

New WTO challenge to Australia plain-packaging tobacco law

26 March 2014

A battle against Australia's plain tobacco packaging rules gained pace at the World Trade Organization on Wednesday, as Indonesia won the right to seek a ruling by the global body.

Trade sources said that the WTO's disputes settlement body had agreed to set up an independent panel of trade and legal experts in order to assess whether Australia is breaching the rules of global commerce.

Canberra has faced a raft of challenges to its tobacco legislation, passed in 2011 and in force since December 2012, which politicians hope will curb the numbers of people smoking.

Under the rules, all tobacco products have to be sold in drab green boxes, use the same typeface and contain graphic images of diseased smokers.

Indonesia, which exports more than \$670 million (485 million euro) worth of tobacco a year, is the fifth country to take Australia to the WTO, after cases brought last year by Ukraine, Honduras, the Dominican Republic and Cuba.

The Latin American trio, who are all cigar-producers, have cited concerns that the legislation covers all [tobacco products](#), not just cigarettes.

All four countries argue that Australia's law breaches international trade rules and the [intellectual property rights](#) of brands—arguments rejected by the government and which also failed to convince Australia's High Court in a case brought by tobacco firms.

The Geneva-based WTO ensures that its 159 members respect the rules of global commerce. Its dispute settlement process can last for years, amid appeals, counter-appeals and assessments of compliance.

If its settlement body finds against Australia, the

WTO has the power to authorise retaliatory [trade](#) measures.

Expert panels have already been given permission to hear the Ukrainian and Honduran cases, although Cuba has not moved beyond filing an initial complaint, and the Dominican Republic still needs to make a second request for a panel hearing.

This was Indonesia's first request for a hearing in the [tobacco](#) dispute, and Australia would have been able to block its move under WTO rules.

Observers said the fact Australia did not force Indonesia to lodge a second, unblockable request was a sign that Canberra wanted a ruling as soon as possible.

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