WORLD TRADE ORGANIZATION

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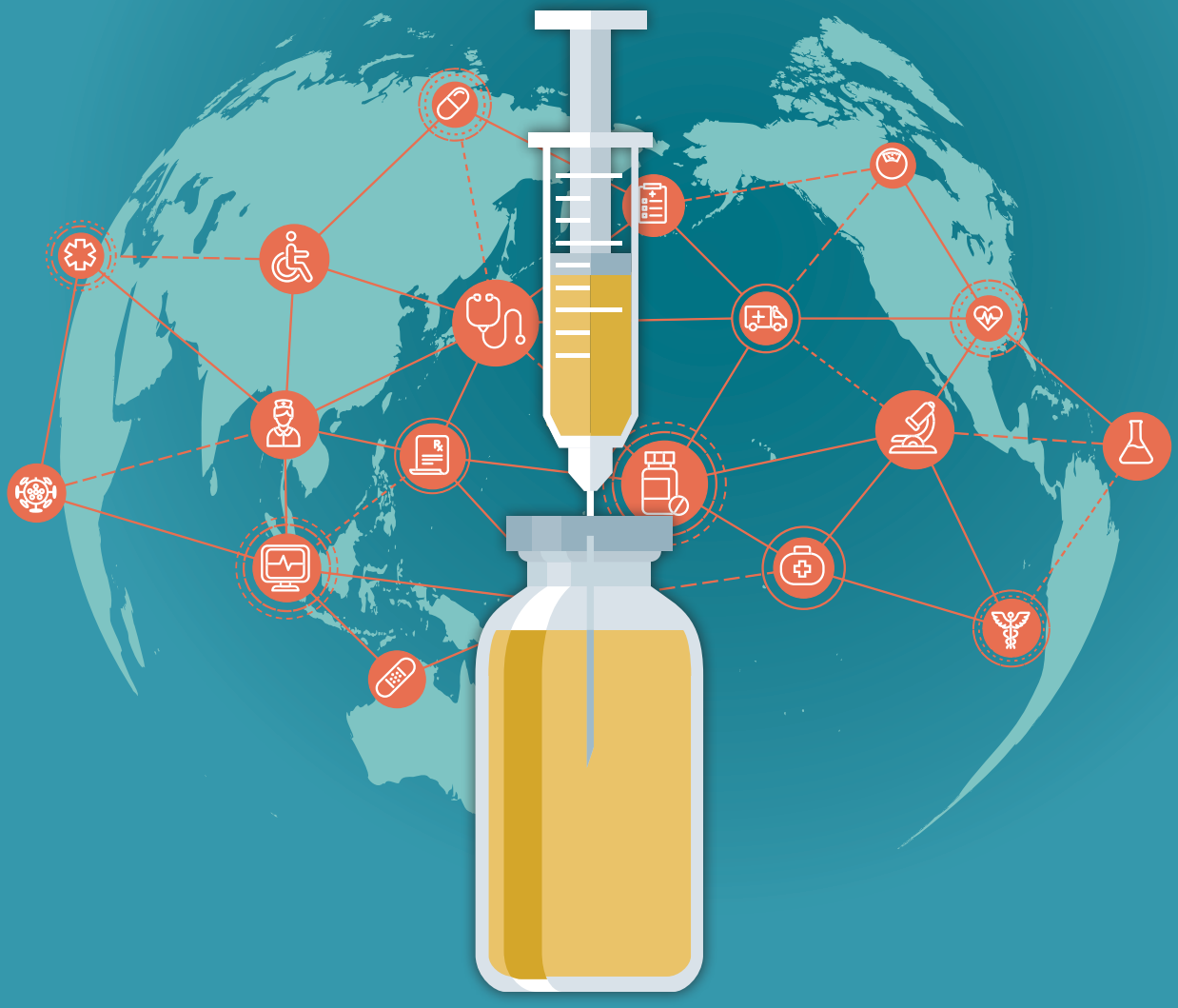
TRADE THERAPY

Deepening Cooperation to Strengthen Pandemic Defenses



Leveraging Medical Goods and Services Trade for Future Pandemics: An Action Plan

The need for action and reform now

The joint World Bank-WTO report "Trade Therapy: Deepening Cooperation to Strengthen Pandemic Defenses" outlines the upsides and downsides of trade during a pandemic and discusses the economic rationale for trade reforms and actions that can improve global health security. Based on this analysis, the report offers a concrete action plan of trade and trade-related policy priorities to improve pandemic prevention, preparedness, and response.[1] The action plan is reproduced in this paper.

Policy action and reform are needed now to leverage trade for future health crises, and these can generate long-term payoffs. Although achieving those may have a cost, this cost is likely to be dwarfed by the potential suffering generated by another pandemic. Furthermore, the catastrophic consequences of the coronavirus (COVID-19) pandemic have generated a consensus that policy action and reform are needed at the country, regional, and global levels to manage future crises. This time of consensus presents a historic opportunity that should not be missed.

A menu of options

The action plan in the attached table offers a menu of options for trade and trade-related policies that governments can enact nationally and in regional and multilateral contexts. It complements the recent ministerial declaration on the WTO response to the Covid-19 pandemic and preparedness for future pandemic and ministerial decision on the Agreement on Trade-related Aspects of Intellectual Property Rights. Policy priorities depend on country conditions and the evolution of the current crisis. As the COVID-19 pandemic lingers, the current focus of policy action should be on the response. But, as the emergency subsides, the focus should shift to prevention and preparedness. But it is recognized that prevention, preparedness, and response also require actions well beyond trade that are outside the scope of the report.

[1] Prevention and preparedness refer to ex ante policy actions and reforms that would help determine, assess, avoid, mitigate, and reduce public health threats and risks when a disease outbreak occurs. Response refers to ex post policy actions and reforms to reduce the disease outbreak's economic, social, and health consequences.

Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics

Instrument	National	Regional	Multilateral
Measures affecting medical goods			
Tariffs	• Reduce or eliminate tariffs and internal taxes imposed on essential medical goods. • Establish, publish, and maintain a national list of essential medical goods (generating specific tariff lines for these products in the national tariff schedule), and create an interagency coordination mechanism to update and modify the list when needed. *Crisis response: Cease imposing import tariffs on critical medical products in short supply. If not permanent, tariff reductions should be for a minimum period to preserve market stability (for example, three years).*	• Ensure that all medical goods are fully liberalized in the context of regional trade agreements (RTAs). • Review and simplify the relevant rules of origin on medical goods to ensure preference utilization.	• Develop an international list of essential medical goods in consultation with the relevant international organizations (such as the WCO, WHO, and WTO). • At the WCO, negotiate the creation of new HS subheadings (6-digit codes) to facilitate the national classification and improve the collection of trade statistics in medical goods. • Bind currently unbound products (tariff lines) on medical goods in the WTO goods schedules. • Revisit the WTO's Agreement on Pharmaceuticals and Expansion of the Information Technology Agreement to liberalize trade in additional medical goods or negotiate a new agreement to this effect.
Prohibitions and restrictions on imports and exports	• Eliminate export restrictions in essential medical goods. • Review and improve interagency coordination for the introduction of prohibitions and restrictions on imports and exports, including licensing requirements. *Crisis response: Refrain from imposing export prohibitions or restrictions during a global health emergency, and ensure that any such measures are implemented as a last resort and only when necessary to prevent or relieve critical shortages of medical goods. If an export prohibition or restriction is introduced, then* • *Ensure the measure is targeted, transparent, proportionate, temporary, and consistent with WTO obligations;* • *Establish a short duration of the measure (for example, three months) and a review mechanism to extend or modify it subsequently if necessary;*	None	• Share experiences in the relevant forums on the way these measures are introduced, administered, and removed, with a view to drawing lessons and identifying best practices that may assist during a crisis. *Crisis response: Limit the duration of export restrictions on essential goods, and establish a consultation mechanism to assess the adverse impact on partners of the emergency measures that have been imposed.*

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
	• *Periodically review the measure to assess its relevance;* • *Ensure publication of the measure at the national level and, to the extent possible, before it takes effect; and* • *Implement the prohibition or restriction in a manner that limits, to the greatest extent possible, disruptions of global supply chains of essential medical products. (For example, no prohibitions should be used, and restrictions should not reduce exports to partners by more than 50 percent of the average of the past two years.)*		
Import and export licensing procedures	• Streamline existing import and export licensing procedures at the border to ensure they do not become an obstacle to trade. • Review and eliminate unnecessary import and export licensing requirements (for example, temporary licenses that were introduced to respond to an emergency as soon as market conditions stabilize) and simplify procedures (for example, reduce time required to obtain a license). • Coordinate licensing requirement procedures to remove duplication of information submission. • Implement national single window to digitalize import and export licensing procedures and provide access for traders to use digitalized services. • Enhance communication between the relevant ministries and agencies administering export and import licensing regimes, periodically consulting with stakeholders. *Crisis response: Eliminate unnecessary import and export licensing requirements and procedures, and ensure that customs and border authorities are rapidly informed on any changes in import and export licensing procedures.*	• Align regional policies on import and export licensing. • Ensure systematic coordination between border and customs authorities on import and export licensing rules and procedures.	• Fully apply the transparency and notification obligations of the WTO's Import Licensing Agreement and the Decision on Notification Procedures for Quantitative Restrictions. • Respond to specific trade concerns and questions raised by other WTO members relating to import licensing. • Fully apply GATT 1994 rules regarding transparency and formalities relating to export licensing (art. VIII and X). • Negotiate specific multilateral rules on export licensing procedures analogous to the existing disciplines of the WTO's Import Licensing Agreement.

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Trade facilitation	• Accelerate implementation of the WTO's Trade Facilitation Agreement (TFA) where relevant for essential medical goods (for example, prearrival processing of certain custom procedures) to ensure timely access. *Crisis responses:* • *Extend use of digital or digitalized trade documents.* • *Review the need for prescriptive border measures (such as postentry audits and recognition of equivalent prearrival measures) related to critical consignments.* • *Review procedures associated with critical consignments, and implement expanded risk management measures where appropriate.* • *Cooperate with trading partners and other border agencies to improve coordinated border management and to identify and target potentially high-risk imports (such as illegitimate goods being traded in response to the crisis).* • *Establish specific expedited channels (for example, green lanes) to facilitate key imports.* • *Establish joint private-public sector working groups (particularly building from existing NTFCs) to identify and prioritize the access issues to address.*	• Encourage regional approaches to TFA implementation. • Share implementation experiences. • Advance regional cooperation on the use of prearrival and postentry measures to reduce border bottlenecks.	• Expand guidance on best practices for TFA implementation, and enhance cooperation and coordination in the delivery of related technical assistance and capacity building.
Services supporting medical goods GVCs	• Reduce or eliminate barriers to transport, logistics, insurance, and distribution services trade relevant to medical goods GVCs.		• Negotiate trade opening of transport, logistics, insurance, and distribution services sectors supporting medical goods GVCs.

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Intellectual property rights (IPR)	• Implement flexibilities of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to facilitate timely access to needed pharmaceuticals into domestic law and to use those flexibilities, as appropriate. • Streamline existing legislation and adapt administrative processes (for example, provide for fast-track examination of patents). • Include conditions in publicly funded research projects to manage IPR in a manner that facilitates equitable access to medical technology and know-how. • Require public research institutes to adopt socially responsible licensing policies to ensure access to needed health technologies. • Make full use of the TRIPS Article 66.2 mechanism for the transfer of technologies to least developed countries (LDCs), and ensure its effective implementation so that incentive programs to transfer technology respond to the needs identified by LDCs. • Facilitate access to information about technologies protected by patents.	• Implement TRIPS Agreement flexibilities in regional frameworks.	• Develop a set of model provisions that could be used by governments in publicly funded R&D contracts. • Promote measures to strengthen technology transfer to geographically diversify manufacturing capacities to effectively respond to health crises. • Encourage rights holders to adopt open and humanitarian licensing models for pandemic-related technologies, to contribute to international technology-sharing platforms such as WHO's COVID-19 Technology Access Pool (C-TAP), and to include equitable access considerations in their R&D planning. • Develop a platform to facilitate governments' access to information on patents, regulatory status, and trade. • Facilitate the effective implementation of TRIPS Article 66.2 for the transfer of technologies to LDCs. • Coordinate national needs assessment projects for LDCs for health-related technology transfers. • Reinforce cooperation among relevant multilateral organizations and other relevant stakeholders to make available tailored, evidence-based technical assistance. • Bolster and raise awareness of the WHO-WIPO-WTO COVID-19 Technical Assistance Platform.

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Table 4.1 Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Regulatory measures	• Promote greater alignment with international standards for medical goods, or develop relevant international standards when they do not exist. • Assist low- and middle-income countries and LDCs in using international standards. • Based on best practices, prepare an "emergency model" for national regulatory frameworks or "checklists" that can be quickly triggered when pandemics arise or threaten to arise. *Crisis responses:* • *Implement an emergency model for national regulatory frameworks, and use regulatory flexibilities to accelerate access to medical goods.* • *Rely on the WHO Emergency Use Listing (EUL) or the work of WHO-recognized stringent regulatory authorities to facilitate emergency authorization.* • *Temporarily streamline regulatory requirements and processes while respecting safety, quality, and efficacy criteria.*	• Promote regulatory cooperation (such as mutual recognition or harmonization) in medical goods through RTAs. • Strengthen the capacity of national regulatory authorities (NRAs), including through regional networks. • Support capacity building to address gaps in the national quality infrastructure (NQI) of low- and middle-income countries. *Crisis response: Deepen regional cooperation for work sharing or joint conformity assessment.*	• Promote regulatory cooperation and coherence (broadening existing arrangements such as through the IMDRF, ICH, and PIC/S) to improve the quality and efficiency of regulations, and increase regulatory capacity in low- and middle-income countries, with collaboration between health and other stakeholders (including trade). • Strengthen coordination between international organizations in provision of technical assistance to (a) bolster the capacity of NRAs to respond to crises, and (b) facilitate the use of recognition and equivalence of regulatory regimes and certification. • Support capacity building to address gaps in the NQI of low- and middle-income countries and LDCs. • Cooperate on the use of digital tools for conformity assessment, including by low- and middle-income countries and LDCs. • Strengthen processes and support for international standardization. *Crisis response: Promote transparency and exchange experiences about regulatory responses, including at the WTO TBT Committee.*

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Measures affecting medical services			
Market access	• Reduce or eliminate relevant market access limitations and discriminatory measures to close gaps in national health systems including in the following areas (ensuring that public health policy objectives are met): ◦ Allow or encourage the development and liberalization of the telehealth sector (domestically and across borders). ◦ Attract relevant foreign investment in the medical services sector (such as in health establishments and telehealth-related activities). ◦ Establish a temporary market access framework and necessary flexibilities to address health workforce shortages through international mobility and practitioner-to-practitioner telehealth). ◦ Remove nationality or prior residency requirements for professionals to be allowed to supply their services. ◦ Ensure that quantitative limits for foreign health professionals are clearly defined according to identified needs (also taking into account, through dialogue, the needs of the countries of origin). ◦ Increase the supply of health education, such as through liberalization, to develop the health workforce to respond to demand (international and domestic). ◦ Liberalize trade in telecommunication and computer services as enablers of telehealth, among others, particularly for the benefit of remote areas or low-income communities. *Crisis response: Ease temporary market access restrictions on telehealth and foreign health professionals, where deemed necessary.*	• Use regional trade agreements to advance and innovate on medical services trade liberalization initiatives. • Develop regional initiatives to facilitate the movement of health professionals at the regional level in times of crisis. • Develop frameworks in the context of RTAs to facilitate cross-border provision of (tele) health services in times of crisis.	• Reduce relevant barriers to medical services trade (for example, by binding existing policies relating to medical services); to education and training services for health professionals; and to relevant infrastructure services (see national policy column), and consider their liberalization, including ◦ Making specific market commitments regarding cross-border supply of less-sensitive practitioner-to-practitioner services, teleradiology, telediagnosis, and activity of telemedicine platforms; ◦ Easing the portability of health insurance coverage; ◦ Reducing foreign investment barriers; and ◦ Reducing barriers to the movement of health professionals. • Establish frameworks to address global health worker mobility emergency needs and the necessary flexibilities for cross-border practitioner-to-practitioner telehealth in emergency cases.

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Domestic regulation	• Adopt good regulatory practices to improve transparency (for example, publicly available licensing information), and facilitate administrative procedures (such as single window). • Facilitate assessment of foreign qualifications to ensure that procedures to verify the competence of foreign health professionals are not disguised restrictions to trade. • Address cross-border liability issues related to insurance policies of foreign-based medical suppliers by ensuring that they are insured with a local or international insurance company. • Establish a framework for cross-border data flows to protect personal health data and privacy and support the supply of telehealth services while not unduly restricting trade. • Establish transparent procedures for regulatory flexibilities (for example, fast-track recognition of foreign qualifications for health professionals) to address emergency needs. • Adopt domestic reforms that can limit the risk of a dual health services system and promote its inclusiveness. *Crisis response: Temporarily ease regimes for the mobility of health professionals, and implement fast-track recognition to address emergency needs.*	• Promote good-governance principles and disciplines beyond what may be achieved in the WTO context. • Promote work on recognition of foreign qualifications. • Establish regional mutual recognition agreements. • Develop regional frameworks to address issues like cross-border liability, especially in relation to patient safety. *Crisis response: Support use of regional recognition of qualifications and mobility mechanisms.*	• Cooperate to identify and adopt good regulatory practices and governance principles to improve the quality and efficiency of regulations, with collaboration between health and other stakeholders (including trade). • Promote work on recognition of foreign qualifications. • Foster cooperation to ensure cross-border liability of foreign-based medical services suppliers. • Strengthen processes and support for international standardization. *Crisis response: Coordinate international efforts to help national and regional regulatory agencies to implement fast-track recognition of qualifications to address emergency needs.*

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Measures affecting both medical goods and services			
Government procurement	• Introduce competitive and transparent government procurement procedures that use digital technologies (e-procurement) to enable firms to respond rapidly to emergency needs. • Revisit processes to procure products in emergencies to ensure transparency and ex post accountability. • Put in place procurement tools to aggregate demand across national bodies (such as joint, pooled, or centralized procurement and framework agreements). *Crisis response: Use emergency government procurement rules and flexibilities (including limited tendering) to accelerate procurement of medical goods and services.*	• Develop procurement tools that can be triggered to aggregate demand at the regional level in crisis situations (such as joint procurement). *Crisis response: Implement joint procurement initiatives to source common needs.*	• Strengthen international competition in public health procurement markets via international trade negotiations under the WTO Government Procurement Agreement 2012. • Develop procurement tools that can be triggered to aggregate demand between countries in crisis situations (such as joint procurement). *Crisis response: Implement joint procurement initiatives to source common needs.*
Competition policy	• Adopt legislation to revisit the ability of firms to exchange information on supply trends, prices, and market developments during public health emergencies. • Use competition law and policy to address, correct, and prevent IPR abuses and other anticompetitive practices in the health sector. • Use competition advocacy to inform legislative and regulatory processes in the health sector. *Crisis response: Consider the need for targeted, time-limited exceptions and flexibilities in the enforcement of competition laws and for some cooperation between competitors (for example, to allow firms to share information) only during crisis situations.*		• Identify good practice for competition law and policy communications and enforcement in a global health emergency. *Crisis response: Coordinate on initiatives to allow additional flexibilities in the enforcement of competition laws and for some cooperation between competitors (under certain conditions).*

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Transparency and statistics	• Develop systems to identify, collect, and publish timely information on measures affecting trade in medical goods and services, and report in the context of the WTO monitoring exercise and notifications. • Put in place mechanisms and processes that bring together the relevant regulatory and government agencies to identify data needs and mechanisms to compile and share information on demand for and availability of medical products. • Develop more detailed statistics on trade in medical services (by type of service, partner, and mode). • Monitor, analyze, and publish import and export statistics on trade in essential medical goods and services to draw lessons from previous crises. • Develop supply chain traceability harmonized to global standards to reduce illicit trade. *Crisis responses:* • *Publish promptly in a central repository all information and analysis on trade in medical goods and services related to measures taken in the context of an emergency.* • *Notify measures taken in response to the crisis to the relevant WTO bodies, and report in the context of the WTO monitoring exercise.* • *Establish public-private dialogue mechanisms to best anticipate needs and potential trade bottlenecks.*	• Support development of more detailed statistics on trade in medical services. • Promote interoperability of global traceability standards regionally to reduce illicit trade.	• Reinforce the independent monitoring of trade and trade-related measures by international organizations. • Compile, analyze, and publish world trade statistics on medical goods and services based on detailed national data. • Provide support and technical assistance for the development of trade in medical services statistics. • Ensure traceability of health products through global supply chains to reduce illicit trade. • Build on the Multilateral Leaders Task Force to maintain a jointly managed platform that can provide real-time firm-level and industry- or supply-chain-level information to identify frictions and actions by governments to enhance emergency responses. *Crisis responses:* • *Monitor, compile, and report information on measures taken by governments in response to the emergency, including trade restrictions, trade-facilitating actions, and information on industry- and firm-specific subsidy programs put in place by governments.* • *Evaluate or analyze the effects of measures imposed during the emergency, and monitor and report on their removal over time.* • *Publish short-term statistics on medical goods and services in an international database.* • *Consult with other WTO members to monitor and assess the adverse impact of national emergency measures on partners.*

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Subsidies	• Design incentive measures to improve the resilience and diversification of critical medical supply chains by supporting emerging medical goods and services producers, especially in smaller countries. • Establish mechanisms for governments to provide funding and coordinate production and supply of critical goods. • Design incentive policies in accordance with the provisions of the WTO Agreement on Subsidies and Countervailing Measures, particularly on prohibited subsidies, by avoiding contingency on export performance and use of local content. *Crisis response: Boost cooperation between government and private stakeholders to support R&D and expand manufacturing facilities.*	• Mobilize and coordinate financing at the regional level to increase capacity to develop and supply critical products in a global crisis. • Develop guidelines for regional cooperation in times of crisis for coordinating financial support to medical goods and services providers. *Crisis response: Increase regional cooperation to support provision of public health–related goods and services.*	• Task international organizations with mobilizing and coordinating financing to increase the capacity of low- and middle-income countries to develop and supply critical products in a global crisis. • Develop guidelines for international cooperation in times of crisis for coordinating subsidy actions regarding crisis-related medical goods and for mobilizing financing to develop, produce, and distribute vaccines and therapeutics. • Identify and address information gaps on subsidies for crisis-related medical goods. *Crisis response: Increase multilateral cooperation, including through international organizations, to support provision of public-health-related goods and services.*

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Trade and trade-related policy actions to improve prevention, preparedness, and response for future pandemics *(Continued)*

Instrument	National	Regional	Multilateral
Institutional frameworks	• Create institutional frameworks that can be mobilized to support the ability of both governments and industry to respond effectively to a global emergency. • Establish or enhance dialogue between health and trade policy makers, as well as other stakeholders, to ensure that the potential for trade to support health policy objectives is maximized. • Coordinate across the multiple areas of government relevant to intellectual property to promote coherent policy choices and national strategies as well as coherent policy positions in regional or international forums. • Develop cooperation between state and nonstate actors to support expanded production of medical products and critical supplies and the capacity to distribute these where needed during a crisis.	• Develop regional frameworks for cooperation between state and nonstate actors to support expanded production of medical products and critical supplies and the capacity to distribute these where needed during a crisis.	• Building on the ACT-Accelerator and the Multilateral Leaders Task Force on COVID-19 Vaccines, Therapeutics, and Diagnostics under a future end-to-end pandemic preparedness and response medical countermeasure mechanism tasked with developing an international framework to ◦ Compile and share information on the operation of critical supply chains; ◦ Act as a clearinghouse to support the ramping-up of production; ◦ Serve as a platform for companies to report bottlenecks and improve visibility on production capacity, stocks, and distribution performance; and ◦ Support technology transfer to expand global emergency response capacity.

Note: "Prevention" and "preparedness" refer to ex ante actions to determine, assess, avoid, mitigate, and reduce public health threats and risks when a disease outbreak occurs. "Response" refers to ex post actions to reduce a disease outbreak's economic, social, and health impacts. GATT = General Agreement on Tariffs and Trade; GVC = global value chain; HS = Harmonized System; ICH = International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use; IMDRF = International Medical Device Regulators Forum; IPR = intellectual property rights; LDCs = least developed countries; NTFC = National Trade Facilitation Committee; PIC/S = Pharmaceutical Inspection Co-operation Scheme; R&D = research and development; RTA = regional trade agreement; TBT = Technical Barriers to Trade; WCO = World Customs Organization; WHO = World Health Organization; WIPO = World Intellectual Property Organization; WTO = World Trade Organization.