

World Trade Organization Dispute Settlement Process

In June 2021, Australia commenced dispute settlement proceedings in the World Trade Organization (WTO) after China imposed anti-dumping duties of between 116.2 per cent and 218.4 per cent on bottled Australian wine imports (in containers of 2 litres or less) for five years, from 26 March 2021.

The following details capture the events that led to the dispute and the steps taken since then. This information will be updated as the dispute progresses.

Timeline

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| 6 July 2020 | The China Alcoholic Drinks Association requests an investigation into Australian imported wines. |
| 18 August 2020 | China announces an anti-dumping investigation into Australian bottled wine imports. |
| 31 August 2020 | China announces a countervailing duty investigation into Australian bottled wine imports. |
| 15 September 2020 | China invites Australian wine companies to respond to anti-dumping and countervailing duty sampling questionnaires. |
| 27 November 2020 | China imposes preliminary anti-dumping duties of 107.1% to 212.1% from 28 November 2020, ahead of finalising investigations. |
| 11 December 2020 | China imposes preliminary countervailing duties of between 6.3% and 6.4%, ahead of finalising investigations. |
| 26 March 2021 | China imposes final anti-dumping duties of between 116.2% and 218.4% from 28 March 2021 for five years. China determines countervailing duties of between 6.3-6.4% but does not impose these duties. |
| 19 June 2021 | Australia announces it will commence dispute settlement proceedings against China, alleging China's measures are inconsistent with its obligations under the WTO Agreements. |
| 22 June 2021 | Australia requests consultations with China under the WTO dispute settlement system. |
| 9 August 2021 | Australia and China hold consultations, which do not resolve the dispute. |
| 16 September 2021 | Australia requests the establishment of a WTO dispute settlement panel. |
| 27 September 2021 | The WTO Dispute Settlement Body considers Australia's request. |
| 27 September 2021 | Australia's first request for establishment of a WTO dispute settlement panel is blocked by China at the WTO's Dispute Settlement Body meeting. |
| 26 October 2021 | The WTO's Dispute Settlement Body agrees to Australia's second request to establish a dispute settlement panel. |
| 4 March 2022 | Dispute settlement panel composed, following the agreement of the parties. |

Wine Australia

WTO Dispute Settlement Process Steps: Guide

The following is an overview of the process that will be followed in Australia's challenge of the anti-dumping duty measures imposed on Australian wine by China. The full process is set out in the WTO Dispute Settlement Understanding. An overview of the process can be found [here](#).

1 Consultation between the parties

The parties to the dispute (in this case Australia and China) must first talk to each other to see if they can resolve the issues in the dispute.

2 Request the establishment of a dispute settlement panel

If the consultations fail to resolve the dispute, the complainant (Australia) can ask the WTO Dispute Settlement Body (DSB) to establish a panel to adjudicate the dispute. The respondent (China) can block the first request to establish a panel but it cannot reject a second request, which must be made at a subsequent meeting of the DSB, and the panel will be established.

3 Dispute settlement panel composed and working procedures established

Panels are made up of three people. Panelists must meet certain requirements set out in the WTO Dispute Settlement Understanding. If the parties cannot agree on the panelists within 20 days after the panel is established, either party may request the WTO Director General to determine the panel composition. Once a panel is composed, the panel will meet with the parties to agree the working procedures and timetable for the dispute.

CURRENT STEP

4 Dispute settlement panel at work

The panel will hold two hearings with the parties. The panel will ask questions and seek information from both parties. It will then provide its interim report to the parties for comment. The parties may request a review and meeting to discuss aspects of the interim report.

5 Dispute settlement panel issue final report

This will go to the parties first, then it will be circulated to all WTO members.

6 Dispute settlement panel report considered

The DSB considers the report. The parties can agree to adopt the report findings OR appeal them.

7 Multi-Party Interim Appeal Arbitration Arrangement (MPIA)

Participating members of the WTO Multi-Party Interim Appeal Arbitration Arrangement (MPIA), which includes Australia and China, may agree (within 60 days of a panel being established) to enter into an appeal arbitration agreement if the WTO Appellate Body is not able to hear an appeal. This would allow either party to appeal the panel's findings. If the panel report is appealed under the MPIA, three arbitrators are appointed to review and prepare findings and recommendations in accordance with WTO rules and the appeal arbitration agreement between the parties. The report containing the MPIA arbitrators' findings will be adopted as binding by the DSB.

8 Implementation of findings

Following adoption of the report by the WTO DSB, the parties need to agree to a reasonable period in which to the respondent must implement the findings and recommendations in the report. If the panel finds that a measure is not consistent with the respondent's WTO obligations, it will recommend the respondent bring its measure into conformity with WTO rules, and may suggest ways to implement its recommendations. The WTO Dispute Settlement Understanding states that "prompt compliance with recommendations or rulings of the DSB [Dispute Settlement Body] is essential in order to ensure effective resolution of disputes to the benefit of all Members".

9 Compliance proceedings and retaliatory measures

If the respondent does not implement the panel's recommendations within the agreed reasonable period of time, the complainant may request a panel to consider the respondent's compliance with the panel's findings and recommendations. Alternatively, the parties may negotiate compensation, or request a panel to authorise retaliatory measures, pending full implementation.