
12 Exposing governments swimming naked in the COVID-19 crisis with trade policy transparency (and why WTO reform matters more than ever)

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To avoid unnecessary harm and conflict, G20 trade ministers stressed the importance of transparency in the current environment and their commitment to notify the WTO of any trade related emergency measures designed to tackle COVID-19. This chapter reviews the actual practice and finds that it is failing. The WTO urgently needs to step up its role in providing transparency on what governments are doing.

Only when the tide goes out do you discover who's been swimming naked.

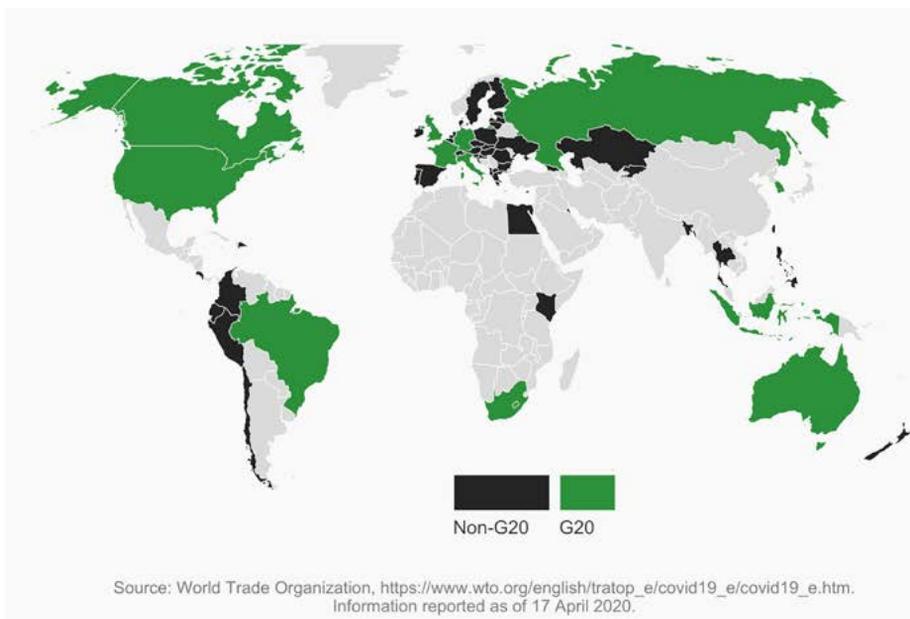
- Aphorism attributed to Warren Buffet

One of the important roles that trade policy monitoring can play in a crisis is to make clear that the emperors have on no clothes. Governments are taking action to restrict trade or in some way discriminate against other countries: these measures need to be exposed and compared. Exposure provides essential information for policymakers and economic actors. When governments do not have to guess what others are doing, trust is enhanced. And when everyone is shown to be swimming naked, nobody can pretend that they are not complicit.

¹ I am grateful to Simon Evenett for the initial work on Table 1 and for providing Figure 1 and 2; and to Samantha Kieffer for timely research assistance.

G20 trade ministers said on 30 March 2020 that they had started monitoring and assessing the impact of the pandemic on trade. They stressed the importance of transparency in the current environment and their commitment to notify the WTO of any trade related emergency measures designed to tackle COVID-19. Only 12 of the 20 have done so, as shown in Figure 1.

Figure 1 COVID-19 notifications to the WTO as of 17 April 2020



G20 trade ministers also called on international organisations for analysis of the impact the pandemic has had on trade. They ought to have requested analysis of the impact on trade made by government responses to the economic crisis provoked by the pandemic. Trade fell off a cliff when governments told people to stay home. It may also be harmed by good faith measures intended to support families without jobs and firms without customers.

The urgent transparency task already underway (see Table 1) is simply tracking health-related responses to the crisis. Only slightly less urgent will be tracking the trade effects of all the money being spent to sustain economies during the shutdown. Emergency actions have discriminatory elements that will be made much worse if these elements are needlessly maintained as the programs are unwound. There is a risk that borders strengthened to slow the pandemic will stay hardened when no longer necessary. Governments need information to assess where the trade response to the crisis has

been counter-productive; later, they will need to understand whether the trading system, starting with lengthy supply chains, has been permanently altered in ways that might expose weaknesses in the rules.

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Analysis of the effects of crisis trade measures is one thing, and we will get it from the Organisation for Economic Co-operation and Development (OECD), the World Bank, and the IMF; but governments need to hold themselves to account, and the public needs information to ensure that they do. Countries have varying susceptibility to systemic norms, and to the effects of transparency on policymakers. Are big traders more or less susceptible to institutional constraints than small traders? In 2009, did governments notice the publicity given to the independent and highly critical reports by Global Trade Alert (GTA), or was policy more likely to change because leaders were aware they might be exposed in front of their peers by the reports prepared for the G20 by international organisations? Did the availability of detailed information from the WTO inspire confidence that trading partners were playing fair? Whatever the answers, it is surely better to have a variety of monitoring reports utilising multiple channels of influence. Given the inherent caution shown by official monitoring, it is valuable to have other sources, like GTA, highlighting problems in starker terms than the official line.

International organisations rapidly launched new or enhanced trade monitoring as the economic dimensions of the COVID-19 crisis became apparent. After surveying the results, I turn to a discussion of how WTO reform is needed to ensure better reporting and better use of the information it generates.

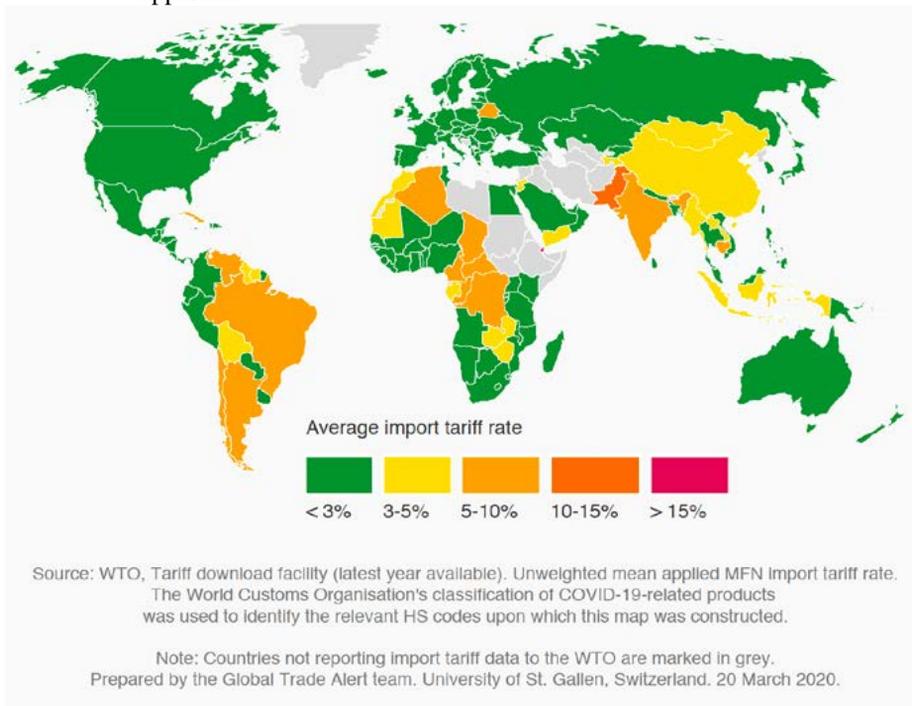
Trade policy monitoring in the COVID-19 crisis

Governments need to know what's going on before they can respond or plan appropriately. Just knowing the facts helps countries avoid an over-reaction. They need to understand both the measures taken to improve the flow of supplies needed for fighting the pandemic and the measures that restrict the availability of necessary supplies. Trade policy ought to facilitate, not impede, the fight against the pandemic. Knowing what others are doing increases trust and allows countries to learn from each other's experiences. Within WTO bodies, countries will want to use that information

simply to seek clarification—they often ask how a measure works and how long it will be in place. Committees can also provide opportunities to apply peer pressure: is this the best measure, or is there another way to solve the problem?

Initial analyses took stock of existing measures that restrict or liberalise goods needed to respond to the crisis. The WTO issued an information note on trade in medical goods in the context of tackling COVID-19 in order to provide factual information on how these goods are traded globally.² GTA's first report, *Tackling COVID-19 Together: The Trade Policy Dimension*, shines a light on the existing trade measures that are counterproductive (see Figure 2).

Figure 2 110 WTO Members still tax imports of COVID-19 test kits and related apparatus



A number of significant efforts are underway to track trade policy interventions in the crisis. Illuminating rapidly evolving trade policy measures in near real time is a challenge. The monitoring efforts summarised in Table 1 rely on slightly different sources and report the results in different ways using variations of both active and passive transparency. Passive transparency requires waiting for regular notifications consistent with existing obligations—which is a problem in the WTO at the best of

times, and more so now when governments are responding to the crisis in ways poorly captured by the rules. Active transparency involves looking for official documents describing new measures, sometimes motivated by press reports. The differing ways that the organisations look for measures is reflected in the number of measures each reports.

Column 4 shows that GTA is reporting 165 measures, while WTO is only reporting 111, even though it seems GTA is naturally not as fast as WTO in reporting new notifications. Note that GTA does not include Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS), but WTO does. Depending the page consulted as many of as 57 of the WTO measures were SPS and TBT,³ which implies that GTA is finding a great many more measures than WTO (which is usually the case for reasons extraneous to this chapter). The discrepancy is partly due to GTA's use of media sources, which is a crucial contribution because of the lag times in what governments reveal as well as the things governments are not reporting. Sometimes the lack of reporting is conceptual, such as de facto export bans that are not notified to WTO because they do not easily fit existing obligations.

One element that needs monitoring is things that have affected trade but are not captured in the rules; that ought to be central to the forward agenda of every WTO body in assessing how the trading system can recover from the crisis. GTA's automated web searches may also pick up official documents that WTO has not found, or that are not yet notified, or that WTO is unable to include because of government reluctance to have a measure reported. What seems evident is that governments are much more willing to notify the WTO about TBT and SPS changes, and trade reforms, than they are to draw attention to export curbs (which are more sensitive).

3 On 19 April 2020 we found differing WTO numbers when comparing the information at https://www.wto.org/english/tratop_c/covid19_c/covid19_e.htm and https://www.wto.org/english/tratop_c/covid19_c/trade_related_goods_measure_e.htm

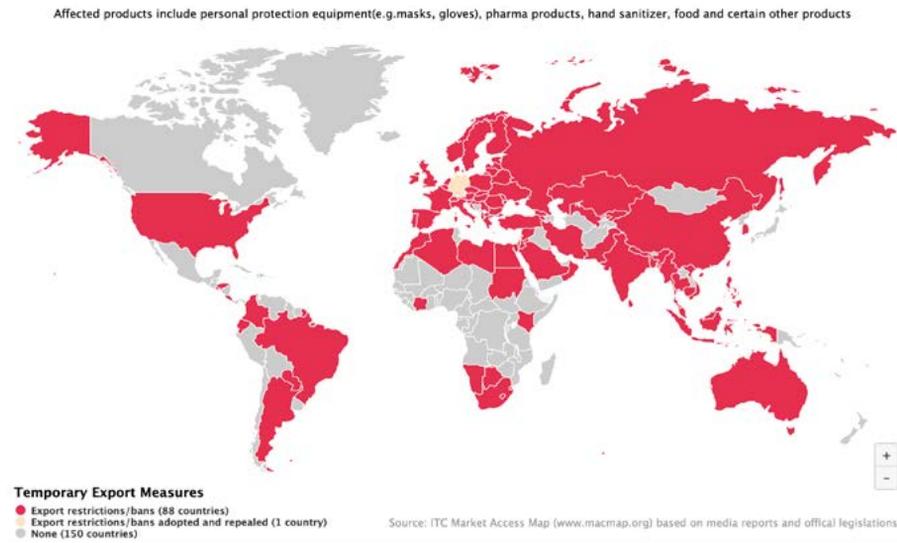
Table 1 Comparison of coverage of COVID-19 trade policy monitoring initiatives as of 18 April 2020

Resource	Coverage	Sources used	Extent of coverage	Notes
World Customs Organization	Export curbs on certain categories of critical medical supplies	Legislation provided by countries	36 customs territories covering 58 economies. 46 export curbs documented.	Does not include de facto export bans.
World Trade Organization	Policies affecting trade in medical products	Regular and crisis-related notifications by WTO member governments and official state acts	111 measures by 47 WTO members. Includes liberalising measures as well as 18 export restraints or quantitative restrictions.	Includes TBT and SPS measures
International Trade Centre	Temporary trade and regulatory policies affecting export of food and medical coverage, with HS codes	Official state acts and media sources	92 customs territories included. Information on 92 export-related measures included and 67 tariff changes. 129 entries refer to medical products and 36 to food. Also includes liberalising measures.	Includes TBT and SPS measures
Global Trade Alert	Export curbs on medical products	Official state acts and media sources	115 export curbs (including de facto export curbs) introduced by 76 governments.	Does not include TBT and SPS measures
Global Trade Alert	Import policy reforms on medical products	Official state acts and media sources	52 import liberalising measures (at least 41 of which are tariff reductions and eliminations) introduced by 79 governments.	Does not include TBT and SPS measures

Source: GTA/Simon Evenett.

How the information is presented also matters. Some ways might have more impact on the public through the press (e.g. GTA) or be more useful for firms (e.g. International Trade Centre, or ITC). Maps, such as those generated by the ITC (see Figure 3), can dramatize the extent of crisis-related measures more effectively than a dry summary table or an extensive list of new measures—but it is that detailed list that can become the basis for peer pressure in the G20 Trade and Investment Working Group or in WTO committees.

Figure 3 Global map of COVID-19 temporary trade measures (18 April 2020)



Firms need something else, which is what the ITC has been providing with a searchable database of new measures by product and by country. Firms always need information about markets they are attempting to navigate. Intensive margin firms, especially larger firms, know very quickly if new measures have been introduced that hurt their existing market access. But at the extensive margin, firms trying to enter new markets with new products have different and more urgent information needs.

What Table 1 does not show is the monitoring measures needed to support people and firms in the economic crisis, and then to stimulate the economy and facilitate the return to growth. From a trade standpoint, we need to know whether discriminatory policies are put in place; whether policies are having an effect on trade (intentionally discriminatory or not); and whether or not policies remain consistent with WTO rules. As the crisis passes, are those measures being unwound in a timely way? This vital task will require enhancements to existing WTO monitoring, as discussed in the next section.

Reform of WTO working practices is needed in real time⁴

Long discussed reforms to WTO working practices are taking place on the fly, as COVID-19 closed the WTO building while enhancing the need for WTO action. The response of international organisations to the COVID-19 crisis already demonstrates that a forum need not be physical to be valuable. G7 leaders and finance ministers, as well as G20 leaders and trade ministers, have held virtual meetings, which means their officials have held virtual preparatory meetings. WTO heads of delegation apparently support the use of virtual meetings for information exchange, with some hesitation about taking formal decisions remotely (Wolfe et. al. 2020).⁵

More action on the WTO reform agenda will be needed to ensure that in the crisis members can:

- Keep each other informed
- Review implementation of existing obligations
- Monitor new trade measures
- Use informal opportunities to share experiences
- Coordinate responses

The necessary reforms need leadership by the General Council and enhanced collaboration with other organisations. They do not need action by ministers.

Notifications are a central issue for WTO reform

The WTO is seeking two kinds of notifications.

- The first kind of notification is always required under the existing agreements when new measures are introduced.⁶

In the current context it can be especially helpful to have timely notification of all new measures.

- The second kind of notification is the special request made by the Director-General for information on measures taken in response to the crisis that is to be provided

4 This section expands on three recent Bertelsmann Stiftung papers on WTO working practices by Robert Wolfe; see <https://ged-project.de/allgemein-en/wto-studies/>

5 https://www.wto.org/english/news_c/news20_c/hod_17apr20_e.htm

6 For a helpful overview of the WTO transparency system posted in early April 2020, see https://www.wto.org/english/tratop_c/covid19_c/transparency_report_e.pdf

to the Trade Policy Review Body (TPRB) for inclusion in its regular monitoring reports.

Everyone knows that compliance with the notification requirements of the various WTO Agreements remains very uneven. If the reason for a poor notification record is bad faith, as implied by some reform proposals, then penalties may be appropriate. If the real difficulty is outdated and overly complex notification requirements, then a thorough review is warranted. Where is the information available to members objectively inadequate for surveillance of legal obligations and understanding responses to the crisis? Each body should ask how members can provide essential information in a way that lessens the burden.

Members already submit notifications about their trade policy electronically. Under the TBT and SPS agreements, such notifications of new or changed regulations are also pushed out to national officials and thousands of firms through the ePing system,⁷ which allows firms to tell officials when a new measure might be harmful to their interests—the fire alarm principle. Something analogous could be extended to other WTO agreements.

WTO deliberative bodies can be better used

In the COVID-19 crisis, countries need police patrols (in the form of monitoring), and fire alarms (in the form of “specific trade concerns”, or STCs, raised in WTO committees). Police patrols are centralised and find all sorts of measures, not all of which have negative spillovers for other countries. Given the universe of government action, such monitoring cannot find everything. Fire alarms are pulled by individual governments, often after having been prodded by firms directly affected by a measure.

In this crisis countries need both police patrols, in the form of monitoring, and fire alarms, in the form of “specific trade concerns” (STCs) raised in WTO committees.

Discussion of STCs can lead to clarification and even resolution of trade irritants before recourse to dispute settlement. Discussing trade concerns expeditiously is especially important when the trade landscape has been upended by a health crisis, but procedural improvements are needed.

⁷ ePing <https://cpingalert.org/en> is a collaboration of WTO, ITC and UNDESA

The leading proposal⁸ begins with clarifying timelines for convening documents and other meeting arrangements. Such improvements would facilitate the work of small Geneva delegations who need to consult capitals. The proposal might go further to include a requirement for annotated agendas, which would help capital-based officials to prepare by explaining why an issue was on the agenda and whether it had been discussed previously in this or other bodies. The TBT committee already has an eAgenda system that allows members to pose written questions about each other's policies in advance of a meeting, and to post written answers. If questions and answers are available online ahead of a meeting, officials in capitals can interact through the WTO without having to visit Geneva, which could be especially helpful for officials in developing country capitals, or those responsible for committees where capital-based participation is infrequent. Such an innovation is even more important when physical participation is constrained.

Virtual meetings are proving a challenge, but could allow broader participation in WTO discussions for officials who may not have opportunities to come to Geneva even in the best of times. Developing country officials would not need to rely exclusively on small, over-stretched delegations, often staffed by generalists, to engage in WTO discussion. A degree of confidentiality is needed for all WTO work, but it ought to be possible to use such online documents to enhance public transparency and hence accountability. Perhaps the most important proposal, therefore, is the creation of an integrated database in which all WTO documents pertaining to trade concerns are recorded, with a search facility. Such a database will be especially useful to those, including small delegations, who must follow more than one area of WTO work.

Some developing countries fear proposals might require them to respond to concerns on short timelines, but these proposals would actually make it easier for officials in capitals to engage with the WTO and their trading partners. Information technology technical assistance might be needed in some capitals.

Improved trade monitoring

The TPRB provides the platform for discussions among WTO Members of the monitoring reports produced by the Secretariat each year, including the Director-General's annual report on the trading system. The situation pre COVID-19 was not equivalent to the global financial crisis, but trade restrictions were growing, and the reports were not sufficiently capturing responses to the uncertainty associated with the rhetoric of

8 <https://docs.wto.org/dol2fc/Pages/SS/directdoc.aspx?filename=q:/WT/GC/W777R5.pdf>

trade war. The Secretariat's commitment to being merely factual makes it harder to provide a full analysis of this new and more political threat to the trading system. For example, though the reports no longer include a section on "general economic support" – originally meant to cover measures taken in response to the financial crisis – subsidies remain large, as documented in successive GTA reports. New approaches are needed (Hoekman et al. 2020).⁹

In the current context, we see a growing resort to things that look like subsidies: grants, soft loans, tax relief, equity stakes by governments, and pre-emptive purchasing. The WTO Secretariat should expand its collaboration with the OECD to draw on that organisation's work on industrial subsidies, as well as working with the GTA to draw on its extensive database of state aids.

Another weakness of the WTO monitoring reports is now critical. The WTO trade forecast suggests that services trade may be the component of world trade most directly affected by COVID-19 through the imposition of transport and travel restrictions and the closure of many retail and hospitality establishments. But hitherto the data on services measures reported [are] hard to compare, with no assessment of the trade coverage or significance of what is reported.

Another weakness of the WTO monitoring reports is now critical. The WTO trade forecast suggests that services trade may be the component of world trade most directly affected by COVID-19 through the imposition of transport and travel restrictions and the closure of retail and hospitality establishments. But the data on services measures reported in Section 4 and Annex 4 of the report is complex and hard to compare, with no assessment of the trade coverage or significance of what is reported. Indexes could help compare the incidence and effects of crisis-related measures, perhaps using the OECD services trade restrictiveness index (STRI), which includes large emerging economies using publicly available data. OECD, the World Bank, and WTO could work together to report a new index.

9 See three recent Bertelsmann Stiftung papers on the issue by Bernard Hoekman, Douglas Nelson and Robert Wolfe at <https://ged-project.de/allgemein-en/wto-reform-industrial-subsidies/>

Enhanced opportunities for dialogue and improved crisis coordination

The WTO should hold more “thematic sessions” aimed at enhancing committee member’s understanding of the novel trade policy challenges posed by the crisis. Such informal meetings are sponsored by or associated with a WTO body but are not part of its formal meetings. Policy dialogue in WTO bodies is important for considering what works well under agreements, what is not working, and what is next on the agenda. Committees also need to hear from stakeholders who use their agreements – including regulators, other international organisations, and the private sector. Such informal sessions can be an opportunity for members to ask whether measures being taken in the crisis expose gaps or weaknesses in WTO rules.

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Here too, video conferencing technology can lessen the cost of participation. The Secretariat should make it possible for officials to make presentations, follow thematic sessions from capitals, and ask questions.

In normal times, discussion of trade concerns in periodic meetings of the relevant committees is sufficient, though discussion in the TPRB is too often perfunctory: ambassadors do not engage in detailed systematic review of the monitoring reports. In these extraordinary times, a single crisis coordination committee, as suggested by a US think tank, might be the best place to discuss the results of police patrols and fire alarms. Such a committee, acting directly under the General Council with engagement by capital-based officials, would provide focus for work underway across WTO bodies and the Secretariat. Its task would be to ensure coordinated assessment of new measures and a consistent approach to crisis related STCs. It should use the full set of enhanced procedures suggested above, including virtual meetings. The mandate of this new body should cover all trade measures implemented in response to the crisis, including measures designed to re-start economies. Just as the virus may hit in waves, so too the policy responses may cascade, which increases the need for robust and sustained monitoring.

Summary of recommendations to improve WTO trade policy monitoring

Governments may be swimming naked in the crisis, but a collective response is only possible if the lights are turned on so that everyone can see the emperors have no clothes: all are complicit in varying degrees. The WTO is the central organisation for managing the trading system. Everyone acknowledged the need for reform before the crisis. That need is now urgent if the WTO is to fulfil its mission to illuminate what governments are doing and manage trade conflicts in challenging circumstances.

The following General Council *decisions* are needed, because they imply central action:

1. Every committee to review notification obligations
2. Integrated database
3. More support for technology to allow virtual meetings
4. Stronger mandate for trade policy monitoring under the TPRB, including better collaboration with other international organisations and the GTA
5. New crisis coordination committee under the General Council.

The following General Council *guidelines* would require each body to consider its own practices:

1. Advance documentation and agendas
2. Annotated agendas
3. Written questions and answers.

About the author

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