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What are the Potential Impacts of Export Mandates on Malawi's Economy and Development Trajectory?

Christone J. Nyondo, Patrick S. Kambewa, Dinah T. Salonga and Milu Muyanga

Key Messages

- Export Mandates were introduced in 2021 within the framework of the 2018 Control of Goods Act (COGA) to regulate exports and the tracing and repatriation of resulting proceeds.
- The 2018 COGA integrates transparency and predictability mechanisms in regulatory interventions to safeguard public interests.
- Malawi has not yet fully implemented the 2021 Export Mandates. The initial attempt to enforce the 2021 Export Mandate was discontinued in 2022.
- Our ex-ante assessment of the potential impacts of Export Mandates shows that export restrictions that are possible through Export Mandates can simultaneously hurt and favour different segments of the economy.
- Hence, the government should consider carefully and precisely defining how this tool will formalise exports and export proceeds without harming the economy.
- We provide the following suggestions for consideration:
    - Replacing export bans with less distortional variable export taxes and quotas.
    - Setting up a system of tracing export earnings within the Export Mandates to benefit from exports without making the process too bureaucratic.
    - Promoting self-reporting anchored on incentives, such as allowing exporters to use the export earnings to import goods and services they require in their businesses.

Introduction

The Ministry of Trade introduced Export Mandates in 2021 under the authority of the 2018 Control of Goods Act (COGA). The intention was to regulate exports and trace and repatriate the resulting proceeds. Export Mandates are requirements that must be fulfilled before certain exports can be allowed, along with the corresponding rules for repatriating the proceeds. The 2018 COGA passed the fourth amendment to the inaugural COGA of 1954. Unlike the previous COGAs, which gave the Minister of Trade discretionary powers to regulate exports, the 2018 amendment limited those powers by introducing transparency and predictability mechanisms to regulatory interventions.

The 2018 COGA is meant to protect public interests by democratising the policy process. Based on the 2018 COGA and its attendant Public Interest Grounds, "public interest" is defined as anything affecting the well-being, rights, health, or finances of the public at large, most especially the poor and marginalised populations.

The Minister of Trade is required to publish a notice for consultations for at least 30 days, during which interested parties can share their views before the policy can be made effective. This new law limits the Minister's ability to intervene unilaterally, except only in urgent circumstances, such as preventing food shortages or protecting domestic industries. All interventions by the Minister, including emergency unilateral interventions, are expected to be preceded by a clear demonstration that the thresholds for intervention have been met and that necessary measures have been taken to address that issue alternatively.

The 2021 Export Mandate

The 2021 Export Mandate was developed to supplement the 2018 COGA and regulate the export of goods and repatriation of corresponding proceeds. It was intended to achieve two key outcomes: first, to ensure that all exports are accurately accounted for and that the proceeds are repatriated to Malawi. Second, to foster profitable trade by connecting Malawian producers with international markets that offer the best prices for Malawian products and commodities.

To implement the 2021 Export Mandate, the government established a licensing system for warehouses holding or expected to hold commodities intended for the export market. Additionally, a designated commodity exchange platform was appointed to oversee the export process. These two measures were aimed at creating a structured system for managing exports and the repatriation of resulting proceeds. This approach was deemed essential for Malawi because a significant portion of the country's commodity trade is informal, making it difficult to track exports and associated proceeds. However, the government's initial attempt to implement the newly introduced Export Mandates through a prescribed commodity exchange platform was halted because of strong resistance from exporters. These exporters objected because they viewed Export Mandates as favouring large and foreign institutions while sidelining local small entrepreneurs.

The question is, what went wrong, and how could the Export Mandates be structured to optimise the potential benefits of export trade while minimising the potential pitfalls? In the Malawi context, answering this question is confounded by the fact that Malawi has yet to fully implement the Export Mandates since 2021 when the idea was mooted. The Export Mandate is supplementary to the 2018 COGA, specifically developed to regulate the exports and associated proceeds.

This policy brief explores ex ante the potential impacts of Export Mandates on the economy in general and on the country's development plans in particular.

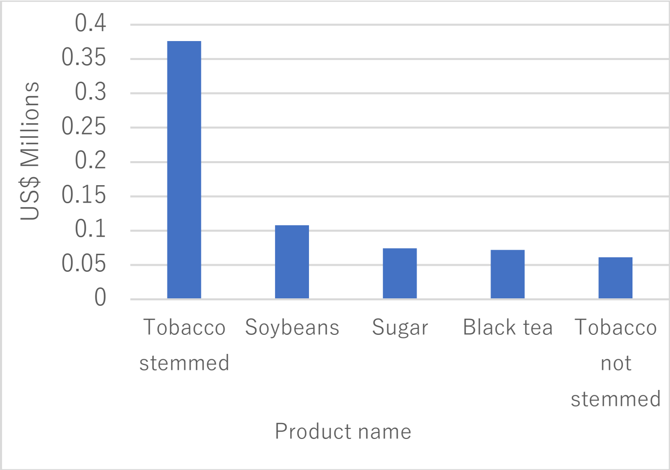
Likely implications of Export Mandates on the economy as a whole

Export restrictions can be a double-edged sword, holding the potential to hurt one segment of the economy whilst favouring another, as illustrated by the following cases:

- *Export restrictions could increase the domestic supply of essential commodities* such as maize, soybeans and others. Although it may be in the public interest to see increased domestic supplies of essential commodities, preventing exports could prevent producers from participating in potentially more remunerative international markets. This could, in the long run, decrease domestic production and the availability of restricted commodities. An arguably better approach could be increasing domestic agricultural productivity.

- *Export restrictions can result in a zero-sum outcome.* In the short run, export restrictions can promote agro-processing by restricting exports of raw products and thus significantly dampening domestic prices of primary inputs used by food processors. However, in the long run, dampened prices could discourage investments in production, which could put upward pressure on the artificially dampened prices and make Malawian products less competitive in export markets. Importantly, this is antithetical to the country's aspiration to stimulate widespread productivity growth and commercialisation espoused in the Malawi 2063 (MW2063). Ultimately, producers could default to subsistence production because commercialisation could be unprofitable.[1]
- *Export restrictions could make it more difficult for Malawi to fulfil its mutually beneficial bilateral and multilateral trade agreements*. Examples of such agreements include the Southern African Development Cooperation (SADC) Trade Protocol, the Common Market for Eastern and Southern Africa (COMESA) Trade Agreement, the Generalized System of Preferences (GSP) scheme of the European Union's (EU's) Everything but Arms (EBA) Initiative, the African Growth and Opportunity Act (AGOA) with the United States of America, China General Tariff Preferential Treatment, the India Preferential Trade Arrangement, the Japan Preferential Trade Arrangement, and the African Continental Free Trade Area (AfCFTA). Lack of participation in these trade agreements may result in declined market access, limited foreign investments, lack of competitiveness and overall sluggish economic growth. By participating in the agreements, Malawi opens up to the inflow of imports since reciprocity requires that Malawi should also open up to exports, which can outcompete Malawi's products.
- *Export restrictions could significantly erode the foreign exchange position of the country*. Export restrictions lower export volumes, which reduces the inflow of foreign currency. For example, soybean exports were a leading foreign exchange earner for Malawi in 2021, after tobacco (see Figure 1).

Figure 1: Malawi's Top Five Exports (2021)



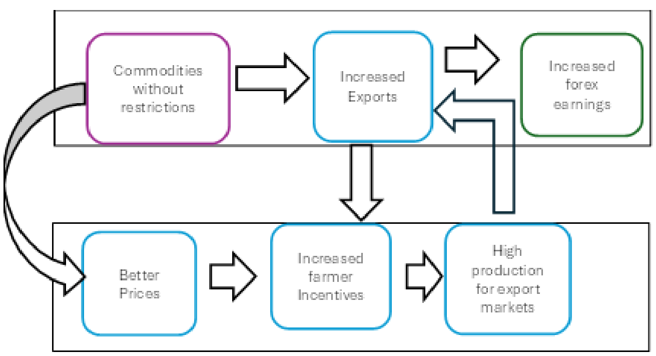
Source: https://wits.worldbank.org/CountryProfile/en/Country/MWI/Year/2021/Summary

So, restricting soybean exports could significantly reduce foreign exchange earnings.

- *Export restrictions could reduce tax revenues the government collects from commercial* *activities*, such as withholding tax (3% of proceeds from commodities sold to government institutions), Value-Added Tax (VAT) (16.5% collected from products sold to private consumers), and income tax from exports, which vary with the amount of exports.

- *The removal of export restrictions could promote market and product development* as producers compete for domestic and export market shares. Again, producers could be more likely to receive better prices and incentivised to produce and export more, thereby increasing government tax revenues through pathways depicted in Figure 2.

Figure 2: Pathways through which the treasury can benefit without export restrictions



Source: Author's characterisation based on literature review and stakeholder input

- *Export restrictions could lead to increased side selling and illegal cross-border trade,* which could result in a loss of government revenue through uncollected taxes.

Likely implications of Export Mandates on Malawi's development plans

Besides impacting the national economy in ways enumerated above, Export Mandates could also affect the aspirations of Malawi's development plans:

- Under the 2018 COGA, *Export Mandates are unlikely to be a suitable international trade tool for managing agricultural development and food security objectives* espoused under MW2063:
  - On the one hand, export restrictions have the potential to minimise local food and raw materials shortages in the short term, fostering national food self-sufficiency, shielding infant agro-industries from the adverse effects of excessive imports of cheap secondary products, strengthening linkages between the agriculture sector and the industry, and facilitating the formation of structured markets.
  - However, *mandates that restrict agricultural exports are likely to hinder progress* towards a productive and commercialised agriculture sector espoused in MW2023 by impeding market development and producers' participation in agro-based value chains and reducing their competitiveness as the sector would be deemed to have no prospects for growth.
- *Export Mandates under the 2018 COGA have the potential to discourage farmer-led agricultural transformation and commercialisation* promoted by the National Agricultural Policy and its corresponding National Agricultural Investment Plan (NAIP) by facilitating the formalisation of agricultural markets.
- Export Mandates that impose restrictions on exports can unintentionally slow down the implementation of the National Export Strategy II (NES II)[2] and encourage subsistence agriculture instead by reducing agricultural productivity, market access, and financial inclusion envisioned

there-in. Lastly, by and large, *Export Mandates that impose restrictions on exports could disrupt the implementation of the country's regulatory instruments and initiatives*, such as the 'One-stop Border Control Act (2022), the Malawi Food Systems Resilience Project (2023) under the Agriculture Commercialization Project (AGCOM), the Mega Farm Initiative, and other agro-based Micro, Small and Medium Enterprises, such as Cooperatives and Associations because of their trade obstructing attributes. They are generally ill-equipped to facilitate national development and business objectives simultaneously.

Policy recommendations

In the near term, Malawi should consider implementing the following recommendations:

- *Precisely define how the 2018 COGA could safeguard infant industrie*s and provide a clear strategy for weaning these industries off government protection.
- *Establish a multisectoral liaison committee to closely collaborate with the Ministry* of Trade and Industry (MoTI) in overseeing the implementation of the 2018 COGA. The committee should include representatives from relevant government Ministries, Departments and Agencies (MDAs), civil society, and farmer organisations. This committee's primary responsibility should be to ensure that the regulations and procedures outlined for the 2018 COGA regarding the imposition, administration, and lifting of export bans are strictly followed during implementation to ensure predictability and proper balance in the choice of interventions. For this to be effective, the institutions outside the government should be empowered to ensure that they know their roles. Most institutions were not aware of their potential roles within the Export Mandate framework during stakeholder consultation meetings.
- *Consider replacing export bans with variable export taxes and quotas*, as they are less distortional. Based on the predefined triggers in the 2018 COGA, an automated system (as opposed to a discretionary manual system) could be created to implement these variable export taxes and quotas.

In the medium to long term:

- *Malawi should consider focusing on improving production by improving productivity* across all value chains to enhance the general welfare of the population and reduce the necessity of regulatory interventions.
- *Malawi should consider setting up a system of tracing export earnings within the Export Mandates to benefit from exports* without making the process too bureaucratic. Self-reporting could be an alternative, with incentives such as allowing exporters to use the export earnings to import goods and services they require in their businesses.

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For more information refer to the full report titled: An assessment of the potential impacts of the Export Mandate in Malawi under the Control of Goods Act, which can be found on: www.mwapata.mw

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1. Amerta Aragie, K. P. (2018). Addressing Food Security and Industrial Development in Malawi: Are export restrictions a solution? World Development, 1-15
2. The World Trade Organization (WTO) Trade Policy Reviews (TPR)

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