

U.s. department of commerce vs. solarworld americas, inc.

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U. S. Department of Commerce vs. SolarWorld Americas, Inc., Changzhou Trina Solar Energy Co., Ltd, Yingli Green Energy Holding Co., Ltd.

Statements of facts: Plaintiff and consolidated plaintiffs alleged US Department of Commerce to have determined less surrogate values in its last review. The court had to address the allegations in selecting aluminum frames; tempered glass scrapped solar cells, semi-finished polysilicon ingots and blocks, nitrogen and solar back sheet. Also, the U. S. Department of Commerce alleged that the respondents have been violating anti-dumping duty (ADD) on crystalline silicon photovoltaic cells, whether or not assembled into modules from the PRC. in the first allegation, PRC submitted false documents to U. S. Department of Commerce to evade ADD.

Procedure: The court started by addressing arguments on the selection of surrogate values by commerce. Second, it addresses the allegations of inclusion of imported data with zero reported quantities, use of financial statements to calculate financial ratios. The court concludes by applying AFA to unreported, purchased solar cells which belonged to Trina. Commerce and the respondents defended themselves against the use of surrogate values, financial statements, and import data. Evidence was presented by both parties to defend claims.

Issues: Yingli claims that Thai import data did not have enough information to correctly value tempered glass. Jingle alleged that Thai data was compromised by aberrational Hong Kong imports. Also, the company made claims that commerce made a mistake in its conclusion which indicated that Thai import data was not aberrational.

The surrogate values from Ukraine and Ecuador lacked credibility because the number of tempered glass imports from the two countries had low values in comparison with other countries that have economic data on record.

SolarWorld did not agree with the values used by commerce to determine the value of semi-finished polysilicon ingots and blocks by using global market price for raw polysilicon. The company claimed that surrogate values are not a reflection of value added when turning polysilicon to block or ingot.

Holding: The court made its conclusion by upholding surrogate values presented by the US Department of commerce used to value aluminum frames, solar back sheet, nitrogen inputs, semi-finished polysilicon and blocks for the respondent. Also, the court rejected the objection against financial statements in calculating financial ratios for the respondent.

Reasoning: Upholding of financial statements and surrogate values made it possible to find evidence for allegations made by commerce towards the respondents' ADD. All the respondents in the case had to reply to allegations made against them. SolarWorld argued that commerce made an unreasonable conclusion about Styromatic, not having received subsidy during POR.

On the contrary, it received subsidy 2 months before POR although no evidence of the subsidy is terminated. Commerce responded by evaluating POR financial statements. All the evidence presented by SolarWorld was responded to by US commerce. Trina challenged commerce's AFA. As unreasonable because it lacked an explanation of the proportion of FOP of the respondent. Commerce explained its decision to apply AFA to the court.

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Judgment: The court made its first verdict that the surrogate values selected by commerce for the respondents' scrapped solar cells, tempered glass and modules inputs and use of import data needed clarity. US commerce shall file with the court its remand determination, due 45 days. Second, the plaintiff and consolidated the plaintiff to give their comments on remand determination to be file by commerce. The respondents had 30 days for filling. Lastly, the complainants had 15 days duration to document their reply on their comments about remand determination.