Model FTA Chapter on Crisis Management

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Article xx.2: Context and Objectives

1 The Parties recognise the value of international and regional cooperation in the event of a crisis situation in order to ensure that the benefits of economic integration for their populations, including through liberalised trade and investment, are maintained.

2 The objectives of this Chapter are to:

(a) promote cooperation and transparency among the Parties to enable them to prepare for, and respond to, a crisis situation while ensuring that trade and investment can continue to flow;

(b) through such cooperation and transparency, and associated sharing of information, prevent unintended economic and humanitarian harm that may otherwise result from a lack of coordination by Parties in responding to a crisis situation;

(c) underscore the importance of safeguarding the core values of the global trading system and the overall objectives of this Agreement by seeking to ensure that Parties reject protectionism and do not turn inward in a crisis situation.
Article xx.3: General Provisions

1 The Parties recognise:

(a) that in a crisis situation, a coordinated regional and international response is necessary and desirable to ensure the continued free flow of goods, services, people, and information;

(b) the importance of ensuring that trade lines remain open during a crisis situation, including via air and sea freight, to facilitate the flow of goods, in particular essential goods; and

(c) the important contribution that an open, global market, where innovative goods, services, people and information can flow across borders without unnecessary obstacles, makes to the healthy recovery of economies from a crisis situation.
Article xx.3: General Provisions cont’d

2. Recognising the right of each Party to set its own policies in a crisis situation (as declared pursuant to Article xx.4(2)) to ensure legitimate public welfare objectives, each Party shall exercise restraint, in such a situation, from imposing export controls or tariffs and non-tariff barriers on essential goods and services, in particular where such measures would compromise the ability of other parties to respond to the crisis, or implementing WTO inconsistent measures to stimulate exports.
Article xx.3: General Provisions cont’d

3 Each Party shall ensure that emergency measures designed to tackle a crisis situation (as declared pursuant to Article xx.4(2)), if deemed necessary, are targeted, proportionate, transparent, and temporary, do not create unnecessary barriers to trade or disruption to global supply chains, and are consistent with WTO rules and with the obligations in this Agreement.
Article xx.4 Declaration of a crisis situation

1. On request of one or more of the Parties, the [Joint Commission] shall meet in a timely manner to discuss any situation that the Party or Parties making the request consider may imminently become, or is already, a crisis situation.

2. If, following a meeting held pursuant to paragraph 1, the [Joint Commission] determines that a crisis situation exists or is imminent, it may make a declaration to that effect and obligations in this Chapter that depend upon such a declaration being made shall be triggered accordingly.
Article xx.4 Declaration of a crisis situation cont’d - definitions

crisis situation means an extraordinary situation that affects more than one territory and which arises from causes including, but not limited to, natural disasters, extreme financial events, wars, or pandemics and which involves the potential for:

a) significant impact on the free flow of cross-border trade in goods and services and investment; or

b) governments to be called upon to respond domestically through measures to prevent economic, environmental or humanitarian harm where that response is likely to have adverse impacts on trade and investment flows,

and includes an associated recovery phase as defined in this Chapter.
recovery phase means a period of time that, in a crisis situation, follows on from 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.
Other provisions

• Article xx.5 Cooperation to prepare for and respond to a crisis situation
• Article xx.6 Cooperation in other international fora
• Article xx.7 Transparency and information sharing
• Article xx.8 Participation of the private sector
• Article xx.9 Committee