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3. Trading through a pandemic: The Singaporean experience

Henry Gao, Dhiraj G Chainani, and Chew Siu Farn²³

Being a small country with one of the highest trade-to-GDP ratios in the world, Singapore faced seemingly insurmountable challenges at the onset of the COVID-19 pandemic. As countries around the world scrambled to fight the pandemic, they imposed restrictions on exports and imports, suspended international transportation of both goods and people, and invoked emergency power and exceptions to justify their actions. All these presented unprecedented challenges to Singapore, a country which relies on international trade not only for its prosperity but also for survival.

This chapter discusses how Singapore tries to meet these challenges through various initiatives to diversify its sources of supply, ensure trade of essential goods, and minimize the interruptions to business travel. The Singapore experience provides an invaluable case study on how trade agreements can be used not just to regulate trade, but also to facilitate trade, a lesson that will be invaluable for all countries as the world embark on the road to recovery.

Introduction

In January 2020, amidst the busy preparations for the Chinese New Year, a deadly virus silently spread through the city of Wuhan, one of the major metropolis in central China. As one of the busiest trade and travel hubs in the world, Singapore quickly became the worst affected of all countries. For example, on 5 February 2020, two weeks after the unprecedented lockdown in Wuhan by the Central Government of China, Singapore claimed the highest infection rate (24 cases out of a population of 5 million) in the world, even higher than China (20,502 cases out of a population of 15 billion).²⁴ Compared with the health emergency, Singapore also had to cope with another emergency as countries around the world, in a fanatical scramble to fight the pandemic, resorted to restrictions on exports and imports, suspension of international transportation of both goods and people, and the invocation of various emergency powers and exceptions as justifications. As a country with the world's highest trade to GDP ratio at 400%,²⁵ Singapore sees

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²⁴ Miren Gonzalez, 'Morning brief: Wuhan coronavirus update for Feb 5, 2020' (*The Independent*, 5 February 2020) <<http://theindependent.sg/morning-brief-wuhan-coronavirus-update-for-feb-5-2020/>>.

²⁵ WTO, Trade Policy Review Body, 'Trade Policy Review - Report by the Secretariat' (Singapore, 5 June 2012, WT/TPR/S/267) <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/TPR/S267-01.pdf&Open=True>> at p. vii.

trade as its “lifeline”²⁶ and, with the domino effects of more and more trade restrictions being introduced around the world, the health emergency quickly escalates into a trade emergency, which threatens not only the prosperity of “the little red dot”, but even its very survival.

Fast forward six months, Singapore has emerged relatively unscathed in the pandemic. It not only has one of the lowest number of COVID-19 cases and mortality rates, but also does not suffer from the shortage of food and other essential products, as have been seen in some countries.²⁷ This is a remarkable feat, especially considering that Singapore, being a land-scarce country, does not produce a single grain of rice, or any other agricultural commodities, for that matter.

How was Singapore able to navigate through the health and trade emergencies? While there could be many different answers, we offer a novel explanation in this paper, by noting the key role played by trade agreements in Singapore’s journey through the pandemic. We argue that, it was Singapore’s innovative use of various trade agreements, both bilateral and regional, and even multilateral, that helped it to source alternative supplies, minimize the disruptions to trade in essential goods, manage food stockpiles, and resume business travel for the supply of services. This unique case study challenges the conventional thinking that trade agreements only serves to regulate trade, and suggests instead that trade agreements, if used in a creative manner, could also help to facilitate trade. We hope our paper provides a useful manual for all countries as they fight their way through the pandemic.

II. From health emergency to trade emergency

1. Restrictions taken by countries

Due to the onset of COVID-19, the WTO has projected that global trade will decline between 13-32% this year.²⁸ By late April 2020, 92 trade and trade-related measures were notified to the WTO. These include restrictions on exports and the movement of people. Each of these will be discussed in turn.

²⁶ Speech by Minister Chan Chun Sing at the Singapore Maritime Lecture 2019 (*Ministry of Trade and Industry Singapore*, 8 April 2019) <<https://www.mti.gov.sg/Newsroom/Speeches/2019/04/Speech-by-Minister-Chan-Chun-Sing-at-the-Singapore-Maritime-Lecture-2019>>.

²⁷ Amy Gunia, ‘How Coronavirus Is Exposing the World’s Fragile Food Supply Chain – and Could Leave Millions Hungry’ (*Time*, 8 May 2020) <<https://time.com/5820381/coronavirus-food-shortages-hunger/>>.

²⁸ BDI, ‘Export Controls and Export Bans over the Course of the COVID-19 Pandemic’ (29 April 2020), https://www.wto.org/english/tratop_e/covid19_e/bdi_covid19_e.pdf.

A. Measures relating to exports

Countries have enacted bans on exports of essential items like medical equipment and food. Besides explicit bans, countries have also put in place other measures like licence requirements.²⁹

i. European Union (EU)

In regulation 2020/402, having regard to the fact that the risk of infections for people in the EU was “moderate to high”, the EU subjected the export of Personal Protective Equipment (PPE) to authorisation until April to meet the increased demand for PPE.³⁰ Licenses must be obtained for exports and would be granted in exceptional circumstances. In regulation 2020/568, the EU affirmed that it is not their intention to “restrict exports any more than absolutely necessary”, and that “Member States should grant export authorisations... where the shipment in question poses no threat to the actual need for PPE within the Union and serves to satisfy a legitimate need for official or professional medical use in a third country”.³¹

ii. United States of America (USA)

The USA has also imposed a ban on exports of PPE. On 7 April 2020, the Federal Emergency Management Agency banned the export of PPE such as surgical masks and medical gloves without explicit approval from the FEMA. The rule provides for exemptions such as exports of subject goods destined for either Canada or Mexico.³²

iii. China

China has required that exports of COVID-19 testing kits, medical protective suits, ventilators and infrared thermometers be accompanied by proof of registration with the National Medical Products Association. But these export restrictions were not imposed for protectionist reasons. Instead, they appeared to be triggered mainly by concerns over the quality of these products.³³

²⁹ Congressional Research Service, ‘Export Restrictions in Response to the COVID-19 Pandemic’ (15 May 2020) <<https://crsreports.congress.gov/product/pdf/IF/IF11551>>.

³⁰ Commission Implementing Regulation (EU) 2020/402 of 14 March 2020 making the exportation of certain products subject to the production of an export authorisation [2020] OJ L1 77/1.

³¹ Commission Implementing Regulation (EU) 2020/568 of 23 April 2020 making the exportation of certain products subject to the production of an export authorisation [2020] OJ L 129/7.

³² Congressional Research Service, ‘Export Restrictions in Response to the COVID-19 Pandemic’ (15 May 2020) <<https://crsreports.congress.gov/product/pdf/IF/IF11551>>.

³³ BDI (n 28).

iv. ASEAN

In the ASEAN trading bloc, members have also enacted export bans and licencing requirements. From 20 March 2020, Malaysia has banned the export of face masks.³⁴ A letter of approval from the Controller of Supplies is needed for the export of face masks. Although it did not ban the export of food, its Restriction on Movement of People Order restricted the movement of its people. In turn, this had an impact on its food production and exports, with its exports estimated to contract by 8.3% this year.³⁵

Bans have also been enacted for food exports. Vietnam temporarily suspended rice exports contracts until March 28, and limited shipments for April to 500,000 tonnes to ensure domestic food security.³⁶ In the same vein, Thailand banned egg exports for one week to end local egg shortages.³⁷

It should be noted that some countries have started to roll back on its export bans. For instance, Vietnam has lifted its restrictions on mask exports³⁸ and has resumed rice exports from 1 May 2020.³⁹ More importantly, as a testament to ASEAN solidarity, member states have made donations of essential goods like test kits and PPE to other members.⁴⁰

B. Measures relating to movement of people

The COVID-19 pandemic has resulted in disruptions in the service sector. Countries have largely banned the movement of people across their borders as the number of COVID-19 cases increased. In particular, GATS mode 2 (consumption abroad) and mode 4 (movement of natural persons) have, according to the WTO, been “largely paralysed”.⁴¹ In Singapore, the Ministry of Trade and Industry has noted that the sectors that are most

³⁴ Customs (Prohibition of Exports) (Amendment) (No. 2) Order 2020 (Malaysia).

³⁵ ‘Malaysia’s exports to contract in 2020 at 8.3% amid MCO, COVID-19 crisis’ (*Moneycompass*, 5 June 2020) <<https://moneycompass.com.my/2020/06/05/malaysias-exports-to-contract-in-2020-at-8-3pc-amid-mco-covid-19-crisis/>>.

³⁶ Khanh Vu, ‘Vietnam PM says to fully resume rice exports from May’ (*Reuters*, 28 April 2020) <<https://www.reuters.com/article/us-vietnam-rice-exports-idUSKCN22A1SN>>.

³⁷ Mongkol Bangprapa, ‘Egg exports banned for one week’ (*Bangkok Post*, 26 March 2020) <<https://www.bangkokpost.com/business/1887040/egg-exports-banned-for-one-week>>.

³⁸ Dat Nguyen, ‘Vietnam to lift mask export restrictions’ (*VN Express International*, 16 April 2020) <<https://e.vnexpress.net/news/business/industries/vietnam-to-lift-mask-export-restrictions-4085465.html>> accessed 10 July 2020.

³⁹ Khanh Vu (n 36).

⁴⁰ Tommy Koh, ‘ASEAN’s Response to COVID-19: A report card’ (*The Straits Times*, 6 June 2020) <<https://www.straitstimes.com/opinion/aseans-response-to-covid-19-a-report-card>>.

⁴¹ WTO, ‘Trade in Services in the Context of COVID-19 Information Note’ (28 May 2020) <https://www.wto.org/english/tratop_e/covid19_e/services_report_e.pdf> at p 1.

severely affected are those that rely on international travel, such as tourism and accommodation.⁴²

i. European Union (EU)

On 17 March 2020, the EU closed its external borders for non-essential travel for 30 days. This was later extended until 30 June 2020.⁴³ On 30 June 2020, the member states approved 15 “safe” countries for which travel restrictions will be lifted. These countries are chosen based on criteria such as the trend of new infections in the country, and reciprocity considerations.⁴⁴

ii. Australia

Australia has closed its borders due to the COVID-19 pandemic. Only Australian citizens, residents and immediate family members can travel to Australia.⁴⁵ From 25 March 2020, all Australian citizens and permanent residents have been prohibited from travelling out of Australia unless they are granted an exemption.⁴⁶

iii. China

From 28 March 2020, China temporarily suspended the entry of foreign nationals holding visas or residence permits issued before 28 March 2020.⁴⁷ However, essential business and official travel is permitted between Singapore and China under the Green / Fast lane arrangements.⁴⁸

iv. ASEAN

On 18 March 2020, Malaysia implemented its Restriction of Movement of People Order until 14 April 2020.⁴⁹ Under the Order,⁵⁰ interstate and international travel are prohibited. It was later extended four times until 9 June 2020, with a “Recovery Phase”

⁴² Ministry of Trade and Industry Singapore, ‘Impact of the COVID-19 Pandemic on the Singapore Economy’ (26 May 2020) <<https://www.mti.gov.sg/Resources/feature-articles/2020/Impact-of-the-COVID-19-Pandemic-on-the-Singapore-Economy>>.

⁴³ KPMG, ‘European Union - COVID-19: Some Easing of Travel Restrictions’ (7 July 2020) <<https://home.kpmg/xx/en/home/insights/2020/07/flash-alert-2020-305.html>>.

⁴⁴ *ibid.*

⁴⁵ Australia Government Department of Health ‘Coronavirus (COVID-19) advice for travellers’ <https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-COVID-19-advice-for-travellers#travel-to-australia>.

⁴⁶ *ibid.*

⁴⁷ Ministry of Foreign Affairs Singapore, ‘China-Overview’ <<https://www.mfa.gov.sg/Countries-Regions/C/China/Travel-Page>>.

⁴⁸ *ibid.*

⁴⁹ Vincent Tan, ‘COVID-19: Malaysia extends movement control order for third time until May 12’ (*Channel News Asia*, 23 April 2020) <<https://www.channelnewsasia.com/news/asia/COVID-19-malaysia-extends-movement-control-order-may-12-12670228>>.

⁵⁰ Baker McKenzie, ‘Malaysia: Restriction of Movement Order’ (17 March 2020) <<https://www.bakermckenzie.com/en/insight/publications/2020/03/restriction-of-movement-order>>.

from 10 June to 31 August 2020. However, Malaysia's border remains closed. The announcement of the Order sparked waves of panic buying in Singapore supermarkets as Malaysia is a major exporter of food to Singapore. Other member states like Vietnam have also temporarily suspended entry of foreigners and overseas via commercial flights.⁵¹

2. *Legality of measures under trade agreements*

A. WTO

i. GATT

(a) ARTICLE XI

Article XI.1 of the GATT provides that no exports prohibitions or restrictions other than duties, taxes or charges should be maintained on exports of goods for sale.⁵² However, there are exceptions under the GATT which allow countries to take emergency measures relating to national security and health.

Under Art XI:2, such prohibitions are allowed if they are “temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential” to the exporting country. In *China-Raw Materials*, the Appellate Body elaborated that a measure is “temporarily applied” when it is “applied for a limited time... to supply a passing need.”⁵³ It also found that XI:2(a) applies to shortages in products that are “absolutely indispensable or necessary”.⁵⁴ Given that the measures taken by these countries were for a temporary period of time and to relieve domestic shortages in essential goods like food and PPE, with some countries beginning to roll back on their bans, it might be arguable that these measures fall under the exception in Art XI:2.

⁵¹ Ministry of Foreign Affairs Singapore, ‘Vietnam-Overview’ <<https://www.mfa.gov.sg/countries-regions/viet-nam/travel-page>>.

⁵² General Agreement on Tariffs and Trade 1947, Oct. 30, 1947, 61 Stat. A-11, 55 U.N.T.S. 194 [hereinafter GATT], Art XI.

⁵³ Appellate Body Reports, *China-Raw Materials*, WT/DS394/AB/R, WT/DS395/AB/R, WT/DS398/AB/R, adopted at 22 February 2012 <https://www.wto.org/english/tratop_e/dispu_e/394_395_398abr_e.pdf> at para 323.

⁵⁴ Appellate Body Reports, *China-Raw Materials*, WT/DS394/AB/R, WT/DS395/AB/R, WT/DS398/AB/R, adopted at 22 February 2012 <https://www.wto.org/english/tratop_e/dispu_e/394_395_398abr_e.pdf> at para 326.

However, in these times of scarcity, governments should carefully evaluate whether there is a “critical shortage” of essential goods. Despite fears of domestic food shortages, many countries have instead reported a surplus of domestic food supplies, with some countries having high amounts of domestic food waste while importing countries face food shortages. One of the contributing factors is stockpiling.⁵⁵ In Vietnam, for example, it was reported that the nation could still export 3 million tonnes of rice while protecting its food security⁵⁶ while other importers of Vietnamese rice like Australia⁵⁷ and Africa⁵⁸ faced shortages. Indeed, commentators have noted that in ASEAN, there could be “more pressure moving forward if countries implement ‘protectionist policies’”.⁵⁹

(b) ARTICLE XX(b)

Additionally, under the General Exceptions clause under GATT Art XX(b), contracting parties can adopt measures that are necessary to protect human life or health⁶⁰ if they are not “applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade”. In *EC-Asbestos*, the Appellate Body stated that “WTO Members have the right to determine the level of protection of health that they consider appropriate in a given situation”.⁶¹ Given that PPE is indeed necessary to protect people and prevent the spread of the disease, and food is necessary to sustain human life, it is arguable that export bans on such essential goods might be justified under GATT Art XX(b). Moreover, as most of the bans are universal rather than country-specific, they are likely to satisfy the *chapeau* requirement of non-arbitrary and non-discriminatory as well.

⁵⁵ Amy Gunia (n 27).

⁵⁶ Vietnam Considers Resuming Rice Shipments Amid Virus-driven Stockpiling (*VOA News*, 28 March 2020) <<https://www.voanews.com/east-asia-pacific/vietnam-considers-resuming-rice-shipments-amid-virus-driven-stockpiling>>.

⁵⁷ Pearly Neo, ‘Rice-ing concern: COVID-19 creates supply and price volatility for Asia’s most ‘cost sensitive’ crop’ (*Food Navigator*, 22 April 2020) <<https://www.foodnavigator-asia.com/Article/2020/04/22/Rice-ing-concern-COVID-19-creates-supply-and-price-volatility-for-Asia-s-most-cost-sensitive-crop>>.

⁵⁸ Libby George, ‘COVID-19 is exacerbating food shortage in Africa’ (*Reuters*, 27 April 2020) <<https://www.weforum.org/agenda/2020/04/africa-coronavirus-covid19-imports-exports-food-supply-chains>>.

⁵⁹ Pearly Neo, ‘COVID-19 in ASEAN: ‘Protectionist’ measures threaten global supply chains as lockdowns persist’ (*Food Navigator*, 14 April 2020) <<https://www.foodnavigator-asia.com/Article/2020/04/14/COVID-19-in-ASEAN-Protectionist-measures-threaten-global-supply-chains-as-lockdowns-persist>>.

⁶⁰ GATT, Art XX(b).

⁶¹ Appellate Body Reports, *EC-Asbestos*, WT/DS135/AB/R adopted 5 April 2001 <https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=1236&CurrentCatalogueIdIndex=0&FullTextHash=> at para 168.

(c) ARTICLE XXI

Commentators have also argued that such measures can be justified under Art XXI of the GATT, which allows contracting parties to take measures for security purposes.⁶² This is especially so given that governments have the inherent power to protect their own national security.⁶³ In *Russia-Traffic in Transit*, the Panel interpreted an emergency as an “armed conflict, or of latent armed conflict, or of heightened tension or crisis, or of general instability engulfing or surrounding a state”.⁶⁴ It might be possible that measures taken to deal with COVID-19 fall under this provision. For example, countries like the USA and Russia include pandemics as part of their national security strategy.⁶⁵

ii. GATS

The measures relating to travel restrictions have not been challenged at the WTO. In any case, under GATS Article XIV, members can impose measures necessary to “protect human, animal or plant life or health.”⁶⁶ In this regard, countries in the EU have shown a willingness to relax travel restrictions in certain circumstances where there is evidence that travellers from certain regions pose less risk, based on evidence like the COVID-19 infection rate in their countries.⁶⁷ However, the WHO has exhorted governments to base their measures on “scientific principles, available scientific evidence and available specific guidance and advice from WHO”.⁶⁸ Thus, countries should not take measures that are more trade-restrictive than necessary, such as by imposing broad travel bans on countries adjacent to those where infections have been reported.⁶⁹

⁶² GATT, Art XXI.

⁶³ Jingyuan Zhou, ‘Guest Post: Facilitating WTO-Compliant Responses to International Public Health Emergencies’ (*International Economic Law and Policy Blog*) <<https://ielp.worldtradelaw.net/2020/03/guest-post-facilitating-wto-compliant-responses-to-international-public-health-emergencies-introduct.html>>.

⁶⁴ Report of the Panel, *Russia-Traffic in Transit*, WT/DS512/R adopted 26 April 2019 <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/512R.pdf&Open=True>> at para 7.76

⁶⁵ Viktoriia Lapa, ‘GATT Article XXI as a way to justify food trade restrictions adopted as a response to COVID-19?’ (*Regulating for Globalization*, 10 April 2020) <http://regulatingforglobalization.com/2020/04/10/gatt-article-xxi-as-a-way-to-justify-food-trade-restrictions-adopted-as-a-response-to-COVID-19/?doing_wp_cron=1591517737.5501201152801513671875>.

⁶⁶ General Agreement on Trade in Services, Apr 15 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1B, 1869 U.N.T.S. 183, 33 I.L.M. 1167 (1994) [hereinafter GATS] Art XIV.

⁶⁷ Katya Adler, ‘Coronavirus: EU to allow in visitors from 15 ‘safe’ countries’ (*BBC*, 30 June 2020) <<https://www.bbc.com/news/world-europe-53222356>>.

⁶⁸ Jingyuan Zhou (n 63).

⁶⁹ *ibid.*

B. ASEAN FTA

The general exceptions in the GATT are incorporated under Art 8 of the ASEAN Trade in Goods Agreement (“ATIGA”).⁷⁰ As such, member States can take measures that are, *inter alia*, necessary to protect public morals; or to protect human, animal or plant life or health. Thus, as discussed above, these exceptions might apply to measures taken by ASEAN members during the COVID-19 pandemic.

Security exceptions are incorporated under Art 9 of the ATIGA. Interestingly, Art 9(iv) also provides that member states can take actions to protect its essential security interests in times of “domestic emergency”. Arguably, if there are indeed domestic shortages of essential goods like food and PPE, such events may be “domestic emergencies” to which this section applies.

Additionally, ASEAN members have demonstrated their willingness to remain open and continuing to support a rules-based international trading system during the COVID-19 period⁷¹ through a series of meetings between ministers of member states. A key meeting was the ASEAN Summit, during which members committed to keep markets open and enhance cooperation.⁷²

C. Bilateral FTAs

In its bilateral FTAs, Singapore has incorporated provisions with language similar to exceptions in Art XI,⁷³ XX⁷⁴ and XXI⁷⁵ of the GATT and XIV of the GATS.⁷⁶ Some RTAs, such as the Singapore-Sri Lanka RTA and the Singapore-EU RTA, further provide that parties should negotiate before putting in place such measures.⁷⁷ Hence, trade-restrictive

⁷⁰ Enterprise Singapore, ‘ASEAN Trade in Goods Agreement’ <https://www.enterprisesg.gov.sg/-/media/esg/files/non-financial-assistance/for-companies/free-trade-agreements/asean-fta/legal-text/asean-trade-in-goods-agreement/Asean_Trade_In_Goods_Agreement_chaam_thailand_260209.pdf>.

⁷¹ Tommy Koh (n 40).

⁷² ASEAN, ‘Declaration of the Special ASEAN Summit on Coronavirus Disease 2019 (COVID-19)’ (14 April 2020) <<https://asean.org/storage/2020/04/FINAL-Declaration-of-the-Special-ASEAN-Summit-on-COVID-19.pdf>>.

⁷³ See e.g. Singapore-Peru Free Trade Agreement, Art 2.13(1); Singapore-Australia Free Trade Agreement Art 8(1); US-Singapore Free Trade Agreement [hereinafter ‘USSFTA’] Art 2.7(1).

⁷⁴ See e.g. ASEAN Australia New Zealand Free Trade Area chapter 15 art 1(1); Japan-Singapore Economic Partnership Agreement art 17; Sri Lanka-Singapore Free Trade Agreement Art 2.16; European Union-Singapore Free Trade Agreement Art 2.14; Singapore-Australia Free Trade Agreement Art 18; China-Singapore Free Trade Agreement chapter 13 art 105.

⁷⁵ See e.g. USSFTA 21.2.

⁷⁶ See e.g. USSFTA Art 21.1:2.

⁷⁷ See e.g. Singapore-Peru Free Trade Agreement, Art 2.16(2); European Union-Singapore Free Trade Agreement Art 2.9(2).

measures relating to exports of goods might be justified under these provisions of bilateral FTAs.

III. Trade in goods

Land-scarce and resource-scarce Singapore depends heavily on international partners for its survival and prosperity. With the COVID-19 pandemic turning from a health emergency to a trade emergency, this means severe disruptions in two ways for Singapore – disruptions to trade in goods, and trade in services.

Dealing first with the area of trade in goods, the continuity of the flow of goods in and out of Singapore is crucial in ordinary times, to allow for the functioning of businesses locally, as well as to fulfil the needs of residents of Singapore. With COVID-19, this becomes even more critical, especially when it concerns trade in essential items, such as medical supplies to fight COVID-19 or food for local consumption.

Amongst others, several key factors have led to this disruption: (1) increased demand for *essential* products, in particular medical supplies; (2) restrictions placed by exporting countries on trade of goods that are deemed essential; and (3) disruptions to trade routes associated with passenger travel grinding to a halt.

Singapore has sought to address these factors through various means. First, Singapore has made high-level declarations with its partners which affirm the value of free trade, as well as make broad commitments to minimise disruptions to trade in goods, and actively facilitate trade. Next, Singapore has entered into specific arrangements with New Zealand to ensure trade in essential goods, including medical supplies and foodstuff, continues with little restrictions. Third, Singapore has worked to encourage that exporting countries avoid placing excessive restrictions by calling for restraint on stockpiling, as well as setting the example for transparency by disclosing its own domestic stockpiles. Finally, Singapore's long-term foreign policy of developing a wide network of relations has allowed it, in this crisis, to resolve some problems it has faced resolutely, as well as avoid some other problems to begin with.

1. High-level declarations affirming free trade

In a series of high-level declarations and joint statements, Singapore has affirmed the importance of free trade and a rules-based multilateral trading system.

On 17 April 2020, as part of a Ministerial Coordination Group on COVID-19, Singapore and 12 other countries made a declaration on maintaining essential global links.⁷⁸ In this declaration, countries committed to keeping ports open and cargo routes available, in order to facilitate trade in goods.⁷⁹ Further, countries agreed to encourage their private sectors to adapt to evolving circumstances and repurpose manufacturing toward critical needs so as to meet demands, both locally and globally.⁸⁰

Next, on 22 April 2020, as part of the WTO General Council Committee on Agriculture, Singapore and 23 other delegations issued a joint statement titled “Responding to the COVID-19 Pandemic with Open and Predictable Trade in Agricultural and Food Products”.⁸¹ In the statement, countries agreed to: ensure open and connected supply chains;⁸² exercise restraint in stockpiling;⁸³ not impose agricultural export restrictions and avoid unjustified trade barriers;⁸⁴ ensure that emergency measures related to agricultural and agri-food products are targeted, proportionate, transparent and temporary;⁸⁵ provide advance notification of any trade-related measures to the WTO, as well as offer opportunities for other countries to review new measures;⁸⁶ and publish updated and accurate information on levels of food production, consumption and stocks, as well as food prices.⁸⁷

On 1 May 2020, Singapore and four other countries issued a “Joint Ministerial Statement on Action Plans to Facilitate the Flow of Goods and Services as well as the Essential Movement of People”.⁸⁸ In the statement, they made commitments which were in essence similar to the ones listed in the paragraph above. In addition, countries committed to working on removing trade-restricting measures when the COVID-19 situation improved, and agreed to establish a “consultation mechanism” between the signatory countries to identify and address disruptions that affect trade in essential goods.⁸⁹

⁷⁸ Ministry of Foreign Affairs Singapore, ‘Declaration of the Ministerial Coordination Group on COVID-19 on Maintaining Essential Global Links’ (17 April 2020) <<https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2020/04/18042020-Ministerial-Coordination-Group-on-COVID-19>>.

⁷⁹ *ibid* paragraphs 8(a), (b) and (h).

⁸⁰ *ibid* paragraph 8(j).

⁸¹ World Trade Organization, ‘Responding to the COVID-19 Pandemic with Open and Predictable Trade in Agricultural and Food Products (Revision)’ WT/GC/208/Rev.2, G/AG/30/Rev.2, 20-3862 (29 May 2020) <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/GC/208R2.pdf>>.

⁸² *ibid* paragraph 1.6(a).

⁸³ *ibid* paragraph 1.6(b).

⁸⁴ *ibid* paragraph 1.6(c).

⁸⁵ *ibid* paragraph 1.6(d).

⁸⁶ *ibid* paragraph 1.6(e).

⁸⁷ *ibid* paragraph 1.6(f).

⁸⁸ Ministry of Trade and Industry Singapore, ‘Joint Ministerial Statement on Action Plans to Facilitate the Flow of Goods and Services as well as the Essential Movement of People’ (29 May 2020) <<https://www.mti.gov.sg/Newsroom/Press-Releases/2020/05/Joint-Ministerial-Statement-on-Action-Plans-to-Facilitate-the-Flow-of-Goods-and-Services>>.

⁸⁹ *ibid* paragraph 1.

On 28 May 2020, Singapore and 46 other countries issued a statement reaffirming a ruled-based multilateral trading system and the central role of the WTO.⁹⁰ Given the larger number of signatories, this statement included less concrete commitments, and instead focused on recognising the important role of the WTO and the work it does.

On 16 June 2020, as part of the Ottawa Group, Singapore and 11 other countries issued a statement on potential actions that members of the WTO could consider taking during COVID-19.⁹¹ In the statement, the Ottawa Group committed to taking the lead to withdraw any trade restrictive measures introduced during the pandemic as quickly as possible, as well as study steps that WTO members could take, having learnt from the experience of COVID-19, to avoid situations of future crises disrupting trade, food security and the long-term stability of agricultural markets.

Lastly, on 19 June 2020, as a follow-up to the Special ASEAN Summit on COVID-19, ASEAN released its Hanoi Plan of Action.⁹² Beyond the usual commitments as seen in the other high-level declarations, the Action Plan focused specifically on increasing cooperation amongst ASEAN Member States to ensure security of essential goods. ASEAN aims to do this by encouraging Member States to provide updates in the case of surplus production of essential goods to all other ASEAN Member States, on a best endeavour basis.

2. Agreement between Singapore and New Zealand

Beyond the high-level declarations with its partners, Singapore has also entered into specific arrangements with New Zealand to ensure continuity of trade in essential goods, including medical supplies and foodstuff. In the “Declaration on Trade in Essential Goods for Combating the COVID-19 Pandemic” dated 15 April 2020,⁹³ Singapore and New Zealand have agreed to various measures to ensure available supply chains and minimal disruptions to trade in goods.

⁹⁰ World Trade Organization, ‘Statement on COVID-19 and the Multilateral Trading System by Ministers Responsible for the WTO’ WT/GC/212/Rev.1 (29 May 2020) <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/GC/212R1.pdf>>.

⁹¹ World Trade Organization, ‘June 2020 Statement of the Ottawa Group: Focusing Action on COVID-19, Communication from Canada’ WT/GC/217, 20-4263 (16 June 2020) <<https://www.tralac.org/documents/resources/COVID-19/3737-june-2020-statement-of-the-ottawa-group-focusing-action-on-COVID-19-wto-general-council-16-june-2020/file.html>>.

⁹² ASEAN, ‘Hanoi Plan of Action on Strengthening ASEAN Economic Cooperation and Supply Chain Connectivity in Response to the COVID-19 Pandemic’ (26 June 2020) <<https://asean.org/hanoi-plan-action-strengthening-asean-economic-cooperation-supply-chain-connectivity-response-COVID-19-pandemic/>> .

⁹³ Ministry of Trade and Industry Singapore, ‘Declaration on Trade in Essential Goods for Combating the COVID-19 Pandemic’ (15 April 2020) <<https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2020/04/Press-Release--Singapore-New-Zealand-Declaration-on-Trade-in--Essential-Goods-FINALv2.pdf>>.

(1) *Key aspects of the Declaration*

First, it must be noted that the Declaration includes specific lists of Goods that are covered. Unlike the high-level declarations which merely envision essential goods to include food items, agricultural products and inputs, and medical supplies *generally*, this agreement specifically defines products that are considered essential by both parties, and further distinguishes them, based on how important they are and the rules that should therefore apply to the products.

Goods listed in Annex I of the Declaration (“Annex I Goods”) include certain food preparations, antibiotics, vitamins, medications, vaccines, dressings, pharmaceutical goods, soap, washing and cleaning preparations, disinfectants, prepared culture media, surgical gloves, textiles, laboratory glassware, sterilizers, medical instruments and appliances, therapeutic respiration apparatus, equipment related to x-rays, and thermometers. This list is much more comprehensive than the list of personal protective equipment and medical goods Switzerland envisioned, for example, when introducing its own unilateral declaration of temporary elimination of import tariffs in May 2020.⁹⁴

On the other hand, goods listed in Annex II of the Declaration (“Annex II Goods”) include, inter alia, live animals, meat, fish, milk and dairy products, plants, fresh and dried fruits and vegetables, coffee, tea, spices, wheat, flour, edible oils, pasta, jams, yeast, condiments, beer and wine.

As can be seen, with the exception of food preparations for infant use, Annex I Goods consist of medical goods that would be used on the frontlines in the fight against COVID-19. Annex I Goods would therefore be more critical than Annex II Goods (essentially food products), and therefore deserving of more protection and measures to ensure unrestricted trade of such goods.

Following this reasoning, both parties have agreed to a set of a stricter measures for Annex I Goods. First, they have agreed to eliminate all customs duties and charges of any kind for such goods, within the meaning of Article II:1(b) of the GATT 1994.⁹⁵ In

⁹⁴ In contrast to the Annex I Goods, Switzerland’s own unilateral declaration covers only HS Chapters 28; 38; 39; 40; 48; 61; 62; 63; 65; and 90. See, WTO document G/MA/W/154 (27 May 2020) <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/MA/W154.pdf&Open=True>>.

⁹⁵ Ministry of Trade and Industry Singapore, ‘Declaration on Trade in Essential Goods for Combating the COVID-19 Pandemic’ (15 April 2020) <<https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2020/04/Press-Release--SingaporeNew-Zealand-Declaration-on-Trade-in--Essential-Goods-FINALv2.pdf>> at para 1

addition, they will not apply export prohibitions or restrictions on Annex I Goods, within the meaning of Article XI:1 of the GATT 1994.⁹⁶

In contrast, both parties have only agreed to *endeavour* to not apply export prohibitions or restrictions for Annex II Goods, unless they fall within exceptions set out in GATT 1994.⁹⁷ Where export prohibitions or restrictions are introduced, parties must give advance notice.⁹⁸ In effect, in light of COVID-19, this means that parties can easily introduce export prohibitions on Annex II Goods by relying on, inter alia: (i) Article XI:2(a) of the GATT 1994, on the basis that the party needs to prevent or relieve critical shortages of foodstuffs;⁹⁹ or (ii) Article XX(b) of the GATT 1994, arguing that such restrictions are necessary in light of COVID-19 to protect human life or health.¹⁰⁰ These would, of course, be subject to certain conditions being met under the respective exceptions.

With respect to non-tariff barriers, however, the parties' commitments do not differentiate between Annex I and Annex II Goods – parties only commit to *intensifying consultations* with a view to removing such barriers.¹⁰¹ This is probably due to the complex nature of the non-tariff barriers, which often involves other important public policy considerations such as public safety and health, and are within the turfs of government agencies other than the trade ministry. In addition, for both Annex I Goods and Annex 2 Goods, parties agree to similarly expedite and facilitate the flow and transit of all products through their air and sea ports,¹⁰² as well as endeavour to expedite the release of such products upon arrival, including introducing measures to speed up the processing of import documentation.¹⁰³

Finally, the Declaration requires parties to periodically review the Declaration paragraphs and the product coverage in Annex I and Annex 2, and allows for updating of the Annexes to incorporate additional products.¹⁰⁴

⁹⁶ *ibid* para 2.

⁹⁷ *ibid* para 8.

⁹⁸ *ibid* para 9.

⁹⁹ GATT, Article XI:2(a).

¹⁰⁰ GATT, Article XX:b.

¹⁰¹ Ministry of Trade and Industry Singapore, 'Declaration on Trade in Essential Goods for Combating the COVID-19 Pandemic' (15 April 2020) <<https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2020/04/Press-Release--SingaporeNew-Zealand-Declaration-on-Trade-in--Essential-Goods-FINALv2.pdf>> at para 3.

¹⁰² *ibid* para 4.

¹⁰³ *ibid* para 5.

¹⁰⁴ *ibid* para 13.

(2) *Significance of the agreement*

Having discussed the content of the Declaration, it would now be worth laying out the context of trade relations between Singapore and New Zealand, as well as why such a specific agreement is beneficial for Singapore.

First, Singapore is New Zealand's largest trading partner in Southeast Asia, and seventh-largest trading partner globally.¹⁰⁵ In the year ending December 2018, bilateral trade between both countries amounted to NZ\$5.2 billion. Being a significant trading partner, securing its continued partnership during COVID-19 was crucial, especially at a time when many others are choosing to adopt protectionist measures. As was noted by the High Commissioner of New Zealand to Singapore, the real benefit of this agreement is that food arrives from New Zealand to Singapore, and medical supplies and other goods are sent from Singapore to New Zealand as part of this partnership.¹⁰⁶ In fact, the first freight flight to Singapore from New Zealand after the signing of the Declaration saw 20 tonnes of chilled meat arriving in Singapore, including lamb and beef, while subsequent flights would carry more meat, as well as fruits and eggs.¹⁰⁷ Ultimately, for a country which relies on imports for most of its food supplies, such an agreement is extremely beneficial during times of pandemic.

Second, Singapore and New Zealand, despite being small countries, also have a long history of pioneering in rule-making efforts at the international level. For example, it was Singapore and New Zealand, along with Chile, that first created the Trans-Pacific Strategic Economic Partnership Agreement ("P4 Agreement") in 2005 to "act as a benchmark for trade liberalization among APEC economies and create a demonstration effect for the WTO".¹⁰⁸ The P4 Agreement later morphed into the CPTPP, one of the largest mega-FTAs the world has ever seen. 15 years later, it was also Singapore's initiative, along with New Zealand and Chile, to create the Digital Economy Partnership Agreement, in order to "set forward-looking standards on digital trade, and establish new

¹⁰⁵ New Zealand Foreign Affairs and Trade, 'CEP overview' <<https://www.mfat.govt.nz/en/trade/free-trade-agreements/free-trade-agreements-in-force/nz-singapore-closer-economic-partnership/cep-overview/>>.

¹⁰⁶ Jo Tyndall, High Commissioner of New Zealand to Singapore, 'S'pore and New Zealand: Standing together amid COVID-19 challenges' (*The Straits Times*, 1 May 2020) <https://www.straitstimes.com/opinion/spore-and-new-zealand-standing-together-amid-COVID-19-challenges?xtor=CS3-18&utm_source=STiPhone&utm_medium=share&utm_term=2020-05-01%20%3A05%3A37>.

¹⁰⁷ Lena Loke, 'New Zealand sends first batch of essential supplies to Singapore, as part of pact to keep trade flowing amid COVID-19' (*TODAY Online*, 22 April 2020) <<https://www.todayonline.com/singapore/new-zealand-sends-first-batch-essential-supplies-singapore-part-pact-keep-trade-flowing>>.

¹⁰⁸ For the early history of the P4 Agreement, see Henry Gao, 'The Trans-Pacific Strategic Economic Partnership Agreement: High Standard or Missed Opportunity?', (Trade-led Growth: A Sound Strategy for Asia: Papers presented at the 5th Anniversary Conference of ARTNeT "Trade-Led Growth in Times of Crisis", 2-3 November 2009 at p 79-95) <https://www.unescap.org/sites/default/files/0%20-%20Full%20Report_11.pdf>.

international approaches to support the digital economy and trade in the digital era.”¹⁰⁹ Going forward, it would not be surprising for the approach taken by the two countries in the Declaration on Trade in Essential Goods sets the example for “Inverse-Exceptions”¹¹⁰ which helps all countries in their ongoing fight against the pandemic. That is probably why the Declaration also includes an open-accession clause, welcoming the participation “by any Member of the WTO, or State or separate customs territory in the process of acceding to the WTO.”¹¹¹

3. *Stockpiling and Singapore’s response*

(1) *The issue of stockpiling*

Next, a problem that has become especially evident during the COVID-19 pandemic is that of stockpiling. Stockpiling is not just seen within individual households during times of pandemic, nations also stockpile in preparation for times of pandemic. There is an understandable need to accumulate resources that are essential to the safety of a country and that could potentially be in shortage during crises, but stockpiling can also be done excessively.

As an example of excessive stockpiling, China has sufficient grain reserves to last a year, with an estimated 470kg of wheat and rice stocks per capita.¹¹² In fact, of the world’s total rice stocks, more than 60% are held in China’s reserves.¹¹³

In the case of Vietnam, amidst supply chain disruptions during the outbreak of COVID-19, Vietnam announced in late-March 2020 that it would stockpile 270,000 tonnes of

¹⁰⁹ Ministry of Trade and Industry Singapore, ‘Singapore leads the way in new Digital Economy Partnership Agreement with Chile and New Zealand’ (17 May 2019) <<https://www.mti.gov.sg/Newsroom/Press-Releases/2019/05/Singapore-leads-the-way-in-new-Digital-Economy-Partnership-Agreement-with-Chile-and-New-Zealand>>.

¹¹⁰ Mona Pinchis-Paulsen, ‘COVID-19 Symposium: Thinking Creatively and Learning from COVID-19- How the WTO Can Maintain Open Trade on Critical Supplies’ (*OpinioJuris*, 2 April 2020) <<http://opiniojuris.org/2020/04/02/COVID-19-symposium-thinking-creatively-and-learning-from-COVID-19-how-the-wto-can-maintain-open-trade-on-critical-supplies/>>.

¹¹¹ Ministry of Trade and Industry Singapore, ‘Declaration on Trade in Essential Goods for Combating the COVID-19 Pandemic’ (15 April 2020) <<https://www.mti.gov.sg/-/media/MTI/Newsroom/Press-Releases/2020/04/Press-Release--SingaporeNew-Zealand-Declaration-on-Trade-in--Essential-Goods-FINALv2.pdf>> at para 11.

¹¹² Zhang Yangfei, ‘Reserves of grain, food still ample in nation’ (*China Daily*, 6 April 2020) <<http://www.chinadailyasia.com/article/126780>>. See also Xinhua, “China increases state rice purchasing to strengthen grain reserve” (9 April 2020) <http://www.xinhuanet.com/english/2020-04/09/c_138962183.htm>.

¹¹³ United States Department of Agriculture Foreign Agricultural Service, ‘World Rice Production, Consumption and Stocks’ (11 June 2020) <<https://apps.fas.usda.gov/psdonline/reporthandler.ashx?reportId=681&templateId=7&format=html&fileName=World%20Rice%20Production,%20Consumption,%20and%20Stocks>>.

rice.¹¹⁴ This would be done, inter alia, by suspending the signing of new export contracts. Vietnam, however, revised this plan three weeks later to instead introduce export quantity limits.¹¹⁵ Had the world's third largest rice exporter maintained the export ban,¹¹⁶ however, there would have been an estimated 10-15% reduction in market supply.¹¹⁷

Such actions, in fact, led to a chain reaction in stockpiling in countries such as Philippines and Egypt. Thus, while there was no real shortage in supplies of grains, the price of rice increased by 14% to \$410 a tonne, and the prices of wheat and barley increased by 8-10% just within the span of two weeks.¹¹⁸

(2) *What Singapore has done thus far*

In response, Singapore has committed with 22 other countries to exercise restraint in stockpiling agricultural products that are traditionally exported, as well as to provide timely and accurate information on food supply, demand, stocks and prices.¹¹⁹

In addition, as part of providing accurate and timely information on stockpiles, Singapore already has a Rice Stockpile Scheme, and stock information is publicly available.¹²⁰ All importers of rice are made to sign onto the scheme, making them aware in advance of

¹¹⁴ Khanh Vu, 'Vietnam to stockpile 270,000 tonnes of rice to ensure food security amid virus spread' (*Reuters*, 27 March 2020) <<https://www.reuters.com/article/health-coronavirus-vietnam/vietnam-to-stockpile-270000-tonnes-rice-to-ensure-food-security-amid-virus-spread-idUSL4N2BK1JO>>.

¹¹⁵ Mai Ngoc Chau, 'Shoppers Everywhere Hoarding Rice Cost Vietnam Its Stockpile' (*Bloomberg*, 17 April 2020) <<https://www.bloomberg.com/news/articles/2020-04-17/shoppers-everywhere-hoarding-rice-cost-vietnam-its-stockpiles>>.

¹¹⁶ United States Department of Agriculture Foreign Agricultural Service, 'Grain: World Markets and Trade' (June 2020) <<https://apps.fas.usda.gov/psdonline/circulars/grain-rice.pdf>>.

¹¹⁷ Sen Nguyen and Reuters, 'Coronavirus: Vietnam stockpiles rice as outbreak spreads and food security concerns grow' (*South China Morning Post*, 28 March 2020) <<https://www.scmp.com/week-asia/economics/article/3077272/coronavirus-vietnam-stockpiles-rice-outbreak-spreads-and-food>>.

¹¹⁸ The Philippines and China are the main rice importers of Vietnam. World Health Organisation, 'Coronavirus disease 2019 (COVID-19) Situation Report – 67' (27 March 2020) <https://www.who.int/docs/default-source/coronaviruse/situation-reports/20200327-sitrep-67-COVID-19.pdf?sfvrsn=b65f68eb_4>. See also, Reuters, 'Vietnam halts new rice export contracts as it reviews stocks' (*Bangkok Post*, 25 March 2020) <<https://www.bangkokpost.com/business/1886355/vietnam-halts-new-rice-export-contracts-as-it-reviews-stocks#:~:text=The%20largest%20buyers%20of%20Vietnam's,Saturday%2C%20according%20to%20the%20statement>>>. The Philippines imports almost 90% of its rice from Vietnam. See Pearly Neo, 'Rice-ing concern: COVID-19 creates supply and price volatility for Asia's most 'cost-sensitive' crop' (*Food Navigator*, 22 April 2020) <<https://www.foodnavigator-asia.com/Article/2020/04/22/Rice-ing-concern-COVID-19-creates-supply-and-price-volatility-for-Asia-s-most-cost-sensitive-crop>>.

¹¹⁹ World Trade Organization, 'Responding to the COVID-19 Pandemic with Open and Predictable Trade in Agricultural and Food Products (Revision)' WT/GC/208/Rev.2, G/AG/30/Rev.2, 20-3862 (29 May 2020) <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=Q:/WT/GC/208R2.pdf>>.

¹²⁰ 'Rice Stockpile Scheme (RSS) Monitoring System [Public] > Home > Rice Stockpile Scheme' (accessed 10 July 2020) <<https://rice.enterprisesg.gov.sg/Home/RiceStockpileScheme.aspx>>.

Singapore's intention to stockpile some amount of rice.¹²¹ This clear, transparent approach prevents the introduction of short-term rise of demand that usually accompanies stockpiling.

Finally, OECD recommends the creation of stockpiles on a *regional* basis.¹²² ASEAN already has its ASEAN Plus Three Emergency Rice Reserves ("APTERR"), where rice reserves are held by three donor countries as well as the importing countries to mitigate the consequences of inaccessibility in the event of export bans.¹²³ However, a drawback remains that ASEAN Member States have failed to provide timely data updates to other Member States,¹²⁴ which renders the early warning system for the APTERR to be activated in times of regional crisis ineffective.

4. Singapore's long-term foreign policy of making many friends

Finally, Singapore's long-term foreign policy of developing a "wide network of relations"¹²⁵ has allowed it, in this crisis, to resolve some problems it has faced resolutely, as well as avoid some other problems.

Singapore has constantly diversified its source of imports. For example, as part of its diversification strategy, besides traditional sources such as Thailand, Vietnam and India, Singapore also imports rice from Myanmar, Cambodia, Japan and the USA.¹²⁶

Further, Singapore's maintaining of friendships with all its international partners meant that during the COVID-19 pandemic, when one existing partner was facing constraints in providing essential items, Singapore could enter into an arrangement with a new partner. In June 2020, following on from a Joint Ministerial Statement by Singapore and Poland affirming their

¹²¹ Mely Caballero-Anthony et al., 'Public Stockpiling and Food Security' (*S. Rajaratnam School of International Studies, Nanyang Technological University*, May 2015)

<https://www.rsis.edu.sg/wp-content/uploads/2015/06/PB150603_Public-Stockpiling.pdf>.

¹²² Organisation for Economic Co-operation and Development, 'COVID-19 and International Trade: Issues and Actions' (12 June 2020) <https://read.oecd-ilibrary.org/view/?ref=128_128542-3ijg8kfswh&title=COVID-19and-international-trade-issues-and-actions>.

¹²³ N. Kumar, J. George, *Regional Cooperation for Sustainable Food Security in South Asia* (Routledge India, 2019).

¹²⁴ Mely Caballero-Anthony et al., 'Public Stockpiling of Rice in Asia Pacific, NTS Report No.3' (*S. Rajaratnam School of International Studies, Nanyang Technological University*, April 2016), at p 11 <<https://www.rsis.edu.sg/wp-content/uploads/2016/04/NTS-Report-No-3-11April2016.pdf>>.

¹²⁵ The Straits Times, 'Full speech: Five core principles of Singapore's foreign policy' (17 July 2017) <<https://www.straitstimes.com/singapore/five-core-principles-of-singapores-foreign-policy>>.

¹²⁶ Ang Hwee Min, 'Singapore's imports of Thai rice 'easily met' by alternative sources but climate change could affect food security' (*Channel News Asia*, 10 September 2019) <<https://www.channelnewsasia.com/news/singapore/singapore-s-imports-of-thai-rice-easily-met-by-alternative-11887182>>.

commitment to strengthen economic cooperation,¹²⁷ Singapore received its first ever shipment of chicken eggs from Poland.¹²⁸

IV. Trade in services

Beyond trade in goods, Singapore has also seen disruption to trade in services. Amongst others, one of the key factors behind such disruption is the introduction of restrictions on movement of people on people seeking to enter Singapore, as well as movement of people within the country.

1. Restrictions on movement of people introduced

Singapore first started its restrictions on movement of travellers into Singapore with a restriction on 1 February 2020 of all short-term visitors with recent travel history to mainland China, given the likelihood then of widespread community transmission across China.¹²⁹ Subsequently, when there was a surge of confirmed cases in the Republic of Korea's Daegu city and Cheongdo county, Singapore disallowed all new visitors with recent travel history to Daegu and Cheongdo from 2359hrs on 26 February 2020.¹³⁰ In a series of progressive restrictions, Singapore eventually disallowed all short-term visitors from entering or transiting in Singapore beginning from 2359hrs on 23 March 2020.¹³¹ This was in response to the increasing number of imported cases being seen in Singapore.

Subsequently, on 7 April 2020, Singapore entered a "circuit breaker" under the COVID-19 (Temporary Measures) (Control Order) Regulations 2020,¹³² where all non-essential workplaces were closed, and only essential workplaces remained open. This was in response to the increasing number of unlinked community cases in the previous month, as well as the

¹²⁷ Ministry of Trade and Industry Singapore, 'Singapore and Poland Agree to Strengthen Economic Cooperation and Connectivity to Tackle COVID-19' (29 May 2020) <<https://www.mti.gov.sg/Newsroom/Press-Releases/2020/05/Singapore-and-Poland-agree-to-strengthen-economic-cooperation-and-connectivity-to-tackle-COVID-19>>.

¹²⁸ Ministry of Trade and Industry Singapore, 'Singapore imports first shipment of eggs from Poland' (5 June 2020) <<https://www.mti.gov.sg/Newsroom/Press-Releases/2020/06/Singapore-imports-first-shipment-of-eggs-from-Poland>>.

¹²⁹ Ministry of Health Singapore, 'Extension of Precautionary Measures to Minimise Risk of Community Spread in Singapore' (31 January 2020) <<https://www.moh.gov.sg/news-highlights/details/extension-of-precautionary-measures-to-minimise-risk-of-community-spread-in-singapore>>.

¹³⁰ Ministry of Health Singapore, 'Additional Precautionary Measures in Response to Escalating Situation in Daegu and Cheongdo' (25 February 2020) <<https://www.moh.gov.sg/news-highlights/details/additional-precautionary-measures-in-response-to-escalating-situation-in-daegu-and-cheongdo>>.

¹³¹ Ministry of Health Singapore, 'Additional Border Control Measures to Reduce Further Importation of COVID-19 Cases' (22 March 2020) <<https://www.moh.gov.sg/news-highlights/details/additional-border-control-measures-to-reduce-further-importation-of-COVID-19-cases>>.

¹³² COVID-19 (Temporary Measures) (Control Order) Regulations 2020 (No. S 254/2020).

risk of a large cluster of infections.¹³³ On 21 April 2020, it was announced that the circuit breaker would be extended till 1 June 2020 and that measures would be tightened where necessary.¹³⁴

Later, on 2 May 2020, it was announced that Singapore would ease some of the tighter circuit breaker measures progressively.¹³⁵

With the easing of circuit breaker measures in three phrases from 2 June 2020 onwards, the question that remains is how Singapore has addressed the problem of allowing essential business travel to continue while preventing, or at least reducing, the risk of imported cases arriving in Singapore.

2. *How Singapore has addressed this problem*

Singapore's solution to resuming essential business and official travel has been a calibrated and careful one, given the evolving COVID-19 situation locally and abroad. In this section, we look at Singapore's arrangements and agreements thus far: (1) the Singapore-China Fast Lane for Essential Travel; (2) Singapore's agreement with Malaysia to establish a Reciprocal Green Lane and a Periodic Commuting Arrangement for cross-border travel; and (3) Singapore's commitment with Australia, Canada, South Korea, and New Zealand to resume essential cross-border travel.

(1) Singapore-China fast lane for essential travel

Beginning first with Singapore's arrangements with China, the Ministry of Foreign Affairs announced on 3 June 2020 that the two countries have agreed to create a fast lane for essential business and official travel. This fast lane would be established between Singapore and six Chinese provinces and municipalities: Chongqing, Guangdong, Jiangsu, Shanghai, Tianjin and Zhejiang. Both countries also remain open to expanding this arrangement to other Chinese provinces and municipalities in the future.

This fast lane for essential travel comes with several hurdles that applicants must pass through before they can enter Singapore. First, applicants must be sponsored by either

¹³³ Ministry of Health Singapore, 'Circuit Breaker to Minimise Further Spread of COVID-19' (3 April 2020) <<https://www.moh.gov.sg/news-highlights/details/circuit-breaker-to-minimise-further-spread-of-COVID-19>>.

¹³⁴ Gov.sg, 'PM Lee's address on the COVID-19 Situation in Singapore' (21 April 2020) <<https://www.gov.sg/article/pm-lees-address-on-the-COVID-19-situation-in-singapore-21-april-2020>>.

¹³⁵ Ministry of Health Singapore, 'Easing the Tighter Circuit Breaker Measures, Preparing for Gradual Resumption of Activity after 1 June' (2 May 2020) <<https://www.moh.gov.sg/news-highlights/details/easing-the-tighter-circuit-breaker-measures-preparing-for-gradual-resumption-of-activity-after-1-june>>.

a company or a Singapore Government agency, which would have to file an application for a SafeTravel Pass. After obtaining a SafeTravel Pass (which will be issued together with an approval letter), the applicant would apply for a visa as he normally would. The approved applicant must also electronically submit pre-trip health and travel history declarations before entering Singapore, via the SG Arrival Card.

Applicants must also comply with pre-arrival and post-arrival health measures. Before arrival, approved applicants must monitor their health status, take a polymerase chain reaction (“PCR”) test within 48 hours before departure and obtain certification that he has tested negative for COVID-19. The cost of the PCR test would be borne by the applicant. In addition, the applicant must have remained in one the six Chinese fast lane regions for the last seven days prior to departure. Upon arriving in Singapore, the applicant will undergo a PCR test again (the cost of which he will bear), and must remain in isolation at a self-sourced and self-funded declared accommodation until the PCR test result is known. If the result is negative, the applicant can only travel from his declared accommodation to the workplace, and back. If the result is positive, he must bear the cost of treatment for COVID-19. There is also a requirement for travellers to use Singapore’s contact tracing application, TraceTogether, throughout their stay. Finally, travellers must adhere to a controlled itinerary supervised by their sponsor for the first 14 days, and are disallowed from using public transportation for this purpose.¹³⁶

These comprehensive safety measures and controls in place to restrict the movement of essential travellers may serve as a model for future arrangements with other countries. However, as mentioned in Singapore’s own joint press statement, this is ultimately a *pilot* scheme, and tweaks may be necessary if there are new public health considerations.¹³⁷

(2) *Singapore-Malaysia Reciprocal Green Lane (“RGL”) and Periodic Commuting Arrangement (“PCA”)*

Next, Singapore has also entered discussions on resuming essential cross-border travel with its closest neighbour, Malaysia, which it shares a land border with. Some estimate that between 200,000 and 250,000 Malaysians ordinarily commute through either of the

¹³⁶ Ministry of Foreign Affairs Singapore, ‘Joint Press Statement by Ministry of Foreign Affairs and Ministry of Trade and Industry on the Singapore-China Fast Lane for Essential Travel’ (3 June 2020) <<https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2020/06/20200603-SG-CHINA-Fast-Lane-Essential-Travel>> at *Annex* paras 2, 3, 5 and 6.

¹³⁷ *ibid* at para 1.

two land borders each day to work in Singapore, before the COVID-19 restrictions.¹³⁸ This makes the resuming of essential cross-border travel important for both Singapore and Malaysia.

On 26 June 2020, the Prime Ministers of both countries discussed the gradual and phased resumption of cross-border travel. Following this discussion, it was announced by the Ministry of Foreign Affairs on 27 June that both have agreed to establish a RGL and a PCA.¹³⁹ This was formally introduced in a Joint Press Statement issued by the Foreign Ministers of both countries on 14 July 2020.¹⁴⁰ Both countries aim to implement the RGL and PCA on 10 August 2020. Each country has committed to publish the requirements, health protocols, and application process involved for entry and exit into Malaysia and Singapore 10 days prior to the implementation of the RGL and PCA.

The RGL will facilitate cross-border travel for official purposes or essential businesses. Specific COVID-19 prevention and public health measures have yet to be finalised. For now, it is only confirmed that eligible travellers will need to undergo PCR swab tests, as well as submit to the relevant authorities of the receiving country a controlled itinerary, which they will have to adhere to during their visit.

The PCA is catered for residents from either country who hold long-term immigration passes for business and work purposes in the other country. The PCA will allow for such residents to periodically return to their home countries for short-term home leave after they have spent at least three consecutive months in their country of work. After their home leave, they will be able to re-enter their country of work to continue work for at least another three consecutive months.

Further, both countries have committed to work on other appropriate schemes to allow for daily cross-border commuting for work purposes for travellers from both countries. This will, however, depend on the required health protocols and available medical resources in both countries.

¹³⁸ Channel News Asia, 'Allowing Malaysians to commute to Singapore will boost both countries' economies: Johor chief minister' (9 June 2020) <<https://www.channelnewsasia.com/news/asia/malaysian-singapore-commute-johor-economy-12819754>>.

¹³⁹ Ministry of Foreign Affairs Singapore, 'Prime Minister Lee Hsien Loong's Telephone Call with Malaysian Prime Minister Tan Sri Muhyiddin Yassin' (27 June 2020) <<https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2020/06/20200627---S-M-RGLPCA>>.

¹⁴⁰ Ministry of Foreign Affairs Singapore, 'Joint Press Statement by YB Dato' Seri Hishammudin Tun Hussein, Minister of Foreign Affairs of Malaysia and H.E. Dr. Vivian Balakrishnan, Minister for Foreign Affairs of the Republic of Singapore: Malaysia and Singapore to Implement the Reciprocal Green Lane for the Movement of Essential Business/Official Travellers and Periodic Commuting Arrangement for Cross-Border Travel between Malaysia and Singapore' (14 July 2020) <<https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2020/07/20200714-Joint-Press-Statement>>.

Given the large number of Malaysians that traditionally commute to Singapore daily to work, such an arrangement between Singapore and Malaysia is critical to ensure the continued the continued trade in services.

(3) *Singapore's joint commitment with Australia, Canada, South Korea and New Zealand*

Finally, Singapore has made a joint commitment with four other countries to facilitate the resumption of cross-border travel during COVID-19 while balancing public health considerations.¹⁴¹ While this has not concretised into specific plans, Minister for Trade and Industry Chan Chun Sing noted that there will need to be standardised protocols for mutual assurance of health standards, in terms of testing and contact tracing.

3. Potential issues that may arise as a result of such bilateral arrangements

As can be seen from the above, Singapore is choosing to pursue its plans to resume essential cross-border travel primarily through bilateral arrangements, beginning first with China. A question that may arise here is whether such arrangements would be in violation of international trade principles such as the Most Favoured Nation (“MFN”) principle, where countries must grant WTO Members the most favourable treatment that it grants to services and service providers of any other country.¹⁴²

On one hand, it may seem like such bilateral agreements would violate the MFN principle, since Article I.2(d) of the GATS 1994 refers to supply of services “through presence of natural persons of a Member in the territory of another Member” and this suggests that the scope of the GATS extends to cover liberalisation of movement of persons. However, movement of persons is not an area where Members are obligated to negotiate specific commitments. The Annex on Movement of Natural Persons Supplying Services under the Agreement only offers an option that Members *may* negotiate specific commitments with respect to movement of natural persons.¹⁴³

¹⁴¹ Jolene Ang, ‘Coronavirus: Singapore, Australia, Canada, South Korea, New Zealand commit to resuming essential cross-border travel’ (*The Straits Times*, 1 May 2020) <<https://www.straitstimes.com/singapore/coronavirus-singapore-australia-canada-south-korea-new-zealand-commit-to-resume-essential>>.

¹⁴² GATS, Article II:1. See also Michael Trebilcock, Robert Howse, Antonia Eliason, *The Regulation of International Trade* (4th Edition, Routledge 2012) at p 482.

¹⁴³ GATS Annex on Movement of Natural Persons Supplying Services under the Agreement. See also, Michael Trebilcock, Robert Howse, Antonia Eliason, *The Regulation of International Trade* (4th Edition, Routledge 2012) at p 481.

Hence, to the extent that Singapore has not made specific commitments under mode 4 for the relevant sector, it would not violate its obligations under the GATS. Moreover, even in sectors where specific commitments on mode 4 have been made, Singapore's restrictions and bilateral agreements can be justified under the exceptions available under the GATS that match those under the GATT 1994, which allow for exceptions to be made for measures which are necessary to protect human health.¹⁴⁴

IV. Conclusion

As we can see in the forgoing discussions, Singapore faced many challenges at the onset of the pandemic, which threatened the supply of food and other essential products, and disrupted business travel and trade in services. Many of these trade restrictions can be justified by the various exceptions clauses in trade agreements, which means that they are unlikely to go away for some time. In response, Singapore has made innovative use of trade agreements, which include the following:

1. High-level declarations with like-minded countries affirming the principle of free trade, the importance of the ruled-based multilateral trading system and the central role of the WTO, and calling for countries to withdraw the restrictions as soon as is practical. While these high-level declarations are non-binding and do not address specific issues, their very existence helps to fend off the threat of protectionism, which as the history before the Second World War has taught us, is even more contagious and deadly than pandemics.
2. Bilateral agreement with New Zealand to ensure smooth flow of trade in essential goods. As the first such agreement in the world, the agreement has obvious symbolic value as one that bucks the trend of trade protectionism and set an example for free trade. But it is more than just being symbolic. Instead, the Declaration, by listing in detail the specific products deemed to be "essential products", and by differentiating between medical products and food products into two annexes with different obligations, has provided a practical model for countries around the world to follow in concluding such "Inverse-Exceptions" agreements.¹⁴⁵ Or, even better, they do not need to draft their own agreement and can just sign on to the Declaration pursuant to its open-accession clause.

¹⁴⁴ GATS Article XIV(b).

¹⁴⁵ Mona Pinchis-Paulsen (n 110).

3. Stockpiling and diversification of supply. As a country famous for its “siege mentality”, or kiasuism,¹⁴⁶ Singapore is arguably well prepared for any crisis with its rice stockpiling scheme, which, started in 1968, is almost as old as the republic itself.¹⁴⁷ Such stockpiling, prepared for a rainy day, is necessary for a country that does not have its own agricultural production. The panic stockpiling by countries as COVID-19 spread around the world, however, is a rather different story, as many countries did not conduct a careful analysis of supply and demand before adopting such measures, resulting in excessive stockpiling that leads to waste and pushes up the prices of staple food items. By calling for countries to exercise due restraint and ensure the transparency of information, Singapore also set an example for a good stockpiling policy. In addition, instead of solely relying on the good will of countries in not hoarding more than necessary, Singapore has also taken a proactive approach by exploring non-traditional sources of supply, so that not all eggs are put in one basket.

4. Trade in services and movement of people. The movement of people is essential to the supply of services, especially for Singapore, a country with a small population base and chronic shortage of labour. Singapore solutions in this regard - both the RGL and PCA with its immediate neighbour Malaysia, which ensures the movement of key services personnel for various manual labour tasks; as well as the fast lane arrangement with China, which facilitates the travel of higher-value services activities – also provides instructive lessons for countries as they enter the next phase and ease the travel restrictions.

Despite its small size, Singapore has constantly “punches above its weight because of its wise policies and ability to work with all countries”.¹⁴⁸ The COVID-19 pandemic provides yet another opportunity for the small island nation to showcase its ability to navigate difficult times through creative use of trade agreements. As the world embark on the road to recovery, the Singaporean experience will offer an invaluable lesson to all countries on the huge potential of trade to make the world a better place.

¹⁴⁶ Peter Ho, ‘IPS-Nathan Lectures: The Challenges of Governance in a Complex World, Lecture III – The Paradox of Singapore and the Dialectic of Governance’ (3 May 2017) <https://lkyspp.nus.edu.sg/docs/default-source/default-document-library/mr-peter-ho-s-speech22ad087b46bc6210a3aaff0100138661.pdf?sfvrsn=a5116a0a_0> at p 3.

¹⁴⁷ Kopi, ‘What Happens If Singapore Runs Out of Food? The National Stockpile, Explained’ (11 February 2020) <<https://thekopi.co/2020/02/11/national-stockpiles-explained/>>.

¹⁴⁸ President Obama’s remarks, ‘Remarks by President Obama and Prime Minister Lee Hsien Loong of the Republic of Singapore After Bilateral Meeting, Kuala Lumpur Convention Centre, Kuala Lumpur, Malaysia’ (22 November 2015) <<https://obamawhitehouse.archives.gov/the-press-office/2015/11/22/remarks-president-obama-and-prime-minister-lee-hsien-loong-republic>>.