

RENEWABLE ENERGY AND WTO: CONFLICT OF INDIA AND USA AT WTO ON SOLAR CELL ISSUES

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Renewable energy and WTO: Conflict of India and USA at WTO on solar cell issues

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The horizons of renewable energy have been expanding regularly. With the promulgation of technological advancements, it is evident how maximum people are falling under its ambit, aiding the larger cause. But this cause generally falls in the deluded hands of trade and business, which only floods the pockets of humans and empties the 'green pockets'. One such 'green issue' has fallen in the colder area where India and USA have a dispute over trade, business and installation of Solar Cells. The article illustrates the same.

The author is a guest contributor at The Analysis.



Part 1:

The US had filed a formal challenge at the WTO on Feb 2013 regarding India's support policies for solar energy. The main issue of the complaint was regarding the domestic policies of Asian countries which gave advantage local manufacturers under its respective solar programs. These policies according to the US discriminated foreign manufacturers. The representatives from the US said that India's policies are discriminatory and it detracts from successful cooperation raising the cost of clean energy.

The main concern shown by developed nations for developing nations have been the use of local content requirements (LCR). The use of LCRs is beneficial for developing nations where utilizing multiple policies in the renewable energy sector, primarily to green their economy and to foster the sector's domestic development, while in parallel stimulating employment and investment, some analysts have noted that domestic content requirements might instead increase costs of energy, reduce competition, and therefore potentially slow down innovation.

The Indian program known as the Jawaharlal Nehru National Solar Mission (NSM) had the goal of deploying 20,000 MW of solar panels through an interconnected grid by 2022. The aim of the project was to reduce the cost of solar power generation in India, specifically via long-term policy, large-scale deployment targets, intensive research and development, and domestic production of the necessary raw materials and components.

One of the mission's goals, the statement says, is to undertake an international leadership role in the area of solar manufacturing across different stages of the value chain, in "leading edge solar technologies." In doing so, it is hoping to achieve a 4-5 GW equivalent of installed capacity by 2020, which would include developing

manufacturing capacities for poly-silicon material that would allow for the production of approximately 2 GW capacities of solar cells annually.

The requisites of the program were that photovoltaic projects using crystalline silicon technology to use solar cells and modules were to be manufactured domestically. Therefore, solar power developers, or their successors in contract, receive certain benefits and advantages, including subsidies through guaranteed, long-term tariffs for electricity, contingent on their purchase and use of solar cells and solar modules of domestic origin.

Therefore, the USA argued that these measures are inconsistent with WTO rules and that it constituted illegal subsidies as it is providing subsidy to only domestic goods.

According to the US, the measures implemented by India were also violating the Subsidies and Countervailing Measures (SCM) Agreement. And it nullified WTO's General Agreement on Tariffs and Trade (GATT) and Trade-Related Investment Measures (TRIMS) Agreement.

India responded to the WTO by assuring that that the requirement has not substantially reduced imports of equipment and that its policy is in line with WTO rules. The domestic content provision is applicable to a few projects totaling 350 megawatts (MW).

India is currently building 1000 MW of solar power plants and will soon be building an additional 2000 MW, the official added, implying that this new capacity will not be subject to a local content requirement.

India had previously argued that the scheme qualifies as government procurement and is thus exempt from national treatment requirements.

A similar statement was also made in Canada's WTO row with the US and EU, only for a dispute panel to find that - while the Ontario measures at issue were government procurement - it was done with a view for commercial resale. The Ontario scheme was therefore not exempt from the national treatment requirements referred to in the GATT, TRIMS, and SCM Agreements. That finding is currently under appeal by Ottawa. Dispute panel proceedings do not have precedential effect, however, meaning that the results in the Canada dispute would not necessarily apply in India's case, should the latter dispute reach the panel stage.

Part 2:

2 months post this event, Indian complained on the similar matter to the WTO. India in its complaint mentioned that the US, both at the federal and state levels, was offering subsidy programs in the sector for local content requirements, making the entry of Indian companies difficult and breaching global trading rules.

In a report to WTO's subsidies and Countervailing Measures Committee, India named the four US states that are Connecticut, Delaware, Massachusetts and Minnesota where such a program was on to promote local firms. The complaint says such subsidy program violate WTO's TRIMS (Trade Related Investment Measures) agreement.

It was also said that Indian solar photovoltaic module manufacturers, such as Tata Power Solar and Moser Baer, about the difficulties in penetrating the US market due to the support given to domestic manufacturers there.

The CEO of Tata Power Solar in one of his statements said that the US offered a variety of incentives to its companies to protect them from foreign competitors. And that preferential treatment was given to US manufacturers because to this, they have not been able to make many inroads there. Also Moser Baer said that it had to quit the US market, as it found the country "unviable" for doing business because of several fiscal incentives, given especially by the US' Department of Defense, for locally made solar panels. It did not face a problem in Europe or Japan.

India has also asked the US to provide details of "which state or regional or local-level renewable energy programs provide subsidies... contingent upon compliance of domestic content requirements". It had also sought a clarification on the various state and regional RE programs that provide incentives in the forms of rebates and credit to domestic solar equipment makers.