Reports of Cases

ORDER OF THE GENERAL COURT (Fifth Chamber)

1 February 2016 *

(Actions for annulment — Dumping — Imports of crystalline silicon photovoltaic modules and key components (cells) originating in or consigned from China — Definitive anti-dumping duties — Exemption of imports covered by an accepted undertaking — Non-severability — Inadmissibility)

In Case T-141/14,

SolarWorld AG, established in Bonn (Germany),

Brandoni solare SpA, established in Castelfidardo (Italy),

Solaria Energia y Medio Ambiente, SA, established in Madrid (Spain),

represented by L. Ruessmann, lawyer, and J. Beck, Solicitor,

applicants,

v

Council of the European Union, represented by B. Driessen, acting as Agent,

defendant,

supported by

European Commission, represented by J.-F. Brakeland, T. Maxian Rusche and A. Stobiecka-Kuik, acting as Agents,

by

Canadian Solar Manufacturing (Changshu), Inc., established in Changshu (China),

Canadian Solar Manufacturing (Luoyang), Inc., established in Luoyang (China),

Csi Cells Co. Ltd, established in Suzhou (China),

and

Csi Solar Power (China), Inc., established in Suzhou,

represented by A. Willems, S. De Knop, lawyers, and K. Daly, Solicitor,

* Language of the case: English.

and by

China Chamber of Commerce for Import and Export of Machinery and Electronic Products, established in Beijing (China), represented by J.-F. Bellis, F. Di Gianni and A. Scalini, lawyers,

interveners,

APPLICATION for annulment of Article 3 of Council Implementing Regulation (EU) No 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 (OJ 2013 L 325, p. 1),

THE GENERAL COURT (Fifth Chamber),

composed of A. Dittrich, President, J. Schwarcz (Rapporteur) and V. Tomljenović, Judges,

Registrar: E. Coulon,

makes the following

Order

Background to the dispute

1 The applicants, SolarWorld AG, Brandoni solare SpA and Solaria Energia y Medio Ambiente, SA, are European producers of crystalline silicon photovoltaic modules and key components.

2 On 25 July 2012, an association of European producers of crystalline silicon photovoltaic modules and key components, EU ProSun, lodged an anti-dumping complaint with the European Commission concerning imports of those products consigned from the People's Republic of China.

3 On 6 September 2012, the Commission published a Notice of initiation of an anti-dumping proceeding with regard to imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in the People's Republic of China (OJ 2012 C 269, p. 5).

4 The applicants cooperated in those proceedings.

5 On 8 November 2012, the Commission published a Notice of initiation of an anti-subsidy proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in the People's Republic of China (OJ 2012 C 340, p. 13).

6 On 4 June 2013, the Commission adopted Regulation (EU) No 513/2013 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).

7 The action for annulment of Regulation No 513/2013 was dismissed by order of 14 April 2015 in *SolarWorld and Solsonica* v *Commission* (T-393/13, EU:T:2015:211), which is the subject of an appeal pending before the Court of Justice (Case C-312/15 P).

8 By letter to the Commission of 27 July 2013, the China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('the CCCME') offered, in connection with the anti-dumping investigation, to give an undertaking together with several Chinese exporting producers. In essence, on behalf of those producers and in its own name, the CCCME offered to apply minimum import prices for photovoltaic modules and for each of their key components (i.e. cells and wafers) up to a certain annual level of imports ('the MIP').

9 On 29 July 2013, a statement of the Trade Commissioner (memo/13/730) on the amicable consultation in the EU-China solar panels case was issued.

10 After the Commission made a non-confidential version of the offer of an undertaking of 29 July 2013 available, EU ProSun submitted comments on that undertaking on 1 August 2013.

11 On 2 August 2013, the Commission adopted Decision 2013/423/EU, accepting an undertaking offered in connection with the anti-dumping proceeding concerning 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 (OJ 2013 L 209, p. 26) by a group of cooperating Chinese exporting producers, together with the CCCME, and which are listed in the annex to that decision.

12 Recitals 5 and 6 of Decision 2013/423 state that the Chinese exporting producers listed in its annex undertook to comply with the MIP for photovoltaic modules and for each of their key components (i.e. cells and wafers) and that they proposed to ensure that the volume of imports made under the undertaking would be set at an annual level roughly corresponding to their market performance at the time the offer was made. Moreover, according to recital 8 of that decision, a provisional anti-dumping duty was to be levied on imports above that annual volume.

13 Commission Regulation (EU) No 748/2013 of 2 August 2013 amending Regulation No 513/2013 (OJ 2013 L 209, p. 1) was adopted to take account of Decision 2013/423. Among other amendments, that regulation inserted Article 6 in Regulation No 513/2013 which provides, on condition that certain requirements are fulfilled, that imports of certain products declared for release into free circulation which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in the annex to Decision 2013/423 are exempt from the provisional anti-dumping duty imposed by Article 1 of Regulation No 513/2013.

14 By letter of 25 September 2013, in its own name and on behalf of the exporting producers whose initial offer of an undertaking had been accepted, the CCCME, first, requested the Commission to accept the terms of that undertaking with a view also to eliminating any injurious effects of the subsidised imports. Then, on behalf of a certain number of additional exporting producers, it asked the Commission to include the additional exporting producers in the list of undertakings whose offer of an undertaking had been accepted. Lastly, it informed the Commission that it requested that the undertaking be revised to take account of the exclusion of wafers from the scope of the investigation.

15 By letter of 24 October 2013, the Commission informed EU ProSun that a draft decision confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China, as well as a non-confidential version of the undertaking offer, as amended, had been put in the non-confidential file. EU ProSun was invited to provide any further comments within a period of 10 days. In addition, the Commission responded to the comments that EU ProSun had provided in the course of the proceedings. It informed EU ProSun, inter alia, that the Commission services had used 'various methodologies, sources and indicators' in order to examine whether the undertaking, as amended, afforded the same level of protection as the ad valorem anti-dumping duties.

16 The Commission adopted Implementing Decision 2013/707/EU of 4 December 2013 confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures (OJ 2013 L 325, p. 214).

17 According to recital 4 of Implementing Decision 2013/707, following the adoption of provisional anti-dumping measures, the Commission continued the investigation of the dumping, the injury and the European Union interest as well as the parallel anti-subsidy proceedings and the wafers were excluded from the scope of both investigations, and, therefore, from the scope of the definitive measures.

18 According to recital 5 of Decision 2013/707, the anti-dumping investigation confirmed the provisional findings of injurious dumping.

19 According to recitals 7 to 10 and Article 1 of Implementing Decision 2013/707, following the definitive disclosure of the anti-dumping and anti-subsidy findings, the Chinese exporting producers, together with the CCCME, submitted a notification to amend their initial offer of an undertaking. That amendment to the undertaking related to the exclusion of wafers from the scope of the investigation, the participation of a number of additional exporting producers in the undertaking and the expansion of the terms of the undertaking in order also to eliminate any injurious effects of the subsidised imports.

20 The action for annulment of Decision 2013/423 and of Implementing Decision 2013/707 was dismissed by order of 14 January 2015 in *SolarWorld and Others* v *Commission* (T-507/13, ECR, EU:T:2015:23), against which an appeal is pending before the Court of Justice (Case C-142/15 P).

21 The definitive findings of the investigation are contained in Council Implementing Regulation (EU) No 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 (OJ 2013 L 325, p. 1) ('the definitive regulation').

22 According to Article 1 of the definitive regulation, a definitive anti-dumping duty is to be imposed on imports of crystalline silicon photovoltaic modules or panels and cells of the type used in crystalline silicon photovoltaic modules or panels falling within certain customs nomenclature codes originating in or consigned from the People's Republic of China.

23 According to Article 3(1) of the definitive regulation, which applies to certain products the references of which are specified in terms of the customs nomenclature and which are invoiced by companies from which undertakings are accepted by the Commission and whose names are listed in the annex to Implementing Decision 2013/707, imports declared for release into free circulation are exempt from the anti-dumping duty imposed by Article 1 of that regulation, subject to compliance with certain conditions.

24 Article 3(2) of the definitive regulation states that a customs debt is incurred at the time of acceptance of the declaration for release into free circulation whenever it is established that one or more of the conditions listed in Article 3(1) are not fulfilled or when the Commission withdraws its acceptance of the undertaking.

Procedure and forms of order sought

25 By application lodged at the Court Registry on 28 February 2014 the applicants brought the present action.

26 By separate document lodged at the Court Registry on 31 March 2014, the applicants brought an application under Article 278 TFEU and Article 104 et seq. of the Rules of Procedure of the General Court of 2 May 1991 to suspend the operation of Article 3 of the definitive regulation until the Court has ruled on the substance of the present action.

27 By order of 23 May 2014 in *SolarWorld and Others* v *Council* (T-141/14 R, EU:T:2014:281), the President of the Court dismissed the application for suspension of the measure for want of urgency.

28 By a document lodged at the Court Registry on 15 April 2014, the Commission applied for leave to intervene in support of the form of order sought by the Council of the European Union. The Council and the applicants submitted their written observations on 30 April and 15 May 2014 respectively.

29 By order of the President of the Fifth Chamber of the Court of 4 June 2014, the Commission was granted leave to intervene.

30 By document lodged at the Court Registry on 20 June 2014, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd, and Csi Solar Power (China), Inc. (collectively, 'Canadian Solar'), and Canadian Solar EMEA GmbH applied for leave to intervene in support of the form of order sought by the Council. The Commission, the Council and the applicants submitted their written observations on 17 July, 22 July and 8 August 2014 respectively.

31 By document lodged at the Registry of the General Court on 20 June 2014, the CCCME applied for leave to intervene in support of the form of order sought by the Council. The Commission, the Council and the applicants submitted their written observations on 17 July, 22 July and 8 August 2014 respectively.

32 By two orders of the President of the Fifth Chamber of the Court of 28 November 2014, Canadian Solar and the CCCME were granted leave to intervene, whilst Canadian Solar EMEA GmbH's application for leave to intervene was refused on the ground that it had not proved that it had an interest in the result of the case.

33 By documents lodged at the Court Registry on 8 August and 6 November 2014, the applicants applied for certain information contained in the application and its annexes, the defence, the reply and the rejoinder to be treated as confidential with regard to Canadian Solar and the CCCME. The CCCME stated that it had no objections in that regard. Canadian Solar did not submit observations.

34 By document lodged at the Court Registry on 22 September 2015, the Council applied for the present action to be joined to Case T-142/14 in *SolarWorld and Others* v *Council* for the purposes of the oral procedure and of the decision which closes the proceedings. The applicants submitted their written observations on that application on 13 October 2015.

35 By document lodged at the Court Registry on 23 November 2015, Canadian Solar declared that it withdrew its intervention in the present case. By letters lodged at the Court Registry on 7 and 9 December 2015, the Commission and the Council respectively stated that they had no observations on the withdrawal of Canadian Solar. Neither the applicants, nor the CCCME submitted observations.

36 The applicants claim that the Court should:

— declare the action admissible and well founded;

— annul Article 3 of the definitive regulation ('the contested measure');

— join the present case with Case T-507/13 in *SolarWorld and Others* v *Commission*;

— order the Council to pay the costs;

— order the Commission to pay the costs relating to its intervention;

— order Canadian Solar and the CCCME to bear their own costs.

37 The Council contends that the Court should:

— dismiss the action as unfounded;

— order the applicants to pay the costs.

38 The Commission contends that the Court should:

— dismiss the action as inadmissible;

— in the alternative, dismiss the action as unfounded;

— join the present case to Case T-142/14 in *SolarWorld and Others* v *Council*;

— order the applicants to pay the costs, including the costs incurred by the Commission.

39 The CCCME contends that the Court should:

— grant the order sought by the Council, namely the dismissal of the action as unfounded;

— order the applicants to pay the costs.

40 Canadian Solar claims that the Court should:

— declare the action inadmissible;

— in the alternative, dismiss the action as unfounded;

— order the applicants to pay the costs, including the costs incurred by Canadian Solar.

Law

41 Under Article 129 of the Rules of Procedure, on a proposal from the Judge-Rapporteur, the General Court may, of its own motion at any time after hearing the main parties, decide to rule by reasoned order on whether there exists any absolute bar to proceeding with a case.

42 In the present case, the Court considers that it has sufficient information from the documents in the file and has decided, consequently, to give a decision without taking further steps in the proceedings.

43 While not raising an objection of inadmissibility, the Council, supported by the interveners, raises two grounds of inadmissibility of the action. First, the contested measure cannot be severed from the definitive regulation. Second, the applicants have not demonstrated their *locus standi* under Article 263 TFEU, since they are neither directly nor individually concerned by the measure and they cannot base their *locus standi* on the premiss set out in the final limb of the fourth paragraph of Article 263 TFEU.

44 As a preliminary point, it must be recalled that the applicants seek the annulment solely of the contested measure, namely Article 3 of the definitive regulation. The first paragraph of the contested measure states that the Council exempts from the anti-dumping duty imposed by Article 1 of the regulation, subject to compliance with certain conditions, imports of certain products the references of which are specified in terms of the customs nomenclature, and which are invoiced by companies from which undertakings have been accepted by the Commission, whose names are listed in the annex to Implementing Decision 2013/707.

45 It is necessary, above all, to examine the first ground of inadmissibility, namely the non-severability of the contested measure.

46 The Council, supported by the Commission and the CCCME, submits that the contested measure is not severable from the remainder of the definitive regulation and that it cannot be severed from that regulation because its annulment would alter the very substance of the regulation. The definitive regulation is based on the economic effect of the combination of the measures adopted. If the anti-dumping duties were extended to all imports as a whole, the measure would be appreciably different from the measure adopted, although it is by no means certain that a regulation imposing anti-dumping duties in respect of all imports would have been adopted. In the rejoinder, the Council criticises the applicants for not taking account of the fact that the annulment of the contested measure would substantially increase the number of imports on which anti-dumping duties would be levied, thereby transforming a partial imposition into a complete imposition of anti-dumping duties, which would thereby alter the substance of the definitive regulation.

47 The applicants submit that all of the articles of the definitive regulation can apply without the contested measure and that they are not ambiguous, which renders their interpretation by reference to the recitals in the preamble to that regulation ineffective. The applicants emphasise that nothing in the definitive regulation makes the imposition of anti-dumping duties dependent on the contested measure, since the question of the application of MIP to a level of imports is irrelevant for determining whether the contested measure is severable. They also consider that the intention of the Chinese exporting producers has no bearing on that point because, on the contrary, the imposition of anti-dumping duties does not depend on their being accepted by the exporting producers at issue and that the undertaking that they offer depends, itself, on the acceptance of the Commission. They point out that the undertaking offered was not a condition of the adoption of the definitive regulation.

48 According to case-law, partial annulment of a Union act is possible only if the elements of which the annulment is sought may be severed from the remainder of the act (judgments of 10 December 2002 in *Commission* v *Council*, C-29/99, ECR, EU:C:2002:734, paragraph 45; 30 September 2003 in *Germany* v *Commission*, C-239/01, ECR, EU:C:2003:514, paragraph 33; and 24 May 2005 in *France* v *Parliament and Council*, C-244/03, ECR, EU:C:2005:299, paragraph 12).

49 Similarly, the Court has repeatedly ruled that that requirement of severability was not satisfied where the partial annulment of an act would have had the effect of altering its substance (judgment in *France* v *Parliament and Council*, cited in paragraph 48 above, EU:C:2005:299, paragraph 13; see also, to that effect, judgments in *Commission* v *Council*, cited in paragraph 48 above, EU:C:2002:734, paragraph 46, and *Germany* v *Commission*, cited in paragraph 48 above, EU:C:2003:514, paragraph 34).

50 The Court has also ruled that the question whether partial annulment would alter the substance of the contested measure is an objective criterion, and not a subjective criterion linked to the political intention of the authority which adopted that measure (judgments in *Germany* v *Commission*, cited in paragraph 48 above, EU:C:2003:514, paragraph 37; *France* v *Parliament and Council*, cited in paragraph 48 above, EU:C:2005:299, paragraph 14, and of 30 March 2006 in *Spain* v *Council*, C-36/04, ECR, EU:C:2006:209, paragraph 14).

51 In addition, the review of whether the measures of which annulment is sought are severable requires consideration of the scope of those measures in order to be able to assess whether their annulment would alter the spirit and substance of the act in which they are contained (see, to that effect, judgment of 29 March 2012 in *Commission* v *Estonia*, C-505/09 P, ECR, EU:C:2012:179, paragraph 112, and order of 11 December 2014 in *Carbunión* v *Council*, C-99/14 P, EU:C:2014:2446, paragraph 30).

52 It is in the light of those considerations that it is appropriate to determine whether the contested measure is severable from the remainder of the definitive regulation and may, as a result, be challenged by an action for annulment.

53 In the first place, the Court notes that there is common ground between the Council and the Commission as well as the applicants on the effects of the annulment of the contested measure on the definitive regulation. Such an annulment would result in the application of the anti-dumping duties to all imports consigned by Chinese exporting producers that had offered the undertaking accepted by Implementing Decision 2013/707. Article 2 of the CCCME's undertaking offer of 27 July 2013 provides for the setting of MIP at a certain annual level for the modules and cells, and Article 2.2 specifies that sales in the European Union of the product at issue that do not fall within the scope of the undertaking are subject to anti-dumping duties. Article 1(2) of the definitive regulation sets the specific rates of anti-dumping duties for named Chinese exporting producers, the overwhelming majority of which consented to the accepted undertaking, and sets different rates for three types of unnamed companies.

54 In the second place, the Court finds that the annulment of the contested measure would alter the effects of the definitive regulation, since the imports of the product at issue consigned by those Chinese exporting producers that consented to the undertaking would no longer be exempt, within certain annual limits, from the anti-dumping duties laid down in Article 1(2) of that regulation. If the action for the annulment of the contested measure were upheld, it follows from a consideration of the scope of that measure that the very spirit and substance of the definitive regulation would be altered (see, to that effect, judgment in *Commission* v *Estonia*, cited in paragraph 51 above, EU:C:2012:179, paragraph 112, and order in *Carbunión* v *Council*, cited in paragraph 51 above, EU:C:2014:2446, paragraph 30).

55 The contested measure exempts, within a certain quantitative limit, certain named economic operators from anti-dumping duties, subject to compliance with the conditions that it lays down. Consequently, by removing the applicable exemption of duties within that quantitative limit, the annulment of the contested measure would confer a greater scope on the anti-dumping duties than that which arises from the application of the definitive regulation as adopted by the Council for, in such a case, those duties would apply to all imports of the product at issue consigned from China whereas, under the definitive regulation taken as a whole, those duties would apply only to imports consigned by Chinese exporting producers that had not consented to the undertaking accepted by the Commission in Implementing Decision 2013/707, since those imports correspond, according to the parties, to 30% of the total imports of the product at issue. Such a result would alter the substance of the act in which the measure of which the annulment is sought is contained, namely the definitive regulation.

56 To a certain extent, the consequences of annulling the contested measure are comparable to those that the EU Courts have taken into consideration in order to hold that measures of which the annulment was sought were not severable from the remainder of the acts in which those measures were contained.

57 First, that was the case where the Court of Justice dismissed an action directed against the measures of a directive on the total prohibition of advertising of tobacco products as inadmissible on the ground that the annulment would have had the effect of transforming a total prohibition of advertising into a partial prohibition (judgment of 5 October 2000 in *Germany* v *Parliament and Council*, C-376/98, ECR, EU:C:2000:544, paragraph 117). Second, that was the case where this Court dismissed an action directed against the inclusion of a site in the annex of a directive as a site of Community importance to the extent that its inclusion extended the site to the territorial waters of Gibraltar as inadmissible on the ground that the annulment would have necessarily altered the geographical limits of the site of Community importance and, therefore, the substance of the decision to include that site (order of 24 May 2011 in *Government of Gibraltar* v *Commission*, T-176/09, EU:T:2011:239, paragraphs 38 to 41, confirmed by order of 12 July 2012 in *Government of Gibraltar* v *Commission*, C-407/11 P, EU:C:2012:464, paragraphs 30 to 35). Third, that was the case where, having taken into account the aims of the system for authorising the placing of plant protection products on the market, this Court dismissed an action directed against the measures of the directive concerning the placing of plant protection products on the market that included an active substance in its annex as inadmissible on the ground that the annulment would have had the effect of transforming the inclusion of a substance for a certain limited period and for certain crops into one unlimited in time and for all crops, since the contested limitations constituted mandatory and essential conditions for the inclusion of the substance in the annex in question (judgment of 12 April 2013 in *Du Pont de Nemours (France) and Others* v *Commission*, T-31/07, EU:T:2013:167, paragraph 85). Fourth, that was the case where the Court of Justice dismissed an action directed against the measures of a State aid decision as inadmissible on the ground that the annulment would have had the effect of transforming the temporally limited acceptance of State aid for undertakings into a temporally unlimited acceptance (order in *Carbunión* v *Council*, cited in paragraph 51 above, EU:C:2014:2446, paragraph 31). The situations which would have been brought about by the annulment of the measures contested in those various cases are similar to that which would be brought about by the annulment of the contested measure.

58 Had the EU Courts annulled the measures contested in those cases, it would have altered the scope of the measures included in the acts which contained the measures contested by the actions for annulment. It therefore deduced that the alterations introduced by the annulment of the measures contested would have compromised the substance of the acts which contained those measures.

59 Accordingly, in the light of the alteration of the substance of the definitive regulation that would be brought about by the annulment of the contested measure, which would remove the exemption of anti-dumping duties from which the imports of Chinese exporting producers who had consented to the undertaking accepted by the Commission benefited, the contested measure is not severable from the remainder of that regulation.

60 In the third place, the argument of the applicants, set out in paragraph 47 above, is clearly not capable of calling the non-severability of the contested measure into question. The question of whether all of the articles of the definitive regulation are capable of applying without the contested measure has no bearing on the assessment of the scope of the alteration to that regulation which would be brought about by the annulment of the contested measure, an assessment which constitutes the criterion for determining whether the substance of the legal act containing the measure for which annulment is applied has been altered. The same is true of the circumstance that the articles of the definitive regulation may have been unambiguous, which would render their interpretation by reference to the recitals in the preamble to that regulation ineffective, of the fact that nothing in the definitive regulation makes the imposition of anti-dumping duties dependent on the contested measure and of the fact that the undertaking offered was not a condition to which the adoption of the definitive

regulation was subject. None of those arguments is capable of calling into question the conclusion of the General Court in paragraph 55 above, from which it is clear that the annulment of the contested measure would, consequently, confer a greater scope on the anti-dumping duties imposed by Article 1(2) of the definitive regulation than that which arises from the application of that regulation as adopted by the Council, which would, without any possible doubt, alter the substance of the definitive regulation.

61 Consequently, the action must be dismissed as inadmissible, since the contested measure is not severable from the definitive regulation. Accordingly, it is not necessary to rule on the application for the present action to be joined with that in Case T-507/13 *SolarWorld and Others* v *Commission* and in Case T-142/14 *SolarWorld and Others* v *Council* or on the application for measures for the organisation of the procedure in order to examine whether Canadian Solar's intervention is still admissible.

Costs

62 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. As the applicants have been unsuccessful, they must, in accordance with the form of order sought by the Council, be ordered to bear their own costs, including those relating to the proceedings for interim measures.

63 Under Article 136(1) and (4) of the Rules of Procedure, a party who discontinues or withdraws from proceedings shall be ordered to pay the costs if they have been applied for in the other party's observations on the discontinuance and, if costs are not claimed, the parties shall bear their own costs.

64 Since no application for costs relating to Canadian Solar's application for leave to intervene, the Court orders Canadian Solar to bear its own costs and orders each party to bear its own costs relating to the application for leave to intervene.

65 Under Article 138(1) of the Rules of Procedure, the Member States and institutions which have intervened in the proceedings are to bear their own costs. The Commission must therefore bear its own costs.

66 Under Article 138(3) of the Rules of Procedure, the Court may order an intervener other than those referred to in Article 138(1) and (2) to bear his own costs. In the circumstances of the present case, the Court orders the CCCME to bear its own costs.

On those grounds,

THE GENERAL COURT (Fifth Chamber)

hereby orders:

1. **The action is dismissed as inadmissible.**

2. **Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd and Csi Solar Power (China), Inc. shall be removed from Case T-141/14 as interveners.**

3. **SolarWorld AG, Brandoni solare SpA and Solaria Energia y Medio Ambiente, SA shall pay their own costs and those incurred by the Council of the European Union, including those relating to the application for interim measures.**

4. The European Commission, Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Csi Cells Co. Ltd, Csi Solar Power (China), Inc. and the China Chamber of Commerce for Import and Export of Machinery and Electronic Products shall pay their own costs.

Luxembourg, 1 February 2016.

E. Coulon
Registrar

A. Dittrich
President