

INTERNATIONAL BUSINESS

China Curbs on Metals Are Again Found to Violate Trade Law

By **DIONNE SEARCEY** and **KEITH BRADSHER** AUG. 7, 2014

China lost an appeal on Thursday of a World Trade Organization ruling that found it had broken international trade law by restricting exports of raw materials used in hybrid car batteries and other energy-efficiency products.

The dispute, pursued by the United States in cooperation with the European Union and Japan, emerged after China significantly reduced its export quotas for rare earth elements in 2009, causing world prices to soar and disrupting the global market for the materials. The dispute also involved two metals used in steel alloys, tungsten and molybdenum.

The W.T.O. panel in Geneva that heard Beijing's appeal issued a 177-page report that concluded China failed to demonstrate that its export quotas on the materials were justified.

Michael Froman, the United States trade representative, praised the ruling in a conference call with reporters, calling it "a clear signal that we will be proactive in standing up for the rights of American workers and American businesses."

"This report," Mr. Froman added, "marks the end of a long back and forth on this issue and is the end of the line for this dispute."

China produces most of the global supply of rare earth metals, which are used in crucial components for smartphones, light bulbs and other high-tech products. The Chinese Commerce Ministry did not respond immediately to Thursday's ruling but had expressed "regret" at the W.T.O.'s initial ruling earlier this year.

Thursday's ruling has broader implications for the often difficult balance between trade issues and the environment. Environmentalists have long criticized the W.T.O. for not making greater allowances for trade restrictions based on fighting pollution. China had sought in its appeal to use an old, seldom-cited international trade rule allowing countries to limit trade so as to avoid depletion of natural resources and protect the environment.

The United States countered that China had long allowed unrestricted production for the domestic market, helping Western manufacturers who shifted factories to China, even as China limited exports.

The rare earth industry has encountered a separate problem lately: plunging prices as many manufacturers found replacements for rare earths or at least ways to limit their use, after a vertiginous, yearlong spike in prices four years ago.

Molycorp, the main American producer, announced heavy losses this week, while the share price of Lynas of Australia, the other main alternative to Chinese production, has plummeted over the last several years as its production costs from a mine in Western Australia and a processing facility in eastern Peninsular Malaysia proved high compared with Chinese producers.

On Thursday, Leo Gerard, the president of the United Steelworkers union, said the W.T.O. ruling would stop China's manipulation and undercutting of the market, which had led to a temporary halt in activity in at least one rare earths mine in California with 300 workers.

"Once again we've caught China cheating," said Mr. Gerard, who joined the conference call with Mr. Froman, the trade representative.

The ruling could benefit the Obama administration by demonstrating the United States can win W.T.O. trade enforcement actions, as many politicians periodically favor unilateral action. China has a history of honoring at least the letter of W.T.O. rulings, by changing the regulations that Beijing has on the books.

But many critics of China suggest that the nation has not always followed the spirit of these rulings, and rare earths are a frequently cited example. As the W.T.O. case worked its way through the system, the Chinese government arranged the rapid consolidation of the Chinese industry, previously largely private, under a handful of state-owned enterprises.

These enterprises now dominate world production of rare earths, and any decision by them to restrict exports could prove difficult to challenge at the W.T.O., though some trade lawyers contend that collective action by Chinese state-owned enterprises could be challenged as effectively as a government trade policy.

Chinese internal security agencies have also conducted a crackdown over the last three years against illegal producers and smugglers of rare earths, making it harder for Japanese and Western producers to bypass the powerful state-owned enterprises.

A version of this article appears in print on August 8, 2014, on page B3 of the New York edition with the headline: China Curbs on Metals Are Again Found to Violate Trade Law.

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