

IPC Alert



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HUMANITARIAN EXEMPTION FROM AGRICULTURAL EXPORT RESTRICTIONS ONLY A FIRST STEP

More and more experts agree that the fundamentals of the world food market have changed substantially. If the world is indeed moving into an era of higher and more volatile prices, there are significant implications for food security in low-income regions that rely on food imports from the world market.

This presents a need for rule-making focused on the instruments and actions of food exporters. Yet in past decades, the trade community under GATT and WTO has been more concerned with situations of food surpluses and depressed prices. A call to rebalance importers' and exporters' rights under the WTO was issued 20 September, 2011 at the WTO Public Forum, in a session organized by IPC and CUTS International.

Rebalancing trade rules

The discussion recalled the longstanding debates about export restrictions under the GATT/WTO. Panelists agreed that export restrictions are not a new phenomenon, and that there are no easy solutions. **Ambassador Otabe** of Japan reminded participants of efforts by his country to advance rule-making in this area from the early days of the Doha Round. Export restrictions are also relevant in other sectors, in particular on rare earth materials, but agricultural export restrictions merit particular attention given their link to food security.

It is important to keep the existing rules in mind: quantitative restrictions are banned under the GATT 1994 rules, although there are notable exceptions that have made it easy for countries to justify export restrictions. It states, in Article XI paragraph 2(a), that the prohibition on export restrictions does not extend to "restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party."

While such language provides a basis for disciplining export restrictions, substantial efforts are required to better define key terms, such as "temporarily" and "critical shortages" and the WTO Agricultural Committee should undertake such efforts. The Agricultural Committee was urged to elevate the profile of export restrictions in its deliberations.

Focus on transparency and dialogue and "abide by existing rules"

Several contributors suggested that a practical and potentially potent way of raising the Committee's profile on export restrictions is for members to insist on a better implementation of existing rules on transparency. There are clear notification rules under Article 12 of the Uruguay Round Agreement on Agriculture, which have hardly been followed (even though providing information on trade policies is part and parcel of WTO

membership obligations). Article 12 stipulates that any WTO Member implementing export restrictions shall “give due consideration to the effects of such prohibition or restriction on importing Members’ food security”, “give notice in writing, as far in advance as practicable, to the Committee on Agriculture comprising such information as the nature and the duration of such measure” and “consult, upon request, with any other Member having a substantial interest as an importer with respect to any matter related to the measure in question”.

Panelists from the missions of Japan, Egypt, the US and Netherlands, agreed that existing rules are not perfect. **Arancha Gonzalez, chief of staff of the WTO’s Director General** voiced the widely shared sentiment that “We may not be able to craft big rules on export restrictions in the present, but we should abide by the existing rules”. Participants emphasised that improved transparency and information on export restrictions would facilitate dialogue among members. It could also make an important contribution to the transparency and dialogue efforts launched under the G-20 process, in particular the new agricultural market information system (AMIS).

Ramifications and solutions go well beyond the trade agenda

Food inflation has risen across the world, but many low-income net food importing countries (NFIDCs) have experienced particularly profound food crises with rising food insecurity and “deep ramifications on their macroeconomic fundamentals”, said **Mr Debapriya Bhattachariya, fellow of Bangladesh’s Centre for Policy Dialogue and IPC member**, at the event. He recalled that the Marrakesh Agreement on NFIDCs and subsequent conferences issued calls to eliminate measures on food imports into the least developed countries. Yet, as pointed out by **Mr Dmitri Ryloko, Director of the Moscow-based Institute for Agricultural Market Studies**, export restrictions are being imposed more frequently and rapidly export restrictions in Russia, Ukraine, and Kazakhstan. Livestock producers that rely on domestic feedstock supply have been observed to call upon the Russian government for restrictions. Following extraordinary droughts last year, the transparent export tax system was temporarily replaced with more trade-distorting export bans. This year, however, Russia is back on the world grain market as a major exporter.

The April 2011 proposal of the NFIDCs also called for improved disciplines on export measures, as explained by **Mr Mokhtar Warida of Egypt’s Mission to the WTO**. This proposal has not been taken up in the trade debate, which so far is limited to “carving out” an exemption on export measures for purchases by the World Food Program. It is important to keep in mind that the scope of that exemption in terms of volume on the global grains market is very limited, as **Mr Gregg Young of the US Mission** reminded the audience.

It was also stated that the solution to the food crises lies to a large extent beyond the trade domain. **Mr Pieter Gooren of the Netherlands Mission** and other contributors highlighted the positive thrust of the G-20 process, which includes a much-needed agenda on agricultural productivity and growth, in particular in developing countries.

The way forward for export restrictions

There are several options to improve disciplines on food export restrictions, **Mr Bipul Chatterjee of CUTS International** pointed out at the session, even if only the humanitarian exemption seems feasible in the short term. He called for stepping up the dialogue in the Agriculture Committee. With population growth, dietary changes and more frequent climatic incidents expected over the next decades, more upheavals in the food system seem inevitable. As summarized by the session’s moderator Mr Nicolas **Im-**

boden, Executive Director of IDEAS Centre and IPC member, the disciplines on export restrictions can substantially be improved by ensuring enforcement of existing rules and operationalizing the definitions contained in present rules. Ministers' discussions at the MC-8 therefore hopefully will go beyond carving out humanitarian WFP food aid from export restrictions.

For a thorough background paper on agricultural export restrictions, download Siddhartha Mitra and Tim Josling, *Agricultural Export Restrictions: Welfare Implications and Trade Disciplines*, IPC Position Paper, Agriculture and Rural Development Policy Series, International Food & Agricultural Trade Policy Council, January 2009 at <http://www.agritrade.org/GlobalExpRestrictions.html>.

This alert is based on the results of a discussion on “Rebalancing the Rights of Importers and Exporters: How to Address Agricultural Export Restrictions?”, organized by the International Food & Agricultural Trade Policy Council & CUTS International at the WTO Public Forum “Seeking Answers to Global Trade Challenges”, 19-21 September 2011. We thank all speakers, panel members and participants for their contributions. Financial support for this publication from the Netherlands to the IPC is acknowledged.

For more information, contact Thom Achterbosch at IPC (achterbosch@agritrade.org) or Bipul Chatterjee at CUTS (bc@cuts.org)

About IPC

The International Food & Agricultural Trade Policy Council promotes the role of trade in creating a more open, equitable, productive and sustainable global food & agricultural system. IPC makes pragmatic trade policy recommendations to help solve the major challenges facing the global food & agricultural system in the 21st century—the need to promote global food security, to sustainably increase productivity, and to contribute to economic growth and development.

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