

PUBLIC HEALTH POLICY SPACE FOR RESPONDING TO POTENTIAL PANDEMICS UNDER THE SCM AGREEMENT

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ABSTRACT

During the COVID-19 pandemic, trade measures are popular to countries to secure and strengthen the health care system's capacity. Subsidies are one of the trade measures to boost the production of medical products and build up the domestic supply chain. The article explores the legality of a subsidy responding pandemics under the framework of the Agreement on Subsidies and Countervailing Measures (hereinafter "SCM Agreement"). The analyses reveal that the uncertainty inherent to pandemic responses does not automatically exempt governments' financial contributions from the governance of the SCM Agreement. Two solutions are proposed to reserve policy space for public health subsidies. One is to reconsider the relevance of the precautionary principle in interpretation of the SCM Agreement; another is to reflect the balancing policy in the SCM Agreement. A point central to the two solutions is harmonizing the international trade governance and global health governance in response to pandemics. Besides, the article highlights the role of regional governance in managing the emergency supply-demand imbalance caused by public health threats and exploring new subsidy rules.

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