



**COUNCIL OF
THE EUROPEAN UNION**

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INFORMATION NOTE

from: Council Legal Service
to: COREPER (2nd part)
Subject: Cases before the EU General Court
- Case T-142/14 SolarWorld AG and others v. Council

1. By application notified to the Council on 19 March 2014, the Applicants (three EU producers of solar panels) have brought an action pursuant to Article 263 TFEU for the annulment of Council Implementing Regulation 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.¹
2. In support of their application, the Applicants contend that Article 2 of the contested regulation reflects a manifest error of assessment and violates Article 13 of the Basic Anti-Subsidy Regulation to the extent that it exempts from the measures Chinese producers from which the Commission accepted a joint undertaking. The Applicants allege that this violates their right to a fair legal process and the principle of good administration, their rights of defence as well as Articles 13(4) and 29(2) Basic Anti-Subsidy Regulation.

¹ OJ L 325 of 5.12.2013, p. 66.

3. In addition, the Applicants claim that Article 2 of the contested regulation reflects a manifest error of assessment and violates Article 13 of the Basic Anti-Subsidy Regulation, to the extent that it exempts from the measures Chinese producers from which the Commission accepted an unlawful joint undertaking.
4. Lastly, the Applicants claim that Article 2 of the Contested Regulation violates Article 101(1) TFEU to the extent that it grants certain Chinese producers an exemption from the measures in question on the basis of an undertaking offer, accepted and confirmed by the Undertaking Decisions, which they allege to be a horizontal price fixing arrangement.
5. 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.
