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Export Bans are Ineffective and Bad for Governance: Evidence from the Indian Antiquities Market

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1. Introduction: Why do Export Bans Matter?

The Global Trade Alert database discloses a total of 108 "red" policy measures in the category of export taxes or restrictions. "Red" means that the measure has been implemented, and that it almost certainly discriminates against foreign commercial interests. Export-related trade policy measures, including prohibitions, are therefore increasingly becoming a matter of policy concern. By causing artificial scarcity on world markets, they increase prices for foreign consumers. At the same time, they export price volatility: often introduced in response to supply shocks at home, they spread the pain around by contributing to price spikes in other countries. Examples of export restrictions, including prohibitions, abound. For instance, the Russian Federation prohibited exports of wheat in 2010 due to a domestic shortage. As a major producer, its action led to price rises on world grain markets that were passed on to final consumers. Similarly, India banned exports of cotton in 2012, again leading to a price jump on world markets, only withdrawing the measure under pressure from countries like China, which use cotton as an important input in their apparel sectors.

This policy brief argues, however, that export bans are often ineffective in achieving their stated aims. The reason is that producers have a clear economic incentive to bypass the law, and continue to sell their product overseas. Export bans therefore tend to foster illegal transactions, which are a mixed bag from an economic point of view. On the one hand, they undercut the ban itself, which is usually a good thing in terms of efficiency. However, many of the countries imposing export bans already have weak governance environments, and encouraging further informality undermines the rule of law even further. Export bans are therefore both economically and socially undesirable. This column demonstrates these two points using the example of India's long-standing ban on the export of antiquities.

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2. The Ban on Exports of Indian Antiquities

Prior to independence, substantial amounts of Indian art—paintings, sculptures, and other pieces—were removed by the British and other colonial powers. In many cases, important pieces entered the collections of major museums, like the Victoria and Albert and British Museums in London. In the American case, it was more common for them to be acquired by private collectors, who then passed them on to public collections. Although an export license was required for such transactions post-independence, the system proved largely ineffective, and substantial amounts of Indian cultural property still found their way into the collections of developed countries.

The loss of culturally important artifacts was a major concern in post-independence India, as well as in other former colonies. In 1970, UNESCO adopted the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property. The Convention was, however, limited to recommendations. In the absence of universal ratification—notably absent were many of the developed countries where antiquities markets thrived—and an international tribunal to adjudicate such matters, the Convention's recommendations were largely ineffectual (Greenfield, 2007, pp. 368-9).

Against this background, the Indian Parliament legislated in 1972 to ban the export of all antiquities more than 100 years old (75 years in the case of manuscripts and other documents). Part of a broader movement towards the creation and consolidation of a national identity, the export ban was supposed to keep Indian cultural heritage within national borders. In a number of cases, the Government of India also officially requested the return of significant pieces from overseas, though usually without success. The recent repatriation of a 1,100 year old sculpture from Paris is an exception rather than the norm (The Hindu, 2013).

Despite the ban, it soon became apparent that smuggling of cultural goods was taking place. Indeed, governmental agencies brought suits in foreign courts to bring about the return of cultural property of dubious provenance. In one famous example, the British courts—in line with Indian jurisprudence—granted legal standing to the god Shiva to sue for the return of a statue (Davis, 1997, pp. 222-259)[1].The question of the extent to which an export ban like that affecting Indian antiquities is undermined by smuggling is therefore an important one for countries considering implementing export bans for commercial purposes, and is the focus of the remainder of this column.

3. What do the Data Say?

As of 1988, the Harmonized System specifically identifies "antiques of an age exceeding one hundred years" (product 970600). We can therefore track imports and exports of Indian antiquities using standard trade data.

We start with the export side. In light of the prohibition, we expect to see no substantial exports in this product category from India to major developed country art markets such as the United Kingdom and the United States. Of course, small amounts of trade may be observed due to misclassification, or a lack of perfect correspondence between "antiques" and "antiquities". Nonetheless, trade values should be very small.

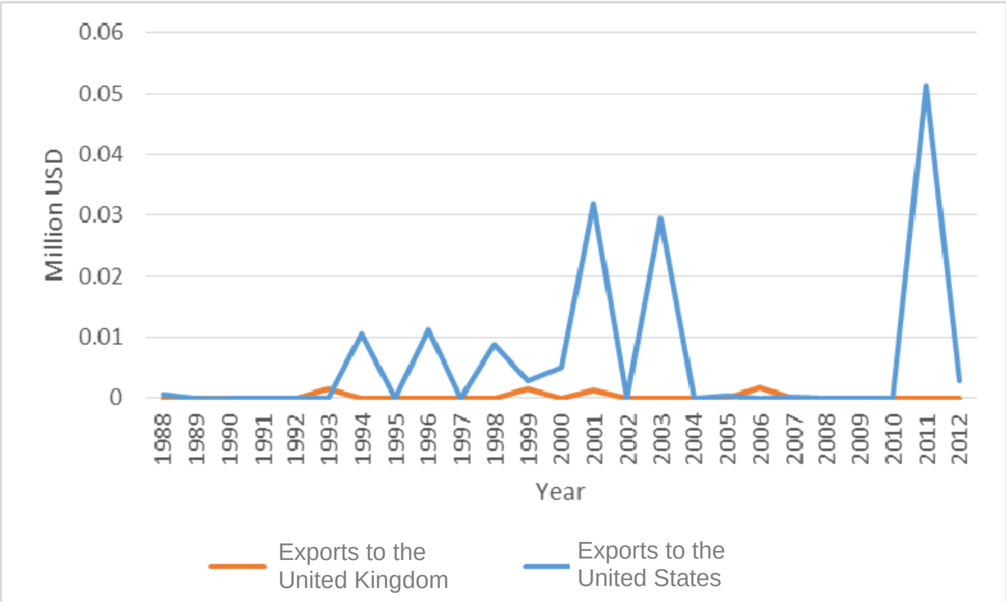
[1] Perhaps unsurprisingly, the mortals lost the case.

Figure 1 shows results, with missing data treated as zero. Reported export values for both destination markets are indeed very small. For most years, they are less than $50,000, which is within the realm of misclassification and other measurement error. At first glance, then, and based only on India's own reported exports, the ban would appear to be quite effective.

The picture changes completely when import (mirror) data for major art markets are used instead of Indian export data, however. We again consider the United Kingdom, and the United States, which are the major destinations for Indian art in the time period under consideration. By comparing their reported imports in the same product category with India's reported exports, we can get an idea of the extent to which the ban is being circumvented—presumably by smuggling—as in Fisman and Wei (2009).

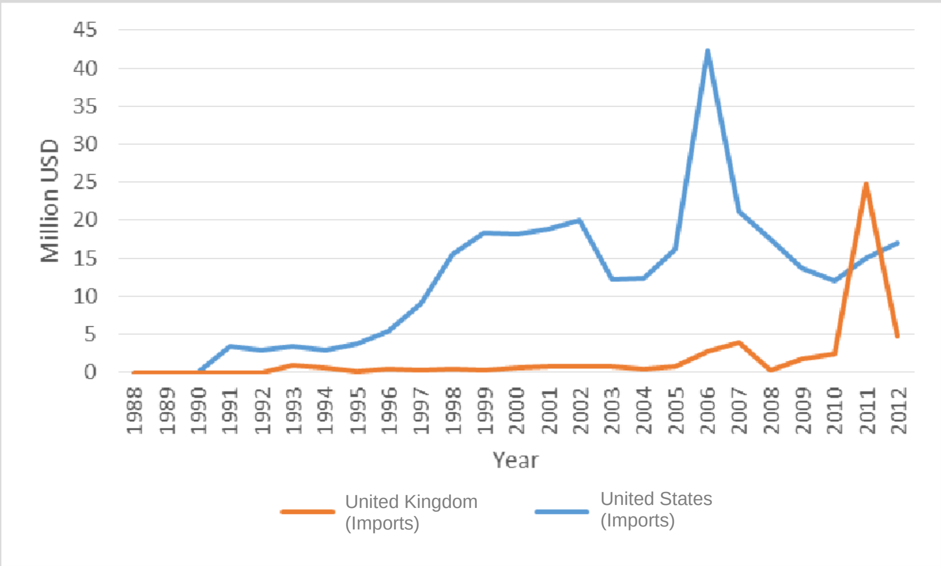
Results are in Figure 2, with missing values again treated as zero. The United Kingdom records small amounts of trade—less than $1 million per annum—prior to 2006. For the rest of the sample, however, recorded imports are nearly always in excess of $1 million. In the United States, the situation is even more striking: for no year in the sample do recorded imports fall below $3 million (with rounding). To bring the point home, total imports of Indian antiquities into the United States in 2012 were valued at just over $17 million. By comparison, India reported exports for the same year of only $0.003 million—a difference of nearly 600,000%!

Figure 1. Indian exports to the United Kingdom and United States of antiques greater than 100 years old (HS 1988 product 970600).



Source: Calculated by authors based on Comtrade data downloaded from WITS on April 25, 2013.

Figure 2. Imports from India to the United Kingdom and the United States of antiques greater than 100 years old (HS 1988 product 970600).



Source: Calculated by authors based on Comtrade data downloaded from WITS on April 25, 2013.

Comparing Figures 1 and 2 can only suggest one conclusion: India's export ban on antiquities is relatively easily circumvented, and valuable pieces are still making their way to the main markets found in developed countries. The only alternative explanation—that export data are systematically of lesser quality than import data due to the fact that duties are generally only levied on the latter—could not possibly explain the enormous divergences present in the data. One effect of India's export ban is therefore to encourage smuggling: goods must be moved out of India either in secret or using alternative product classifications, before being reclassified upon entry into developed markets. The prevalence of corruption in India, and its relative absence in the United Kingdom and the United States, makes these kinds of transactions plausible.

4. Policy Conclusions

What does the example of Indian antiquities have to say about the issue of export bans more generally? We draw two main conclusions. The first is that blanket export bans can be quite ineffective in achieving their stated aims, which is partly a good thing from the point of view of global economic efficiency. They give economic agents incentives to bypass official channels and engage in illegal transactions, so that trade still takes place. Indeed, the total value of trade may be comparable to what it would have been without the ban, because although the risk of punishment discourages some transactions, it also gives agents an incentive to trade in higher value goods. The lesson from a cultural policy standpoint is that a more targeted approach, such as the one in operation in Japan, rather than a blanket ban may at the same time enable legitimate trade and protect important national heritage.

The second policy implication of our findings is that because the circumvention of blanket export bans relies on illegal conduct, it tends to undermine the rule of law in the exporting country. This fact is potentially troubling from a development policy point of view, because a number of the countries that have recently imposed export bans in other areas score poorly on measures of corruption and governance. India, for example, is ranked 94th out of 174 countries in Transparency International's Corruption Perception Index 2012. Kazakhstan, which is ranked equal 133rd, has imposed an export ban on wood, paper, and cardboard goods. Iran, which shares the same rank as Kazakhstan, has imposed export bans on 50 products. Each of these countries already has a weak governance environment. By imposing export bans, they are not only potentially damaging the world economy—although the damage is limited by the bans' likely ineffectiveness—but they are also potentially undermining their own governance structures even further.

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