

Brussels, 27 July 2013

European Solar Industry Sues Against Compromise in Trade Dispute with China

The European industrial initiative EU ProSun has announced that it will take action before the EU General Court against the agreement that has been reached in the trade dispute over dumped solar panels from China. Milan Nitzschke, President of EU ProSun: "The agreement between the European Commission and China is contrary in every respect to European law. The agreement endangers the very existence of the European solar industry, which has already lost 15,000 jobs due to Chinese dumping and illegal Chinese state subsidies, and now is at risk of losing remaining producers in Europe."

In the current anti-dumping proceedings, the European Commission found that the injury caused by Chinese dumping is acutely life-threatening for the European solar industry. Chinese solar manufacturers, illegal subsidised and state financed, sell their products in Europe far below production costs. Therefore, the Commission registered imports and imposed average anti-dumping duties of over 47 percent. The apparent tradeoff between China and the EU is now that these duties shall be suspended in favor of a minimum import price up to a certain quantity, but EU law places strict legal requirements on such a settlement.

Thus, the Basic Anti-dumping Regulation, Regulation 1225/2009, explicitly provides that a suspension of anti-dumping duties through a price undertaking is permitted only if the minimum price is adequate to remove the injury caused by the dumping to the European industry. A minimum price of between 55 and 57 euro cents, apparently the price level in the agreement, would lie exactly at the level of the current dumping price for Chinese modules. At the same time, the agreement also sets a quantity to which the undertaking exemption applies, which is about 70 percent of the expected solar market. Nitzschke: "This is essentially a guarantee of sales at that level and more for China and an authorization to sell at dumped prices. That is a clear violation of EU trade law".

Underlying the compromise are weeks of continued negotiations, conducted by the Directorate General for Trade (DG Trade) with the Chinese Ministry of Commerce. "In these negotiations, the EU Commission obviously acted against their overall mission and did not represent the interests of the European industry. It appears rather that there was only a desire to bring the proceedings to a quick end. Throughout the negotiations, China appears to have blackmailed and mocked the EU." According to EU ProSun, this agreement involves a number of infringements of EU law that can be invoked in court. Even the current June-August phasing-in of the provisional duties on Chinese products already violated the anti-dumping legislation.

European industrial companies have therefore proceeded to file a lawsuit in Luxembourg against the phasing-in action. The extension of this action to cover a most unsatisfactory price undertaking is now the logical and required further step. Nitzschke explained: "We are fighting for our rights and for maintaining the high-tech photovoltaic industry in Europe. It is not our intention to block negotiations. But even the biggest EU trade conflict ever must still be resolved on the basis of the applicable law. If the European Commission now itself breaks European law, it damages the whole of the EU trade defense instruments and leaves European industry an easy prey for illegal trading practices by foreign manufacturers. The damage done by DG Trade in this case, led by its Director General, is immense and goes far beyond the

solar industry. From steel production to the automobile industry, no one can be certain to be able to obtain redress against even the most flagrantly illegal subsidised dumping by producers from third countries. For Europe's industrial base, this would be devastating."

More information: www.prosun.org

Email: info@prosun.org