

In the midst of sensitive trade negotiations between Australia and Indonesia, a dispute has broken out between the two countries over Australia imposing protectionist trade tariffs on Indonesian paper imports. But now other WTO countries are looking to emulate Australia's "anti-dumping" policies in order to gain an economic edge.

Indonesia has complained to the World Trade Organisation (WTO) over anti-dumping duties on imports of A4 copy paper. The duties will increase the import tariff on Indonesian paper from zero to a range from 12.6% to 45.1%. The timing is awkward as both countries are committed to signing a free-trade deal by the end of the year.

China now has an unprecedented opportunity to challenge Australia's anti-dumping practices as a joint complainant with Indonesia - an opportunity it may pursue given it has been accused in the past of dumping practices in relation to Australian steel and aluminium products.

In the context of international trade, "dumping" occurs when goods are sold to overseas markets at prices lower than those in the domestic market, or the so-called "normal value". How this normal value is calculated determines whether there has been dumping, the magnitude of it and the anti-dumping duties to be levied in response.

Australia's anti-dumping diplomacy

In April 2017, the Australian government imposed anti-dumping duties on A4 copy paper imported from Indonesia. This occurred after its Anti-Dumping Commission found Indonesian exporters had sold A4 copy paper to Australia at "dumped" prices. This is known as a "particular market situation", a term is used to describe the practice of countries distorting the prices of export goods.

The current dispute centres on Australia's reliance on the "particular market situation" method and it could, for the first time, allow WTO judges to consider how the method should be interpreted and applied elsewhere in the world. In these cases the Australian Anti-Dumping Commission will set a benchmark price to reflect the true global market value of goods. This replaces the distorted price with a market competitive price.

Indonesia challenges Australia's anti-dumping measures at the WTO

Written by The Conversation

The commission has found that Indonesian government policies distorted the price of pulp, the main raw material for copy paper. However, concerns have been raised that this finding was not supported by sufficient evidence and is incompatible with the rules of the WTO. The WTO does allow its member states to take action against dumping, but seeks to regulate how these decisions are made.

In the A4 copy paper investigation, the Australian Anti-Dumping Commission disregarded the actual costs of pulp incurred by Indonesian producers and instead used benchmark prices to establish a normal value. Indonesia has challenged both the finding of “particular market situation” and the use of benchmark production costs for the construction of normal value.

Australia has been one of the most frequent users of the “particular market situation” [approach under the WTO law](#), frequently using it in the last decade in complaints against China. In contrast, other WTO members, such as the US and the EU, have considered China to be a “non-market economy” where domestic prices are presumed to be artificially lowered by the Chinese government. Therefore, those countries set prices and costs based on market based economies to calculate normal values.

As Australia recognised China as a full market economy in 2005, Australia agreed to not treat China as a non-market economy in anti-dumping investigations. However, Australia has been using the “particular market situation” method to inflate anti-dumping duties.

Australia’s anti-dumping approach now being applied elsewhere

Australia’s use of the “particular market situation” method in anti-dumping investigations is proving of interest to other WTO members. Both the US and the EU have started to apply this method, and have been conducting consultations with the Australian authorities [on how to go about it](#).

Anti-dumping is one of the few protectionist measures permitted under WTO rules. [In a 2016 report](#), the Australian Productivity Commission recognised that Australia’s anti-dumping system served the interests of a small group of local industries, and called for reforms to reduce the costs of the system on the wider Australian economy.

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The application of the “particular market situation” approach, which almost invariably leads to the application of higher anti-dumping duties, clearly goes against Australia’s interests. Australia’s perceived misuse of this approach may provoke retaliatory anti-dumping actions by others, who could use the approach in the same way.

Government regulations exist in all markets; and such regulations, combined with various types of industrial financial assistance and other governmental measures, undoubtedly affect prices, either directly or indirectly. If Australia’s approach to “particular market situation” were adopted, then a “particular market situation” may well be found to exist in respect of any market economy, including Australia.

This WTO dispute, therefore, creates the opportunity for the WTO to standardise the relevant law and practice in a way that carries on the spirit of free trade.

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