Saudi Arabia's Role as Third Party in WTO Anti-Dumping Conflicts

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Abstract

One of the reasons for existence of the World Trade Organization (WTO) is to resolve disputes and conflicts relating to trade. These disputes emerge if a WTO member deems another member to be in violation of a trade commitment or agreement it has with the WTO. When conflict arises, it has been agreed by WTO members that settlement will be done through a multilateral system instead of a unilateral action. This means parties to the conflict will abide by the procedures and judgments of the WTO.When conflict arises before the WTO, such as failing to meet a member's obligation contained in its trade policy measures, a third group of member governments could declare their interest in the case and thus acquire some rights. It is this third-party role, particularly of Saudi Arabia, that will be the subject of this legal analysis, specifically on anti-dumping conflicts. A brief explanation of the WTO's dispute settlement (DS) system is provided hereunder to allow for better understanding of how conflicts are resolved and how third parties partake in DS. This paper will shed a light on the role of Saudi Arabia as a third party in WTO anti-dumping conflicts.

Keywords:Anti-Dumping, Saudi Arabia, WTO

Introduction

From the time, the WTO was established in 1995, it played a big role in resolving hundreds of conflicts thus easing growing tensions among countries in the global economy. In these conflicts, one or more member countries, referred to as the complainant/s, challenge the trade policy in violation of WTO treaty commitments of another member country, referred to as the defendant. In the negotiation of such a dispute, the parties to the case will be joined by other member governments who may prefer to influence and monitor the proceedings. They are the third parties, which normally take up 3/5th of all disputes and considerably outnumber the main parties. The participation of third parties in WTO disputes is significant and critical to the function of the WTO. One advantage is the maintenance of members of their reciprocal commitments based on non-discrimination principles. This means WTO members should not be afraid that its future deals with other members will be affected by preferential terms. Based on this, the involvement of third parties is a means that prevent conflicting members from settling their dispute bilaterally, which may undermine WTO's cooperative multilateral balance and discriminate against other WTO members. In a 2014 review conducted on WTO members, it is noteworthy that no Gulf Cooperation Council (GCC) member countries were involved either as third party, complainant or defendant in any WTO DS procedure, except Saudi Arabia. The role of Saudi Arabia has however been limited to just being a participant in some of the cases as third party. It is also noticeable in the review that no GCC members imposed any trade remedy measures except for two investigations in 2009 initiated by GCC domestic industries on iron imports but was terminated the following year with no measures taken.

This begs the question: Is the GCC trade law, consequently that of Saudi Arabia's, specifically on the anti-dumping policy measures adequate, lacking or consistent with the WTO's for there to be no significant conflicts to emerge? Could it be simply because the existing domestic/GCC laws on anti-dumping adhered to by its member states? These are the questions that this chapter intends to answer mainly to determine the consistency of the domestic and international laws of Saudi Arabia, via the GCC anti-dumping law, with that of WTO's trade laws. To date, Saudi Arabia participated in 32 WTO conflicts as third party. A scrutiny of three of these cases will be conducted to establish a legal analysis purposely for the determination of the consistency of WTO and Saudi's domestic and international laws. Through a close examination of the role of Saudi as third party, it is the aim of this research to formulate important conclusions that will help this author to ascertain if the relevant anti-dumping laws of Saudi Arabia are adequate or requires evaluation and revision.

Case 1: WT/DS454/R, China - Measures Imposing Anti-Dumping Duties on High-Performance Stainless Steel Seamless Tubes (HP-SSST) from Japan

Under this section, the case subject of analysis is DS454, which is a complaint filed by Japan against China relating to the latter's actions pertaining to the measures imposing anti-dumping duties on high-performance stainless steel seamless tubes (HP-SSST). The relevant details of the case and its analysis, particularly on the role of Saudi Arabia as third party, will be discussed in the succeeding sections.

An overview of measures for case number DS454/2015

The complainant in DS 454 is Japan and the respondent/defendant is China. In its complaint, Japan asked for consultations with China on 20 December 2012 based on Articles 1 and 4 of the Dispute Settlement Understanding (DSU), Article 17.2 and 17.3 of the Anti-Dumping Agreement and Article XXII:1 of the General Agreement of Tariff and Trade (GATT) 1994. The European Union (EU) requested to join this dispute due to the identical claim it has against China, on 13 June 2013, which forms part of a different conflict, i.e., DS460. However, due to the similarity of the claim, the WTO prepared a conjoined report for both cases. The portions of DS460 where Saudi Arabia played a role as third party will be included in this legal analysis.

Upon Japan's request to form a panel in 11 April 2013, the Dispute Settlement Body (DSB), through its Director-General, composed the panel in 29 July 2013. Saudi Arabia, along with EU, US, Korea, Turkey, Russia and India, reserved their rights as third party to the case. The dispute basically concerns China's imposition of its anti-dumping duties on HP-SSST from Japan. Complainant Japan claimed obligations imposed by China, along with the related investigation carried out by the Ministry of Commerce of the People's Republic of China (MOFCOM), China's investigating authority, is inconsistent with the different substantive provisions and procedures of GATT 1994, Article VI and the Anti-Dumping Agreement (ADA), specifically, Articles 1, 3.1, 3.2, 3.4, 3.5, 5.3, 5.8, 6.5, 6.5.1, 6.8, 6.9, 7.4, 12.2 and 12.2.2. The complaint also concerned MOFCOM's handling of some procedural issues and its injury determination.

To name some of the most relevant allegations of Japan's complaint against China, a series of ADA's Article 3 claims against the determination of MOFCOM that injury was caused to China's domestic industry due to the dumped import were made. Japan claimed that China's price effect analysis is not according to ADA's Articles 3.1 and 3.2 while China's impact analysis is not in accordance with ADA's Article's 3.1 and 3.4. It was also claimed that the determination of respondent of the causal relationship between the supposed injury to the domestic industry and the imported HP-SSST, as well as China's attribution of the injury to the latter, is inconsistent with the ADA's Articles 3.1 and 3.5. Japan's claim against China also included inconsistencies with various provisions of the ADA's Article 6, including, the latter's treatment of particular information which should have been confidential, failure to require Japan, as applicant, to furnish sufficient information summaries which are not confidential, China's limited reliance on facts to only the companies Kobe and SMI in calculating dumping margins, and failure to adequately disclose important facts, inter alia. Japan also claimed China's inconsistency with other provisions of the ADA, particularly parts of Articles 7 and 12. As a consequence of all the inconsistencies Japan alleged to have been committed by China, the latter is effectively also inconsistent with GATT 1994 and Article 1 of the ADA.

In accordance with the DSU's Article 19.1 therefore, Japan requests the WTO panel to recommend to China to conform to the measures set out by the ADA and the GATT 1994. Part of complainant's request is the prompt resolution of the dispute. DS 454 was chosen as one of the three cases that will form part of this legal analysis due mainly to the significant role of Saudi Arabia as third party to the case. Saudi Arabia provided sound, concise and significant arguments on the claims presented, which can be used effectively in the determination of the consistency of the WTO laws with Saudi's own domestic and international trade laws, particularly in the application of the GCC anti-dumping laws. Moreover, the case is quite recent, thus the pertinent laws are in their updated and latest versions. Finally, the opinions provided by Saudi in this case correspond to its own GCC antidumping law, which make up for good comparative purposes.

The Legal Role of Saudi Arabia as Third Party in DS454

The role of Saudi Arabia as Third Party in DS454 will be closely scrutinised in this section for the purpose of getting an understanding of how the Kingdom applied the ADA on the circumstances in the case and based on such, be able to determine if such application is consistent with its own anti-dumping laws as provided in the 2011 GCC Common Law on Antidumping, Countervailing Measures and Safeguard Measures and Its Rules of Implementation (as amended). Additionally, a closer look will also be conducted on portions of DS460, the dispute between the EU as complainant and China as respondent, where Saudi Arabia provided an opinion as to the claims.The legal analysis of such role and its comparison to the GCC laws will be based solely on the arguments and interpretations presented by Saudi in the dispute and the provisions of the 2011 GCC Antidumping law. As previously mentioned, Saudi Arabia has yet to be a complainant or respondent in any trade disputes before the WTO. It only served as third party. Therefore, no precedent cases as to how the Kingdom implements the GCC laws can be used as basis. The following sub-sections will provide the details of the case in relation to Saudi Arabia's role, a legal analysis of the opinions submitted by Saudi, and an analysis if Saudi Arabia's own anti-dumping laws are consistent with its opinions in the dispute and the WTO anti-dumping laws at large.

Details of the Investigation of the Case Participated in by Saudi Arabia

A brief timeline of the DS454 will show that the dispute effectively commenced when Japan requested for consultations with China concerning its imposition of the anti-dumping obligations on HP-SSST, which the complainant deemed inconsistent with a number of articles of the ADA and the GATT 1994. The EU asked to join said consultations in 15 January 2013 due to identical claims it has against China, which the latter readily accepted. Even prior to the conclusion of the consultations, both Japan and the EU asked for the formation of a panel. When the consultations held between China and Japan on 31 January and 1 February 2013 failed to resolve the conflict, the DSB decided to compose the panel to hear the case in 24 May 2013. While the focus of this legal analysis is DS454, it is necessary to look into DS460 as well since was concurrently heard by the DSB, and Saudi Arabia provided a third-party statement that covered the claims in both cases. The claim of EU contained in DS 460 served to strengthen the validity of the claim of Japan against China, given the similarities of the two countries' allegations of inconsistencies in the imposition of China's anti-dumping duties in relation to HP-SSST.As third party to the dispute settlement, Saudi Arabia is part of the panel and participated in the examination of the arguments and evidences presented by both parties to the case. The statement submitted by Saudi Arabia indicated that its interpretation of the ADA laws were based not only on the terms of the law itself but also the precedent cases heard and decided by the WTO, most of which will be mentioned in the next section. While it was not apparent in the panel report itself, Saudi Arabia may have also considered pertinent domestic laws in the drafting of its opinion, such as the GCC, Japan, and Chinese anti-dumping laws, to render its statement more accurate, reliable and sound.Of the numerous measures and allegations subject of Japan and EU's complaints, Saudi Arabia submitted its interpretation on three allegations only. On the first opinion, it provided on Article 2.2.1.1 claim, it clearly agreed with complainant EU's allegation by saying that EU met the second condition contained in the ADA rules. In its two other opinions, i.e., the claims against respondent China that its actions were inconsistent with Article 2.4 and Articles 3.1 and 3.4, respectively, Saudi Arabia merely provided its interpretation of the ADA rules and based on that, relied on the investigation and decision of the panel whether or not the actions of China's MOFCOM in the imposition of its ADA duties were inconsistent with said Articles. However, there is an underlying implication in the statement of Saudi Arabia that it rejects the respondent's claims when Saudi Arabia set forth the conduct that an investigating authority should have carried out in the determination of injury and dumping margins.

In any dispute settlement, parties are set to make some losses, thus the effort of filing claims before the WTO. These losses may be financial, economic and political in nature, inter alia. In the case of DS 454, as well as DS460 by association, Japan and EU are bound to lose monetary benefits from the actions of China if the latter end up rejecting the imports. On the other hand, if China was correct in its determination of injury, then it is bound to make some loses economically if its domestic industry is adversely affected by the dumping of the HP-SSST in its country.After the decision of the WTO panel on DS454 and DS460, the losing party will be compelled by the WTO through its DSB to comply with the WTO law which it was found to have violated. The losing party should also adhere to the rulings and recommendations the DSB will set out upon completion of the case. It is given by the DSB 30 days to adopt the report of the panel or the Appellate Body and provide its intentions as to how it will implement the rulings and recommendations.

Should the losing WTO member fail to conform with the rulings and adhere to its obligations with the WTO within the time provided, the complainant who prevailed in the dispute may resort to temporary measures, e.g., compensation, which is not monetary but a form of benefit equivalent to those impaired or nullified by respondent such as tariff reduction,or the suspension of the WTO obligations of the losing member, which means that the losing member loses the privileges afforded to it by the WTO. In DS454, the DSB adopted on 28 October 2015 the panel and Appellate Body reports and China was given a reasonable time to comply with WTO rulings that the DSB found violated. In a meeting with the DSB on 25 November 2015, China offered its intention to implement the rulings and recommendations provided by the DSB, which are compliant to its WTO obligations.

The Legal Opinion Submitted by the Kingdom of Saudi Arabia in Comparison to its GCC Antidumping Laws

The first argument presented by Saudi Arabia was in relation to the claim made by EU against respondent, i.e., that the determination of some Selling, General and Administrative Expenses (SG&A) amount of China is inconsistent with ADA's Articles 2.2, 2.2.1, 2.2.1.1 and 2.2.2. For the panel, this issue can be determined accurately if the complainant EU provided "a summary of the legal basis of the complaint sufficient to present the problem clearly." To know this, there is a need to examine all the mentioned Article 2 ADA provisions separately and find out if the Articles contain one or more obligations. On the part of Saudi, the opinion provided was limited to its interpretation of Article 2.2.1.1 which it argued to cover the entire Article 2.2, the disposition of which was based on precedent WTO disputes. Briefly, Saudi Arabia contended that an investigating authority must accept the recorded costs of the exporter subject to two conditions. It further submitted that ADA's Article 2.2.1.1 imposes on investigating authorities a "positive obligation" to make use of records of the exporter if they are 1) according to GAAP provisions, i.e., the records of the exporter should be according to the exporting country's generally accepted principles of accounting and 2) reasonably reflective of the costs of the concerned product's production and sale. Saudi further argued that complainant met the second condition since there is an adequately close relationship between the actual and recorded costs for the production and sale of the HP-SSST. Outside these two conditions, the investigating authority has no reason to reject the costs provided by the exporter and the obligation set-out in Article 2.2.1.1 applies to the entire Article 2.2. Saudi Arabia also cited three WTO disputes in its submission of its statement, namely, US –Softwood V, EC –Salmon (Norway), and Egypt – Definitive Anti-Dumping Measures on Steel Rebar from Turkey.

This statement of Saudi Arabia about the compliance of Japan of the second condition is but a means to an end. By finding that Japan complied with Article 2.2.1.1, it was therefore consistent with the rest of the Article 2.2 provisions of the ADA. The underlying implication therefore is that Saudi Arabia agrees with EU's claim against China that the determination of some SG&A amount of China is inconsistent with ADA's Articles 2.2, 2.2.1, 2.2.1.1 and 2.2.2, and a panel should therefore be composed to investigate the claim of the EU. Upon a close inspection of the 2011 GCC antidumping laws, it can de deduced that not only did Saudi Arabia accurately interpreted the relevant provisions of the ADA in this allegations but also provided an opinion that is consistent with its own anti-dumping laws. Section IV, Article 39 and Section V, Article 61 of the 2011 GCC Anti-dumping law contains provisions on price undertakings. Despite the absence of the actual terminologies included in the opinion, it can easily be deduced from these laws that in the absence of various factors, the exporter's records for computing margins of dumping must be accepted. For instance, Article 39(2) of the GCC law provides that "price undertakings shall not be sought or accepted from exports unless preliminary affirmative determination of dumping injury, and causal link has been made." Article 39(3) provides that "(price) undertakings offered need not be accepted if their acceptance is considered impractical..." Similar provisions about price undertakings are found in Article 61. What these stipulations imply is that in the absence of injury, impracticality, etc. pursuant to an affirmative determination, it is only right to accept the exporter's record in the computation of the margins of dumping. The foregoing GCC laws are consistent with the ADA, the opinion provided by Saudi Arabia and thus, with the WTO trade laws, particularly GATT 1994.The second opinion submitted by Saudi Arabia is based on another allegation of the EU against China, i.e., the latter's actions were inconsistent with ADA's Articles 2.4 and 2.4.2 when it failed to establish the existence of dumping margins for SMST on the basis of a fair comparison between normal value and export price. China particularly requested the rejection of this claim by the panel. In the determination of this allegation by complainant, the panel closely examined the provisions of Article 2.4 of the ADA.

Saudi Arabia's opinion on the matter resided on Article 2.4 of the ADA's "fair comparison" requirement. Saudi argued that "fair comparison" required that there is comparability of export price and normal value. It further contended that the adjusted values which were used in the determination of dumping margins must not be far from the market prices. In support of its opinion, Saudi proceeded to define relevant terms as provided in the ADA's Articles 2.1, 2.4, and 2.6, such as "like product," "normal value," and "price comparability." Saudi Arabia also submitted that an investigating authority must not disregard similarities or differences that may affect "comparability", which as provided in Article 2.4 are two interrelated values.

In this opinion of Saudi Arabia, it will be noticed that there is no explicit indication side of the party Saudi Arabia is favoring. It basically just indicated that there should be "fair comparison" between the normal value and export price of the concerned product and that the investigating authority should honor that. The underlying effect is that it is up to the panel to determine and decide if MOFCOM employed such fair comparison in its determination of the dumping margin or not.The interpretation of Saudi Arabia of the relevant ADA Articles as regards this issue is consistent the anti-dumping laws that prevail in Japan, the GCC region and even that of China. A close inspection of relevant domestic laws was conducted. In Japan, the anti-dumping laws enforced can be found in the Customs and Tariff Law's Article 8 contained in Law No. 54 of 1910. Anti-dumping guidelines and other details are likewise provided in Ordinance No. 416 of 1994. All these legislations are in strict compliance with the WTO rules on anti-dumping. Under Article 8 of Japan's anti-dumping laws, "a product is considered to be 'dumped' in Japan when it is exported at less than its normal value in the ordinary course of trade." Also contained in its domestic laws is that the dumping margin determines its imposition of an anti-dumping duty, which is computed as the difference between export price and local selling price in the exporting member. The dumped price is considered a "fair" price for trade if the dumping margin is added to the export price. Given these provisions, Japan was in compliance with its own trade laws.Chapter III, Section I of the 2011 Anti-Dumping law enforced in Saudi Arabia refers to the determinations of dumping among Arab nations. The opinion of Saudi Arabia in the determination of China's imposition as regards Article 2.4 of the ADA is consistent with its own GCC laws on anti-dumping. Article 29, in particular, clearly sets out that "a fair comparison shall be made between the export price and normal value." The rest of the contents of Article 29 also provide legal support to Saudi's statement for DS 454 and DS460.

Upon close inspection of China's own Anti-dumping Regulations, as amended in 2004, it is ironic to note that Article 5 of its laws indicate that export price of the imports are determined based on the following: "(1) in case the imported products have an actual payment price or a payable price, such price shall be the export price;(2) in case the imported products do not have an export price or its price is not reliable, the price presumed on the basis of the price at which the imported products are re-sold for the first time to an independent buyer shall be regarded as the export price…"Consequently, Article 6 dictates the dumping margin, which is the margin between the imports' export price that is lower than the normal value. It is also indicated in this Article that both the normal values and export price must be compared in a reasonable and fair manner through the consideration of the different factors that affects the price. If China will abide but its own domestic rules, it may be deemed that the dispute will not transpire. However, it cannot be completely judged from these laws alone given that its general form does not cover specifics and details that may be interpreted differently given the lack of explicit provisions in the law.

The third and final opinion offered by Saudi Arabia as third party to DS454, as well as DS460, relates to the allegation of Japan (which was also alleged by EU in its own claim) that the injury determination of MOFCOM on China's domestic industry is inconsistent with ADA's Articles 3.1 and 3.4. Both Japan and EU alleged that MOFCOM's assessment of the impact of the imported HP-SSST on the state of domestic industry did not go through an objective examination based on positive evidence. Three claims are pursued by this allegation, i.e., 1) despite three product grades, MOFCOM improperly considered the impact as a whole even if its findings indicated price effects on Grades B and C only, thus necessitating a segmented impact analysis; 2) MOFCOM failed to assess the magnitude of the dumping margin; and, 3) MOFCOM ignored the pertinent economic indices and factors that indicated that there is no injury caused to the domestic industry. China again denied this claim and asked the panel to reject the complaint.

In relation to the foregoing claim, Saudi Arabia submitted its statement on whether or not MOFCOM should have conducted a segmented analysis of the effect of the concerned products in the domestic industry. Saudi's opinion was based on the provisions of Article 3 of the ADA as well as precedent decisions in prior WTO disputes.

Briefly, Saudi Arabia argued that injury determination of an investigating authority should be based in Article 3 of the ADA, i.e., a logical progression of analysis of "essential components" must be established to be able to come up with the needed "objective examination" of "positive evidence." It further asserted that said sequential analysis, with emphasis on the "same imports," would have managed to establish "closely interrelated" injury components which can be utilized to produce a "logical" conclusion of whether concerned products can indeed cause injury to the domestic industry. Saudi Arabia, in its statement, is cognizant of the fact that investigating authorities have the discretion to choose the methods it will use in injury determination as provided in Article 3. However, as likewise stipulated in Article 3.4, an "objective examination" may only be achieved if there is logical progression from the evaluation of the volume effects of the imports and the price effects contained in Article 3.2. Saudi provided different provisions of ADA's Article 3 to support its opinion.

It will be noticed that is similar to the second argument presented by Saudi Arabia, it also did not indicate explicitly whether or not it is taking sides. It simply indicated the necessary measures provided by the ADA that an investigating authority should undertake to attain an objective examination of evidence to determine whether or not the domestic industry is injured. Saudi Arabia, therefore, places the burden on the panel to determine and decide whether MOFCOM has undertaken a logically progressive and segmented analysis of volume and price effects of the imports. Saudi simply argues that any investigating authority should do so when determining injury.
It will also be noticed that despite the number of allegations contained in the claim under DS454, as well as identical claim DS460, Saudi Arabia provided opinions only on three allegations. One good reason for this is due mainly to Saudi's own laws on anti-dumping. The 2011 GCC anti-dumping laws that is complied with and implemented in Saudi Arabia contain very similar provisions as the ADA laws imposed by the WTO. Section II of the GCC law consisted of the rules on the determination of injury and its provisions, particularly Articles 31, 32, 33 and 34, are adherent to the ADA. The third opinion submitted by Saudi on the Claim of Japan and the EU regarding Articles 3.1 and 3.4 of the ADA against China are consistent with its own GCC laws, specifically on the determination of injury. Section II emphasized the need for an objective examination to determine injury, with the different factors in conduction such an examination expressly indicated in the mentioned GCC Articles. As such, Saudi Arabia is familiar with these rules and can therefore provide a sound and accurate interpretation on the allegations against China. While there is no explicit mention of a "logical progressive analysis" or a "segmented analysis" to be able to get an objective examination of the injury, it can be deemed implied in the GCC's set of rules.The following section sets out the decision of the DSB on DS454, as well as DS460, including the rulings and recommendations set forth. Focus will be given on the portions where the role of Saudi Arabia as third party is pronounced.

Termination of the Case and Results

The decision in DS454, and even DS460, cannot be considered to favour the complainants completely. This is because the panel decided that while some of the claims of the complainant are indeed inconsistent with ADA rules, other allegations are not. After the findings of the panel were submitted, both complainants and respondent appealed their cases before the Appellate Body. While it held many of the decisions of the panel, the Appellate Body also overturned some of said rulings. The report of the Appellate Body containing its findings and recommendations upon amending portions of the panel's report were adopted by the DSB on 28 October 2015.Of the final report submitted by the DBS in accordance with the findings of the panel and the Appellate Body, the rulings on claims under Articles 3.1, 3.2, 3.4 and 3.5 as well as the rulings on Articles 2.2 and 2.4 will be the focus of this section since Saudi Arabia's opinion revolved around these claims.On the decision pertaining to Articles 2.2.1, 2.2.1.1, 2.2.2 and 2.4, the panel upheld the claim of the EU on the concerned SG&A amounts and as regards the other claims under Article 2.2, judicial economy was exercised. This was not overturned by the Appellate Body. The Panel, which the Appellate Body also did not overturn, likewise upheld EU's claims against China under Article 2.4. As such, the opinion of Saudi Arabia in relation to Article 2.2.1.1 and 2.4 claims is compatible with the WTO and the panel/Appellate Body ruling.On the claims under Articles 3.1, 3.2, 3.4 and 3.5, The Panel's decision is divided as it did not agree with Japan and the EU on all matters. Of all the allegations under Article 3, the panel rejected the claim under Article 3.2, which alleges that MOFCOM was required but failed to evaluate if the price undercutting of the HP-SSST had an actual impact of downward pressure on the domestic prices.

However, the Appellate Body revised the ruling of the panel on claims under Article 3 and provided a more detailed decision.On MOFCOM's price effect analysis, the Appellate Body reversed the decision of the panel and thus ruled that MOFCOM's assessment was indeed inconsistent with Articles 3.1 and 3.2 of the ADA. The Body decided that Article 3.2 required MOFCOM to conduct a dynamic assessment of price trends and developments as related to the prices of the HP-SSST and like domestic products, and that MOFCOM should not have ignored evidence that suggests that the prices of the imported products have limited or no effect on domestic prices.On MOFCOM's impact analysis, the Appellate Body again overturned the decision of the panel and ruled in favour of the complainant citing China's action to be inconsistent with Articles 3.1 and 3.4 since it did not carry out a segmented analysis of the effect of the dumped HP-SSST on the domestic industry.Finally, on MOFCOM's causation analysis, the panel's ruling that respondent acted inconsistently with Articles 3.1 and 3.5 of the ADA was upheld by the Appellate Body. The Body found MOFCOM to have improperly relied on the dumped imports market share, its impact analyses and its flawed price effects in the determination of the causal relationship between injury to domestic industry and the dumped products. MOFCOM did not conduct any examination on the cross-grade effects where the undercutting of the price of Grade B and C imports have any impact on the domestic Grade A like products. The decision of the Appellate Body on this issue also resulted from MOFCOM's failure to ensure that the injury resulting from other known factors are not due to the dumped HP-SSST.The Appellate Body's revised rulings are not incompatible with the opinion submitted by Saudi Arabia in the sense that Saudi did not take sides on the matter. It did not explicitly indicate whether Japan is right or wrong on its claims. It simply provided its interpretation of the pertinent Articles and left the investigation of the panel to decide whether MOFCOM acted according to ADA and WTO rules. The interpretation of Saudi Arabia of the provisions under Article 3 relevant to the claims is consistent with the Appellate Body's own findings and adoption of the laws.The rulings set forth by the Appellate Body clearly favored the complainants in the cases. The findings of the panel that sided with China on certain Article 3 allegations were overturned and reversed. Although some claims were not agreed with by the panel, they are very few. It can therefore be deemed that in DS454 and DS460, the complaints prevailed in almost all its allegations.

The panel upheld EU and Japans claims under the other Articles. Therefore, given China's failure to comply with most of the claims filed by Japan and the EU, it consequently acted inconsistently with Article VI of the GATT 1994 and Article 1 of the ADA. The DSP adopted the rulings provided and gave China reasonable time to implement the recommendations and ruling resulting from DS454 and DS460. China has stated its intent to comply with them within the specified period provided to it.

Conclusion

While DS454 and DS460 are disputes among the EU, Japan and China, the focus of this legal analysis is the role of Saudi Arabia as third party to these two particular conflicts. It was necessary to closely investigate the solutions and opinions submitted by Saudi Arabia, including the origins of its interpretation, to determine is the GCC anti-dumping laws implemented in the Kingdom is consistent with the WTO and DA provisions. As presented, of the numerous claims filed by Japan and EU against China about the latter's inconsistent imposition of its WTO duties on anti-dumping, Saudi Arabia provided opinions only on three of the allegations.One potential reason for such an action is Saudi's familiarity with the laws that it opined about. As shown in the foregoing, its own rules on anti-dumping contained in the 2011 GCC law are quite consistent with the ADA, and thus, with the WTO rules. The statement it presented covers the claims against China pertaining to Articles 2.2, 2.4, 3.1 and 3.4 of the ADA. These Articles has their own version in the GCC anti-dumping law, of which Saudi has been implementing nationally.

One commendable manner by which Saudi Arabia has provided its argument is its refusal to clearly take sides on the issue and simply provided its interpretation of the concerned laws. It left the decision on the panel or the Appellate Body whether or not the respondent failed to comply with said Articles as alleged by complainants. It merely stuck to the provisions of the law and how those laws should be interpreted and applied.However, just as the GCC laws are compliant with the WTO rules, many of its provisions may be rendered general or at least lacking in details and specifications. It is therefore advised that the GCC law be re-assessed to include more specific provisions that would allow for faster and clearer determination of cases. Revising the GCC to make it a mirror image of the international ADA law may allow Saudi Arabia to broaden its participation as third party in other future WTO disputes. This means that it may no longer limit its opinion on laws that it is familiar with but also on those that it failed to comment on, just as in the case of DS454.

As previously shown in this paper, the claim covers Articles 1, 2, 3, 5, 6, and 12, as well as the numerous provisions under each one. However, Saudi Arabia interpreted only on Articles 2 and 3. Overall, based only on the statement submitted by Saudi Arabia in relation to its opinion on DS454 and DS460, it can be deduced that the WTO rules the ADA and the GCC regulations on anti-dumping are compatible.

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