



5 July 2011

### **WTO RULING CONDEMNS UNJUSTIFIED CHINESE EXPORT RESTRICTIONS**

Today, a WTO Dispute Settlement Panel determined that export restrictions and duties imposed by China on a number of raw materials, including bauxite and magnesium, were incompatible with China's WTO Accession Protocol and general WTO rules.

The WTO Panel determined that export duties were incompatible because they exceeded commitments made in China's Accession Protocol. Similarly, export restrictions (e.g. quotas, licences, minimum export prices) were deemed incompatible with general WTO provisions under GATT article XI. In addition, the Panel clearly stated that the exceptions allowable under GATT article XI (2)(a) *export restrictions temporarily applied to prevent critical shortages of products essential to an exporting WTO Member* and Article XX (b) *protection of human, animal or plant life or health* and (g) *the conservation of exhaustible natural resources* cannot be used as a pretext to shield domestic industry or to undermine the rules of the multilateral trading system. In all cases, the Panel found that the export restrictions imposed by China could not be justified under those exceptions.

BUSINESSEUROPE applauds the WTO Panel decision which declares almost all Chinese export duties and restrictions incompatible with the multilateral trading system and which paves the way for freer trade in raw materials globally. BUSINESSEUROPE calls on China to immediately implement the Panel report findings by removing export duties and restrictions on all raw materials.

#### **NOTE TO THE EDITOR**

BUSINESSEUROPE represents small, medium and large companies. Active in European affairs since 1958, BUSINESSEUROPE Members are 41 central industrial and employers' federations from 35 countries, working together to achieve growth and competitiveness in Europe.

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**Background information:****On the Dispute Settlement Case**

On 4 November 2009, the EU, the US and Mexico filed a complaint against Chinese export duties and restrictions on yellow phosphorus, bauxite, coke, fluorspar, magnesium, manganese, silicon metal, silicon carbide and zinc after failing to find a negotiated solution with China.

On 5 July 2011, the WTO Panel decided that almost all the export duties and restrictions imposed by China were incompatible either with China's WTO Accession Protocol (which sets clear disciplines on export duties) or with general GATT rules that forbid unjustified export restrictions. The Panel also determined that China's environmental, resource conservation and other arguments to justify these measures did not comply with the exceptions allowed under WTO rules – in part because the measures were applied in a discriminatory manner targeting exports and foreign companies only.

China now has the option of implementing the Panel decision or making an appeal within 60 days.

**On the economic implications of the case**

The EU is a major importer of the raw materials directly specified in the WTO case every year. It also imports other raw materials from China that are not specified in the case but that are also subject to export restrictions, for example rare earths. China is also the dominant global supplier of many of these raw materials. Without these raw materials, EU countries could face supply disruptions or price discriminations which threaten growth and jobs.

European industry is a major consumer of industrial raw materials – notably for base industries (metals, chemicals) that supply the manufacturing sector. The demand for industrial raw materials has been increasing lately due to high growth and urbanisation in emerging countries and to technological changes in industry (e.g. clean technology, electric vehicles, electronics and optics developments). Unfortunately, restrictions in the trade of raw materials has severely distorted global markets and increased volatility for industrial consumers.

BUSINESSEUROPE opposes the unjustified use of export restrictions on raw materials for the following reasons:

- They provoke a beggar-thy-neighbour policy by encouraging countries to hoard raw materials at the expense of the global trading system. Today, there are 1,250 export restrictions applied on raw materials and agricultural goods across the world. Major importers of raw materials and food, like the EU but also China, suffer tremendously from many of these export restrictions.



- They artificially lower the prices of raw materials on the domestic market which imposes the restriction while simultaneously increasing global prices which creates a trade distortion.
- They can be used as an industrial policy tool to force EU companies to transfer the production of some goods to the raw materials sourcing country – in this case China.
- They increase the price volatility of raw materials markets by encouraging speculators to get involved in markets where there are risks of supply disruptions created by export restrictions. This issue has been raised as a major global problem in the context of the G20 Summit.
- They encourage countries to engage in a global race for raw materials rather than seeking ways to cooperate to deal with supply and demand challenges.

### **On the policy implications of the case**

The WTO Panel decision clearly stipulates that almost all export duties and restrictions imposed by China are incompatible with WTO rules. If confirmed, this decision will require China to remove all unjustified restrictive measures on raw materials.

In addition, as the decision clarifies the general WTO rules on export restrictions, other countries applying unjustified restrictions should bring their rules into compliance with the WTO. This will limit the proliferation of such beggar-thy-neighbour policies and will encourage more cooperation among countries to deal with potential supply and demand challenges in the future.