



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 1 April 2014

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INFORMATION NOTE

from: Council Legal Service
to: COREPER (2nd part)
Subject: Cases before the EU General Court
- Case T-157/14 JingAo Solar Co. Ltd and others v. Council

1. By application notified to the Council on 20 March 2014, the applicants (Chinese producers of solar panels) have brought an action pursuant to Article 263 TFEU for the annulment of Council Implementing Regulation 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.¹
2. The applicants present six claims in support of the Application:
 - first, they argue that, by imposing anti-dumping measures on solar panels and key components consigned from China whereas the notice of initiation mentioned only solar panels and key components originating in China, the institutions violated Articles 5(10) and 5(11) of the Basic Anti-Dumping Regulation;
 - secondly, they argue that, by imposing anti-dumping measures on solar panels and key components that were not subject to an anti-dumping investigation, the institutions violated Articles 1 and 17 of the Basic Anti-Dumping Regulation;

¹ OJ L 325 of 5.12.2013, p. 1.

- thirdly, they claim that, by applying a non-market economy methodology for calculating the dumping margin of products from market economy countries, the institutions violated Article 2 of the Basic Anti-Dumping Regulation;
- fourthly, they argue that, by conducting one single investigation for two distinct products (i.e., solar panels and cells), the institutions violated Article 1(4) of the Basic Anti-Dumping Regulation;
- fifthly, they claim that, by making the Applicants' market economy determination more than three months after the initiation of the investigation and after having received all information necessary to calculate the dumping margins, the institutions violated Article 2(7)(c) of the Basic Anti-Dumping Regulation; and
- lastly, they argue that, by failing to separately quantify the injury suffered by the Union industry caused by both the dumped imports and other known factors and, as a consequence, by imposing a duty rate in excess of what is necessary to remove the injury caused by the dumped imports to the Union industry, the institutions violated Articles 3 and 9(4) of the Basic Anti-Dumping Regulation.

3. The Director-General of the Council Legal Service has appointed Mr Bart DRIESSEN, member of the Legal Service, as the Council's agent in the case. He is to be assisted by Mr Bernard O'CONNOR.
