relief, and Economic Security (CARES) Act in the US allocates US\$23.5 billion in assistance to American farmers. The UK Coronavirus Emergency Bill also aims [to support](#) its domestic food industry and suppliers. The European Commission [published](#) guidelines to not only protect health, but also ensure the availability of goods and essential services. Governments have also refined their lockdown policies to minimize disruptions to food supplies domestically, such as keeping open farming and fishing and directing unimpeded movement of food-supply workers in the Philippines. Ireland also similarly exempted farming from a two-week lockdown announced at the end of March. Whether additional food security protectionist measures emerge remains unclear but likely, especially as COVID-19 continues to surge and lockdowns are extended in various parts of the world in the coming weeks.

**COVID-19 shuts down India; government responds to preserve trade and commerce.** On March 25, 2020, at midnight local time, India locked down the country for at least 21 days. Prime Minister Narendra Modi guaranteed that essential commodities would remain accessible during the lockdown. Following the announcement, the Indian government issued [guidelines](#) on essential services that will remain open (guidelines originally issued on March 24 and further amended on March 25 and March 27, with two addenda, on [March 24](#) and [March 27](#)). Additionally, [standard operating procedures](#) for maintaining supply of essential goods and services during the lockdown were issued on March 26. On March 29, the Home Secretary issued [additional guidelines](#) to the lockdown that noted, “transportation of all goods, without distinction of essential and non-essential, have been allowed.” On March 31, the Ministry of Commerce & Industry issued a [notification](#) to extend India’s Foreign Trade Policy (FTP) 2015-2020 for one year, until March 31, 2021, which also extends the validity of various import-linked export schemes. In addition to efforts to sustain trade and commerce activities, Prime Minister Modi constituted 11 empowered groups, comprised of senior representatives from the his office, cabinet-level officials and Indian think tank leaders, for crisis response planning and quick implementation of decisions. To help monitor the situation and provide transparency, the Indian government launched an official COVID-19 tracker, available [here](#).

Notably, India supplies more than 25% of the world's generic drugs. It supplied 24% of medicines and 31% of medicine ingredients to the US in 2018, as reported by the US Food and Drug Administration. In preparation for COVID-19 containment and to preserve the national stockpile, the Indian government restricted the export of 26 drug ingredients and the medicines made from them, including hydroxychloroquine (HCQ), an anti-malarial drug touted by US President Donald Trump as a potential COVID-19 treatment. President Trump warned on April 6 that India might face retaliation if it did not withdraw the ban on exports. On April 7, 2020, the Indian government announced it would license "appropriate quantities" of HCQ and paracetamol to neighboring countries "dependent on our capabilities," as well as supply "these essential drugs to some nations who have been particularly badly affected by the pandemic," such as the US. The Indian government further lifted the restrictions on the export of 24 pharmaceutical ingredients and medicines made from them, after confirming it had sufficient stockpiles to meet anticipated domestic needs. India's lockdown is the largest in the world and is already having ripple effects on supply chains as workers stay home.

**Mexico declares health emergency.** On March 30, 2020, the government of Mexico declared a health emergency and issued a decree with strict measures on non-essential activities in the public and private sectors to stop the spread of COVID-19. In order to prevent the health system from being overwhelmed with the increasing number of cases, these measures will remain in effect until at least April 30, 2020. The Mexican Health Ministry divided essential activities into five categories: health, security, economy, social programs and critical infrastructure. On April 7, Mexico's *Diario Oficial de la Federacion*, the equivalent of the Federal Register in the US, announced that the steel industry, glass producing companies and cement production are considered "essential areas." Mexico's Healthy Secretary, Jorge Varela, said these industries would suffer irreversible damage to production capacity if not deemed essential.

Mexico has been suffering an economic slowdown recently, further heightened by the collapse of oil prices and unstable stock markets. With the current health situation, several industrial sectors are being affected, including tourism, automobile manufacturing, financial services, cross border trade, construction and the food industry. The government has swiftly prioritized a number of programs to address the impact of COVID-19 in Mexico. President Andrés Manuel López Obrador is developing an economic contingency plan that might include lower salaries for government functionaries, as he calls on the private sector to support and maintain its workers. Companies will likely pay close attention to the package designed by the federal government, which is expected to include tax measures and aid to minimize the closure of companies, restore national production of global value chains, and provide subsidies and employment protections.

**US Department of Transportation finalizes commercial airlines order.** Helping to define clearly commercial airline service operation obligations during the crisis, the US Department of Transportation finalized an order on April 7, 2020, establishing minimum service requirements for those commercial airlines receiving coronavirus-related aid from the government. It largely preserves the draft order with some modifications to address concerns raised by smaller and low-cost carriers with seasonal traffic. Carriers that served points as of March 1, 2020 would have to continue serving those points, albeit with a modified frequency, and it allows airlines to consolidate flights at one airport, as originally proposed. In a concession to low-cost carriers, the final order changes how many flights will be mandated for airlines with a small share of domestic capacity. While the order does not mandate service on international routes, which will likely impact drug manufacturers concerned with sustaining medical and pharmaceutical supply chains, it provides for potential exceptions on an emergency basis. All-cargo airlines, charter and air taxi operators are not subject to the requirements.

**EXIM Bank moves to provide temporary relief to exporters.** On March 25, 2020, the US Export-Import (EXIM) Bank [announced](#) four new initiatives intended to provide temporary relief to the US exporting community or its foreign customers during the COVID-19 pandemic:

1. Bridge Financing Program ([fact sheet](#))
2. Pre-Delivery/Pre-Export Financing Program ([fact sheet](#))
3. Supply Chain Financing Guarantee Program ([fact sheet](#))
4. Working Capital Guarantee Program ([fact sheet](#))

According to EXIM Bank, the initiatives "will take effect and be available immediately, subject to the final determination of policies and procedures, as applicable"; are set to expire on April 30, 2021. For ease of reviewing, we gathered the above-referenced program information in one summary [here](#).

**Amid the crisis, CFIUS remains a vital step in clearing M&A transactions.** Like many federal agencies operating in Washington DC, the staff administering the Committee on Foreign Investments in the United States (CFIUS) process at the US Department of the Treasury (the Treasury) has been impacted by social distancing safeguards designed to limit the spread of COVID-19, creating delays in starting new cases and clearing existing ones. CFIUS is an inter-agency committee administered by the Treasury that reviews foreign investments that may implicate US national security interests. Some of these filings are mandatory, while others may be voluntary (a voluntary filing and subsequent clearance provides a safe harbor from future CFIUS actions in relation to that investment by the foreign person). Many investments involving foreign persons may have transactions that are conditioned on CFIUS review and clearance, whether the filing is mandatory or voluntary. Once parties submit a filing to CFIUS, CFIUS reviews the filing for completeness and, once accepted, starts a statutory 45-day review period.

While CFIUS is under statutory obligations to conduct reviews within a 45-day timeframe, if CFIUS needs more time to process cases, it may take various steps to create more time in the process. For example, CFIUS may extend reviews into a second 45-day investigation period. Given the current challenges facing the CFIUS staff, parties should anticipate delays associated with the process, however, the extent of any delays will depend on various factors, including the specifics of each case. Companies contemplating or involved in pending mergers and acquisitions (M&A) during this uncertain time should not rush to waive covenants requiring CFIUS approval or forego the benefits of the safe harbor protections that a CFIUS clearance would afford. The potential risks of post-closing CFIUS action down the road remain, even if present delays are burdening the process. Parties seeking guidance as to the CFIUS risks implicated by a transaction should contemplate obtaining a national security risk assessment from experienced CFIUS counsel to help determine whether a mandatory CFIUS filing is required or whether a voluntary filing to CFIUS should be considered as part of the M&A discussion.

## Defense

**DOD industrial base may produce additional test kits; possible relief ahead for small and medium sized suppliers.** House Armed Services Committee (HASC) Chairman Adam Smith (D-Washington) suggested, during an April 7, 2020 teleconference, that the defense industrial base may be best suited to help with “mass production” of coronavirus test kits for longer-term needs. Chairman Smith said he might include a provision in the Fiscal Year 2021 National Defense Authorization Act (NDAA) that would authorize production of the test swabs within the US Department of Defense (DOD) until a vaccine is developed, anticipating a need to test en masse over the next several months. Chairman Smith also shared he has been talking with Speaker Pelosi about including funding in the next coronavirus legislative package to ramp up testing kit production and is considering provisions that could assist the defense industrial base in the aftermath of the epidemic, particularly small and medium sized suppliers. HASC currently plans to have a draft NDAA measure ready by May 1. On April 9, Senate Armed Services Committee Chairman James Inhofe (R-Oklahoma) suggested a draft may not be ready in the upper chamber until later in May. He noted the timeline “remains flexible because of the uncertainty associated with the coronavirus in the weeks ahead.”

**Guidance sought for defense contractors operating during the crisis.** On April 1, 2020, members of the Ohio congressional delegation sent a letter to US Secretary of Defense Mark Esper and Under Secretary of Defense for Acquisitions and Sustainment Ellen Lord urging the DOD share updated guidance for defense contractors amid the COVID-19 pandemic. Specifically, the lawmakers were seeking clarity on “which tasks and personnel are deemed ‘mission essential’” and rules by which contractors can telework in order to fulfill contractual obligations and ensure worker safety. Lawmakers continue to seek to clarify restrictions and opportunities for constituent businesses struggling to navigate doing business in the time of COVID-19.