



FREE MINDS AND FREE MARKETS

America's Trade and Regulatory Policies Have Contributed to the Baby Formula Shortage

Eric Boehm

May 9, 2022

As the COVID-19 pandemic rattled global supply chains, each of the two most recent presidential administrations stressed the importance of limiting America's supposed reliance on imported goods and boosting domestic supply chains. Now, a national shortage of baby formula is testing that theory—and the results don't look good for the "Made in America" crowd.

The shortage is a serious one. According to CBS News, about 40 percent of the top-selling brands are currently out of stock. And as news of the shortage spreads, fears of panic-buying that could further deplete supply lines are causing some stores and pharmacies to limit how many units consumers can buy, *The New York Times* reports.

Much of the current shortage is rooted in a February recall of formula after a suspected bacterial outbreak at an Abbott Nutrition plant in Michigan. The recall affected three major brands of powdered baby formula, and the plant was subsequently closed as the Food and Drug Administration (FDA) inspected it. On Saturday, a spokesperson for Abbott told CNN that the company is working with the FDA to restore full operations.

With the Abbott plant out of commission for the time being, America's demand for baby formula has outpaced domestic supply. It's exactly the type of situation where imports would help alleviate the domestic supply crunch and make American markets more resilient.

Unfortunately, American trade policy is doing exactly the opposite right now. Tariffs and quotas—some that predate the Trump and Biden administrations, but others that were worsened in recent years—make it burdensome and costly to import the supplies that are now desperately needed. Sometimes those imports aren't allowed at all, for reasons that have nothing to do with health and safety.

"Surely, protectionism isn't the only reason for the current formula crisis," Scott Lincicome, director of general economics and trade for the Cato Institute, a libertarian think tank, tells *Reason*, "but it's just-as-surely making things worse."

As Lincicome has noted on Twitter, imports of infant formula are subject to tariff-rate quotas of 17.5 percent after certain thresholds are met. As the name suggests, tariff-rate quotas are meant to be set high enough that they effectively block additional imports by making it unprofitable to pay the tariff. In a year like this one, when domestic supplies are flagging and more formula is needed, that creates a serious impediment for suppliers.

But even if importers and consumers were willing to swallow those higher costs right now, they might be prohibited from having that choice. Last year, for example, the FDA forced a recall of approximately 76,000 units of infant formula manufactured in Germany and imported into the United States. The formula wasn't a health or safety risk to babies but merely failed to meet the FDA's labeling standards. In this case, the products were banned for not informing parents that they contained less than 1 milligram of iron per 100 calories.

In a separate incident last year, Customs and Border Patrol (CBP) bragged in a press release about seizing 588 cases of baby formula that violated other FDA regulations. The seized formulas were made by HiPP and Holle brands, which are based in Germany and the Netherlands, respectively. Both are widely and legally sold in Europe and around the rest of the world.

Even when there isn't a shortage of formula in the market, consumers should be given the choice to buy perfectly safe products that are approved by regulators in Europe even if they fail to meet the FDA's standards. Now, especially, many parents would probably prefer to feed their infants formula imported from Europe instead of not having access to any formula at all. Economic protectionism and unnecessary regulation are the reasons why that's not a viable solution right now.

But rather than moving toward allowing greater trade, the U.S. has recently adopted policies making it more difficult to import infant formula. The United States-Mexico-Canada Agreement (USMCA), the rewrite of the North American Free Trade Agreement (NAFTA) championed by the Trump administration, set new limits on how much baby formula Canada could export—not just to the United States, but anywhere else in the world too.

As the CBC reported in 2018, that provision was likely a way for the Trump administration to snipe at China, after a Chinese-based company had invested \$225 million in a formula manufacturing facility in Canada. The deal was also a win for American dairy farmers and the Trump administration, the CBC reported, after a political spat between the dairy special interests on both sides of the border.

But the new "export fees" included in the USMCA likely make it more costly and difficult for America to import extra supplies of formula from its northern neighbor. Chalk it up to another self-inflicted wound of the trade war with China.

While each of these specific trade and regulatory policies has contributed to the infant formula shortage in small ways, the bigger picture should raise some difficult questions for the economic nationalists who believe that foreign trade is a vulnerability for America's economy. Sen. Josh Hawley (R–Mo.), for example, has suggested tightening the "Made in America" rules that

already govern federal procurement to include "the entire commercial market." Using the power of the federal government to exclude even more foreign-made products, he argued in a *New York Times* op-ed last year, is "critical for our national security."

But, as the situation with Abbott Nutrition demonstrates, supply shocks can originate close to home too. Thanks to strict FDA regulations and oppressive tariffs, America is already largely dependent on only domestic suppliers for infant formula: America exports far more than it imports every year.

That's exactly the situation the economic nationalist want in all industries—and we're now seeing exactly how that can go wrong. Cutting off foreign trade and protecting domestic suppliers can make a country *more* vulnerable to unexpected supply problems, not more resilient.