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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

China Says US Should Ditch Solar Products Duty Probe

By **Scott Flaherty**

Law360, New York (January 27, 2014, 2:49 PM ET) -- China on Sunday criticized an import duty investigation of solar products launched recently by the U.S., saying it would watch for any damage to the Chinese solar sector as a result and that the two countries should look to negotiate a resolution.

After the U.S. Department of Commerce announced Thursday it would conduct anti-dumping and countervailing **duty probes of certain solar products** imported from China, the Chinese Ministry of Commerce called on the U.S. to set aside the duty investigations.

The Chinese ministry said that, as two of the world's top economies and leaders in developing solar technology, the U.S. and China should be working together to promote clean energy instead of duking it out through trade remedy proceedings like the one launched Thursday by the Commerce Department.

The ministry went on to say that, in part because the supply chain for solar products is so intertwined between the U.S. and China, trade disputes can have worldwide ripple effects. China's commerce ministry said it would closely monitor the U.S. duty cases to see how they affect the Chinese solar industry, adding that it hopes the U.S. and China can resolve their trade concerns through dialogue instead of import duties.

The Chinese ministry's statement comes after the U.S. Commerce Department said on Thursday it would open anti-dumping and countervailing duty investigations on Chinese imports of photovoltaic products. Commerce will also conduct an anti-dumping probe of the products imported from Taiwan, the agency said. Thursday's announcement from Commerce followed the U.S. International Trade Commission's decision, **earlier in January**, to conduct anti-dumping and countervailing duty probes in parallel with those that Commerce will carry out.

The U.S. duty investigations both stem from a petition **lodged in late December** by Oregon-based SolarWorld AG unit, SolarWorld Industries America Inc., which alleged that Chinese solar companies had taken steps to skirt existing anti-dumping and countervailing duties on solar cells and modules. Those existing U.S. duties had stemmed from petitions also lodged by SolarWorld.

SolarWorld argued that the scope of the prior duty orders "failed to cover" Chinese solar panels that were assembled using cells made in a third country. That, in turn, allowed Chinese producers to use cells made in Taiwan in their solar panels, then export them to the U.S. without facing the import duties, according to SolarWorld's ITC petition.

"As a result, the remedy afforded by the first [anti-dumping and countervailing duty] cases was substantially weakened," the petition said.

The SolarWorld petition marked just one recent volley in an ongoing spat between the U.S. and China over trade of solar energy products.

China, for its part, has conducted anti-dumping and countervailing duty investigations of U.S.-made polysilicon, a key raw material used in solar panels. On Jan. 20, the Chinese commerce ministry said it had **finalized a determination** in those duty cases, imposing anti-dumping duties at rates as high as 57 percent against U.S. polysilicon companies. Two U.S. polysilicon companies were also hit with countervailing duties at 2.1 percent, according to the Chinese ministry.

The trade dispute has also **exposed fault lines** within the U.S. solar sector, with SolarWorld pressing for additional duties, while a leading industry group, the Solar Energy Industries Association, has called for the U.S. to negotiate a settlement with China. On Jan. 21, SEIA President and CEO Rhone Resch said the latest SolarWorld duty petitions pose "an immediate threat to the U.S. solar industry."

--Editing by Jeremy Barker.

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