

Trade and Environment Briefings: Export Restrictions



International Centre for Trade
and Sustainable Development

Introduction

Natural resources - in the form of finite resources such as minerals and energy, and renewable natural resources such as agricultural commodities (including biofuels), timber, fish, leather and forest products - are increasingly in demand due to rising wealth and a growing population. Trade is an essential means to secure access to resources, not least as they are unevenly distributed across the globe, and no single country is entirely self-sufficient.

Although governments in the past have sought to use export restrictions to boost fiscal revenue, this is now not the driving aim of such measures for many countries. Export restrictions are instead often implemented with the aim of achieving a number of other goals, including food security, industrial development, environmental protection and natural resource conservation.

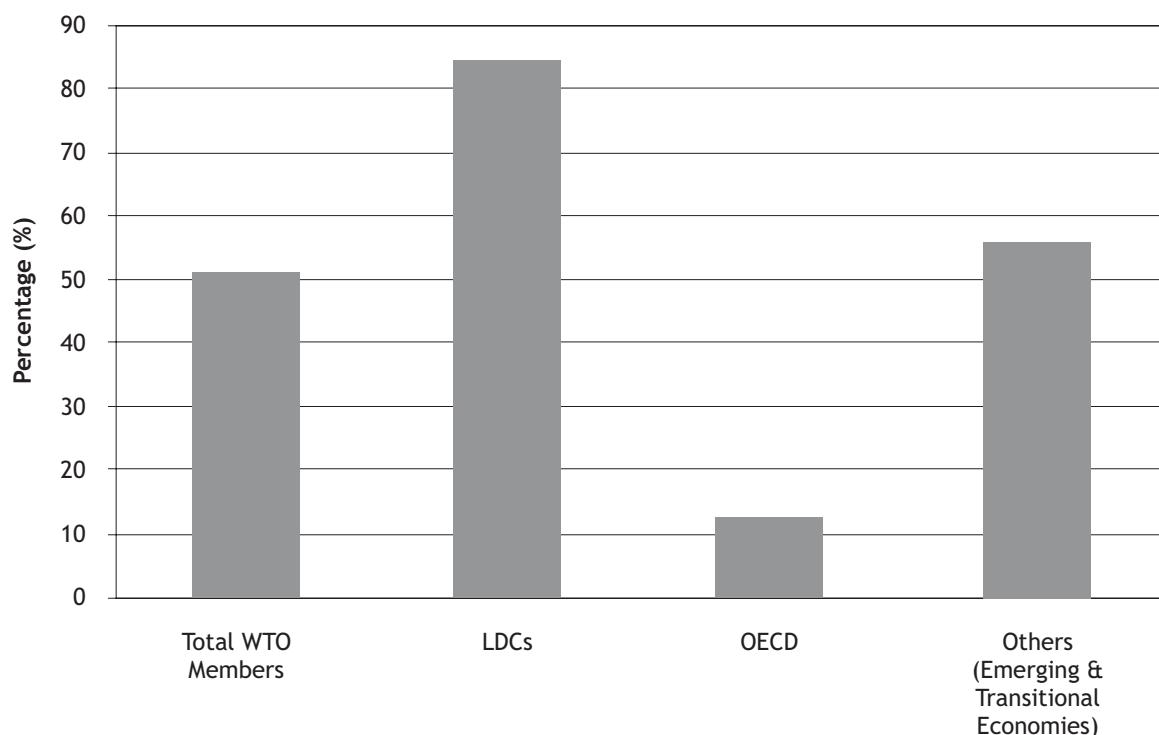
Background

Export restrictions come in different forms, including export duties and tariffs (i.e. fees paid by companies upon export). They can also include outright export prohibitions, quotas, licensing requirements, minimum export prices or dual pricing schemes.

In most cases, export restrictions are implemented as one element of a larger resource management strategy, with other internal policies in place to control resource production, consumption and prices. They tend to have the greatest effects on global prices and price volatility when there is just one - or only a few - producer(s) that dominate the market. Export restrictions set by a small player on the global market may have domestic implications, but will not significantly impact trading partners.

In recent years, a growing number of resource-rich countries have turned to export restrictions in order to assert control over their resources. As illustrated in Figure 1, out of 128 WTO members, 65 applied export duties during the period from 2003 to 2009, compared to only 39 countries in the five previous years. Most restrictions have been imposed by LDCs and developing countries, which account for a high proportion of natural resources produced worldwide.

Figure 1: WTO Members applying export duties (2003-2009)



Source: OECD

Opportunities

Some countries have imposed export restrictions in order to enhance food security. For a number of important agricultural products, such as wheat or rice, export restrictions have been used on a temporary basis in times of failed harvests or limited supplies on the global markets. Developing countries in particular have sought to control price inflation or prevent shortages, as food and energy make up a high proportion of their populations' household budgets. However, the restrictions have sometimes exacerbated price spikes and volatility on the global markets that they sought to respond to.

In the case of timber, fisheries or leather, some countries have applied export taxes or quotas to encourage local industrial development and to ensure that their own industries have access to raw materials at lower prices than their competitors abroad. These policies are also used to attract investment into downstream industries. This objective is closely linked to efforts to equalise costs for primary and value-added products in order to address tariff escalation. As importing countries often impose higher tariffs on processed than unprocessed goods, there has been a lack of incentives for export-oriented

industrial development in resource-rich countries. The imposition of export taxes on primary goods seeks to make exporting unprocessed raw materials less attractive.

In other cases, such as minerals and rare earths, the production of the natural resource - through extraction or refinement - has resulted in significant environmental degradation. When world market prices have surged, there has been strong commercial pressure to produce - making for a high temptation to engage in polluting practices or illegal extraction. Export restrictions have served a role in reducing incentives to produce in such circumstances, for example where a country's domestic regulation or implementation capacity is weak. The imposition of export restrictions can also stave off the rapid depletion of a resource and allow time for technological advances to enable efficient production.

In the energy sector, dual pricing has been used, with the exporting country's internal price held significantly lower than the export price. While exports have generated significant income, domestic energy-intensive industries (such as the fertiliser industry) have benefited from low prices. Consumers also benefit from the low internal price.

Challenges

Export restrictions have not always achieved their stated goals, and have sometimes resulted in undesirable outcomes. Moreover, the impacts of the measures are difficult to establish.

Export restrictions can lead to price volatility, market concentration and price hikes on the global market. In the case of agricultural commodities, this has threatened food security. While the producer countries have taken the measures for domestic food security reasons, the resulting high international prices have hit low-income, food-deficit countries particularly hard.

These countries do not have sufficient agricultural production to feed their own populations, and have limited foreign exchange for imports.

With regard to minerals and rare earths, export restrictions have led to political stand-offs between exporters and importers concerned about stable and affordable access for their vital industries, including green technology industries such as wind and solar. This has also resulted in two high-profile WTO disputes, focusing on Chinese export restrictions on a set of minerals and rare earths. In addition, there have been questions regarding the environmental effectiveness of these measures.

Box I China-Rare Earths and Raw Materials Cases at the WTO

In March 2012, the US, Japan and the EU jointly launched a WTO challenge against China's export restrictions on rare earths, as well as tungsten and molybdenum.

The 17 controversial rare earth elements have unique magnetic, heat resistant, and phosphorescent properties and are crucial ingredients in the manufacturing process of many high-tech and green energy products, including wind turbines, engines for electric and hybrid vehicles, and medical equipment.

The complainants argue that China's export quotas on the elements, combined with its near-monopoly over global production - some 97 percent of the world's supply, according to EU estimates - are highly disruptive to domestic industries and result in higher production costs. Market prices experienced a 20-fold price increase between mid-2010 and mid-2011, although prices have subsequently declined.

They further complain that the policy affords Chinese industry an advantage by providing them with cheaper and easier access to the elements compared to foreign manufacturers.

Environmental grounds

In its defence, China argues that the extraction process for producing rare earth elements is highly damaging to the environment and that the quota restrictions are a necessary component of a complex policy aiming to green China's extraction industries. China also denies that its quotas were the cause of the price surges and disruptions.

A similar case, initiated by the EU, US and Mexico over China's export restriction regime for a number of raw materials, ended with an Appellate Body ruling in January 2012. The WTO's highest court ruled that China's export restriction regime consisting, inter alia, of duties and quotas, could not be justified on grounds of resource conservation. Importantly, the judges found that WTO exceptions to the general prohibition of quantitative export restrictions did not permit quotas for finite resources in order to prevent depletion. It was the first time that a WTO court applied these rules, thereby clarifying the scope of relevant WTO provisions.

Currently, rules under the WTO governing the use of export restrictions are less developed than those on the import side. This stems from the fact that these issues were not considered a major trade barrier at the time of the Uruguay Round, when resource-rich

countries predominantly followed the objective of growth through exports. No significant progress has been made in terms of new rules on the use of export restrictions under the Doha Round.

What's next?

High-profile cases of export restrictions have raised concerns about their impact on food security and supply of strategic minerals. This has brought about a rethinking of the needs and policy objectives behind such measures.

In the future, countries may wish to multilaterally negotiate better-adapted disciplines and policies. This process would take into account the functioning of commodity markets, as well as the relationship between export restrictions and sustainable development.

- There is a lack of information on whether, and under what conditions, export restrictions achieve their stated objectives; more research in this area would be helpful. In terms of the environment and natural resources, for example, direct links would need to be made to sustainable production and consumption policies.
- Resource-dependent industrialised countries increasingly seek to discipline the use of export restrictions through bilateral trade agreements. The European Union, for instance, in November 2008, adopted a raw materials trade strategy that pledges to integrate disciplines on export restrictions in all relevant bilateral and multilateral negotiations. However, the risk is that the partners negotiating the FTA are not in equal positions of power. As the trend is likely to continue, countries will need to be prepared to deal with negotiations on natural resources trade and export restrictions.
- FTAs will serve as an important "testing-ground" for novel approaches on export restrictions, for instance in the areas of transparency and exceptions to the rules. This could help inform potential future multilateral disciplines.

Resources

- Bellmann, Christophe and Wilke, Marie (2012). 'Trade Policies for Resource Security: Rethinking Export Restrictions', in Meléndez-Ortiz, Ricardo and Bellmann, Christophe, *The Future and the WTO: Confronting the Challenges* (ICTSD, forthcoming).
- Karapinar, B (undated) *Export restrictions on natural resources: policy options and opportunities for Africa*. World Trade Institute. Bern.
- Korinek, J. and J. Kim (2010) *Export Restrictions on Strategic Raw Materials and Their Impact on Trade*, OECD Trade Policy Working Papers, No. 95, OECD Publishing. Paris.
- Mildner, A. (2011) "*Securing Access to Critical Raw Materials: What Role for the WTO in Tackling Export Restrictions? Four Proposals for a Transatlantic Agenda*". Transatlantic Academy Paper Series. Washington.
- OECD (2010) *The Economic Impact of Export Restrictions on Raw Materials*, OECD Publishing. Paris.
- WTO (2010) World Trade Report 2010. *Trade in natural resources*. WTO Publishing.

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