

**MODEL CHAPTER
ON
TRADE IN CRISIS SITUATIONS
IN REGIONAL TRADE AGREEMENTS**

UN Initiative on Model Provisions for Trade in Times of Crisis and Pandemic
in Regional and Other Trade Agreements



UNITED NATIONS

MODEL CHAPTER ON TRADE IN CRISIS SITUATIONS IN REGIONAL TRADE AGREEMENTS



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¹ Available at: <https://www.unescap.org/resources/online-repository-contributions-policy-hackathon-model-provisions-trade-times-crisis-and>

² United Nations (2021), Handbook on Provisions and Options for Trade in Times of Crisis and Pandemic, <https://www.unescap.org/kp/2021/handbook-provisions-and-options-trade-times-crisis-and-pandemic>

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Introduction

The Covid-19 pandemic highlighted the limitations of existing trade rules in ensuring trade resilience during crises. There are two ways of including more specific and dedicated legal provisions in trade agreements to minimise the impacts from trade disruption in times of crisis: (1) amending existing chapters of trade agreements to incorporate such provisions, or (2) introducing a new and separate standalone chapter. The model chapter featured in this document provides a template for the latter case, a separate standalone chapter, which can be further tailored to meet specific needs of the Parties in actual trade agreements.

At the core of this model chapter, is the establishment of a Committee on Crisis Management to oversee the coordination and cooperation to minimise trade disruption in crisis situations. The Committee is responsible for declaring the existence of a crisis situation with a view to trigger the crisis provisions provided under this chapter. After regularly reviewing the situation, the Committee can then determine that the situation has returned to a state of normality, and the focus of cooperation activities will shift back to building up preparedness for future crises.

Instead of merely providing general exceptions for countries to take unilateral measures, this chapter provides an additional mechanism to ensure a coordinated response to crises and promote cooperation on preparing for future crises. It provides for specific rights and obligations for trade in crisis situations, helping to reduce uncertainties and keep trade flowing during crises. The provisions in this model chapter are designed to ensure that trade restrictive measures taken in response to a crisis are targeted, proportionate, transparent, and temporary. In particular, the provisions are very much focused on ensuring the supply of essential goods and services during a crisis through maintaining associated trade facilitation and coordination measures.

Chapter on Trade in Crisis Situations

Definitions

For the purposes of this Chapter:

Crisis situation means an extraordinary situation arising from *inter alia* wars, natural disasters, extreme financial events, pandemics, and other emergencies, which affects one or more territories and puts at risk core public interests including national security, public health, and environmental health and safety, provided that

- (a) such a situation has the potential to cause significant disruption to cross-border trade; or
- (b) measures adopted by a Party in such a situation are likely to have significant adverse impacts on international trade, including by reducing its contribution to sustainable development and economic growth.

National crisis situation means an extraordinary situation that exists within a Party's territory that a Party can self-define according to its domestic laws and regulations.

Declaration of crisis situation means a declaration by the Committee pursuant to Article II that a crisis situation exists to which this Chapter applies.

Essential goods and services refer to goods and services that are necessary to sustain or support life, health, critical infrastructure or public utilities, and other goods and services that are essential to address the crisis situation. These include, but are not limited to, food, water, medical supplies, building materials, transport services, goods and services essential to national security and provision of health and other public utility services such as distribution of electricity and telecommunications. The Parties may preliminarily agree on a list of essential goods and services, and review and update the list on a regular basis.

Recovery phase means a period that, in a crisis situation, follows the immediate crisis as the situation decreases in intensity to a point at which governments in affected territories shift the focus of their attention from responding to the immediate crisis to taking steps to secure the recovery of their economies. The Parties recognise that each of them may move to a recovery phase at different times.

The Committee refers to the crisis management committee established by the Parties pursuant to Article VIII of this Chapter.

Article I General Provisions

1. The Parties acknowledge that, in crisis situations, coordinated regional and international responses are necessary and desirable to ensure the continued flow of goods, services, people, and information.
2. The Parties also acknowledge that, in crisis situations, continued international trade and resilient supply chains, especially of essential goods and services, can contribute to the readiness for, effective response to, and recovery from crises.
3. The Parties recognise the right of each Party to set its own policies in a crisis situation for legitimate public objectives. Each Party shall ensure that any measures affecting trade that it takes to address crisis situations do not create unnecessary barriers to trade or unnecessarily disrupt global supply chains and are consistent with WTO rules and this Agreement.³
4. The Parties shall strive to refrain from imposing export restrictions or controls, as well as tariffs and non-tariff barriers, on exports of essential goods and services in crisis situations, in particular where such measures would compromise the ability of other Parties to respond to the crisis.
5. The Parties affirm their commitment to promote the coordination, cooperation, and transparency of crisis-response and crisis-preparedness measures to minimize adverse impacts on international trade and prevent unintended harm that may otherwise result from lack of coordination by Parties in responding to a crisis situation.
6. Nothing in this Chapter shall affect the rights and obligations in other chapters of this Agreement. Notwithstanding, when a declaration of crisis situation is made pursuant to Article II, priority should be given to compliance with obligations under this Chapter.

Article II Declaration of Crisis Situation

1. The Committee on Crisis Management established in Article VIII (henceforth the Committee) may declare a crisis situation to exist in any of the following three situations:
 - (a) *Meeting following declaration of national crisis:* The Parties recognise the right of each Party to declare the beginning and the end of a national crisis

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