

## Client Alert

### Navigating Medical Supply Chain Challenges in the Aftermath of COVID-19

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#### Governments are Reevaluating Global Supply Chains

The COVID-19 crisis has prompted policymakers in the United States and other countries to reevaluate their supply chains for critical goods including medical equipment, pharmaceuticals, and PPE. On June 4, 2020, U.S. Trade Representative Lighthizer said during an Economic Club of New York event that the United States should establish a post-coronavirus pandemic industrial policy to re-shore supply chains because the United States “need[s] to make in America what we need in a crisis in America.” Because central governments are the largest customers and sources of health care expenditures across upper middle- and high-income countries, *government efforts to ensure access and supply “resiliency” and decisions on medical product procurement will be a major driver of how supply chains will evolve.* Policymakers are considering steps to encourage diversification or repatriation of manufacturing through:

- **Subsidies and Tax Incentives:** Incentivizing domestic or diverse sourcing of medical products, reducing overreliance on imports from single markets by providing funds to assist domestic manufacturers that re-shore production.
- **Procurement Requirements:** Nationalizing or enhancing coordination of production and distribution of critical medical products, local content or production requirements in procurement, and enhancing preparedness through national strategic stockpiles.
- **Export Restrictions:** Export bans and export controls on critical medical products such as PPE and testing equipment.
- **Reducing Import Barriers, Trade Agreements, and Trusted Partners:** Enhancing trusted trading partner networks through bilateral and regional trade agreements and by reducing tariffs or other barriers to imports of critical goods.

#### Companies Need to Focus on Risk Management in an Evolving Policy Environment

Businesses focused on supply chain risk management in the rapidly evolving pandemic environment need to evaluate risks and opportunities arising from these policy discussions to inform their engagement with governments. *Companies need to understand geographic risks, the financial health and the integrity of their suppliers, and the costs and challenges of supply chain diversification or on-shoring of production.* To do so, companies need to understand their global sourcing and distribution arrangements, access to raw materials, environmental rules, feasibility of deploying new technologies, cloud storage and data usage, market exposure, government procurement rules, evolving sanctions and trade-related measures and actions, and incentives and subsidies provided by governments.

Almost 90 national governments (including the U.K., France, India, and the U.S., among others) have imposed over 150 trade-related restrictions on exports of critical medical goods such as active pharmaceutical ingredients (APIs) and PPE in response to COVID-19. Some of these export restrictions were later rescinded, but it is a telling indicator of possible trends or future actions. Reliance on API's from outside the U.S. has raised concerns in the U.S. Congress on how to diversify and potentially re-shore manufacturing of key ingredients and finished goods. *Multinational companies now face further proposals which could disrupt supply chains, increase costs, and lead to shortages.*

### **Key Questions**

Companies will need to take stock of a range of supply chain considerations over the coming months:

1. **What does supply chain resiliency mean for each ingredient, product, company, and industry?**
2. **Who will manage supply chain resiliency, and what is the role of private sector and public sector?**
3. **What mechanisms exist to achieve supply chain resiliency?**
4. **What is the role of international institutions as we consider restructuring global supply chains?**
5. **How will trade agreements and/or other international arrangements be leveraged in this effort?**

### **Opportunities for Companies**

Companies will need to assess their supply chain vulnerabilities and consider potential opportunities in this environment. These may include:

- Creating a supply chain mapping and contingency planning strategy to proactively identify potential risks, opportunities, and alternative sourcing options for readiness in response to policy developments.
- Evaluating implications for tariff and non-tariff barriers and identify business impacts in order to develop a government engagement strategy.
- Identifying subsidies and incentives that are matched to business objectives that alter or modify supply chains.
- Identifying policy measures to advocate for in APEC and the G-20 in agreements between trusted trading partners.

Companies should consider both near-term responses and risk management assessments to meet immediate business needs and longer-term engagement strategies to inform the debates, assessments, and measures adopted by governments, and to help shape the global environment through international fora such as the G-20, APEC, and WTO.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

#### **Robert Holleyman**

Partner and C&M International President & CEO – Washington, D.C.

Phone: +1.202.624.2505

Email: [rholleyman@crowell.com](mailto:rholleyman@crowell.com)

**James G. Flood**

Partner – Washington, D.C.

Phone: +1.202.624.2716

Email: [jflood@crowell.com](mailto:jflood@crowell.com)

**Patricia L. Wu**

C&M International Vice President and Managing Director – Washington, D.C.

Phone: +1.202.624.2963

Email: [pwu@crowell.com](mailto:pwu@crowell.com)

**Shelley Su**

C&M International Associate Director – Washington, D.C.

Phone: +1.202.688.3512

Email: [ssu@crowell.com](mailto:ssu@crowell.com)