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**EXPORT CONTROLS: AN OVERVIEW OF THEIR USE, ECONOMIC
EFFECTS, AND TREATMENT IN THE GLOBAL TRADING SYSTEM**

Joanna Bonarriva, Michelle Koscielski, and Edward Wilson

**Office of Industries
U.S. International Trade Commission**

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ABSTRACT: Export controls can take a variety of forms (e.g., export bans, taxes, quotas, or restrictive licensing), and are applied by both developing and developed countries to meet economic and noneconomic goals. This paper reviews some of the recent economic literature discussing the rationale for and economic impact of government controls, the patterns of use of export controls and the current treatment of these controls in trade agreements. Rationales for export controls include increasing government revenue, promoting downstream industries, controlling price fluctuations, as well as certain noneconomic objectives (e.g., strategic arms control, environmental protections, etc.). With respect to economic effects, when a country imposes an export control, it typically has the intended effect of lowering the domestic price of the restricted product in the short run because of increased supply in the domestic market. In the long run, however, export controls may have unintended and undesirable effects. The most comprehensive source of information on the use of export controls is the Trade Policy Review (TPR) mechanism reports generated by the World Trade Organization. Data from the TPR's indicate that export taxes on agricultural products and raw materials are the most frequently used export control, and are employed principally by lower-middle and lower income economies. Many countries contend that quantitative export restrictions and other border measures such as export taxes are market distorting. Consequently, many recent trade agreement negotiations have been used as platforms to reduce the use of quantitative export controls and taxes on exports.

Introduction

Export controls are measures used by governments in goods trade to achieve public policy objectives, often for economic reasons or for the protection of producers or consumers of a particular product. As a category, export controls, also known as export restrictions or export restraints,¹ can be defined as “measures instituted by exporting countries to supervise export flows.”²

In the United States, for the most part, export control policy centers around limitations on exports of advanced technologies (also called "dual-use" technologies) that could be used to compromise U.S. national security. Globally, however, export controls are more frequently imposed on primary commodities or scarce agricultural goods to control their domestic price. In these cases, an export control policy is often employed to create economic benefits for certain segments of the economy, i.e., domestic producers or domestic consumers of a particular product. The various types of export controls are defined in table 1 below. This paper draws on published research to examine economic-based export controls and illuminates the rationale for their imposition, the economic effects that can result, and the current global climate with regard to their use.

¹ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003.

² Walter Goode, *A Dictionary of Trade Policy Terms*, Centre for International Economic Studies, University of Adelaide, 1998.

TABLE 1. Export control definitions

Type of export control	Definition
Export prohibition/ban/embargo	An absolute restriction on exports.
Export quota	A prescribed maximum volume of exports.
Licensing requirements	The requirement of prior approval, in the form of a license, to export a good. This practice establishes approved exporters and can allow the government or other parties to benefit financially from the relatively scarce opportunities to export. Licenses are often used in conjunction with export quotas.
Export tax	Also referred to as export duties, export charges, export fees, customs duties on exportation, export tariffs, or export levies. Export taxes can be ad valorem or specific and can be applied in a progressive manner (i.e., high when the price of a good is high and, conversely, low when it is low). Export taxes can be applied to a particular good or across multiple goods of a certain category. Prohibitive export taxes can have the same effect as a ban. Differential export taxes are those in which the export tax on a processed product, e.g., wheat flour, is lower than that on the corresponding unprocessed product, e.g., wheat.
Minimum export prices	A minimum allowable price for a good being exported. This practice is often used in conjunction with export taxes. In some cases, minimum export prices are not binding but are used as reference prices.
Voluntary export restraints (VERs)/orderly marketing arrangements	Bilateral measures in which an exporting country agrees to restrict its exports of a good to one trading partner, often under threat of sanctions from the importing country.
Export cartels	An agreement among firms to charge a specified export price and/or to divide export markets among firms.
State trading	Monopolies set up by governments for the export (or import) of one or more products. These entities hold exclusive export (or import) authority and can manipulate the flow of trade to influence domestic supply, demand, or prices, or to use their market power to obtain advantageous prices in export markets.
<p><i>Source:</i> OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 8; and "Glossary of Industrial Organisation Economics and Competition Law," compiled by R.S. Khemani and D.M. Shapiro, commissioned by the Directorate for Financial, Fiscal and Enterprise Affairs, OECD, 1993.</p>	

Rationales for Export Controls

Governments apply export controls as policy tools to address a number of diverse policy objectives.³ Such objectives include both economic goals—such as promotion of value-added downstream industries or support for economic agreements made with other governments—as well as noneconomic goals—such as national security or social objectives. The following are major policy objectives of export restrictions typically cited by governments.⁴

Raise Government Revenue

For developing countries, and the least developed countries in particular, raising government revenue through an export tax is often simpler to administer and collect than through more complicated forms of taxation, such as a land tax or an income tax.⁵ An export tax has a further benefit of raising foreign exchange, and may also be more tenable politically.⁶ However, government revenues derived from an ad valorem export tax are not guaranteed as they can fluctuate in line with export values.⁷

Promote Downstream Industry to Diversify Exports

Developing countries frequently seek to diversify their economies toward more processed goods, believing that primary product industries provide fewer or lesser benefits than economic growth based on more value-added industries. By using export restrictions, governments aim to promote downstream industries by effectively reducing the cost of an industrial input. Consequently, an economic incentive

³ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 19.

⁴ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 8.

⁵ Piermartini, "Role of Export Taxes in the Field of Primary Commodities," 2004, 14.

⁶ Deese and Reeder, "Export Taxes on Agricultural Products," September 2007, 2.

⁷ Piermartini, "Role of Export Taxes in the Field of Primary Commodities," 2004, 14.

exists to establish a more value-added industry that can generate new exports,⁸ increasing income for the domestic processing industry, and providing new sources for government revenue. When used more extensively as a policy tool by a government, this “infant industry” argument in favor of export restrictions to promote downstream industry may play a part in a broader economic development strategy known as “import substitution industrialization.”⁹

Nonetheless, even when successful in establishing new downstream industries, governments are often less aware of the economic costs incurred in exchange for the more obvious economic benefits. One immediate cost is typically the redistribution of economic benefits from the producer of the raw material to the downstream processor. Export controls tend to transfer profits from the raw materials producers to the processing industries, which in the short term can result in a net income loss to the domestic economy as raw materials producers lose income immediately, but before the processing industries can generate sufficient export earnings to offset the income loss.¹⁰ This can lead to greater economic and social inequality between rural and urban areas, for example, where the former regions often produce the raw commodity and the latter, the processed good.

Control Price Fluctuations

In contrast to microeconomic policy supporting downstream industries through export restrictions, governments have also used export controls for macroeconomic purposes. For example, where world crop shortfalls of staple crops, such as rice or wheat, result in sudden increases in their world price, governments have at times sought to use export restrictions to prevent or dampen the export of the agricultural commodity to control domestic inflationary pressure, by retaining more of domestic production

⁸ Piermartini, "Role of Export Taxes in the Field of Primary Commodities," 2004, 14.

⁹ Mitra and Josling, "Agricultural Export Restrictions," January 2009, 2.

¹⁰ Takacs, "Economic Impact of Export Controls," March 1994, ii.

for their own consumers. In practice, however, difficulty ensuring that the lower domestic staple price is passed on to consumers suggests that export restraints may be poorly suited as a policy tool to address this objective.

In other situations, such as international commodity agreements,¹¹ governments have attempted to influence the world price of an export commodity—for example, coffee, cocoa, sugar, and petroleum—by using export restrictions in combination with stockpiles or other policy tools to try to stabilize the world price of a commodity and also to stabilize producer export earnings and government revenues.

Noneconomic Rationales for Export Restrictions¹²

Both developed and developing countries may use export restrictions for political or social reasons, where the export product being controlled is often very specific in nature, and so tends not to have a substantial economic impact. The foremost noneconomic rationale given for export restrictions is typically national security considerations. These export controls are frequently agreed upon under multilateral treaties and administered by international organizations such as the United Nations (UN). Examples include the UN Treaty on the Non-Proliferation of Nuclear Weapons, or the UN Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and Their Destruction. Export restrictions for other noneconomic reasons may seek to address global political or social concerns, such as climate change or other “transboundary” environmental issues, where all or many countries are affected. Examples include the UN Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, or the UN Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

¹¹ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 7, box 1.

¹² OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 7, box 1.

Economic Impact of Using Export Controls

Although export controls take various forms—whether an export ban, tax, quota, or restrictive licensing—they typically lower the domestic price of the restricted product in the short run because of increased supply in the domestic market. Additional effects vary, depending on which specific policy tool is chosen, e.g., an export ban, quota, or restrictive license will affect export volume directly, whereas an export tax—ad valorem or specific—will affect the export price of the restricted product that in turn will affect its export volume.¹³

In general terms, export controls such as an export tax are likely to have an impact on the domestic economy and its various sectors. An export tax may also have an impact on trade between the exporting and importing countries if the exporter is a significant supplier of the taxed export to the world economy. Moreover, the effect of an export tax in both the domestic and foreign economy could change over time, having one impact in the short run that often dissipates in the long run, thereby undermining the intended policy effect.

While there may be important national security or other policy reasons for using export controls, in general, the consensus in the economic literature is that export controls distort market prices. In addition, they impose net-welfare losses to a domestic economy that uses them.

In the short run, an export tax imposed by a minor exporter of a particular good will increase the price of the restricted product on the world market, and foreign consumers will turn to other supply sources where producers are not taxed and they continue to offer the lower world price. Domestic producers will then shift some part of their export sales to domestic market sales, where the increased supply generally lowers the domestic price of the good. This allows domestic consumers to buy more at the lower price and increase their consumption. In the extreme case of an export ban, all production previously exported is shifted to the domestic market. If the restricted product increases the domestic

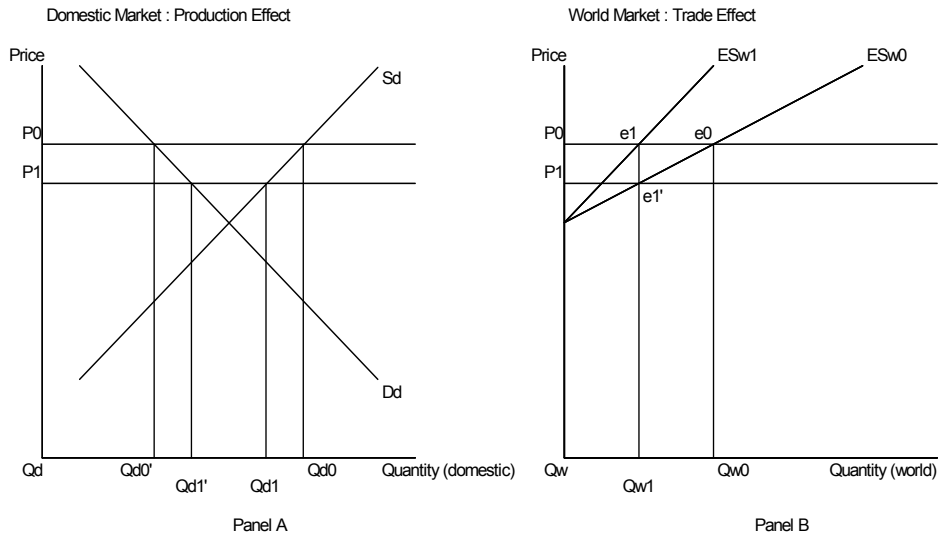
¹³ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 5.

supply of a good or material that is used as an industrial input, the lower domestic price can provide an implicit subsidy to the domestic processing industry. (For a more detailed economic explanation, see text box 1.)

However, an export tax imposed by a major exporter on a product that accounts for a significant portion of world supply results in different effects in the short run. Here, foreign consumers cannot readily turn to other, lower priced supply sources when a major exporter's export restraints increase the world price of the taxed good. In the exporter's domestic economy, the same economic effects of a lower price and increased domestic consumption of the taxed good are likely to result. However, foreign importers must now pay more for and likely decrease their consumption of the product. In the short run, an export tax results in a net income transfer from the importing countries to the exporting country. (For a more detailed economic explanation, see text box 2.)

In the longer run, however, an export tax may lead to domestic inefficiency in the downstream industries because the price of the product is artificially low at home. Foreign producers and consumers facing higher costs have an incentive to develop new technology or substitutes for the product in order to remain competitive.

TEXTBOX 1: Economic effects of an ad valorem export tax without world price effects

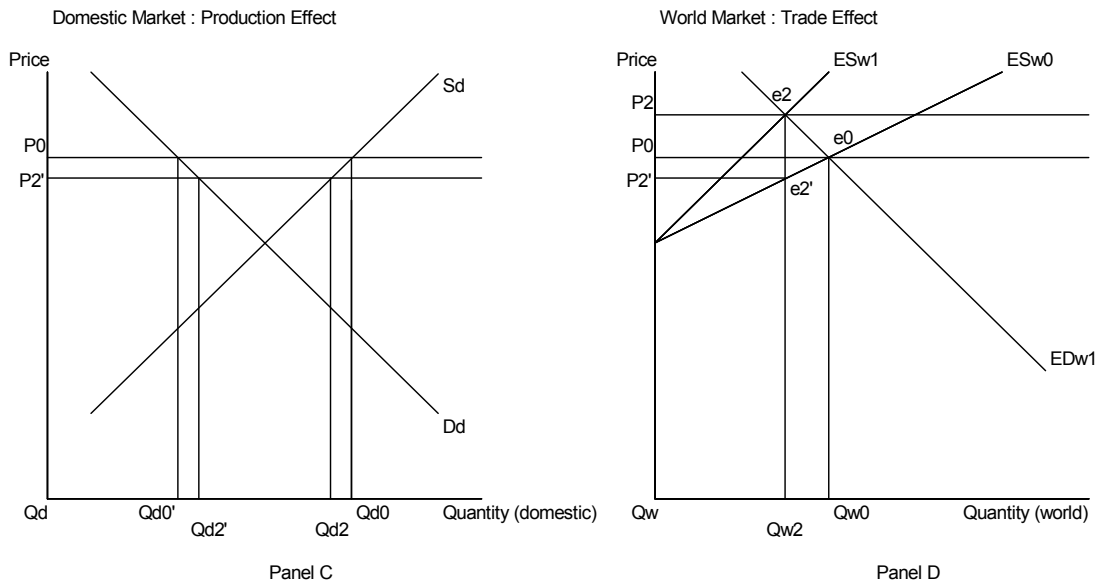


DEFINITIONS

- Sd=domestic market supply of export product.
- Dd=domestic market demand for export product.
- P0=world price of export product, without export tax.
- P1=domestic price of export product, with export tax.
- ESw0=exporter supply of export product to world market at world price, before export tax.
- ESw1=exporter supply of export product to world market at world price, with export tax.

- A domestic economy--under perfect competition, and no export tax--creates domestic production (Qd0), consumes a portion (Qd0'), and exports the remainder (Qd0':Qd0) at the world price (P0). (Panel A)
- Export earnings generated by domestic producers equal [P0:e0:Qw0:Qw]. (Panel B)
- The world market--under perfectly elastic demand, and no export tax--imports a quantity (Qw0) at the world price.
- When the domestic economy imposes an export tax, export supply shifts from ESw0 to ESw1. The export tax is absorbed entirely by domestic producers. The domestic price declines (P1), reducing domestic production (Qd1), increasing domestic consumption (Qd1'), and reducing exports from the domestic economy (Qd1':Qd1). In addition, the world price remains fixed at P0.
- Export earnings generated by domestic producers decline to [P0:e1:Qw1:Qw].
- Export tax revenues collected by the domestic government equal [P0:e1:e1':P1]

TEXTBOX 2: Economic effects of an ad valorem export tax with world price effects



DEFINITIONS

S_d =domestic market supply of export product.

D_d =domestic market demand for export product.

P_0 =world price of export product, without export tax.

P_2 =world price of export product, with export tax.

ES_{w0} =exporter supply of export product to world market at world price, before export tax.

ES_{w1} =exporter supply of export product to world market at world price, with export tax.

ED_{w1} =world market demand for export product, under inelastic demand conditions.

- A domestic economy--under perfect competition, and no export tax--creates domestic production (Q_{d0}), consumes a portion (Q_{d0}'), and exports the remainder ($Q_{d0}-Q_{d0}'$) at the world price (P_0). (Panel C)
- Export earnings generated by domestic producers equal $[P_0:e_0:Q_{w0}:Q_w]$. (Panel D)
- The world market--under downward-sloping demand, and no export tax--imports a quantity (Q_{w0}) at the world price.
- When the domestic economy imposes an export tax, export supply shifts from ES_{w0} to ES_{w1} . The export tax is absorbed by both domestic producers and world consumers. The domestic price declines (P_2), reducing domestic production (Q_{d2}), increasing domestic consumption (Q_{d2}'), and reducing exports from the domestic economy ($Q_{d2}-Q_{d2}'$). However, domestic price and production decline, and domestic consumption increases, less than in the previous textbox. In addition, the world price increases to P_2 .
- Export earnings generated by domestic producers equal $[P_2:e_2:Q_{w2}:Q_w]$.
- Export tax revenues collected by the domestic government equal $[P_2:e_2:e_2':P_2]$.

In part due to the variety of objectives addressed, governments have at times overlooked whether export control measures are well suited to achieve such objectives.¹⁴ In particular, governments have often neglected to determine whether the export control measures put in place are actually effective in achieving the intended policy objective, as well as whether the measures achieve their objectives in the least trade distorting way—that is, whether the benefits outweigh the costs of applying the export control measures used.¹⁵ (For illustrative examples of the effects of the imposition of export controls, see text box 3.)

TEXT BOX 3. Examples of the impact of export taxes

- In 2002, export taxes on agricultural products were widely employed in Argentina, especially differential export taxes to distinguish between raw soybeans, soybean oil, and soybean meal. Because the vast majority of production of soybeans and their products is exported, foreign consumers are ultimately a prime source for the revenue captured by Argentina's government.^a
- In the 1970s, unskilled workers in the coconut industry suffered income reductions following an export tax on coconut meat (copra) in the Philippines.^b
- In 1994, the aim to control inflation by employing an export tax on palm oil in Indonesia had a modest effect controlling inflation but at the major cost of developing economic inefficiency in the industry that consequently undermined its long-term competitiveness.^c
- Between 1988–95, an export tax on raw cotton was imposed in Pakistan to promote the downstream yarn industry. This policy succeeded as a short-term subsidy to the yarn industry, but later led to reduced investment in new technology in the yarn industry that consequently inhibited its long-term growth.^d

^a Deese and Reeder, "Export Taxes on Agricultural Products," September 2007, 20.

^b Piermartini, "Role of Export Taxes in the Field of Primary Commodities," 2004, 16-19.

^c Ibid.

^d Ibid.

¹⁴ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 19.

¹⁵ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 19.

Patterns of Use of Export Controls

Export controls are widely used by both developing and developed countries. However, the method in which the controls are imposed, the justification for such restrictions, and the commodities controlled vary. The most comprehensive source of information on the use of export controls is the WTO, which monitors barriers to trade through its Trade Policy Review (TPR) mechanism.¹⁶ As such, information from the TPRs is used as the basis for the following discussion on the patterns of use of export controls, which is divided into two sections: export taxes and quantitative restrictions.¹⁷

Export Taxes

Of the 131 countries that have undergone a TPR by the WTO since 1994, 72 (55 percent) were identified as imposing export taxes (table 2). Of those 72 countries, 11 percent are categorized as high income economies, 18 percent as upper-middle income, 35 percent as lower-middle income, and 36 percent as low income.¹⁸ In terms of the usage rate of export taxes by income level, approximately 19 percent of high income, 50 percent of upper-middle, and over 80 percent of lower-middle and low income economies impose export taxes. In most instances, it appears that the export taxes were imposed for economic reasons; many lower-middle and low income economies use export taxes as a means to generate government revenue and protect industries.

Of the 72 countries identified as using export taxes, 90 percent impose duties on agricultural products, roughly 44 percent impose duties on raw materials, and 19 countries (26 percent) impose duties

¹⁶ TPRs began in 1994 and are peer-group assessments required for all WTO members.

¹⁷ In recent papers on export controls, the OECD used the TPRs as its principle source of information on the global use of export restrictions.

¹⁸ Economy segments as defined by the World Bank.

on other commodities (e.g., manufactured goods). In terms of specific commodities, export taxes are most frequently imposed on sugar; coffee; cocoa; forestry products; fishery products; mineral and metal products; and leather, hides, and skins.

TABLE 2. Export taxes by type of economy

Income level	Total reporting countries	Number imposing export taxes	Share of total for each income level (%)
High income	43	8	19
Upper-middle income	26	13	50
Lower-middle income	30	25	83
Low income	32	26	81
Total	131	72	55

Source: World Trade Organization, World Bank.

Note: Countries within the European Union, the Organization of Eastern Caribbean States, and the South African Customs Union are counted individually. Income segments are defined by the World Bank.

Quantitative Restrictions

Virtually all countries that have undergone a TPR have some form of quantitative restriction in place on the export of specific goods.¹⁹ However, the types of products covered and reasons for such quantitative controls or bans vary significantly by country (table 3). In contrast to export taxes, which are primarily imposed for economic reasons, quantitative export restrictions are employed to meet a range of goals. More than half of the countries surveyed enforce export bans on products in accordance with their obligations under international agreements and conventions. Many countries also enforce quantitative restrictions for economic or security reasons (42 percent and 40 percent, respectively). In addition, preservation of the environment (35 percent), resource/food conservation (11 percent), goods related to culture/heritage reasons (7 percent), and public health (10 percent) also serve as justifications for quantitative export restrictions.

¹⁹ Quantitative restrictions include quotas, export bans, and licensing requirements.

TABLE 3. Examples of quantitative restrictions

Country	Quantitative Restriction	Regulation	Reason
Brunei	Articles of an antique or historical nature	Prohibited	Culture/heritage
India	Human organs	Prohibited	Public health
Kenya	Wild animals	License required	International convention
Korea	Rice	Quota	Conservation of domestic supplies
Trinidad and Tobago	Explosives, firearms, ammunition, and ordnance	Prohibited	Security
Dominican Republic	Certain types of wood	Prohibited	Environment
Australia	Cheddar cheese	Quota	Economic

Source: World Trade Organization.

Quantitative restrictions imposed for economic, environmental, and cultural/heritage reasons are used by countries across the income spectrum. However, high income economies tend to impose quantitative restrictions most frequently for security reasons or in accordance with international agreements and conventions. By contrast, low and lower-middle income economies tend to impose restrictions most frequently for resource conservation purposes and to ensure public health.

U.S. Use of Export Controls

The United States is a significant user of export controls, though principally for national security. Most U.S. controls on the export of goods encompass dual-use items (regulated by the U.S. Department of Commerce Export Administration Regulations), defense-related articles (U.S. Department of State International Traffic in Arms Regulations), sanctions enforced by the Department of Treasury, as well as compliance with U.S. commitments to international agreements. However, the United States does impose export restrictions on certain goods that are included on a list of items subject to “short supply” controls.

These goods include crude oil, petroleum products (other than crude oil), unprocessed western red cedar trees, and horses for export by sea.²⁰

Current Treatment in Trade Agreements

Export taxes and quantitative restrictions, especially quotas, are policy tools that are currently addressed and considered in a variety of multilateral and bilateral fora. Many countries contend that quantitative restrictions and other border measures such as export taxes can be market distorting. Consequently, these fora have been used as platforms to reduce the use of quantitative controls and taxes on exports.

Uruguay Round Agreements

Quantitative limitations, on either imported or exported goods, are generally prohibited under the World Trade Organization (WTO), according to Article XI of the General Agreement on Tariffs and Trade (GATT) of 1994. The relevant text of Article XI reads, “no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party . . . on the exportation for sale or export of any product destined for the territory of any other contracting party.” However, the language makes an explicit exception for “duties, taxes, or other charges,” whether for imports or exports. Therefore, in principle, export taxes are not subject to Article XI²¹ and are therefore not prohibited under the WTO.²²

²⁰ United States Department of Commerce, "Export Administration Regulations."

²¹ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 7.

²² Piermartini, "Role of Export Taxes in the Field of Primary Commodities," 2004, 2.

Further exceptions to the general prohibition of quantitative limitations on exports are found in Article XI:2 allowing for quantitative limitations in cases of critical shortages of foodstuffs and restrictions necessary in the applications of standards (e.g., a restriction by a government on exports of goods that do not meet international safety standards). GATT Articles XX, XXI, XII, and XIII also contain exceptions to the export control prohibition. Article XX pertains to cases where the restriction of exports relates to the conservation of exhaustible natural resources,²³ when the export control is necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan,²⁴ and in cases where the control on exports is essential to the acquisition or distribution of products in general or local short supply.²⁵ However, language in Article XX stipulates that if such measures are inconsistent with other GATT principles they should be discontinued as soon as conditions that made the controls necessary no longer exist. Further, Article XXI provides for the use of export controls in the case of security exceptions, and Article XII (Article XVIII for developing countries) allows members to apply restrictions to safeguard the balance of payments.²⁶ Article XIII requires export restrictions to be applied on a non-discriminatory basis.

Additional treatment of export restrictions is found in Article 12 in the WTO Agreement on Agriculture, which stipulates that if members place export restrictions on foodstuffs, which is permitted under Article XI:2, they must “give due consideration to the effects of such prohibition or restriction on importing Members’ food security.”²⁷ Members, except non-net exporting developing countries, must

²³ Article XX (g). Such export restrictions must be used “in conjunction with restrictions on domestic production or consumption.”

²⁴ Article XX (i). However, such restrictions should “...not operate to increase the exports of or the protection afforded to such domestic industry...”

²⁵ Article XX (j).

²⁶ OECD, “Analysis of Non-tariff Measures: The Case of Export Restrictions,” TD/TC/WP(2003)7/FINAL, April 4, 2003, 6.

²⁷ Article 12, paragraph 1(a).

notify the WTO Committee on Agriculture before introducing new export restrictions on foodstuffs and must consult with affected Members.²⁸

WTO Disciplines

While tariffication of quantitative import restrictions has been the trend over several rounds of multilateral trade negotiations, disciplines on export restrictions have not been a priority, except for the prohibition on voluntary export restraints (VERs), which is found in the WTO Agreement on Safeguards.²⁹ During the 1986-93 Uruguay Round, negotiators agreed not to establish any new VERs and to phase out any existing VERs within four years. State trading is governed by Article XVII of the GATT 1994, which defined certain types of state trading enterprises and established a working party to study the issue.³⁰ Export cartels are not disciplined by WTO trade rules and are exempted from the competition laws of many countries.³¹

In the context of the WTO, it is generally accepted that among export restrictions, export taxes are the least damaging export control measure compared with other forms of controls. Export taxes generate income for the government, are transparent, and are simple to administer.³² Concerns for national sovereignty over natural resources and financial policies dealing with inflation by controlling domestic supplies of key products are the likely barriers to disciplines on export controls.³³

²⁸ Article 12, paragraph 1(b) and paragraph 2.

²⁹ Mitra and Josling, "Agricultural Export Restrictions," January 2009, 1.

³⁰ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 7.

³¹ Many competition law statutes exempt such agreements from the anticompetitive regulations provided that the cartel does not lead to injurious effects on competition in the domestic market, such as price fixing agreements or a reduction in exports.

³² Piermartini, "Role of Export Taxes in the Field of Primary Commodities," 2004, 3.

³³ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 8.

Notification Requirements

A notification procedure was developed at the end of the Uruguay Round that requires members to identify "notifiable measures" including "quantitative restrictions"; "other non-tariff measures such as licensing"; "export taxes"; and "export restrictions, including voluntary export restraints and orderly marketing arrangements."³⁴ A 1995 decision by the WTO Council for Trade in Goods created procedures for biennial notification of members' quantitative restrictions. Members have been expected to notify the WTO of relevant information, including a full description of the products and tariff lines, a precise indication of the type of restriction, an indication of the grounds and WTO justification for the measures, and a statement on the trade effects of the measures. A reverse notification procedure, by which members could report non-tariff measures maintained by other members, was also established.³⁵ Nevertheless, since 1995, the national notifications on quantitative export restrictions have been reported to be neither complete nor consistent.³⁶

Doha Round Negotiations

In 2002, the Negotiating Group on Market Access discussed export restrictions in the Doha Round, specifically focusing, in part, on export taxes. Among the policies proposed, the United States advocated allowing only developing countries to impose export taxes. More specifically, developing countries would be allowed to apply a uniform rate on agricultural exports only for a year. By contrast, the European Union (EU) proposed removing all export restrictions on raw materials. Food importing countries that were concerned with food security, such as Japan and Switzerland, advocated completely

³⁴ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 8.

³⁵ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 8.

³⁶ OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 9.

eliminating export restrictions and taxes.³⁷ In particular, food supplies could be disrupted if exporting countries imposed quantitative limitations or taxed exports.³⁸ However, no resolution has been reached on export controls to date in the WTO Doha Round negotiations.

WTO Accession Agreements

While export taxes are not prohibited by the WTO, the WTO accession process has provided a framework for addressing the export duties and restrictions of prospective new members. Certain recent accession agreements have resulted in the elimination or curtailment of new members' export taxes. For instance, in China's accession agreement, all export duties were required to be eliminated except for pre-identified commodities.³⁹ Ukraine joined the WTO in May 2008, and as part of its accession package, agreed to reduce or eliminate certain export taxes on raw materials. Vietnam also agreed to eliminate all export duties on nonferrous steel and scrap as part of its accession agreement.⁴⁰ Export restrictions are being discussed in current accession negotiations with Russia, the largest economy that is not yet a member of the WTO.⁴¹ More specifically, export duties on minerals; petrochemicals; natural gas; raw hides and skins; and ferrous and non-ferrous metals and scraps have been a focus because member countries fear that export restrictions and taxes imposed by Russia would result in the loss of relative competitiveness in the global market for their products in relation to Russian goods.⁴²

³⁷ Deese and Reeder, "Export Taxes on Agricultural Products," September 2007, 5.

³⁸ Mitra and Josling, "Agricultural Export Restrictions," January 2009, 16.

³⁹ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 11.

⁴⁰ "U.S.-Vietnam WTO Bilateral Market Access Agreement – Details," May 31, 2006.

⁴¹ United States Trade Representative (USTR), "Russian Federation," May 26, 2009.

⁴² OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 14.

Regional and Bilateral Trade Agreements and Initiatives

There are many regional trade agreements (RTAs) that address export controls. The growing tendency for high-income economies to restrict their options to impose export duties is discernable in bilateral agreements, as well as in RTAs. For instance, the EU prohibits both quantitative restrictions and taxes on exports between EU-member countries. The North American Free Trade Agreement (NAFTA) also banned export taxes⁴³ between its member countries.⁴⁴ See text box 4 for an illustrative list of preferential trade agreements that prohibit export taxes.

TEXT BOX 4. Examples of preferential trade agreements prohibiting export duties

Regional trade agreements:

- European Union (EU)
- North American Free Trade Agreement (NAFTA)
- Caribbean Common Market (CARICOM)

Bilateral trade agreements:

- Australia-New Zealand Closer Economic Relations Trade Agreement
- Canada-Chile
- Canada-Costa Rica
- Japan-Singapore
- EU-Mexico

Source: OECD, "Analysis of Non-tariff Measures: The Case of Export Restrictions," TD/TC/WP(2003)7/FINAL, April 4, 2003, 6.

However, the issue of export taxes and restrictions remains unresolved in certain RTAs, such as the Mercado Comun del Cono Sur (MERCOSUR). In particular, Argentina, a user of export taxes, has argued that taxes do not distort trade with other countries. Other MERCOSUR members, such as Uruguay, disagree.⁴⁵ The current draft of the Free Trade Area of the Americas (FTAA) focuses on eliminating export duties on goods traded with member countries.⁴⁶

⁴³ Mexico was granted temporary exemptions from this provision, allowing it to continue some export taxes.

⁴⁴ OECD, "Recent Trends in Export Restrictions," TAD/TC/WP(2009)3, March 4, 2009, 16.

⁴⁵ Mitra and Josling, "Agricultural Export Restrictions," January 2009, 20.

⁴⁶ "Free Trade Area of the Americas — Draft Agreement," November 21, 2003.

According to the USTR, the United States has been actively addressing the export controls of trade partners in a variety of fora. For example, prohibitions on export taxes have been a common theme in U.S. Free Trade Agreements (FTA). In addition, the United States worked with Ukraine and Vietnam to reduce their export taxes as part of their WTO accession agreements. Further, the U.S. Government has been working with China to reduce its restrictions on its exports of raw materials. More specifically, On June 23, 2009, the U.S. Trade Representative announced that it filed a WTO case against China over its export restraints on raw materials.⁴⁷

Conclusion

Export controls are measures that, regardless of form, limit export volumes. When employed for economic reasons, they are used to raise revenue, control prices, or provide downstream industries with inexpensively priced inputs. In other contexts, political or social motivations, including transboundary issues like environmental protection, spur the use of export controls. Export taxes on agricultural products and raw materials appear to be the most common types of control, used mainly by lower-middle and low income economies. The economic impacts of export controls are varied, affecting the country applying the tax and its trading partners, often in unintended and undesirable ways. Although export restrictions have not traditionally been a central focus of trade negotiations, they have received increased scrutiny in recent years. Where export controls have been addressed in the Doha Round negotiations, regional trade pacts, and WTO accession agreements, the trend is generally toward restricting or eliminating their use.

⁴⁷ According to the USTR, China imposes restrictions on the export of raw materials which violates Article XI:1 of the GATT prohibiting restrictions on exports other than taxes, duties, and charges. In addition, China's WTO accession protocol contains commitments not to restrict the right to export goods.

United States Trade Representative. "United States Files WTO Case against China Over Export Restraints on Raw Materials," Washington, D.C.: USTR, June 23, 2009.

Bibliography

American Chamber of Commerce in Vietnam. "U.S.-Vietnam WTO Bilateral Market Access Agreement — Details," May 31, 2006.

Deese, William and John Reeder. "Export Taxes on Agricultural Products: Recent History and Economic Modeling of Soybean Export Taxes in Argentina." United States International Trade Commission. *Journal of International Commerce and Economics*. September 2007.

Goode, Walter. *A Dictionary of Trade Policy Terms*. Centre for International Economic Studies. University of Adelaide. 1998.

"Free Trade Area of the Americas --- Draft Agreement." November 21, 2003.

Mitra, Siddhartha and Tim Josling. "Agricultural Export Restrictions: Welfare Implications and Trade Disciplines." International Policy Council. Food and Agricultural Trade. IPC Agricultural and Rural Development Policy Series. IPC position paper. January 2009.

Organization for Economic Cooperation and Development. Directorate for Financial, Fiscal and Enterprise Affairs. Compilation by Khemani, R. S. and D. M. Shapiro. "Glossary of Industrial Organisation Economics and Competition Law." Paris: OECD, 1993.

Organization for Economic Cooperation and Development. Trade and Agriculture Directorate. Trade Committee. Working Party of the Trade Committee. "Recent Trends in Export Restrictions." TAD/TC/WP(2009)3. Paris: OECD, March 4, 2009.

Organization for Economic Cooperation and Development. Trade Directorate. Trade Committee. Working Party of the Trade Committee. "Analysis of Non-Tariff Measures: The Case of Export Restrictions." TD/TC/WP(2003)7/FINAL. Paris: OECD, April 4, 2003.

Piermartini, Roberta. "Role of Export Taxes in the Field of Primary Commodities." World Trade Organization. Economic Research and Statistics Division. Geneva: WTO, 2004.

Takacs, Wendy E. "Economic Impact of Export Controls: An Application to Mongolian Cashmere and Romanian Wood Products." 1994. Policy Research Working Paper 1280. The World Bank. Policy Research Department. Trade Policy Division. Washington DC: IBRD, March 1994.

United States Department of Commerce. "Export Administration Regulations."

United States Trade Representative. "Free Trade with Colombia: Brief Summary of the U.S.-Colombia Trade Promotion Agreement." *Trade Facts*. Washington, D.C.: USTR, June 2007.

United States Trade Representative. "Russian Federation." Washington, D.C.: USTR, May 26, 2009.

United States Trade Representative. "United States Files WTO Case against China Over Export Restraints on Raw Materials," Washington, D.C.: USTR, June 9, 2009.