

Dispute Settlement between Indonesia and Australia on A4 Copy Paper Anti-Dumping Case by World Trade Organization (W.T.O.)

Donna Azka Alviora Jaya¹, Siti Mahira Nasywa², Adrian Firnaldi³, Rafila Ridho Illahi⁴
¹²³⁴Universitas Andalas, Indonesia

Abstract

The World Trade Organisation (WTO) has rendered the resolution of the A4 copy paper anti-dumping dispute between Indonesia and Australia a matter of worldwide significance in recent times. The dispute originated when Australia levied anti-dumping tariffs on A4 copy paper imported from Indonesia. Consultations were conducted between Indonesia and Australia, but, a consensus could not be achieved. Indonesia subsequently initiated legal proceedings before the World Trade Organisation (WTO), which ultimately rendered a verdict in favour of Indonesia's claim against Australia for the imposition of an anti-dumping duty (BMAD) on A4 copy paper originating from Indonesia. An examination of dispute settlement proceedings reveals that the World Trade Organisation (WTO) aims to guarantee that anti-dumping measures do not infringe against WTO regulations. This article will provide a detailed analysis of the World Trade Organisation (WTO) resolution of the A4 copy paper anti-dumping conflict between Indonesia and Australia, and its consequences for international commerce.

Keywords; *Dispute; Indonesia; Australia; WTO; Anti-Dumping*

1. INTRODUCTION

The resolution of the A4 copy paper anti-dumping case matter between Indonesia and Australia by the World Trade Organisation (WTO) exemplifies a multifaceted and time-consuming inter-state dispute settlement procedure involving international agencies. The significance of this dispute settlement lies in the presence of accusations of unjust trade practices that have the potential to adversely affect the respective parties, including the copy paper manufacturers and the economies of the two countries concerned. The objective of this procedure is to provide justice and legal certainty for both nations engaged in this matter, while also promoting equitable and impartial trade practices among member countries of the World Trade Organisation (WTO).

Due to the intricate nature of this disagreement, the resolution procedure was carried out in several phases that included thorough discussions and negotiations between the two nations, intense oversight by WTO entities, and meticulous examination of the evidence presented by each side. To attain an equitable and precise result, a body designated by the World Trade Organisation (WTO) will undertake an impartial assessment of all the presented information and issue a conclusion that is legally obligatory for both sides. In accordance with this ruling, the party that was unsuccessful in the disagreement is entitled to file an appeal with the WTO Appellate Body, which will undertake an impartial examination of the panel's judgment.

The implementation of this appeals procedure is anticipated to enhance the transparency and objectivity of conflict settlement, while also offering legal assurances for all parties concerned. Simultaneously, it is crucial for all parties to uphold and execute the judgments reached in this dispute settlement, and strive to avoid similar

conflicts in the future by fostering more open communication and collaboration among member countries of the World Trade Organisation (WTO).

It is imperative for the dispute settlement process between Indonesia and Australia to take into account the potential social, political, and economic consequences that may result from the judgments taken. Effective collaboration between the two nations in settling this disagreement is crucial, as it can facilitate the development of improved diplomatic ties and prevent an escalation of potential conflicts. Furthermore, using justice and the principles of the rule of law to settle this conflict can serve as a commendable model for other nations when addressing comparable issues in the future.

The involvement of international institutions like the WTO is vital in ensuring the resolution of international conflicts of this nature. The World Trade Organization (WTO) has implemented regulations and procedures to oversee the process of resolving disputes among its member nations. It facilitates member state governments in achieving equitable and enduring resolutions, and advocates for equitable trade policies globally.

Furthermore, dispute settlement can also function as an instructive practice for other member countries of the World Trade Organisation (WTO). Through comprehension and observation of the dispute settlement process, nations can detect trade concerns that may emerge in the future and devise suitable resolutions to prevent the escalation of conflicts that could possibly hurt all parties concerned.

Maintaining effective cooperation between Indonesia and Australia necessitates ongoing communication and collaboration in resolving divergent viewpoints and potential challenges. Both nations ought to demonstrate mutual respect and strive for the optimal resolution that maximizes their shared interests, considering several factors such as the risks associated with trade imbalances and the safeguarding of domestic producers.

2. RESEARCH METHOD

In this research we use qualitative research by collecting various reading sources sourced from websites, journals and so on. We carefully analyze and interpret the information gathered to gain a deeper understanding of the topic at hand. By examining different perspectives and insights from a range of sources, we are able to develop a comprehensive overview of the subject. This approach allows us to draw meaningful conclusions and make informed recommendations based on the data we have compiled.

3. RESULT AND DISCUSSION

The resolution of the A4 copy paper anti-dumping challenge between Indonesia and Australia by the World Trade Organisation (WTO) has raised worldwide apprehension over the interpretation of "Particular Market Situation" (PMS) in anti-dumping dispute settlement.

The origins of this lawsuit can be traced back to the initial release of PMS findings by the Australian Government, which served as the primary catalyst for the disagreement. Australia accused the Indonesian Government of intervening in the strategy of subsidising the paper industry by providing plenty wood raw materials for paper, leading to down pricing. Nevertheless, this rationale lacks strength as government involvement is not inherently regarded as PMS.

This case not only prompts inquiries regarding PMS but also concerning the interpretation of the term "like product" by the WTO in matters of resolving anti-dumping disputes. Indonesia's recent accusation of dumping A4 paper products by Australia serves as a thought-provoking development, considering that Indonesia has previously faced allegations from South Korea (2002), South Africa (2003), and Japan (2012).

Points and arguments presented by each party

1. Position and arguments of Indonesia

A4 copy paper products from Indonesia are regarded as promising commodities in global commerce. The imposition of Anti-Dumping Duties (BMAD) by Australia on Indonesia's A4 copy paper products is in contravention of Articles 2.2 and 2.2.1.1 of the World Trade Organisation (WTO) Anti-Dumping Agreement. Australia failed to comply with the agreement by refusing to accept Indonesia's normal value and instead substituting pulp costs for production costs without providing any identifiable justifications. Government action: Indonesia lacks any substantial government action that may be deemed detrimental to the market, so there is no clear threshold on the circumstances and manner in which government intervention might be deemed detrimental.

2. The position and reasoning of Australia

In the realm of international trade, Australia regards Indonesia's A4 copy paper products as promising future commodities.

Australia implemented Border Measures Against Dumping (BMAD) on Indonesian A4 copy paper products in response to suspected dumping and market destabilisation. Australian authorities rejected Indonesia's normal value and instead utilized pulp cost as a replacement for production cost, citing allegations of dumping. Australia contended that Indonesian government intervention has the potential to pose a threat to the market and exert an impact on the global market.

Arbitration procedure at the World Trade Organisation (WTO)

The legal dispute originated when the Australian government implemented anti-dumping tariffs on the importation of A4 paper from Indonesia. The Australian government took this action in response to concerns regarding unfair trade practices. The Australian government implemented tariffs with the objective of safeguarding the indigenous paper industry, contending that Indonesia was engaging in dumping by introducing cheaper Indonesian paper products into the Australian market. Dumping refers to the act of one country exporting commodities to another country at a price that is lower than the commercial price in its own country or the inherent value of the commodities.

Australia accuses Indonesia of participating in a Particular Market Situation, which refers to the conduct of a country manipulating the pricing of its exported products as a legal justification for establishing dumping. This situation arose as a consequence of purported government subsidies provided to the paper sector, leading to a scarcity of wood essential for paper production. The implementation of anti-dumping tariffs by Australia resulted in a decrease in the trading value of Indonesian A4 paper products to Australia (Wicaksono & Nurhayati, 2022).

In response to these accusations, Indonesia used a diplomatic strategy and clarified to the Australian government that the prohibition on log exports did not produce any price distortions for Australia. The Indonesian government has sought consultation and

has submitted letters at the Ministerial level to Australia. Instead, Australia maintained its stance unchanged. Insufficient response prompted the Indonesian government to seek discussions with Australia at the World Trade Organisation (WTO). Indonesia alleged that Australia's activities were inconsistent with the regulations of the World Trade Organisation (WTO).

Contesting this assertion, Indonesia initiated discussions with Australia on September 1, 2017, invoking Article 4 of the Agreement on Rules and Procedures Governing Dispute Settlement. The Indonesian government maintains that their points of contention are still legitimate, and so on March 14, 2018, Indonesia formally requested the formation of a suitable panel. Jakarta formally asked the Panel to determine that Australia's conduct violated its responsibilities under the Anti-Dumping Agreement and the GATT 1994 (Eliason & Fiorini, 2021). An arbitration panel was formed by the Dispute Settlement Body of the WTO on April 27, 2018 to settle this challenge. Canada, China, Egypt, the European Union, India, Israel, Japan, Korea, the Russian Federation, Singapore, Thailand, Ukraine, the United States, and Vietnam were determined by the panel to possess third-party rights.

The Panel released its case report on December 4, 2019, affirming Indonesia's assertion that Australia's determination of the cost of manufacturing A4 copy paper in Indonesia, using pulp cost replacements that were rejected by Indonesian manufacturers, violates Article 2.2 of the Anti-Dumping Agreement. In accordance with Article 2.2.1.1, the Panel concludes that there is no justification for applying a cost surrogate since the costs documented have been rejected in an inconsistent manner. Furthermore, the Panel determined that there was no valid and sufficient justification for the use of surrogate costs that contained a profit element for one of Indonesia's integrated manufacturers who manufactured its own pulp inputs. In relation to other vendors of pulp inputs, the Panel determined that Indonesia did not provide evidence to show that Australia violated Article 2.2 of the Anti-Dumping Agreement by employing surrogate costs that include a profit element. The Panel determined that the investigating authority failed to provide a valid and sufficient explanation for why, in relation to the costs of producing pulp internally by integrated producers, they did not use substitute wood chip costs and other documented costs of the same nature that are not influenced by the specific market conditions, instead of using substitute pulp costs. The report of the Panel was adopted by the DSB on January 27, 2020.

In response to the publication of the Panel's findings in this particular matter, Australia informed the DSB on February 26, 2020, of its intention to adopt the recommendations and decisions made by the DSB. On March 12, 2020, Australia and Indonesia notified the DSB that they had reached an agreement to allow Australia a reasonable timeframe of 8 months to fully implement the DSB's recommendations and findings. In case of inevitable delays, Australia would be granted an additional 1-month extension. Hence, the applicable timeframe would conclude on September 27, 2020. Australia and Indonesia notified the DSB on October 2, 2020, of the Agreed Procedures outlined in Articles 21 and 22 of the DSU accord. Australia stated that on March 12, 2020, the Australian Antidumping Commission began a comprehensive review of pertinent actions to enforce the decisions and recommendations of the Dispute Settlement Body (DSB) in this matter. In response to Antidumping Notice No. 2020/90, which was issued on September 14, 2020, Australia clarified that the dumping duty notice will be rescinded for A4 copy paper manufactured in Indonesia and supplied to Australia. On September 17, 2020, Australia informed the Dispute Settlement Body (DSB) of its

adherence to the guidelines in this matter. Australia asserts that by implementing these measures, it has completely executed the recommendations of the DSB in this dispute.

Within this dispute settlement procedure, the World Trade Organisation (WTO) serves as an intermediary between Indonesia and Australia to facilitate the resolution of the trade dispute and guarantee that Australia's anti-dumping policy remains in compliance with international agreements.

Indonesia initially initiated legal proceedings against the World Trade Organisation (WTO) claiming that Australia established a standard producer value that did not comply with Gross Accounting Accounting Principles (GAAP) standards. The producer normal value is the selling price that serves as a benchmark for determining dumping. Australia established the standard value in this instance by considering the locally prevailing selling prices in Indonesia, which does not align with the principles of GAAP. The Indonesian government contends that the determination of the producer normal value should be based on the domestic selling price in the country of origin, rather than in the country receiving the import. Accordingly, Indonesia contends that the producer normal value employed by Australia is incompatible with GAAP and cannot serve as a benchmark for determining dumping.

Following that, the World Trade Organisation (WTO) carried out a consultation process and a group procedure involving Indonesia and Australia prior to commencement of a legal action against the WTO. Through this process, both nations engaged in deliberations and consultations to settle the disagreement. Given the absence of a consensus, Indonesia initiated legal proceedings against the World Trade Organisation (WTO). In this legal action, Indonesia presented information indicating that Australia failed to engage in adequate discussions before establishing the anti-dumping policy. Furthermore, Indonesia presented data indicating that the producer normal value employed by Australia did not comply with GAAP.

An arbitration tribunal was subsequently formed by the WTO to settle the disagreement. A panel of the World Trade Organisation (WTO) determined that Australia breached the General Agreement on Tariffs and Trade (GATT) and three other WTO accords pertaining to dispute settlement procedures among nations. The decision was made pursuant to the provisions of Article XXII and Article XXIII of the GATT, which provide that the initial action to be undertaken is consultation. Australia was found to be in breach of the international agreement due to its failure to engage in proper discussions before establishing its anti-dumping strategy. Furthermore, the WTO panel determined that the producer normal value employed by Australia did not comply with GAAP rules and could not serve as a benchmark for calculating dumping.

Consequently, the decision of the World Trade Organisation guarantees that Indonesia is able to vend its A4 copy paper products in the global market with fairness and equilibrium. Furthermore, it guarantees that Australia is unable to establish anti-dumping measures that contradict international accords. The World Trade Organisation (WTO) serves as a mediator in settling this issue to guarantee that anti-dumping measures do not breach international agreements and promote fair and equitable trade.

Moreover, the WTO ruling has substantial ramifications for the trade relations between Indonesia and Australia. This ruling guarantees that Indonesia can conduct equitable and impartial sales of its A4 copy paper products in the global market, so enhancing prospects for Indonesia to augment exports and stimulate the national economy. Furthermore, the decision guarantees that Australia is prohibited from implementing anti-dumping measures that contradict international agreements, therefore assuring equitable and impartial market conduct.

The WTO's involvement and subsequent decision in the resolution of the Indonesia-Australia dispute over the A4 copy paper anti-dumping issue demonstrates its function as an intermediary, safeguarding against the violation of international agreements by anti-dumping measures. The WTO ruling guarantees that Indonesia retains the ability to sell its A4 copy paper goods in a just and equitable manner in the global market, while also prohibiting Australia from using anti-dumping measures that do not comply with international accords. Hence, the World trading Organisation (WTO) functions as a body that guarantees equitable and impartial trading practices on a worldwide scale. The decisions of the World commercial Organisation (WTO) also have substantial consequences for the commercial relations between Indonesia and Australia. These decisions guarantee that trade is carried out with fairness and equilibrium, therefore enhancing the prospects for Indonesia to expand its exports and stimulate the national economy.

Analysis of Dispute Settlement Behavior

Indonesia refutes Australia's accusations of dumping and asserts that Indonesian A4 copy paper is not priced below the prevailing domestic market price. Indonesia asserts that the standard price of Indonesian A4 copy paper is commensurate with manufacturing expenses and does not fall below the level of the domestic market pricing. Indonesia initiated legal proceedings at the World Trade Organisation (WTO) challenging Australia's imposition of Anti-Dumping Import Duty (BMAD) on Indonesian A4 copy paper. Indonesia has also presented a counterargument to Australia's imposition of BMAD, refuting the accusations of dumping and asserting that Indonesia's A4 copy paper was not priced below the domestic market benchmark.

In relation to Australia, they implemented a Broad Market Antidumping Duty (BMAD) on Indonesia's A4 copy paper based on the argument that the paper was being sold at a price lower than the prevailing domestic market price, known as a "specific market situation". Australia asserts that their analysis indicates that Indonesia's A4 copy paper is being marketed at a price below the prevailing domestic market price, so justifying its eligibility for BMAD. In Australia, the normalized value of Indonesian A4 copy paper is determined based on the cost of pulp, which is assumed to be lower than the original production cost. Furthermore, Australia asserts that Indonesia's A4 copy paper relies on imported raw ingredients from elsewhere, resulting in a selling price that does not align with the domestic production cost.

The A4 copy paper anti-dumping legal issue inside the World Trade Organisation (WTO) serves as a compelling illustration of dispute resolution among member nations of the WTO. This case involved a disagreement between Indonesia and Australia over the anti-dumping tax that Australia imposed on imports of A4 copy paper from Indonesia. Several factors influenced the dispute resolution actions of Indonesia and Australia in this arbitration.

First, the jurisdiction of the World Trade Organization Dispute Settlement Body (DSB) influences the conduct of dispute settlement. The jurisdiction of the DSB includes the resolution of trade disputes by means of legal proceedings between the involved member states. Thus, the conflict Settlement Body can guarantee efficient and equitable conflict settlement. The World Trade Organisation Dispute Settlement Body (WTO DSB) determined that Australia's imposition of an anti-dumping duty on imports of A4 copy paper from Indonesia violated WTO agreements. The decision of the WTO Dispute Settlement Body (DSB) has implications for dispute settlement practices as the DSB possesses the jurisdiction to resolve disputes and guarantee the fairness and efficacy of its remedies.

Furthermore, the dispute settlement procedures of the WTO have an impact on dispute settlement behaviour. The WTO dispute settlement procedures consist of four distinct phases: consultations, panel procedures, appellate procedures, and implementation. The ongoing existence of the dispute settlement mechanism in the World Trade Organisation (WTO) is essential to guarantee efficient resolution of disputes. Both Indonesia and Australia have effectively adhered to the WTO dispute settlement process, starting from the consultation phase and extending to the execution of the decision. Dispute settlement processes of the World Trade Organisation (WTO) impact dispute settlement behaviour by offering assurances for efficient and equitable resolution of disputes.

Thirdly, retaliation influences the procedure of resolving disputes. The WTO retaliation mechanism grants the claimant country the authority to breach its concessions established in the WTO agreement with the infringing country. Retaliation is categorized as part of the fourth stage of dispute settlement, known as the implementation phase. If Australia fails to comply with the WTO Dispute Settlement Body (DSB) ruling, Indonesia has the option to employ retaliatory measures. The impact of retaliation on dispute resolution behavior lies in its potential to serve as a potent tool in compelling countries that have violated the DSB rulings to adhere to and enforce the outcomes of such decisions.

Furthermore, the position of protection has an impact on the conduct observed in conflict settlement. Equitable safeguarding of all member countries should be ensured by the WTO dispute settlement mechanism. This serves not only to ensure efficient resolution of conflicts, but also to substantiate the excellence of global commerce. In this scenario, it is necessary to take into account the position of protection to prevent any form of partiality against one of the parties. Because the WTO dispute settlement system must ensure the attainment of effective and fair dispute settlement, the position of protection influences dispute settlement behavior.

Furthermore, the execution of decisions impacts the conduct of resolving disputes. Executing DSB rulings will provide challenges if the country making the claim is a developing nation while the country committing the violation is a developed nation. Consequently, the World Trade Organisation Dispute Settlement Body (WTO DSB) devised a retaliatory mechanism as a means to compel the country in breach to adhere to and execute the DSB ruling. Hence, Indonesia must guarantee the correct execution of the WTO DSB ruling to prevent any ambiguity. Dispute settlement behavior is influenced by decision implementation as it can represent a determinant of such conduct.

Furthermore, the willingness of the parties has an impact on their dispute settlement conduct. The efficacy of the mediation process relies on the parties' will to resolve problems and the readiness to accept and execute the agreed settlement. Given the circumstances, it is imperative that both Indonesia and Australia exhibit equal determination to settle the conflict in a just and efficient manner. The willingness of the parties has an impact on conflict resolution behavior as it can serve as a relevant determinant of such behavior.

Furthermore, ASEAN institutions exert effect on the behavior of dispute settlement. The Protocol on Dispute Settlement is a distinct legal instrument within ASEAN that establishes methodologies and procedures for ASEAN countries to settle conflicts among parties engaged in a dispute. Under these circumstances, ASEAN institutions can facilitate efficient and equitable resolution of conflicts between Indonesia and Australia.

ASEAN institutions exert effect on conflict settlement behavior since they can serve as a determining factor in shaping such behavior.

The determinants affecting the dispute settlement conduct of Indonesia and Australia in relation to the A4 copy paper anti-dumping case by the WTO include the jurisdiction of the Dispute Settlement Body (DSB), WTO dispute settlement procedures, retaliatory measures, safeguard position, decision execution, parties' willingness, and ASEAN institutions. A comprehensive grasp of these aspects helps guarantee efficient and equitable resolution of conflicts, and bolster peace and security both inside and beyond international institutions.

4. CONCLUSION

The resolution of the A4 copy paper anti-dumping conflict between Indonesia and Australia by the World Trade Organisation (WTO) demonstrates the role of the WTO as an intermediary to prevent anti-dumping measures from contravening international treaties. The WTO ruling guarantees that Indonesia retains the ability to sell its A4 copy paper goods in a just and equitable manner in the global market, while also prohibiting Australia from using anti-dumping measures that do not comply with international accords.

An examination of dispute settlement behavior reveals that the World Trade Organisation (WTO) aims to guarantee that member nations' anti-dumping measures are not unduly stringent and do not infringe against WTO regulations. Through this dispute settlement, the World Trade Organisation (WTO) clarified the definition of "Particular Market Situation" (PMS) in the A4 export anti-dumping dispute case between Indonesia and Australia. The WTO concluded that there were no factors or restrictions associated with government intervention. This is because government intervention does not inherently result in negative consequences, as there are no inflexible boundaries on the circumstances and manner in which government assistance can be deemed detrimental to the impacted market.

Settlement of this controversy has substantial ramifications for international commerce. This case illustrates the World Trade Organisation's objective to guarantee that measures adopted by member nations do not have adverse effects on the global market. Furthermore, this dispute settlement also demonstrates the World Trade Organisation's commitment to guaranteeing that member states' anti-dumping measures are not unduly stringent and do not infringe against WTO regulations.

In summary, the resolution of the A4 copy paper anti-dumping conflict between Indonesia and Australia by the World Trade Organisation (WTO) demonstrates the role of the WTO as an intermediary that guarantees compliance with international terms in anti-dumping measures. The WTO ruling guarantees that Indonesia retains the ability to sell its A4 copy paper goods in a just and equitable manner in the global market, while also prohibiting Australia from using anti-dumping measures that do not comply with international accords. An examination of dispute settlement behavior reveals that the World Trade Organisation (WTO) aims to guarantee that member nations' anti-dumping measures are not unduly stringent and do not infringe against WTO regulations. The resolution of this case has substantial consequences for worldwide commerce and illustrates that the World Trade Organisation (WTO) functions as an organisation that guarantees equitable and impartial trade practices on a global scale.

5. REFERENCE

- Anggraeni, N. (2017). Nita Anggraeni Negara Berkembang, Perlindungan Produk Dalam Negeri dalam Konteks Hukum Perdagangan Internasional World Trade Organization (WTO). *Al-Ahkam*, 13(1), 62. <https://doi.org/10.37035/ajh.v13i1.1749>
- Eliason, A., & Fiorini, M. (2021). Australia - Anti-Dumping Measures on A4 Copy Paper: Opening a Door to More Anti-Dumping Investigations. *World Trade Review*, 20(4), 479–490. <https://doi.org/10.1017/S147474562100015X>
- Fitriyani, A. (2021). Diplomasi Indonesia Dalam Sidang Sengketa Dagang Internasional (Studi Kasus: Sidang Sengketa Kasus Anti-Dumping Kertas Fotokopi a4 Terhadap Australia Di World Trade Organization (Wto) Tahun 2017-2019. 2016, 1–12. <https://etd.umy.ac.id/id/eprint/6755/>
- Hidayati, M. N. (2014). Analisis Tentang Sistem Penyelesaian Sengketa Wto : Suatu Tinjauan Yuridis Formal. *Analisis Tentang Sistem Penyelesaian Sengketa Wto : Suatu Tinjauan Yuridis Formal*, 11, 155–170.
- Wicaksono, R., & Nurhayati, I. (2022). Anti-Dumping Dispute Settlement of A4 Paper Products Export between Indonesia and Australia Penyelesaian Sengketa Anti-Dumping Ekspor Produk Kertas A4 antara Indonesia dengan Australia. *Global Strategis*, 16(1), 1–30. <https://e-journal.unair.ac.id/JGS/article/view/29043/24776>