

- Fourthly, the Council misapplied the overriding public interest test when invoking Article 4(3) first subparagraph when it considered only the perceived risks to its decision-making process associated to disclosure and not the positive effects of such disclosure, inter alia, for the legitimacy of the decision-making process and failed to apply the test at all when invoking Article 4(2) second indent.
2. Second plea in law, alleging breach of the obligation to state adequate reasons under Article 296 TFEU, as the Council did not fulfill its obligation to state sufficient and adequate reasons for the Contested Decision.

Action brought on 13 June 2013 — DelSolar (Wujiang) v Commission

(Case T-320/13)

(2013/C 215/27)

Language of the case: English

Parties

Applicant: DelSolar (Wujiang) Ltd (Wujiang City, China) (represented by: L. Catrain González, lawyer, E. Wright and H. Zhu, Barristers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul Commission Regulation (EU) No 513/2013 ⁽¹⁾, in so far as it applies to the applicant;
- Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the European Commission has made a manifest error of law by amplifying the scope of third indent of Article 2(7)(c) of the Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51) (the 'Basic Regulation') and reviewing alleged significant distortions which, because they have not been carried over from the former non-market economy system, they clearly fell outside the scope of the third indent of Article 2(7)(c) of the Basic Regulation
2. Second plea in law, alleging that the the European Commission has wrongly concluded that the production costs and overall financial situation of the applicant were subject to significant distortions carried over from the former non-market economy system as provided in the third indent of the Basic Regulation.
3. Third plea in law, alleging that the European Commission has made an error of assessment in light of the fact that neither the negligible subsidies received nor the preferential tax regime received by the applicant and its affiliate Delta Greentech (China) Co. Ltd. (jointly referred as 'DelSolar Group') were 'carried over from the former non-market economy system'.
4. Fourth plea in law, alleging that the decision of the European Commission to reject the applicant's market economy treatment ('MET') request on the sole basis of a preferential tax regime and negligible subsidies is disproportionate and unnecessary.

⁽¹⁾ Commission Regulation (EU) No 513/2013 of 4 June 2013 imposing a provisional anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China and amending Regulation (EU) No 182/2013 making these imports originating in or consigned from the People's Republic of China subject to registration (OJ 2013 L 152, p. 5)