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## **AUSTRALIA – ANTI-DUMPING MEASURES ON A4 COPY PAPER**

### **REQUEST FOR THE ESTABLISHMENT OF A PANEL BY INDONESIA**

The following communication, dated 14 March 2018, from the delegation of Indonesia to the Chairperson of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

On 1 September 2017, the Government of the Republic of Indonesia ("Indonesia") requested consultations with Australia pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"), Article XXII:1 of the General Agreement on Tariffs and Trade 1994 ("GATT 1994"), Article 17 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 ("Anti-Dumping Agreement"), with respect to Australia's measures and determinations imposing anti-dumping duties on A4 copy paper from Indonesia.<sup>1</sup> Indonesia and Australia held consultations on 31 October 2017 with a view toward reaching a mutually acceptable resolution.<sup>2</sup> Unfortunately, those consultations failed to resolve the dispute.

#### **A. THE MEASURES AT ISSUE**

At issue are Australia's measures imposing anti-dumping duties on A4 copy paper from Indonesia as set forth in A4 Copy Paper Exported from the Federative Republic of Brazil, the People's Republic of China, the Republic of Indonesia, and the Kingdom of Thailand, Anti-Dumping Notice ("ADN") 2017/39, including Report No. 341, Statement of Essential Facts No. 341 ("A4 Copy Paper Determination"), and all other notices, annexes, orders, memoranda, reports, or other instruments issued by Australia in connection with the anti-dumping duty measures.

#### **B. LEGAL BASIS OF THE COMPLAINT**

In Indonesia's view, the measures at issue are inconsistent as applied with Australia's obligations under the following provisions of the Anti-Dumping Agreement and GATT 1994 for the following reasons:

1. Article 2.2 of the Anti-Dumping Agreement because Australia incorrectly decided to construct the normal value of A4 copy paper instead of using the Indonesian producers' domestic sales price based on the supposed existence of a particular market situation that allegedly distorted the raw material cost and thereby distorted the Indonesian producers' domestic sales price of A4 copy paper. But Australia did not properly consider that such domestic sales price permitted a proper comparison with the Indonesian producers' export price of A4 copy paper to Australia since Indonesian A4 producers used the same raw material of the same cost to produce A4 copy paper for domestic, Australian and other export markets. By not recognizing a proper comparison was possible as required in Article 2.2 of the Anti-Dumping Agreement, Australia failed to correctly establish normal value for Indonesian producers of A4 copy paper in accordance with Article 2.2 of Anti-Dumping Agreement.

<sup>1</sup> WT/DS529/1.

<sup>2</sup> The People's Republic of China, the European Union, and the United States participated in the consultations as third parties.

2. Article 2.2 of the Anti-Dumping Agreement because Australia's decision that a "particular market situation" existed is incorrect and inconsistent with Article 2.2 and resulted in Australia's use of constructed normal value for Indonesian producers of A4 copy paper, which is incorrect and inconsistent with Article 2.2.

3. Articles 2.2 and 2.2.1.1 of the Anti-Dumping Agreement because Australia failed to construct the normal value for certain Indonesian producers under investigation on the basis of the cost of production of A4 copy paper in the country of origin, i.e., Indonesia.

4. Articles 2.2 and 2.2.1.1 of the Anti-Dumping Agreement and Article VI:1(b)(ii) of the GATT 1994 because these provisions require that an investigating authority calculate costs based on the records of the producer under investigation. In constructing the normal value for certain Indonesian producers under investigation, Australia did not calculate the cost of production of A4 copy paper on the basis of the records kept by certain Indonesian producers even though the records were in accordance with the generally accepted accounting principles and accurately and reasonably reflected the actual cost of production of A4 copy paper. Australia, therefore, failed to properly calculate the cost of production and properly construct the normal value for those producers.

5. Article 9.3 (chapeau) of the Anti-Dumping Agreement and Article VI:2 of the GATT 1994 because, by failing to determine the normal value on the basis of domestic sales price of Indonesian producers of A4 copy paper in accordance with Article 2.2 of the Anti-Dumping Agreement and by failing to construct the normal value of A4 copy paper in accordance with Articles 2.2 and 2.2.1.1 of the Anti-Dumping Agreement, Australia calculated and imposed anti-dumping duties, in an amount that exceeds the margin of dumping if correctly calculated on the basis of the rules included in Article 2 of the Anti-Dumping Agreement.

#### **C. REQUEST FOR THE ESTABLISHMENT OF A PANEL**

6. Accordingly, Indonesia respectfully requests, pursuant to Articles 4 and 6 of the DSU and Article 17.4 of the Anti-Dumping Agreement, that the Dispute Settlement Body establish a panel to examine this manner with standard terms of reference as set out in Article 7.1 of the DSU.

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