

Report

The European Union's Anti-Dumping Investigations of Chinese Photovoltaic Producers

Professional Communication II

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Table of Contents

List of Graphs	2
List of Abbreviations	2
1. Introduction	3
2. Photovoltaic companies and the solar market in China	3
3. The EU Anti-Dumping and Anti-Countervailing investigations	6
3.1. Anti-Dumping in General	6
3.2. Anti-Subsidies in General	6
3.3. The current investigation	7
a) The industry group ProSun	8
b) The Opposition - Alliance For Affordable Solar Energy (AFASE) and possible negative effects of Anti-Dumping measures	8
4. Conclusion	9
References	11

List of Graphs

Graph 1: Installed PV capacity in China	4
Graph 2: Top 10 PV Suppliers 2012	5

List of Abbreviations

ACV	Anti-Countervailing
AD	Anti-Dumping
AFASE	Alliance For Affordable Solar Energy
EU	European Union
GW	Giga watt
PV	Photovoltaic
USD	United States Dollar

1. Introduction

This report offers a brief overview of the state of the international photovoltaic industry. This industry is currently facing major challenges. Larger firms especially are experiencing problems due to overcapacity in their production, a lack of systematic technological development and the pressures to survive in the global market (ecology.com, 2013a, n.p.). Furthermore the “overcrowded industry is pushing weaker firms out of the frame” (ecology.com, 2013a).

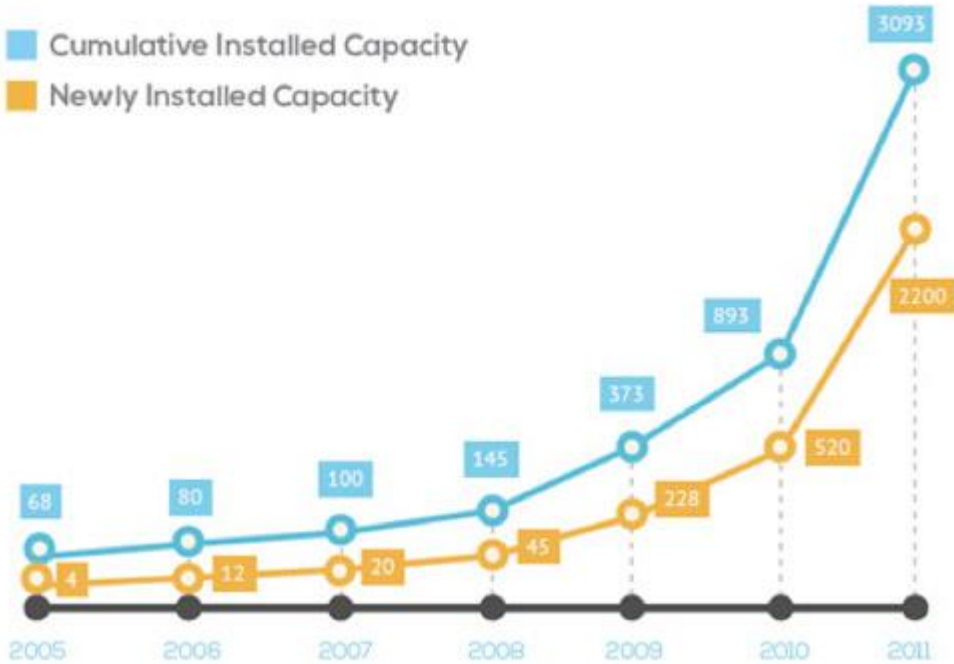
These challenges are partly a consequence of the prosperity in the international PV industry. The year 2011, for example, saw an aggregated market size exceeding USD 100 billion in annual sales (Renewable Energy Policy Network for 21st century, 2012).

This report aims to give an overview of the measures taken by the European Union to address anti-dumping complaints filed by some of the European suppliers. Understanding these complaints and the investigations and measures that followed is important for understanding the future of the international PV industry. I begin by looking at the Chinese solar market, which includes many of the leading companies in the international PV market. Then, I discuss the Anti-Dumping and Anti-Subsidy strategy of the European Union. I explain why the European Union is currently investigating Chinese companies to assess if there is dumping or illegal subsidies. In the last section I explain what the implications of these investigations are, and then I briefly conclude.

2. Photovoltaic companies and the solar market in China

China’s special interest are driven by three key factors. First, an increasing need for energy, especially electricity. Second, China relies on coal and must reduce the need for coal, which brings in the third factor of reducing greenhouse gas emissions by means of renewable energies in China and the increase of PV electricity production. The market share of renewables is quite large in China. 17% of the total electricity production was accomplished through renewables (Ecology.com, 2013b). The total installed PV capacity from 2005 to 2011 is shown by the following graph.

Graph 1: Installed PV capacity in China

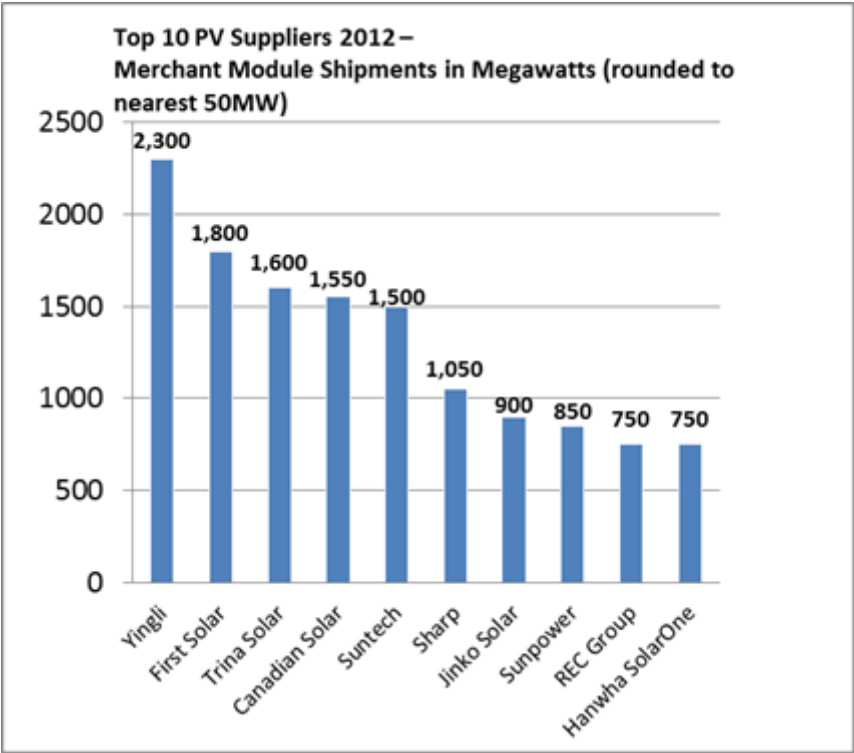


*Source: According to Ecology.com, 2013a.

The total PV installations in 2011 increased by three times due to government commitments. The government aims to have a total installed capacity of 21 GW by 2015 and 50 GW by 2020. Since China is well known for its high level of energy consumption, it reduces its investments in nuclear energy by increasing investments in PV (ecology.com, 2013a). Ecology.com (2013) further described China as the “world’s fastest-growing solar market”.

Taking a look at the top international PV module manufactures shown in the graph below also shows Chinas major role. Seven out of the top 10 companies are listed in China: Yingli Solar, Trina Solar, Suntech, Jinko Solar, Sunpower, REC Group and Hanwha SolarOne (Shahan, reneweconomy.com.au, 2013). The top 10 companies in 2012 are shown in the graph below.

Graph 2: Top 10 PV Suppliers 2012



*Source: According to Shahan, 2013.

The total module shipment of Yingli Solar in 2012 exceeded 2.2 GW (Lian, PV-Tech.org, 2013). According to Lian (2013), the growth in China was 70%. The forecast predicts that China will be the largest market in 2013, while in 2012 they were only the second largest. With the growth in 2012, they displaced Italy where the market declined by 50% (Lian, PV-Tech.org, 2013). The decline in the European market is also caused by the EU financial crisis, which also causes problems for Chinese manufactures (Ecology.com, 2013a).

But the growth in China is not only seen as a big opportunity. Since market predictions are difficult in times of uncertainty “it remains to be seen if PV growth in China will provide advantages to the global PV supply chain” (Barker, PV-Tech.org, 2013), since it can just be a short-term lifeline. However, a shift to other markets is also considered beneficial to the PV industry, since it would mean that companies wouldn’t rely on one market and would thus lower their exposure to swings in demand caused, for example, by changes in a national energy policy (Barker, PV-Tech.org, 2013).

3. The EU Anti-dumping and Anti-countervailing Investigations on PV key components and modules

3.1. Anti-Dumping in General

Dumping, according to the definition of the European Union, is when a company exports a product into the European Union at a “price lower than the normal value of the product ... on its own domestic market” (European Union, 2013a). The general procedure to initiate an anti-dumping investigation is to receive a complaint by European Companies. Those Companies have to be affected by the import of dumped products. Another possibility is a complaint by one of the 27 EU member countries (European Union, 2013a)

To bring anti-dumping measures into action the investigation has to cover and prove the following points:

- Dumping exists and is being done by the companies exporting into the EU mentioned in the complaint
- The EU industry has been harmed by the dumping
- There exists a “causal link between the dumping and injury found” (European Union, 2013a)
- The Interest of the EU will not be harmed by imposing measures

The upper time limit for measures is 5 years. It is possible to review the measures if circumstances concerning the exporters have changed, the importers or exporter request to get a total or partial refund of the duties (European Union, 2013a), or “new exporting producers request an accelerated review” (European Union, 2013a).

3.2. Anti-Subsidies in General

A subsidy is defined by the European Union as “a financial contribution made by (or on behalf of) a government or public body which confers a benefit to the recipient” (European Union, 2013b). In contrast to dumping, a subsidy includes the government. Dumping can also be imposed by the company itself. Direct financial support, for example, from a bank is also considered a subsidy if the bank is following a direct order from the government (European Union, 2013b).

Anti-Countervailing measures by the European Union aim to neutralize the benefits of such a subsidy. It can only be imposed if it is limited to a specific firm, group of firms or industry.

The European Union considers subsidies to distort competition, since they can be used to pursue “domestic and social policies, foster[] production or exports, creat[] jobs, facilitate[] the creation and expansion of new industries, [and] support[] economic activities that might otherwise fail, etc.” (European Union, 2013b).

Before Anti-Subsidy measures can come into play there has to be a complaint by a member state or a group of industries mainly located in the European Union. The complaint has to include evidence of subsidy. After receiving the complaint and checking if the complaint is in order with the rules of the commission, it European Union opens the investigation. The investigation has to cover and prove following points:

- The imported goods are benefiting from a subsidy
- The EU industry suffers from the subsidy
- A causal link exists between the subsidized goods imported and the injury
- The measures of an anti-subsidy are not in conflict with the interests of the European Union (European Union, 2013b)

After the investigation is accomplished the Commission may bring countervailing measures into action. Those measures are temporary and provisional. If the Commission decides to take action, the provisional measures can be turned into applicable measures of up to 5 years. However, companies can commit to a price above a minimum price, and the European Union then, in return, imposes no duties. The regulations for a review of anti-dumping measures apply for anti-subsidy measures as well. (European Union 2013b)

3.3. The Current Investigations

On July 25, 2012 the European Union received a complaint filed by ProSun stating that “solar panels and their key components imported from China enter the European market at prices below market value” (European Union, 2012). Those key components are solar cells and solar wafers. On September 6, 2012, the EU launched an anti-dumping investigation. As of May 8, 2013 every imported module has to be registered (European Union, 2012) in order to prevent warehousing of the solar modules or their key components and the retroactive imposition of anti-dumping duties on them, too (Tietje, PV-Magazine, n.d.).

a) The Industry Group ProSun

ProSun is a EU initiative of twenty-five PV manufactures in the European Union. Under leadership of the German company SolarWorld they claim that in the global trade of PV modules, wafers and equipment dumping and subsidies have caused massive harm to competition (Enkhardt, PV-Magazine, 2012)

Milan Nitzschke, spokesperson of the ProSun Initiative, claimed that “Chinese companies were supplied with multi-billion dollar loans and, [...], offered their products at prices below production costs” (Enkhardt, PV-Magazine, 2012). Therefore, ProSun filed a complaint at the Commission of the EU on July 25, 2012. It will be the “most significant anti-dumping complaint the European Commission has received so far” states a Memo of the European Union (European Union, 2012).

ProSun itself aims to increase “the share of solar and renewable energy” (Beetz, PV Magazine, 2013) and to have sustainable solar products. Furthermore, it fights for so-called “Healthy Competition” (ProSun, n.d.) which, according to ProSun means “undistorted competition” (ProSun, n.d.).

As a result, ProSun stated that anti-dumping duties imposed by the European Union will have positive effects, especially on jobs and growth (von Kreutzbruck, PV-Magazine, 2013).

b) The Opposition – Alliance for Affordable Solar Energy (AFASE) and Possible Negative Effects of Anti-dumping Measures

In contrast to the Initiative ProSun, the Alliance for Affordable Solar Energy is against anti-dumping measures. It consists of 469 companies in the solar industry. AFASE published a study undertaken by Prognos which states that AD duties will destroy jobs. In contrast, the study was recently criticized for flaws in methodology and content by another study from Pricehousewatercoopers initiated by ProSun (von Kreutzbruck, PV-Magazine.com, 2013).

A look at the members of the AFASE shows why there is a major dispute. Many of the members who claim to be independent are following hidden agendas (Colville, Solarbuzz.com, 2013). Suntech, Trina Solar, and Yingli are Chinese manufactures and members of the AFASE (Beetz, PV-Magazine, 2012).

The AFASE argues that many machines for the production are produced in Europe. The supply chain of a solar module installed within the EU is placed up to 70% in the EU, even if it was produced outside of the Community (Energiespektrum, 2012).

Although it might be true that Chinese manufacturers can produce at lower costs, it is wrong that this is caused by low labour costs. 6% of the price of a Chinese module are labour costs. Iken (2010) explains that Chinese manufactures take advantage of their strategy to always invest in modern technology.

It is not yet clear how expensive the anti-dumping duties for Chinese manufactures will be. According to a report by the Wall Street Journal, Suntech has to pay duties of 48.6%, LDK Solar Ltd. 55.9% Trina Solar Ltd 51.5% and JinkoSolar Co. 58.7% (Von Kreutzbruck, PV-Magazine, 2013).

However, the companies might not have to pay all these duties in the end since the UK based Solar Trade Association is against AD or ACV measures “which restrict free trade and the growth of the solar market” (von Kreutzbruck, PV-Magazine, 2012). The spokesman for the Chinese Ministry of Commerce, Yao Jian, already stated that “China and the EU should resort to dialogue and consultations to resolve frictions” (von Kreutzbruck, PV-Magazine., 2012).

In an Interview with the PV Magazine Henning Wicht, Director and Analyst at HIS Global GmbH explained that anti-dumping duties will not change the problem. The problem itself is a structural one. Furthermore, EU anti-dumping duties will not change the Chinese industrial policy (Wicht, PV-Magazine, n.d.).

4. Conclusion

The recent struggles of the German PV industry are not necessarily the result of a Chinese dumping strategy or subsidies by the government. Another reason can also be the technological advance of the Chinese manufactures. However, the complaint of the Initiative ProSun and the investigation of the European Union that followed is an example of successful lobbying. The consequences have not yet become clear and may cause a trade war between China and the EU if an agreement is not reached.

A political solution is necessary and the companies, especially those behind the ProSun Initiative, have to prepare for a time without any anti-dumping duties. They have to solve

their structural problems. For politics, anti-dumping duties can only be an ultima ratio if there is no conflict resolution.

The party which suffers the most from anti-dumping duties are the customers, which have to pay more for each watt of electricity. Nature, in turn, will suffer because a rising module price will cause a decline in demand and harm the “Energiewende”, Germany’s turn to renewable energy and others around the world.

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