WTO confirms China’s export restrictions on rare earths and other raw materials incompatible with WTO rules

A World Trade Organisation (WTO) panel today confirmed that China’s export duties and quotas imposed on rare earths, as well as other two raw materials, tungsten and molybdenum, are incompatible with China’s WTO obligations. The report released today concludes the dispute settlement panel proceedings launched jointly by the EU, US and Japan in March 2012.

Which raw materials are at issue in this case?

**Rare earths** are 17 chemical elements in the periodic table, specifically 15 lanthanides (lanthanum, cerium, praseodymium, neodymium, promethium, samarium, europium, gadolinium, terbium, dysprosium, holmium, erbia, thulium, ytterbium, lutetium), as well as scandium and yttrium.

Rare earths are used in virtually all high technology applications which we use in our daily life: computers, cameras, phones, TVs, energy-efficient bulbs, etc. There is also at least a thousand car parts that use rare earths.

More specifically, rare earths are used to produce highly efficient magnets, metal alloys, phosphors, optical material, batteries, ceramics and special abrasive powders. These are, in turn, key components in many products such as wind power turbines, energy-efficient products, flat screens and displays (LED, LCD, plasma), hard drives, camera lenses, glass applications, industrial batteries, and medical or water treatment equipment, to name just a few.

China is a monopoly supplier of rare earths with more than 90% share of world production.

**Tungsten and molybdenum** - two other substances involved in the case - are also crucial materials for European industrial production.

Tungsten is a very hard metal used in cemented carbide and high-speed steel tools. It is used in lighting, electronics, power engineering, coating and joining technology, the automotive and aerospace industries and medical technology. China is by far the largest tungsten producer in the world, accounting for about 90% of total world production.

Molybdenum is a metallic element which is mainly used as an alloying agent for making alloys stronger and more heat-resistant due to molybdenum’s high melting temperature. The alloys are further used for filaments for light bulbs. The iron and steel industries account for more than 75% of molybdenum consumption. China is the lead producer of molybdenum worldwide and accounts for 36% of global production.
What is at stake?

China's export restrictions on raw materials have a global impact and affect a significant share of EU trade, employment and production. They limit the availability of components for EU industry and increase the price.

The Chinese export restrictions offer a competitive advantage to Chinese industries that benefit from lower input prices. In some cases, a non-Chinese buyer has to buy its raw materials at a price that is more than twice that paid by a Chinese firm.

In some cases, the raw materials at stake can amount to a considerable share of the total production cost. Rare earths represent for example more than 50% of cost for wind turbine components and 50% to 60% for a LCD display. Therefore, the price difference can carry a decisive competitive disadvantage for components’ makers outside China.

For other final products, such as mobile phones, the impact on the price would be only several euros per item. However, even in such cases, there is most of the time no viable substitute for rare earths. Where there is a substitute, the final product needs to be redesigned and becomes more costly. For example, we do not currently have substitutes for rare earths’ phosphorescent features for the whole range of colours. Limited access to those inputs would be a real threat to production of quality mobiles, tablets and PC screens outside China.

EU imports of Chinese raw materials involved in this WTO case are worth €460 million per year but their economic importance goes well beyond this figure. The EU imports only a relatively limited amount of rare earths directly from China. A significantly higher share of imports comes to Europe from other countries in a processed form.

For example, in 2012 total EU trade in hard drives, which contain rare-earths-based mini-magnets, was worth €7.5 billion. The value of EU trade in camera lenses, which contain rare earths and the surface of which must be polished using rare-earth-based polishing powders, amounted to €1 billion.

How does this case relate to an earlier WTO ruling on China’s export restrictions? Was this case different?

In 2012, China already lost a first WTO case concerning its export quotas and duties imposed on other raw materials. The measures considered in the first dispute were very similar to those in today’s ruling. China claimed that the new case was different from the earlier one as the measures are now related to a comprehensive domestic resource conservation policy it put in place. But the WTO panel found that China cannot invoke its conservation policy to justify export restrictions if it only limits supply for foreign users and not for its domestic industry.

Does this ruling prevent China from pursuing its environmental and conservation policies?

The panel’s ruling and the WTO rules in general do not prohibit regulating or limiting mining activities. They do not affect either a country’s right to pursue its resource conservation or environmental protection goals. As a WTO member, China should however refrain from discriminating against foreign users of resources. Contrary to these principles, China placed the main burden of its alleged conservation goals on foreign producers by restricting their access to crucial inputs, while ensuring sufficient supplies at lower prices to its domestic industry. The panel clearly concluded that the sovereign right over a country’s natural resources does not allow it to control international markets and the allocation of raw materials between foreign and domestic users.
Has China implemented the first WTO ruling?

China implemented the first WTO ruling by lifting the export duties and quotas on the products at issue. It maintained, however, an export licence on products previously subject to an export quota. The removal of the export restrictions improved the level playing field on the raw material market. For instance, Chinese export prices of coke - an important input for the steel industry - significantly decreased from the level of $470 per ton to $300 per ton shortly after the removal of export duty. Chinese prices still remain high compared to other sources but the elimination of the export tax in China helped also lower export prices practiced by other countries.

Are there still any other export restrictions in China?

In its WTO Accession Protocol, China committed itself to refrain from imposing export duties except for 84 specific tariff lines. Today, it still applies export duties on 346 tariff lines, as well as export quota and licensing regimes on many products.

What does today’s ruling mean for export restrictions on raw materials not covered by this dispute?

The outcome of this case obliges China to bring its measures into compliance with the ruling. This only applies, however, to the raw materials considered in this case. Nonetheless, the EU hopes that China will revise its export restriction policy more broadly, in the light of the repeated conclusions of the WTO panels.

For further information
Press release:
Hyperlink
Report of the WTO Panel
WTO dispute settlement:
http://ec.europa.eu/trade/policy/accessing-markets/dispute-settlement/