



General Court of the European Union

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Judgments in Case T-157/14

JingAo Solar and Others v Council, in Joined Cases T-158/14 JingAo Solar and Others v Council, T-161/14 Yingli Energy (China) and Others v Council and T-163/14 Canadian Solar Emea and Others v Council, and in Cases T-160/14 Yingli Energy (China) and Others v Council and T-162/14 Canadian Solar Emea and Others v Council

Press and Information

## **The General Court confirms the validity of anti-dumping and anti-subsidy measures for imports of solar panels from China**

On 2 December 2013, the Council imposed anti-dumping duties in respect of imports of solar panels and key components originating in and consigned from China.<sup>1</sup> An investigation carried out by the Commission in 2012 and 2013 had revealed that Chinese solar panels were being sold in Europe at well below their normal market value. Duties were imposed in order to mitigate the injury caused to the European industry by the unfair commercial practice known as ‘dumping’.

On the same day, the Council also imposed definitive anti-subsidy duties (also known as countervailing duties) on imports of the same products,<sup>2</sup> since the Commission's investigation showed in that regard that Chinese undertakings exporting to Europe were receiving illegal subsidies, which also caused significant injury to EU solar panel producers.

26 companies affected by those duties (with an average rate of 47.7%) applied to the General Court for annulment of the corresponding anti-dumping and anti-subsidy measures.

In today's judgments, the **Court** rejects all the applications and **confirms all the definitive duties set by the Council**.

The Court notes, first, that the EU institutions were right to consider that, in determining the normal value of the products concerned (solar panels) in the exporting country, **the term ‘exporting country’ did not necessarily have to be defined in the same way for the entirety of the product, irrespective of its origin**. Accordingly, the EU institutions were entitled validly to consider that, for cells and modules originating in and consigned from China and for modules originating in China but consigned from third countries, the exporting country corresponded to the country of origin (China), whereas, for modules consigned from China but originating in a third country, the exporting country corresponded not to the country of origin but to the intermediate country (also China). **The institutions’ choice may be justified by their objective of examining the existence of potential dumping practices in China, and not in another country**, which falls within the scope of their broad discretion.

Furthermore, the Court considers that the EU institutions were entitled to view **photovoltaic cells and modules as a single product**. The common specific feature of cells and modules is their capacity to convert solar energy to electricity, particularly since cells and modules are intended to be installed in photovoltaic systems.

<sup>1</sup> Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 1).

<sup>2</sup> Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ 2013 L 325, p. 66).

The Court also rejects the argument that the rates of duties determined by the Council are excessive compared with what is necessary to remedy the injury caused to the EU industry by the dumped imports. The Court notes that the EU institutions carried out a detailed and comprehensive assessment of **other possible causes of injury**, such as, inter alia, imports from Taiwan, the reduction in support schemes in certain Member States, raw material prices, imports of cells and modules from China by EU producers or even the financial crisis. The Court finds that the effect of those factors on the EU industry's situation were duly distinguished and separated from the injurious effects of the dumped imports, but that none of them were considered capable of breaking the causal link established between the dumped imports originating in and consigned from China and the significant injury suffered by the EU industry. Furthermore, the undertakings challenging the anti-dumping and anti-subsidy measures have not put forward any argument or evidence before the Court capable of showing that the abovementioned factors had an effect of such significance that the existence of injury caused to the EU industry, and that of the causal link between that injury and the imports in question, were no longer reliable. **Those factors were not therefore the source of any significant injury that the institutions would have had to ensure were not attributed to the imports examined.**

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**NOTE:** An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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*The full text of the judgments ([T-157-14](#), [joint cases T-158-14, T-161/14 and T-163/14](#), [T-160/14](#) as well as [T-162/14](#)) is published on the CURIA website on the day of delivery*

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