

TRADE IN THE TIMES OF COVID-19: POLICY IMPLICATIONS ON THE INDIAN ECONOMY

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*A system of perfectly free commerce...distributes labour most effectively and most economically: while, by increasing the general mass of productions, it diffuses general benefit, and binds together by one common tie of interest and intercourse, the universal society of nations throughout the civilized world.*²

- David Riccardo

I. INTRODUCTION

The preventive and protective measures taken by various nations during the novel coronavirus (COVID-19) pandemic, which has affected 187 countries and claimed 251,562 lives as of May 5, 2020,³ have triggered a protectionism versus free trade debate. The economic implications of COVID-19 are manifold, with international trade being an

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² DAVID RICCARDO, ON THE PRINCIPLES OF POLITICAL ECONOMY AND TAXATION 134 (1953).

³ Coronavirus Research Center, JOHN HOPKINS UNIVERSITY (Apr. 8, 2020, 11:15 AM), <https://coronavirus.jhu.edu/map.html>.

important facet. Lockdowns and restrictions on movements have interfered with labour supply and mobility, which have in turn caused a halt in production and disrupted supply chains globally.⁴ The World Trade Organization (WTO) predicts global trade to fall by 13 to 32 per cent in 2020 as a result of the extremely high uncertainty associated with COVID-19.⁵ This crisis is being likened to the 2008 global financial crisis. Just like international trade never resumed its previous trend after 2008, it is highly unlikely, even in the most optimistic scenario that trade will resume to its earlier trend once the pandemic is contained.⁶

With the Indian economy spiralling down recently, economists were counting on the last quarter of the current financial year for recovery.⁷ However, the spread of COVID-19 and the subsequent stringent measures, including a national lockdown, have led the economy to a level from where recovery looks like a distant dream. The lockdown has created a supply slump by bringing the production of non-essential goods and services to a standstill.⁸ On the demand side, there has been a significant fall because of decreased employment and income levels coupled with the postponed purchases due to low confidence levels amidst

⁴ *Coronavirus (COVID-19): Joint actions to win the war*, ORG. FOR ECON. CO-OP. & DEV. (Apr. 30, 2020), [https://read.oecd-ilibrary.org/view/?ref=119_119674-tbcxotkmhb&title=Coronavirus_\(COVID-19\)Joint_actions_to_win_the_war](https://read.oecd-ilibrary.org/view/?ref=119_119674-tbcxotkmhb&title=Coronavirus_(COVID-19)Joint_actions_to_win_the_war).

⁵ World Trade Org., Press Release, *Trade set to plunge as COVID-19 pandemic upends global economy* (Apr. 8, 2020), at https://www.wto.org/english/news_e/pres20_e/pr855_e.htm.

⁶ *Id.*

⁷ *Impact of Covid-19 on the Indian Economy*, FEDERATION OF INDIAN CHAMBERS OF COMMERCE & INDUS. (Apr. 30, 2020, 6:05 PM), <http://ficci.in/spdocument/23195/Impact-of-COVID-19-on-Indian-Economy-FICCI-2003.pdf>.

⁸ *Coronavirus lockdown: List of what will be affected and what will be available*, THE HINDU (Mar. 23, 2020), <https://www.thehindu.com/news/national/coronavirus-lockdown-list-of-what-will-be-affected-and-what-will-be-available/article31140332.ece>.

the uncertainty.⁹ There has been a substantial decrease in Indian exports as well as imports. In April 2020, the exports were estimated to be as low as \$27.96 billion, a fall of 36.65% in comparison to April 2019.¹⁰ The imports were estimated to be \$ 27.80 billion in April 2020, a decrease of 47.36% with respect to April 2019.¹¹ Thus, COVID-19 might have long drawn, perceptible negative effects on the Indian economy.

II. THE POLICY RESPONSE

To avert the world economy from a global recession, governments worldwide have come up with a number of measures. A direct outcome of the pandemic is the export restrictions and elimination of import tariffs on certain goods. For instance, the European Union exempted VAT and import duties on the import of certain goods in the context of the pandemic.¹² More than 80 countries have imposed export restrictions covering medical supplies, with some countries also extending the restrictions to food supplies, and even toilet paper.¹³ A case in point is the United States, which used to be at the forefront of trade liberalization. But in the times of COVID-19, the Trump administration has imposed tariffs worth \$5 billion on the import of medical supplies from China and has asked the American companies to restrict the supply of face masks to

⁹ *supra* note 7.

¹⁰ Ministry of Commerce and Industry, Press Release F. No. 1/3/2019-EPL-1 (Apr. 15, 2020), *at* https://commerce.gov.in/writereaddata/UploadedFile/MOC_637225730430502497_Press%20Release%20March%202020.pdf.

¹¹ *Id.*

¹² *COVID-19: Trade and trade-related measures*, WORLD TRADE ORG. (May 1, 2020, 1:33 PM), https://www.wto.org/english/tratop_e/covid19_e/trade_related_goods_measure_e.htm

¹³ *Export Prohibitions and Restrictions*, WORLD TRADE ORG. (May 1, 2020, 12:43 PM), https://www.wto.org/english/tratop_e/covid19_e/export_prohibitions_report_e.pdf.

South American countries and Canada.¹⁴ Similarly, France and Germany also banned the export of medical supplies, and were condemned for not helping virus ravaged Italy.¹⁵ Measures like these, along with supply disruptions in various nations, have adversely affected international trade.¹⁶

India has also resorted to export restrictions and import promotion of certain medical and surgical equipment, from as early as January 2020.¹⁷ For instance, import of ventilators, face masks, Personal Protection Equipment (PPE) etc. have been exempted from customs duty and health cess till September 30, 2020.¹⁸ However, several export restrictions have since been relaxed. Most notably, the export of hydroxychloroquine, which had initially been banned, was subsequently allowed stating humanitarian grounds as the reason.¹⁹

In April 2020, India amended its Foreign Direct Investment Policy such that overseas investment by any entity of a country sharing a land

¹⁴ *Covid-19 is bringing out protectionist instincts*, FINANCE TIMES (Apr. 19, 2020), <https://www.ft.com/content/ed78b09c-80a3-11ea-8fdb-7ec06edeef84>.

¹⁵ Harry Broadman, *Protectionism Makes The Coronavirus Even More Lethal*, FORBES (Mar. 31, 2020), <https://www.forbes.com/sites/harrybroadman/2020/03/31/protectionism-makes-the-coronavirus-even-more-lethal/>.

¹⁶ *Global Trade Impact of Coronavirus (COVID-19) Epidemic*, U.N. CONFERENCE ON TRADE & DEV., <https://unctad.org/en/PublicationsLibrary/ditcinf2020d1.pdf> (last visited Apr. 25, 2020).

¹⁷ *supra* note 12.

¹⁸ Ministry of Finance, Govt. of India, *Government Grants exemption from Basic Custom duty & Health Cess on import of Ventilators, PPE, COVID mini Test Kits & Face & Surgical Masks* (Apr. 2020), at <https://pib.gov.in/newsite/PrintRelease.aspx?relid=201139>.

¹⁹ Amiti Sen, *Analysis India's change of heart on hydroxychloroquine exports lacks conviction*, THE HINDU (Apr. 12, 2020), <https://www.thehindubusinessline.com/economy/analysis-indias-change-of-heart-on-hydroxychloroquine-exports-lacks-conviction/article31321731.ece>.

border with India would require prior government approval.²⁰ Since China is the only significant trading partner amongst India's neighbours, a presumptive but plausible explanation of the amendment is that it is a protectionist measure against the recent increase in Chinese investment in India.²¹ India has also been actively promulgating relief policies to facilitate trade, such as, inter alia, extending the Foreign Trade Policy for a year,²² giving temporary relaxation with respect to Foreign Portfolio Investor requirements,²³ and launching a digital platform for issuance of e-certificate of origin to exporters.²⁴ Export oriented units have been exempted from the lockdown from April 20, 2020.²⁵ To ensure regular supply, the Ministry of Shipping has suggested not imposing any additional container detention charges in respect of export and import

²⁰ Ministry of Commerce & Indus., Govt. of India, *Government amends the extant FDI policy for curbing opportunistic takeovers/acquisitions of Indian companies due to the current COVID-19 pandemic* (Apr. 2020), at <https://pib.gov.in/PressReleasePage.aspx?PRID=1615711>.

²¹ Harsh Pant & Nandini Sarma, *India Cracks Down on Chinese Investment as Mood Turns Against Beijing*, FOREIGN POL'Y (Apr. 28, 2020), <https://foreignpolicy.com/2020/04/28/india-china-fdi-restrictions-coronavirus/>.

²² Ministry of Commerce & Indus., Govt. of India, *Foreign Trade Policy 2015-2020 Extended for one Year; Other Immediate Relief Measures also announced* (Mar. 2020), at <https://pib.gov.in/PressReleasePage.aspx?PRID=1609704>.

²³ Securities & Exchange Board of India, Circular, *Temporary relaxation in processing of documents pertaining to FPIs due to COVID-19* (Mar. 2020), at https://www.sebi.gov.in/legal/circulars/mar-2020/temporary-relaxation-in-processing-of-documents-pertaining-to-fpis-due-to-covid-19_46455.html.

²⁴ Ministry of Commerce & Indus., Govt. of India, *Commerce and Industry Minister Launches Common Digital Platform for Issuance of Electronic Certificates of Origin* (Sept. 2019), at <https://pib.gov.in/newsite/PrintRelease.aspx?relid=193213>.

²⁵ Ministry of Home Affairs, Govt. of India, Order No. 40-3/2020-DM-I(A) (Apr. 15, 2020), at https://www.mha.gov.in/sites/default/files/MHA%20order%20dt%2015.04.2020%2C%20with%20Revised%20Consolidated%20Guidelines_compressed%20%283%29.pdf.

shipments over the Free Time Agreements. The Ministry has also advised shipping lines against the application of any additional charges.²⁶

The Organisation for Economic Co-operation and Development (OECD) recommendations for trade facilitation during the COVID-19 pandemic, wherein trade costs have risen, are threefold. Firstly, make all trade related formalities transparent and accessible; secondly, expedite standard formalities to make room for COVID-19 related controls; lastly, digitize processes as much as possible.²⁷ Indian policies, such as allowing e-certificates and other relaxations, conform to these recommendations. India has also ratified the Trade Facilitation Agreement, and has manifested it in its National Trade Facilitation Action Plan.²⁸ These measures help not only in accelerating trade, but also in reducing physical contact. While the OECD has called for international cooperation in the form of, inter alia, removing trade restrictions,²⁹ the WTO has stressed upon transparency in trade during these uncertain times.³⁰

III. THE CASE AGAINST PROTECTIONISM

Deborah Elms, the Executive Director at Consultancy Asian Trade Centre, has stated that adopting trade restrictions and prioritizing the

²⁶ Ministry of Shipping, Govt. of India, *Shipping Lines advised not to impose container detention charges on import and export shipments at Ports* (Mar. 2020), at <https://pib.gov.in/newsite/PrintRelease.aspx?relid=200780>.

²⁷ *Trade Facilitation and the COVID -19 pandemic*, ORG. FOR ECON. COOPERATION & DEV. (Apr. 22, 2020), https://read.oecd-ilibrary.org/view/?ref=130_130609-v8jn83j1j3&title=Trade-facilitation-and-the-covid-19-pandemic.

²⁸ Cent. Board of Indirect Taxes & Customs, National Trade Facilitation Action Plan 2017-2020, at https://www.cbic.gov.in/htdocs-cbec/home_links/trade_agreement.

²⁹ *supra* note 4.

³⁰ *Transparency- Why it matters at times of Crisis*, WORLD TRADE ORG., https://www.wto.org/english/tratop_e/covid19_e/transparency_report_e.pdf. (last visited May 3, 2020).

domestic industries by different countries “makes sense”.³¹ Countries have been resorting to protectionist measures, mainly with the aim of securing adequate supplies for their residents. They are striving to maintain the stability of prices and to fend off the fear of shortage in domestic markets.³² WTO allows levying of tariffs in cases where a domestic industry has suffered. In the present scenario, this is easy to prove.³³ However, there is emerging fear that this provision may be misused by governments in order to support their favoured sectors or industries.³⁴ Nations might try to negate the competition from foreign players by imposing tariffs. Additionally, governments worldwide have been allocating trillions of dollars to sustain domestic companies.³⁵ This state intervention is perceived as an anti-competitive practice. Many countries might retaliate through imposing an anti-subsidy tariff called “countervailing duty”. All these could lead to the development of protectionist sentiments.³⁶

However, economists have warned about the perils of adopting protectionist measures in the current circumstances. Protectionism results in a shortage of supply, which leads to increase in prices. Dan Ikenson, the director of Herbert A. Stiefel Centre for Trade Policy Studies, has rightly

³¹ Yen Nee Lee, *Coronavirus pandemic will cause a ‘much bigger wave’ of protectionism, says trade expert*, CNBC (Apr. 9, 2020), <https://www.cnbc.com/2020/04/10/coronavirus-expect-a-lot-more-protectionism-says-trade-expert.html>.

³² Aaditya Mattoo & Michele Ruta, *Viral protectionism in the time of coronavirus*, WORLD BANK BLOGS (May 1, 2020, 8:00 PM), <https://blogs.worldbank.org/voices/viral-protectionism-time-coronavirus>.

³³ Chad Brown, *COVID-19 Could Bring Down the Trading System: How to Stop Protectionism From Running Amok*, FOREIGN AFFAIRS (Apr. 28, 2020), <https://www.foreignaffairs.com/articles/united-states/2020-04-28/covid-19-could-bring-down-trading-system>.

³⁴ Lee, *supra* note 31.

³⁵ Chad, *supra* note 33.

³⁶ *Id.*

observed, “through trade, we move from subsistence to abundance”.³⁷ Restriction of trade might result in limiting the “scope of specialization”³⁸. Protectionist measures at a time like this will only intensify the conundrum of supply disruptions. According to Aaditya Mattoo, the Chief Economist for East Asia and the Pacific Region at the World Bank, the trade restrictions imposed by countries “almost always prove to be counterproductive.”³⁹ This follows from the fact that more often than not, protectionist policies invite retaliation, as seen in the ongoing US-China trade war.

At present the competition market forces are already structurally restricted because the concentration of production of PPEs and medicines is in the hands of a few countries.⁴⁰ Thus, many countries depend on others to combat the virus, and restricting trade would adversely affect the quality of health care in these countries at the time of a health emergency.⁴¹

IV. THE WAY FORWARD

With proactive and flexible policies, India can emerge as a winner in the course of the current pandemic. It is imperative that India seizes this opportunity, wherein China, one of the largest global exporters, has lost international trust. The companies that are moving out of China should be incentivized to move to India. For this, India is planning to create a land

³⁷ *Spotlight: Economists call for free trade to fight COVID-19 pandemic amid rising protectionism*, XINHUANET (Apr. 3, 2020), http://www.xinhuanet.com/english/2020-04/03/c_138943573.htm.

³⁸ RICHARD MCKENZIE & DWIGHT LEE, MICROECONOMICS FOR MBAS: THE ECONOMIC WAY OF THINKING FOR MANAGERS 211 (3d ed. 2017).

³⁹ *supra* note 37.

⁴⁰ Broadman, *supra* note 15.

⁴¹ Mattoo & Ruta, *supra* note 32.

pool, almost double the size of Luxembourg.⁴² The government has introduced the Companies (Amendment) Bill in March 2020, which, inter alia, decriminalizes minor non-compliances under the Act. This has been done with the sole objective of moving India's rank upwards in the Ease of Doing Business Index.⁴³ For the same purpose, the government has also formed a central task force, which has been trying to provide incentives by making judicial procedures smoother and allocating land to the companies.⁴⁴ While the recent amendment to the FDI Policy helps in preventing opportunistic acquisitions by Chinese companies, there is also a need to ensure that India does not miss out on greenfield investments.⁴⁵

Before formulating trade policies, the foremost priority in a health emergency is to ensure proper supply and distribution of necessary goods in the country, to keep the workforce in good health and working ability.⁴⁶ It is also pertinent for governments to be mindful of the probability of a second wave of COVID-19 and take long term and far sighted measures.⁴⁷ Further, the agenda of free trade should be kept in mind. The World Bank has been stressing on the need of providing aid to different countries on

⁴² Shruti Srivastava, *India offers land twice Luxembourg's size to firms leaving China*, THE ECONOMIC TIMES (May 5, 2020), <https://economictimes.indiatimes.com/news/economy/policy/india-offers-land-twice-luxembourgs-size-to-firms-leaving-china/articleshow/75534412.cms>

⁴³ Sandesh Kumar, *India: Promotion of Ease Of Doing Business By Legislature Via Introduction Of The Companies (Amendment) Bill, 2020*, MONDAQ (May 6, 2020, 4:14 PM), <https://www.mondaq.com/india/corporate-and-company-law/928064/promotion-of-ease-of-doing-business-by-legislature-via-introduction-of-the-companies-amendment-bill-2020>.

⁴⁴ Pradeep Thakur, *Adjournment cap on commercial cases to woo biz*, THE TIMES OF INDIA (May 7, 2020), <https://timesofindia.indiatimes.com/india/how-india-is-planning-to-attract-firms-leaving-china/articleshow/75582901.cms>.

⁴⁵ *supra* note 20.

⁴⁶ RESEARCH & INFO. SYSTEM FOR DEVELOPING COUNTRIES, COVID-19 CHALLENGES FOR THE INDIAN ECONOMY: TRADE AND FOREIGN POLICY EFFECTS 62 (2020).

⁴⁷ *supra* note 14.

the basis of producer comparative advantage.⁴⁸ Free trade will ensure an efficient production of essential goods and services along with its proper supply to the countries that need them the most.⁴⁹

India should promote liberalization of trade through tariff reductions. This should be done not solely for medical and surgical equipment, but also for intermediate goods. This can help in the reduction of production costs, which in turn will lead to cheaper exports. Incentives like employee retention in the export sector can further help in promoting trade. Other measures to facilitate trade could include time relaxations in documentation and waiving off demurrage and container freight charges.⁵⁰ Micro, Small and Medium Enterprises (MSMEs) play a major role in India's exports and therefore, schemes like Intensive Subvention Schemes for MSMEs should be expanded in scope and extended over time.⁵¹

Infrastructure facilities need to be strengthened in order to avoid delays in exports. The government should designate certain ports and airports for specifically managing exports. It should also aim at assisting trade through deploying special flights.⁵² The Confederation of Indian

⁴⁸ *supra* note 14.

⁴⁹ Mattoo & Ruta, *supra* note 32.

⁵⁰ CONFEDERATION OF INDIAN INDUS., COVID-19 IMPACT ON INDUSTRY AND THE ECONOMY, at <https://invest-india-revamp-static-files.s3.ap-south-1.amazonaws.com/s3fs-public/2020-03/COVID-19%20-%20Impact%20on%20Industry%20and%20the%20Economy%2024%20March%202020.pdf>.

⁵¹ Chandrajit Banerjee, *Covid-19 and foreign trade: How to ensure Indian exports survive the churning and pick up steam*, THE TIMES OF INDIA (Apr. 13, 2020), <https://timesofindia.indiatimes.com/blogs/toi-edit-page/covid-19-and-foreign-trade-how-to-ensure-indian-exports-survive-the-churning-and-pick-up-steam/>.

⁵² *Id.*

Industry has advised that exports should be added to the ambit of “essential services” to ensure consistency.⁵³

India should place strategic focus on trading with those countries, which are receptive to non-Chinese trading partners, and with whom it has good bilateral relations. It should also focus on importing countries less affected by the virus, as their demand would be relatively unaffected. For the short term, India should prioritize exporting goods that have a less elastic demand, such as textiles.⁵⁴ In addition, India should also focus on exporting components of different electronics because of their high Gross Merchandise Value.⁵⁵ After suffering from Chinese supply disruptions, India should diversify its imports. The reorientation of global value chains will create a potential for India to emerge as one of the largest players.⁵⁶ With an increasing number of countries adopting protective measures vis-à-vis food products, there is a lurking fear of food shortage amongst countries that rely on food imports. In such circumstances, India should strive to increase its agricultural exports.⁵⁷ Another area that needs attention is virtual trade in services, which do not require physical movement.⁵⁸ To achieve these ends, there is a need for enhanced cooperation through economic diplomacy and coordinated actions with world leaders and global players.

⁵³ *supra* note 50.

⁵⁴ *supra* note 46, at 113.

⁵⁵ *Id.*

⁵⁶ Pushkar Mukewar, *View: Impact of COVID-19 on exports will be worse than the financial crisis of 2008*, THE ECONOMIC TIMES (Apr. 5, 2020), <https://economictimes.indiatimes.com/small-biz/trade/exports/insights/impact-of-covid-19-on-exports-will-be-worse-than-the-financial-crisis-of-2008/articleshow/74978268.cms>.

⁵⁷ Banerjee, *supra* note 51.

⁵⁸ *supra* note 46, at 62.

V. CONCLUDING REMARKS

In conclusion, it must be asserted that protectionist measures at this point will specifically affect the developing nations that are dependent on others for the import of medical supplies. Imposition of trade barriers will make trade unreliable. During these unprecedented and uncertain times of the COVID-19 pandemic, free trade should be the guiding principle. Policies should focus on expanding the scope of exports and tapping available opportunities. While India has proved that Indian lives cannot be compromised, Indian livelihoods need saving. This is a critical time for India. It needs to frame policies that will egg the economy on the path of stability and growth. India needs to capitalize on the changing dynamics of the global economic structure as China is beginning to lose its prime position. Finally, the words of Walter Block must not be forgotten, “Protectionism is a misnomer. The only people protected by tariffs, quotas and trade restrictions are those engaged in uneconomic and wasteful activity. Free trade is the only philosophy compatible with international peace and prosperity.”⁵⁹

⁵⁹ Walter Block, *The Necessity of Free Trade*, 1 J. MARKETS & MORALITY 192 (1998).