CUTS CITEE
Working Paper

No. 1/2011

Food Export Restrictions

Balance importers' and exporters' rights

Bipul Chatterjee*
Chenai Mukumba**

Introduction

While no one can claim to have a crystal ball about the future of prices, more and more experts agree that the fundamentals of the world food market have changed substantially and that we have entered an era of both higher and more volatile world prices. This is the opposite of the situation that prevailed during the 1980s, where major concerns revolved around subsidies leading to structural surpluses and depressing global prices, which led GATT Members to focus on trade disciplines for importers. If the world is indeed moving into an era of higher and more volatile prices, there is a greater need for trade rules that also focus on the instruments and actions of exporters which contribute to price increases.

The call for a greater balance in the rights and obligations imposed on importers and exporters should not be interpreted as downplaying the significant food security challenges that countries imposing export restrictions face (although export restrictions are not always imposed for food security reasons). Those challenges are all too real and must be addressed. Yet, there is evidence that export restrictions do not necessarily improve food security in countries imposing these measures, in particular in the medium to long run, and there is clear evidence that they impose hardships in other countries by contributing to price increases.

This brief will highlight some examples of agricultural export restrictions imposed in recent years and their estimated impact on prices, highlighting the difficulties such price increases entail in particular for vulnerable populations. It will then provide an overview of the discussions and negotiations within the GATT/WTO on this subject, and of the provisions agreed to as part of the G20 agricultural ministerial declaration. Furthermore, it discusses some relevant initiatives taken at bilateral/regional level and also underlined that most of such initiatives either exclusionary or suffer from shortcomings that exist in the existing multilateral trading system.

It is important to bear in mind that the imposition of trade disciplines focused on importers did not materialise overnight. (Indeed, it is telling that agriculture itself was not encompassed by international trade rules until 1995.) Rather these came about as a result of lengthy negotiations that led to phased in reductions for import tariffs, specific disciplines on import quotas, and safeguard measures, and ongoing negotiations for further commitments. Likewise, it is unrealistic to expect agreement on a complete ban on export restrictions. The last section of this brief, therefore, puts forward some suggestions on how this important issue could best be addressed in multilateral trade negotiations.

* Deputy Executive Director, CUTS International
** Research Associate, CUTS International

25 years CUTS International 1983 2008

Effects of Export Restrictions

Whilst many countries instinctively close their borders upon threat of a food shortage, these actions have proven to have detrimental effects both domestically and globally due to market distortions. Export restrictions on grains were one of the key drivers of the food crisis and price spikes during the 2007-11 period.

The June 2011 Joint Policy Report of FAO, IFAD, IMF, OECD, UNCTAD, WFP, the World Bank, the WTO, IFPRI and the UN HLTF stated that "During the 2007-2008 period, some policy measures put in place by a number of governments contributed directly and indirectly to the crisis (export restrictions, hoarding), increasing the amplitude of price movements and in some cases provoking price increases that were otherwise inexplicable in terms of the market fundamentals. Inappropriate policy responses also contributed to volatility and could continue to do so unless the international community is able to take steps to avoid such actions."[i]

A study by the United Nations Food and Agriculture Organisation found "... of the sample of 105 countries covered with some information on food policy measures (export restrictions and many others), 33 countries (31 percent of the sample) resorted to one or more export restrictive measures (during 2007 to end-March 2011). This is only slightly higher than the 25 percent recorded in the 2008 FAO survey."[ii] (Table 1)

Table 1 - Food export restricting *countries* and restrictive *measures* in a sample of 105 countries, 2007 to end-March 2011

	-------------- Countries -----------------			-------------- Measures ------------------		
Region	All countries covered (#)	Export restricting countries (#)	% of restricting countries	All policy measures (#)	Export restriction measures (#)	% of restrictive measures
Africa	42	9	21	142	15	11
Asia	30	15	50	210	49	23
LAC	28	5	18	148	15	10
Others	5	4	80	28	8	29
Total	105	33	31	528	87	16

Source: Sharma, Ramesh, Food Export Restrictions: Review of the 2007-2010 Experience and Considerations for Disciplining Restrictive Measures, FAO Commodity and Trade Policy Research Working Paper, No. 32, May 2011

In 2007 and 2008, India followed export restrictions on rice – whether it had contributed significantly to India's food security concerns is another matter. In late 2008, India allowed exports of top grade aromatic rice but at a minimum price of US$1200/tonne. However, India's exports fell by more than 1.4 million tonnes in the first year the restriction was implemented, and the international market saw a spike in the price of rice. More recently, Russia implemented an export ban on wheat – from July to September 2010 – motivated by drought-fuelled crop losses. This restriction saw global wheat prices surge by up to 80 percent.

The problem with export restrictions is while such measures increase domestic availability of a good at an expected lower price there is a welfare loss for an economy as a whole. The increased availability of a good domestically leads to price distortions, the extents of which are determined by the price elasticity of that product. While consumers are expected benefit from increased availability at a lower price provided an effective distribution is in place, producers lose, and although the economy may see an increase in revenue, the sum of the gains does not always offset the sum of the losses.

Recently India has imposed ban on onion export causing significant hardship to its farmers – with insufficient storage facilities and onion being a semi-perishable commodity, many farmers, particularly small farmers, are forced to sell their products at a much lower price that it was last year.

In the long run, domestic producers eventually decrease their supply in response to lower price which counter-balances the results such a policy attempts to achieve. Large exporting countries are able to benefit from the terms of trade effect when they implement export restrictions; however, this depends on their ability to raise the world price and still maintain exports.

Importing countries, on the other hand, suffer the most as they inevitably consume less due to high prices and then turn towards producing more of a product than it is optimal for their economy. Resultant increase in international prices benefits the producers in the rest of the world, but fewer consumers are able to access these products which inevitably spur crises, particularly in poorer parts of the world.

A study by CUTS and IPC on welfare implications of agricultural export restrictions estimated the magnitude of welfare loss in two scenarios:

- no export restriction on rice by India in 2008, and
- export restriction on rice by India in 2008.[iii]

The findings were that prices facing the rest of the world increase significantly as a result of the export restriction – from US$433.70 per tonne to US$1300.71 per tonne. Consumer welfare thus declines, but producer profits increase. The net decline in economic welfare was calculated to be US$6.38 billion – 0.2 percent of India’s gross domestic product and 0.01 percent of the world GDP.

The paper argued: “More important than the net economic welfare loss, however, is the large decline in consumer welfare; this is in fact what makes export restrictions so detrimental. Price increases caused by export restrictions have the greatest impact on the world’s poorest consumers and pose a serious threat to their food security. As such, export restrictions on staples have contributed to unrest in different parts of the world threatened by food insecurity.”

Through a trade policy simulation, a recent study by the Organisation for Economic Cooperation and Development showed that given a surge of 70 percent in world prices of wheat and rice due to a natural disaster such as drought, they were hiked to 98 percent and 134 percent respectively when the countries studied implemented export restrictions.[iv]

Since June 2010, the number of extreme poor people has increased by 44 million in low and middle-income countries, as a result of such price increases. The welfare losses incurred by both exporting and importing countries highlight the overall negative global effect of export restrictions. Such detrimental consequences render such measures a serious issue of multilateral concern.[v]

Treatment of Export Restrictions in GATT/WTO Rules

Export restrictions are implemented by governments in an attempt to ensure the food security of their consumers. However, over the years dating as far back as the General Agreement on Tariffs and Trade (GATT – the predecessor to the WTO), there has been much evidence that the ramifications of export restrictions work counter to the expected benefits of their implementation. In an effort to curb the effects of price hikes on their domestic population, a number of governments implement export restrictions which in turn, however, decrease the overall welfare of such a country and cause an increase in commodity prices in the international market.

Quantitative restrictions are banned under the GATT rules but exceptions within the agreement render their implementation difficult. Article XI of the GATT 1994 Agreement Establishing the World Trade Organisation states that “no prohibitions or restrictions […] shall be instituted or maintained by any Contracting Party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.”

Pursuant to this paragraph, however, are exceptions (to this paragraph) that have made it easy for countries to justify export restrictions. Article XI paragraph 2(a) continues 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.”

Following the Uruguay Round negotiations, all agricultural products were brought under multilateral trade rules by the WTO’s Agreement on Agriculture. Thus, the Uruguay Round Agreement on Agriculture elaborates on the matter of disciplines on export prohibitions and restrictions.

Following Article XI of the GATT 1994 Agreement, the following measures could come under “prohibition and restriction” on exports:[vi]

- Minimum export price
- Quota
- Export ban or prohibition

Article 12 of the URAA 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”.

These requirements are, however, laxed for developing countries unless it is a net food exporter of a particular product, but then who are these countries are neither defined nor listed anywhere.

Export Restrictions in Doha Negotiations

Before the Doha Round was launched in 2001, a number of countries mentioned export restrictions in the papers they submitted during agricultural negotiations as part of the built-in agenda of the Uruguay Round Agreement on Agriculture. The United States' proposal included objectives that spoke about the strengthening of WTO disciplines on export restrictions in an effort to increase the reliability of global food supply and the prohibition of the use of export taxes, for competitive advantage or supply management purposes.

The Cairns Group of agricultural exporting countries also made suggestions on export restrictions noting that food security was a major concern of many WTO Members, particularly least developed countries and net food importing developing country Members. The Group was concerned that the use of export restrictions or taxes to limit exports of agricultural products would raise questions about relying on the international markets to meet essential food requirements. Thus, it suggested measures that would "contribute to assuring (WTO) Members about their ability to access food and feedstuffs in world markets."

Food importers' major qualm with export restrictions lay in the negative impact of such measures on food security. Japan suggested proposals for tariffication of all export prohibitions and restrictions by replacing them with export taxes and to bind all export taxes. Switzerland's proposal suggested eliminating all export restrictions and binding export restrictions at zero with flexibility for LDCs. Korea went a step further by arguing for a ban on arbitrary prohibitions and export taxes for the purpose of export restrictions.

These suggestions appeared to place the question of export restrictions squarely in the agenda of the agricultural talks mandated by the URAA. However, when the agricultural talks resumed in the Doha Round in November 2001 hardly any attention was paid to this subject. After four years of the launch of the Doha Round, Annex A to the Hong Kong Ministerial Declaration of the WTO Members adopted in December 2005 mentioned this issue in passing.

Paragraph 27 of Annex A to the Hong Kong Ministerial Declaration states: "There is openness to the particular concerns of commodity-dependent developing and least developed countries facing long-term decline and/or sharp fluctuations in prices. There is, at this point (where, overall, precise modalities are still pending), support for the view that such modalities should eventually be capable of addressing effectively key areas of them."

The only mention to export restrictions was appearing in the footnote to this Paragraph: "... The idea of a review and clarification of what the current status is of GATT 1994 provisions relating to the stabilisation of prices through the adoption of supply management systems by producing countries, and the use of export taxes and restrictions under such systems is also on the table."[vii]

In the early stages of the Doha Round agricultural talks, export taxes and restrictions were brought to the fore by a number of importing countries, notably Japan and Korea, which were concerned about the predictability of their food supplies if exporting countries restricted or taxed exports. Switzerland also supported the elimination of taxes and restrictions with certain leeway given to developing countries.

The Cairns Group of net agricultural exporters have also made proposals on export restrictions but, in one of their proposals, their primary concern seems to be with the practice of differential export taxation that impose higher export taxes on raw material exports by countries in favour of their own processing. This issue subsequently got linked to tariff escalation which results in higher duties on processed products than on raw materials. Tariff escalation has been proven to hamper the development of value added processing industries in countries that produce raw materials and is like a tax on environment.

The food crisis of 2006-08 saw significant exporters begin to limit international sales. The issue of export restrictions was again brought to the fore of the agricultural negotiations by Japan and Switzerland when they expressed, once more, the need to address the issue of export bans and taxes. In an informal paper submitted in April 2008, the two countries proposed checking WTO Members' ability to restrict food exports and requiring them to consider how such policies affected countries that depended on food imports.

The proposed rules would require countries seeking to restrict exports to give "due consideration" to importers' food security, and assess the negative impact of the export restrictions. These countries would also have to show how food aid for NFIDCs would be affected as well as to notify the WTO Committee on Agriculture before instituting export restrictions, explaining the nature, duration, and reasons for the measures. Governments would be required to consult with importers about "any matter related to the proposed" export restriction, with the implementation of the planned measure pending the consultations, and if the differences could not be resolved within a certain period of time, the proposed export restriction would be referred to binding arbitration by a "standing committee of experts".

The new proposal by Japan and Switzerland would have gone well beyond the rules on export restrictions outlined in the draft negotiating text currently under consideration in the Agriculture Negotiating Committee. Based on a proposal from the G-20 group of developing countries in the Doha Round of negotiations, the latest version of the draft Doha Development Agenda modalities text would require that countries imposing export restrictions would have to notify the WTO within 90 days after the imposition of such measures. It calls for export restrictions to normally last no longer than one year, with importers' consent required for measures that last longer than 18 months.

In addition to this, the WTO has been met with recent calls from Egypt and the African Group to once again bring export restrictions to the fore of multilateral trade discussions.[viii] Egypt initiated a proposal at the WTO to ban export restrictions on farm products to poor countries that are net food importers. The proposal states that export bans and restrictions introduced by other WTO members should be forbidden in the case of exports to NFIDCs or to LDCs. It argues that export restrictions threaten food security as they "play a major role in fuelling soaring international food prices".

The proposal further notes that higher prices of cereals, meat and dairy products drove food price index to a record high in February this year as estimated by the United Nations, and such food price increases "aggravate poverty levels and seriously threaten NFIDCs' food security".

Thus, there is indeed a growing sentiment to see the forthcoming WTO Ministerial Conference to be held in Geneva in December this year include a specific resolution on export restrictions in the "early harvest" package of the Doha Round. While the issue of export restrictions is not high on the Doha Round agenda, it does present an opportunity to strengthen disciplines on export restrictions. In an effort to resolve concerns surrounding export restrictions, a number of alternatives have been considered at a multilateral level. Indeed one of the most pressing issues remains a need to define some of the terms that are in the text that outline the use of export restrictions.

In the Doha negotiating proposals, this is referred to as 'disciplining'. Lack of a working definition for concepts within GATT Article XI such as 'temporary' or 'critical' creates ambiguity with regards to their interpretation. Such ambiguities create at least two problems:

- they make it difficult for importing countries to flag an injurious trade concern when they are being negatively affected by the restrictive measures; and
- they also make it easy for exporters to justify their restrictive measures without fear of any risk of arbitration and this raises concerns because the GATT Article XI in its current form provides a cover to all forms of restrictive measures that can be taken within the URAA.

However, with the Doha Round in a limbo and in the light of recent food price spikes, it is time for negotiators to make a strategic choice to either limit to Article 12 of the Uruguay Round Agreement on Agriculture or to go beyond it. If negotiators decided to go beyond the URAA Article 12, there is a number of ways this can be explored. Whereas Article 12 of the URAA calls for WTO Members to notify, consult and give due consideration, the current implementation of these procedures is very poor. The Doha Round of negotiations has seen some specific suggestions in this regard as mentioned above. All these suggestions indicate that there is a growing sentiment to strengthen the requirements on information provision, notifications and consultations.

An alternative attempt to discipline export restrictions is the tax rate quota scheme which mirrors the tariff rate quota of the URAA. In this case, the quota to be based on past exports would be a fixed average of a base period or a moving average. The in-quota tax could be the average export tax applied in recent years, but no more than 40 percent, which at first glance appears to be relatively high for an in-quota rate but has to be set liberally in order to garner support for this proposal.

The process of tariffication for fixing bound rates is time-consuming and therefore, a simpler compromise would be required. This could include setting the bound rate at twice the in-quota rate. Further compromises could be considered such as instruments similar to the URAA's Annex 5 special treatment and special agricultural safeguards, with higher conditionalities. A bound tax would be necessary to render this alternative effective.

A tax rate quota scheme would not be a radical departure from current practices as many countries have indeed been implemented a similar scheme during 2007-10, typically switching from low tax to quotas to high tax, including minimum export price. Such a scheme merely formalises this practice, but it would give a much needed predictability to export restricting policy. (Box 1)

Box 1: Considerations for an Effective Tax Rate Quota Scheme

A tax rate quota scheme should be based on the following considerations:

1. There is a considerable support and consensus currently that something needs to be done on export restrictions. It is not just the text books that tell that export restrictions inflict costs to both the exporters and importers but that unpredictable export restrictions were a major factor fuelling the price spikes during 2007-10 are broadly accepted.

2. Besides these justifications, in proposing the schemes the following other considerations need to be taken into account:

- First, it is unlikely that a drastic move in one go from a situation of total freedom on policies to full export ban will be acceptable. This did not happen on the import side either. The URAA provided significant flexibilities and exceptions in the form of the tariff rate quotas, Annex 5 special treatment, liberal latitude to establish bound tariffs and the special safeguards. A similar approach will be needed for disciplining export restrictions.
- Second, for being acceptable to current users of export restrictions, the new scheme has to have elements of various individual instruments that have been found useful during 2007-10. Countries have been using combinations of ordinary tax, minimum export prices, quota and variable taxes in response to different intensities of the price surge.
- Third, export restriction as a trade policy appears to be a well-targeted special and differential treatment measure. Barring some cases, developing countries, including LDCs, have been the major users. Given their stage of development, administrative infrastructure and food security/poverty concerns, resorting to export restrictions has been both convenient and practical.

Source: Sharma, Ramesh, *Food Export Restrictions: Review of the 2007-2010 Experience and Considerations for Disciplining Restrictive Measures*, FAO Commodity and Trade Policy Research Working Paper, No. 32, May 2011

An alternative to tax rate quota scheme could be variable export tax scheme. This instrument has several desirable features as it does not restrict exports altogether and it contributes to:

- domestic price stability;
- revenue generation; and
- policy predictability.

G20 Agriculture Ministers' Initiatives

On 22-23 June 2011, a meeting of the G20 agriculture ministers was held in Paris, France and they adopted a Ministerial Declaration titled "Action Plan on Food Price Volatility and Agriculture" by stating that "We, the G20 Agriculture Ministers, meet today to address the issue of food price volatility with the ultimate objective to improve food security and agree on an "Action Plan on food price volatility and agriculture" that will be submitted to our Leaders at their Summit in November 2011."

Paragraph 8 of this Ministerial Declaration noted: "As requested by the G20 Summit in Seoul, FAO, OECD, The World Bank group, IFAD, UNCTAD, WFP, WTO, IMF, IFPRI and the UN HLTF joined forces for the first time to produce a policy report on "price volatility in food and agricultural markets: policy responses". FAO and OECD coordinated the preparation of the report. We welcome this work and discussed their recommendations."

Paragraph 37 states: "We recognize the important role that international trade can play in improving food security and in addressing the issue of food price volatility. Open and well functioning markets are essential to allow more investment in agriculture. This is critical to ensure an increase in agricultural production and productivity to meet growing demand in the coming years. A stable, predictable, distortion free and transparent system for trade allows the unrestricted flow of food and agricultural commodities, contributing to food security. This requires further cooperation in strengthening international governance of agricultural trade in favour of open, rules-based and well functioning global markets for agricultural products, through the WTO and its agreements, such as the Agreement on the Application of Sanitary and Phytosanitary measures, and its rules based on scientific standards and recommendations developed by the relevant international standard setting bodies (Codex, OIE and IPPC)."

And Paragraph 40 of this Ministerial Declaration states: "We recognize that the first responsibility of each member state is to ensure the food security of its own population. We also recognize that food export barriers restricting humanitarian aid penalize the most needy. We agree to remove food export restrictions or extraordinary taxes for food purchased for non-commercial humanitarian purposes by WFP and agree not to impose them in the future. We will seek support within the United Nations agencies and will also recommend consideration of the adoption of a specific resolution by the WTO for the Ministerial Conference in December 2011." However, beyond this there was no specific statement on disciplining export restrictions.

As the Joint Policy Report of FAO *et al* argued, "the risk of export restrictions, and the asymmetry between international disciplines (e.g. in WTO agreements) on export restrictions (unbound) and import restrictions (bound) is a severe barrier to increasing trust in international markets. To be sure that international trade is a reliable source of food supply net food importers should benefit from much stronger guarantees from their trading partners. A "first best option" would be to a ban on export restrictions. Countries would address domestic food security issues with direct and targeted support. However, it is most unlikely that a ban on export restrictions would be agreed and, even if agreed, that it would be enforced during a food crisis. On the other hand, reinforced rules, in particular in terms of transparency, are both possible and useful."

Therefore, this Joint Policy Report recommended that "Taking existing WTO rules into account and the state of play in the DDA negotiations G20 governments should:

- develop an operational definition of a critical food shortage situation that might justify consideration of an export restricting measure. An export ban would be defined as a time-limited measure of last resort, allowed only when other measures, including triggering domestic safety net measures for the poorest, have been exhausted, and taking into account, in particular, the food security needs of least developed countries and net food importing developing countries; and
- widen, strengthen and enforce consultation and notification processes currently in place at the WTO. The intention to impose an export restriction would have to be notified in advance of the action being applied and a "fast track" consultation process could be put in place to discuss whether the measure can be avoided and how. Consultation should be on-going and regular with a view to ensuring that the measure, once in place, is removed at the earliest possible moment."

In short, while the GATT 1994 Agreement prohibits quantitative restrictions, provisions are weak and there is exception that allows governments to prohibit or restrict exports on the condition that these measures are "[...] temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party."

Export prohibitions or restrictions relating to foodstuffs must also conform with the provisions of the Uruguay Round Agreement on Agriculture, that requires WTO Members to 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, and consult, upon request, with other WTO Members. These provisions do not apply to a developing country Member, unless the measure is taken by a developing country Member which is a net-food exporter of the specific foodstuff concerned.[ix]

It is important to underline as the Joint Policy Report of FAO *et al* noted: "With respect to export restrictions nations have agreed to commit to make humanitarian exemptions, first, at the G8 Summit in L‟Aquila in July 2009, and then at the World Summit on Food Security in Rome in November 2009, where all FAO member states agreed to "remove food export restrictions or extraordinary taxes for food purchased for non-commercial humanitarian purposes, and to consult and notify in advance before imposing any such new restrictions". If honoured these commitments would allow food to be shipped rapidly to where it is needed in an emergency."

However, the Joint Policy Report also notes: "Some nations that imposed export restrictions during 2008 and 2010 made exemptions for purchases of humanitarian food, including those by the WFP. However, others have not made such exemptions, forcing in-country and international humanitarian agencies to purchase food from more distant sources. And most exemptions, if made, are on a case-by-case basis after concern has been raised and the exemption requested. Valuable emergency response time and resources are lost, as procurement teams have to spend time negotiating, or find alternative suppliers from other regions."

This calls for a more predictable system of agricultural trade. This point is also underlined by various proposals made by some WTO Members while highlighting the need for a better-designed, multilaterally-agreed trade rules to deal with export restrictions.

The Joint Policy Report of FAO *et al* argued: "The experience of the 2007-08 food price crisis and the current excess price volatility in many international food markets have exposed weaknesses in relation not only to the provision of market information at the global level but also to the coordination of policy responses to food price volatility. There is need to ensure better preparedness and more rapid and consistent policy responses in times of crisis. Building on and complementing existing systems, improvements in global market information and policy guidance could be achieved through a collaborative food information and policy initiative, the Agricultural Market Information System (AMIS). Such initiative would improve data reliability, timeliness and frequency, as well as enhance policy coordination in times of crisis." (Box 2)

Box 2: Elements of Agricultural Market Information System

Building upon existing mechanisms, establish an Agricultural Market Information System encompassing the following four elements:

- G20 governments commit to instruct statistical or other relevant agencies to provide timely and accurate data on food production, consumption, and stocks. Where the mechanisms and institutions are not in place nationally to do so, G20 governments should undertake to create them.

- International Organizations, with broad involvement of countries (G20 and other relevant players) commit to undertake monitoring, reporting and analysing of current conditions and policy developments in major markets as well as to enhance global food security by encouraging information sharing, improving data reliability and increasing transparency, and introducing a global early warning system.

- G20 governments support the establishment of a Rapid Response Forum, with broad involvement of countries (G20 and other relevant players) building on the proposed Agricultural Markets Information System to promote policy coherence and coordination in times of crisis.

- International Organizations support the improvement of national or regional systems to monitor stocks, production, forecasts (with improved modelling and weather forecasting), food and nutrition security and vulnerability, in order to enhance Early Warning Systems in vulnerable developing countries and regions.

Source: Price Volatility in Food and Agricultural Markets: Policy Responses, Joint Policy Report of FAO, IFAD, IMF, OECD, UNCTAD, WFP, the World Bank, the WTO, IFPRI and the UN HLTF, June 2011

Furthermore, the G20 agriculture ministers in their meeting in Paris in June 2011 decided to establish a Rapid Response Forum within the framework of the Agricultural Market Information System and the G20 Ministerial Declaration stated that in order "To promote policy coherence and coordination in times of crisis, the Rapid Response Forum will:

- assess information and analyses from AMIS Secretariat on the current global market situation and outlook;
- receive information and assessments electronically from early warning systems on the extent to which global market developments affect vulnerable countries and assess the ensuing implications for food security;
- when the market situation and outlook as evaluated by the AMIS Secretariat indicates a potential crisis, meet to discuss and promote appropriate policy options on issues affecting agricultural production and markets (but not seek influence on humanitarian responses); and,
- work closely with the Committee on World Food Security (CFS) to promote greater policy convergence and strengthen policy linkages at global level."

Bilateral/Regional Initiatives

With the future of the Doha Round of multilateral trade negotiations in question, further concrete work on export restrictions at the multilateral level remains doubtful and so in addition to possible solutions at a multilateral level there is a need to also look at some relevant initiatives taken at bilateral/regional level.

One strategy for importers dealing with the issue of export restrictions could be negotiating agreements that prohibit certain actions on a reciprocal basis. If either the supplier or the importer is concerned about sudden shifts in the access to a market or the availability from a particular source, then a long-term agreement may provide the desired assurance. Such a contract can both guarantee particular import levels and remove the risk of export embargoes.

Such agreements were attempted in 1970s but they did not help the market itself. Countries that were excluded from these agreements had to absorb further instability and uncertainty. The flexibility of countries to shop around for supplies when required would also be compromised.

Whether prices would be higher under such agreements would depend on whether it was the exporter or the importer that wanted to reduce risk. In general, with the private sector handling much of the commodity trade, and with active futures markets through which risk can be controlled, the prospect for bilateral contracts seems unattractive. In addition, this idea would be much beyond the GATT principle of most-favoured nation treatment.

Regional trade agreements are another possibility to consider an effort to negotiate restraints on the restriction of exports within a bloc. Regional trade is a large fraction of global trade and so these regulations are of potential significance to the international food markets. The European Union goes further than other regional agreements in prohibiting both export restrictions and export taxes on intra-EU trade. The treatment of export taxes within the North American Free Trade Agreement is also reflective of such treatment on export restrictions.

Most regional trade agreements include chapters which prohibit the use of quantitative export restrictions except for reasons falling under Article XI of the GATT 1994 Agreement. A few also specify which products are exempt from export restriction. In some of these agreements, export restrictions are permitted only if serious shortage of products essential to the exporter arises provided that certain procedures outlined in the agreements are followed. COMESA (Common Market for Eastern and Southern Africa) for example, prohibits export restrictions except to maintain food security in the event of a war or famine, provided that notification is given.[x]

One regional initiative to extend the principle of open access to all regional markets has been suggested in the context of Asia-Pacific Economic Cooperation. The APEC Food System proposal includes "a guarantee of non-discriminatory sales" that is crafted to cover both open access to markets and assured access to supplies. It seems that this initiative would curb the ability of exporters within the Asia-Pacific region to withhold supplies even as an attempt to stabilise prices in their own markets.

Conclusion

As the current rules-based multilateral trade regime stands, it prohibits the use of export restrictions with certain exceptions. However, the relevant provisions in their current form remain ineffective to deal with the problems facing the food importers as well as exporters. Therefore, more efforts need to be made to create a more effective multilateral regime to deal with issues of agricultural exports.

Here, it is important to mention a study by Fischer *et al* (2002) which estimated that by 2080 cereal imports by developing countries will increase by 10-40 percent and much of this increase will occur as a result of decline in agricultural productivity and agricultural production due to climate change and other factors.[xi] Many of today's food sufficient countries are expected to become net food importers. Multilateral rules disciplining food exports is, thus, an imperative and we need to act now.

Some proposed measures to discipline food export restrictions such as tax rate quota, variable export tax scheme are to be discussed and negotiated so as to arrive at a more balanced multilateral trade rules dealing with food exports. Food export restrictions are detrimental to the welfare of exporters as well as importers and their right to development through a more open, rules-based multilateral trading system should not be undermined. Bilateral/regional initiatives are second-best options.

Therefore, WTO Members are urged to take up the issues of agricultural export restrictions, particularly food export restrictions, as part of an "early harvest" of the Doha Round of negotiations. Given that food export restrictions are detrimental to consumers in rich food importing countries such as Japan, Switzerland as well as to poor countries such as Bangladesh and also to producers and consumers of food export restricting countries, here is a chance to form an issue-specific coalition among a diverse set of WTO Members to address the concerns of the rich as well as poor consumers and producers, and to underline the fact that a more open international trading system with multilaterally-agreed rules under the aegis of the WTO can indeed deliver on development as envisaged in the Preamble to the GATT 1994 Agreement Establishing the World Trade Organisation.

[i] FAO, IFAD, IMF, OECD, UNCTAD, WFP, the World Bank, the WTO, IFPRI and the UN HLTF, *Price Volatility in Food and Agricultural Markets: Policy Responses*, Joint Policy Report, June 2011

[ii] Sharma, Ramesh, *Food Export Restrictions: Review of the 2007-2010 Experience and Considerations for Disciplining Restrictive Measures*, FAO Commodity and Trade Policy Research Working Paper, No. 32, May 2011

[iii] Mitra, Siddhartha 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

[iv] Thompson, W. and G. Tallard (2010), *Potential market effects of selected policy options in emerging economies to address future commodity price surges*, OECD Food, Agriculture and Fisheries Working Papers, No. 35, OECD Publishing, OECD, Paris

[v] World Bank, *Food Price Hike Drives 44 Million People into Poverty*, http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:22833439~pagePK:64257043~piPK:437376~theSitePK:4607,00.html, 15 February 2011

[vi] Para 1 of GATT Article XI says "other than duties, taxes etc" – this means export taxes do not fall under prohibitions. In some literature on this subject, government to government sales were termed as export restriction – this is not true but this may contradict GATT Article I of most-favoured-nation and non-discrimination principles. Also, it is possible that trade through state trading enterprises is export restrictive, but not necessarily the case. An STE can trade without restrictions.

[vii] A possible method of supply management/augmentation can be adopted through dual pricing instead of export restrictions by considering it from the point of view of demand-side management. Countries such as India have used this in the past. In this case the concerned government procures foodgrains from open market and distributes them to its population, particularly the poor through fair price shops where prices are much lower than open market prices. The loss incurred by the government is the budgetary burden for this distribution programme. However, through this method the government can ensure an adequate supply of food grains even when prices are high. However, India's attempt at implementing this system was met with limited success as the public distribution of foodgrains in India is beset with problems of corruption, theft, and also due to lack of accessibility of the rural population to this distribution system. Such institutional problems in many developing countries hamper the effectiveness of this technique and a solution to bureaucratic deficiencies would need to be found prior to its implementation.

[viii] International Centre for Trade and Sustainable Development, *Agricultural Export Restrictions Spark Controversy at the WTO,* Bridges Weekly Trade News Digest, Volume 15, Number 12, http://ictsd.org/i/news/bridgesweekly/103579/, 6 April 2011

[ix] *Op. Cit.* 1

[x] Fulponi, Linda, Matthew Shearer and Juliana Almeida, *Regional Trade Agreements - Treatment of Agriculture,* OECD Food, Agriculture and Fisheries Working Papers, No. 44, OECD Publishing, doi: 10.1787/5kgg53fmnjxv-en

[xi] Fischer, G, H. van Velthuizen, M. Shah and F. O. Nachergale, *Global Agro-ecological assessment for agriculture in the 21st century: methodology and results.* Research Report RR-02-02, International Institute for Applied System Analysis, Austria; On a related note, a study by Kavi Kumar and Jyoti Parikh (2001) assessed the effect of higher temperatures on wheat and rice yields in India. Basing their model on data from 10 sites, they concluded that in north India a 2-degree rise lowered yields at almost all of the sites. The rate of decline ranged from 37 percent to 58 percent – Kavi Kumar, K. S. and Jyoti Parikh, *Socio-Economic Impacts of Climate Change on Indian Agriculture*, International Review for Environmental Strategies, 2(2): 277-93, 2001