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US, EU, Japan pile pressure to remove local content clause

Amiti Sen, Economic Times

July 20, 2012, New Delhi: India's majortrade partners-the US, the EU and Japan-have stepped up pressure to remove local content requirement clause in the ambitious national solar mission project and manufacture of certain electronic products.

However, New Delhi is preparing to defend its policies strongly at the World Trade Organization right till the dispute panel level.

"There is a possibility that US may launch a formal dispute against India, especially for the domestic content clause in the National Solar Mission, but we will fight it," a commerce department official told ET.

The US, the EU and Japan recently asked for a special meeting of the Trade Related Investment Measures or Trims committee of the WTO to address concerns on domestic content requirement or compulsory local-sourcing clause in some policy measures in India, Brazil, Indonesia and Russia.

India's decision to grant preference to domestically manufactured electronic products on security grounds, taken earlier this year, and the 30% mandatory domestic sourcing requirement in the JNSSM were strongly criticised by the three members.

The US expressed concern about telecom licensees in India having to purchase telecom equipment locally and wanted to know if the domestic sourcing requirement covered all private agencies.

"The US wanted to know which clause of security exceptions was being invoked and how security concerns are addressed by domestic content and value addition requirement," the official said.

India maintained that security issues are sacrosanct for all WTO members, and a detailed discussion was not possible since these issues are sensitive and confidential and are dealt on the basis of advice from security agencies.

The EU asked for a timeline on when detailed guidelines of the IT policy was expected, but India refused to give any date.

"We do not expect much trouble on electronic goods sourcing as we are well within our rights to take such measures for security reasons," the official said.

The ground, however, may be a bit wobbly when it comes to defending the requirements under the JNSSM that asks all investors to compulsorily use solar modules manufactured in India and source at least 30% of input locally.

The Trims does not allow any member to impose sourcing restrictions without ample justification. New Delhi is now waiting for the next Trims committee meeting to see what the US, the EU and Japan plan to do on the matter. "We are prepared to fight it till the end, and we will do so," the official said.

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Indian delegation in Pak to discuss export of power

Shishir Gupta, Hindustan Times

New Delhi, August 2, 2012: Taking small but sure steps in India-Pakistan ties, New Delhi sent a power ministry official delegation to Islamabad on Wednesday to negotiate the export of 500 megawatts across the Wagah border and work out the modalities for transmission of electricity to bridge demand and supply gap on either side.

This month, both countries have already had official-level talks on Indian export of petro products and liquefied natural gas to energy-starved Pakistan.

Government sources said an Indian delegation led by joint secretary (transmission) will be holding second round of talks on August 1 with her Pakistani counterparts to work out an agreement for transfer of 500 megawatts of power from Indian northern grid to a nearest point across the Wagah border.

If the two sides work out an agreement on the modalities of transfer, then the same could be signed during external affairs minister SM Krishna's three-day visit to Pakistan from September 7.

However, it will take more than a year for this proposal to fructify after the agreement as transmission lines would have to be laid across the border so that both countries could tap into each other's grid in case of a shortfall. While the transmission line link is yet to be finalised, the shortest and cheapest would be linking Amritsar to a Pakistani grid point near Lahore with installation of transformers on either side of the border.

Although the bilateral ties have lost momentum due to political instability in Pakistan, a team from Islamabad visited GAIL, Delhi, offices this month to explore the opportunity to import liquefied natural gas from India either through pipelines or through tankers. Another Indian petroleum ministry delegation was in Islamabad this month for export of petro products and import of naptha from the other side.

Official sources said that while LNG export is workable, the hitch in petrol, diesel and lubricants export to Pakistan is of prior commitments of Islamabad with Gulf countries.

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Govt starts probe into dumping of solar cells by China, US

PTI

2 December 2012, New Delhi: The government has initiated a probe into alleged dumping of solar cells by Malaysia, China, Chinese Taipei and the US following complaints by domestic players.

The Directorate General of Anti-Dumping and Allied Duties (DGAD) under the Commerce Ministry has begun an investigation as it "finds sufficient prima facie evidence of dumping" of the cell, originating in or exported from these countries, the ministry said in a notification."...(the DGAD would) determine the existence, degree and effect of any alleged dumping and to recommend the amount of anti-dumping duty, which if levied, would be adequate to remove the injury to the domestic industry," it said.

The Solar Manufacturer's Association has filed the application for investigation on behalf of Indosolar Ltd), Jupiter Solar Power and Websol Energy Systems Ltd.

The period of investigation is from January to December 2011. However, for the purpose of analysing injury, the data of previous three years of 2008-2009, 2009-2010 and 2010-2011 would also be considered, it added.

The action is against solar cells imported from these countries "whether or not assembled partially or fully in modules or panels".

Further, it said the applicant has requested for retrospective imposition of duty as the injury is claimed to be caused to the domestic industry by massive dumping of the cells in relatively short time.

Countries initiate an anti-dumping probe to determine whether their domestic industries have been hurt because of surge in cheap imports of any product. As a counter-measure, they impose duties under the multilateral regime of the WTO.

The duty is aimed at ensuring fair-trade practices and creating a level-playing field for domestic producers vis-a- vis foreign producers and exporters resorting to dumping.

Unlike the safeguard duty, which is levied in a uniform way, anti-dumping duty varies from product to product and country to country.

India has initiated 275 anti-dumping investigations between 1992 and March 2012, involving 42 countries.

The countries prominently figuring in anti-dumping investigations are China, Korea and Singapore and the major product categories on which anti-dumping duty has been levied are chemicals and petrochemicals, pharmaceutical, steel and consumer goods.

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Widening domestic sourcing net may hurt India's case

Amiti Sen, Business Line (The Hindu)

New Delhi, 11 February 2013: The US could have a stronger case against India at the World Trade Organisation (WTO) if the country goes ahead with its plans of covering more products under domestic sourcing norms in the second phase of the National Solar Mission.

In a response being framed on the draft rules for the second phase circulated by the Ministry of Non-renewable Energy recently, the Commerce Department has taken a view that inclusion of a larger number of items like thin films and solar cells under sourcing norms could spell trouble at the WTO, an official told *Business Line*.

The US filed a complaint with the Dispute Settlement Body of the WTO last week against domestic content requirement in the Jawaharlal Nehru National Solar Mission (JNSSM) which mandates that solar photovoltaic modules based on crystalline technology has to be sourced locally.

"The US is not actually bothered about domestic sourcing of solar modules as mandated under the first phase as most producers under the solar mission prefer to use thin films, which are cheaper and not covered under domestic sourcing. In fact, US companies are exporting a large amount of thin films for the solar mission," the official said.

The dispute raised by the US at the WTO against India is largely to prevent widening of the domestic sourcing net to include thin films that are much cheaper than crystalline modules but have shorter life-span. More than 60 per cent of projects under the solar mission have opted for importing thin films prompting the MNRE to close the loop-hole in policy and include thin films under domestic content requirement as well.

India's main argument in its defence is that domestic content requirement is applicable to grid solar power projects where procurement of solar power will be essentially done by the Government through public sector entity NTPC and thus would fall under the government procurement category. Since India is not part of the Government Procurement Agreement, it could impose any condition on Government procurement.

The argument, however, is not fool-proof as Government procurement is taking place only after solar power has been produced while the initial sourcing is being done by private companies. The greater the number of products that get covered under the procurement net, the weaker could be India's case, fear officials at the Commerce Department.

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US Lodges WTO Challenge Over India Renewable Energy Incentives

Bridges Weekly Trade News Digest

13 February 2013: The US has filed a formal challenge at the WTO regarding India's support policies for solar energy, Washington officials announced last week. At issue in the complaint is a local content requirement in the Asian country's national solar programme, which Washington claims discriminates against foreign solar equipment manufacturers in favour of their domestic counterparts.

The challenge comes amid growing questions over the degree to which countries can help support their burgeoning renewable energy sectors, particularly given the global trade arbiter's recent panel ruling regarding a similar programme in the Canadian province of Ontario. The Canada dispute, which had been tabled at the WTO by the EU and Japan and also involved a local content requirement, is currently facing appeals from all parties.

US officials have stressed that the India-focused complaint targets only the Asian nation's local content requirement, and not the overall objective of developing renewable energy sources.

"Let me be clear: the United States strongly supports the rapid deployment of solar energy around the world, including with India," US Trade Representative Ron Kirk said in announcing the US challenge. "Unfortunately, India's discriminatory policies in its national solar programme detract from that successful cooperation, raise the cost of clean energy, and undermine progress toward our shared objective."

The benefits of local content requirements (LCRs) have long been a controversial topic. While countries often pursue multiple policy objectives through LCRs 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.

India's programme - known formally as the Jawaharlal Nehru National Solar Mission (NSM) - was launched in 2010, with the goal of deploying 20,000 MW of solar panels through an interconnected grid by 2022. According to the country's Ministry of New and Renewable Energy, the scheme aims 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.

"The objective of the National Solar Mission is to establish India as a global leader in solar energy, by creating the policy conditions for its diffusion across the country as quickly as possible," according to the programme's mission statement.

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 polysilicon material that would allow for the production of approximately 2 GW capacity of solar cells annually.

Washington: Policy gives domestic producers unfair advantage

Under the current phase of India's programme, the US says, New Delhi has required developers of photovoltaic projects using crystalline silicon technology to use solar cells and modules made domestically.

“As a result, 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,” Washington says in its complaint, arguing that this violates the WTO’s rules on national treatment.

Washington also argues that the measure constitutes an illegal subsidy, due to it allegedly providing a subsidy that depends on the use of domestic goods over their imported counterparts.

Among other concerns, the US claims that the Indian measures at issue have not been appropriately notified, thus violating the Subsidies and Countervailing Measures (SCM) Agreement. In its consultations request, Washington also argues that the policies “appear to nullify or impair” the benefits due to the US directly or indirectly under this agreement, as well as the WTO’s General Agreement on Tariffs and Trade (GATT) and Trade-Related Investment Measures (TRIMS) Agreement.

The upcoming phase of the programme would extend the local content requirement to cover more types of equipment imports, which the Office of the USTR says is also cause for concern.

The planned changes to the scheme would involve expanding the NSM local content requirement to include solar thin film technologies, which make up most of the US’ solar exports to the Asian country. Over half of the projects under NSM have relied on imported thin films, which has been credited for prompting New Delhi to propose bringing these into the local content requirement.

Given that the majority of US solar exports involve solar film technologies, US companies are “not actually bothered by domestic sourcing of solar modules” under the current phase of the programme, one Indian trade official commented to The Hindu. The official speculated that the planned changes could have influenced the timing of the US complaint.

India responds

New Delhi officials quickly responded to Washington’s challenge, arguing that the requirement has not substantially reduced imports of equipment and that its policy is in line with WTO rules.

The domestic content provision has been applied to only “a few projects totaling 350 megawatts (MW),” Tarun Kapoor, joint secretary at the Ministry of New and Renewable Energy, told Reuters. India’s total capacity for solar generation is 1200 MW, compared to 18 MW three years ago when NSM was in its infancy. India is currently building 1000 MW of solar power plants and will soon be building an additional 2000 MW, the official added, noting that this new capacity will not be subject to a local content requirement.

In the past, India has also argued that the scheme qualifies as government procurement and is thus exempt from national treatment requirements, according to Reuters - an argument that New Delhi could potentially try to use if this case reaches the panel stage, some trade observers have speculated.

A similar argument was also made in Canada’s WTO row with the US and EU, only for a dispute panel to find that - while the Ontarian 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.

Next steps

The request for consultations is the first step in the WTO dispute settlement process. Should the parties to a dispute be unable to reach a resolution after 60 days of talks, the complainant may request the establishment of a panel to hear the complaint.

ICTSD reporting; "The Solar War Heats Up," THE HINDU, 11 February 2013; "Widening Domestic Sourcing Net May Hurt India's Case," THE HINDU, 11 February 2013; "India to consult its solar sector on domestic content issue," SEE NEWS, 11 February 2013; "India Denies Violating WTO Rules on Solar-Product Import," BLOOMBERG NEWS, 07 February 2013; "US Challenges India's Solar Program Restrictions at WTO," REUTERS, 06 February 2013.

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India needs to act fast on local content for Solar Mission

Richa Mishra & Amiti Sen, Business Line (The Hindu)

21 February 2013: The Ministries of Commerce and Industry and New and Renewable Energy are looking for an early solution that would enable use of more domestic products under the second phase of the Jawaharlal Nehru National Solar Mission without attracting more trouble at the World Trade Organisation.

Official sources told Business Line that MNRE was looking into the concerns expressed by the Commerce & Industry Ministry regarding mandating local sourcing of more products such as thin films and solar cells. The clock is ticking as the second phase of the Solar Mission is to take off from April.

"We have 30 days to respond and another 60 days to hold consultations. We would like to address the concerns raised by the Commerce Ministry," the official said.

India has already been dragged by the US to the WTO over phase I of the Mission that mandates local sourcing of the solar modules.

A cautious Commerce Ministry had expressed reservations on the draft circulated by MNRE proposing to expand local sourcing to more products under the second phase. In fact, the Commerce Ministry is peeved with the MNRE for not consulting it during phase I.

India and the US are already in consultations at the WTO over the ongoing dispute.

In fact, officials of the two Ministries have been holding meetings daily, over stance that will reflect the Government's position, official sources said.

Besides, at the WTO, it is the Commerce Ministry which will take the lead.

MNRE has defended the local content on the grounds that this was Government procurement which is allowed as India is not governed by the Government Procurement Act of the WTO.

But, the Commerce Ministry is apprehensive of questions being raised since the power ultimately will be sold to private consumers and is not limited to Government use. WTO requirement allows domestic sourcing strictly for Government use.

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No barrier to India biz, says US solar firm

M. Ramesh, Business Line (The Hindu)

Chennai, 1 March2013: In the background of the US government taking India to the World Trade Organisation over India's 'local content requirements' for solar power plants set up under Government of India programmes, US company First Solar has said it is not too bothered by such local content requirements.
(The government has mandated local content requirements for projects set up under the Jawaharlal Nehru National Solar Mission.)

Opportunity Areas

First Solar, which makes thin-film technology based solar cells and modules, and has about 20 per cent of the Indian market, told analysts a few days ago that it did not see the local content requirements as "a significant barrier to our goals for the marketplace."

Noting that there is hardly any production coming out of local producers, First Solar said that it saw "as much opportunity outside of the state-sponsored (Government of India-sponsored) programmes as much as we do inside those programmes." "There is very little production currently going on," James Hughes, CEO, COO and Director, First Solar, told an analyst, answering a question about thin-film module production in India.

Cost Issues

"So we don't spend a lot of out time and effort fretting about the local content requirements, although we do actively engage the government and make our view known," Hughes said.

First Solar says local content requirements would "only drive up cost for local markets and ultimately don't benefit the economy."

First Solar's statement seems to be consistent with the stand taken by the Ministry of New and Renewable Energy that the requirements apply to a very small part of the country's solar ambition — 20,000 MW of grid-connected and 2,000 MW of off-grid plants by 2020.

A large part of the vision comes from the programmes of the various States, none of which has prescribed local content requirements.

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U.S. Challenges India's Solar Energy Incentives at WTO: What's at Stake

Metis Energy Insider

7 March 2013: The transition to a clean energy economy is imperative not only to tackle the climate crisis, but also to spur development through new economic opportunities, new investment, and the creation of new green jobs. In seeking to capture these benefits, however, governments are increasingly turning to trade rules to challenge one others' domestic renewable energy industries, thereby undermining the global clean energy transition we all seek. Put simply, all governments must have the ability to develop domestic renewable energy industries to fight climate change and the entrenched fossil fuel industry behind the crisis.

In the most recent example, the United States has filed a case at the World Trade Organization (WTO) to challenge India's use of subsidies and "buy local" rules in its domestic solar program. This case exemplifies the misguided and harmful impacts of these challenges. It is particularly important because of India's potential as one of the world's largest solar markets and because of the local and global benefits to India's transitioning from fossil fuels to renewable energy.

In order to understand the importance of this case, it is important to first understand the progress that the Indian government has made in supporting solar. India's solar mission provides strong support to solar deployment and includes a goal of developing 20,000 megawatts of solar power capacity by 2022. A key objective of the program is to boost the capacity of India to domestically manufacture solar panels. To achieve this objective, the government of India has required Indian developers of solar photovoltaic ("PV") projects using crystalline silicon technology to buy solar modules manufactured in India in order to take advantage of the programs benefits, including subsidies and guaranteed long-term competitive rates for solar power. These requirements to purchase locally manufactured solar panels are referred to as domestic content rules.

The government of India initially exempted thin film solar cells -- lower efficiency solar panels used in large-scale industrial solar projects -- from the domestic content rules because of low domestic capacity to manufacture such cells. This loophole created an opening for foreign countries, including the United States and China, to export thin-film cells to India. The U.S. exports of thin film solar cells to India have been particularly successful thanks to low interest loans from the U.S. Overseas Private Investment Corporation and the Export-Import Bank.

The result is that foreign thin-film panels now dominate India's market. Whereas global thin film installations are a very small portion of total solar deployment, in India they are the vast majority. To correct this imbalance and protect India's solar manufacturers, India is now considering expanding the use of domestic content rules to thin-film technologies in the second phase of its program, which may curtail imports of U.S. solar panels to India.

Concerned about the impact that the potential expansion of India's domestic content rules to thin-film technologies would have on its exports, the United States filed a claim at the WTO. In its claim, the United States asserts that India's domestic content rules appear to have violated trade rules in the General Agreement on Trade and Tariffs, the Agreement on Trade-Related Investment Measures, and the Agreement on Subsidies and Countervailing Measures by allegedly providing more favorable treatment to domestic solar producers and products than to foreign ones.

According to WTO rules, the U.S. and India have 60 days to try to find a resolution. If no resolution is reached, the U.S. can then request the establishment of a WTO panel to determine whether India has violated trade rules. A recent WTO panel ruling which found that Ontario, Canada's domestic content rules in its renewable energy sectors violated trade rules does not bode well for India's case.

What's at Stake

Historically, as countries have industrialized, domestic content rules have been a standard policy tool used to foster, nurture, and grow their new industries. In this process, countries have sought to find the appropriate balance between allowing some degree of foreign competition while still protecting the new industry until it is internationally competitive.

In the case of India, allowing some degree of foreign competition may be important to stimulate its domestic companies to increase their efficiency and competitiveness. But, foreign competition must not undermine the ability of India to grow its own solar industry.

Here's why we think India must be in the driver's seat when it comes to determining the future of its renewable energy industry, and what is at stake in this case.

First, the growth and success of India's solar industry is being undermined by the power of its coal industry, which receives enormous subsidies and enjoys strong political backing in India. One way to challenge the power of the fossil fuel industry in India is to successfully develop a viable domestic renewable energy industry. The use of domestic content rules is one way to develop a domestic solar industry with skin in the game, which is necessary to counter the power of the fossil fuel industry.

Second, the presence of strong renewable energy industries in multiple countries, including India, can help spur competition and innovation that can ultimately drive down the global price of renewable energy technologies in the medium and long-term.

Third, local content rules can help increase the political support for renewable energy programs by generating multiple local benefits, including new investment opportunities in a growth industry, opportunities for technological innovation, job creation, and new sources of tax revenue. For a country like India, with hundreds of millions of people still living in poverty, these added benefits are critical.

And fourth, because our planet is at stake. Our global climate will remain in peril if only some countries develop renewable energy industries while others continue to rely on fossil fuels. There is absolutely no question that in order to avoid catastrophic climate impacts, all countries must be seriously investing in renewable energy technologies and transitioning away from fossil-fuels now. The global solar industry has seen significant gains in the last few years. In 2012, more than 100 gigawatts of solar PV were installed worldwide, breaking new records. Now is the time to encourage countries to keep developing their domestic solar capacity in order to tackle the climate crisis, not to slow this process with trade disputes.

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US doublespeak on solar sops bared

The Times of India

New Delhi, 18 March 2013: The US has dragged India to the World Trade Organization for its scheme to incentivize locally made solar cells, but an analysis shows that there are at least half-a-dozen American states that offer additional sops to equipment made or assembled within their jurisdiction.

The Jawaharlal Nehru Solar Mission (JNSM) requires investors to use locally-made solar modules and source 30% of the inputs from domestic sources, which the US has opposed.

It has also protested against the local manufacturing clause in telecom equipment as well, another issue which may be headed to the WTO's dispute panel.

But US states continue to incentivize local content.

For instance, the Self-Generation Incentive Program offers an additional 20% bonus for California-supplied products.

Similarly, Washington's Renewable Energy Cost Recovery Incentive Payment Program offers higher incentive to locally manufactured equipment.

New Jersey's Clean Energy Program offers an additional upfront incentive to encourage projects that use renewable energy systems or components manufactured or assembled in the state.

An additional $0.25 per watt (of capacity) is available for projects using NJ-manufactured or NJ-assembled equipment, such as inverters, solar PV modules, wind turbines or blades or sustainable biomass system components, says a 2009 document.

In Texas, Austin Energy's Solar PV Program, qualifying equipment that is manufactured or assembled in the utility's service area can earn higher incentive.

There is a similar benefit from CPS Energy, another electricity utility in the state.

The others on that list include Oregon and Massachusetts, said industry players but the information could not be located on the official websites of these states.
"WTO rules cover federal and sub-federal level incentives and subsidies," said Biswajit Dhar, director General of Research & Information Systems, a think tank.

Indian officials did not comment on the issue but from all available indications, New Delhi may confront US officials during a discussion at the WTO's dispute settlement body on Wednesday and Thursday, where the two trading partners are meeting to thrash out a solution to avoid a confrontation.

Officials said a part of the solar energy flows into the grid and helps meet the Millennium Development Goals on improvement in basic standards of living of the poor.

Of the 2.11 lakh mega watt energy in the country, less than 1,500 MW is produces via JNSM.

Double Standards?

US has traditionally preferred local goods through Buy American, Buy America laws. California, Washington, New Jersey, Texas, Oregon and Massachusetts offer sops for green energy goods made in these states.

The Indian government maintained there is nothing wrong with Jawaharlal Nehru Solar Mission.

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'Reconsider decision to drag India to WTO on solar energy'

PTI

Washington, 20 March 2013: A dozen odd eminent American and international organisations have asked the US to reconsider its decision to drag India to WTO over solar energy policy.

In a letter to US Trade Representative (USTR) today, these organisations have said that dragging India to World Trade Organisation (WTO) related to local content in solar panels would not only undercut New Delhi's effort to reduce poverty, but also detrimental to developing a solar energy industry.

"We are troubled that climate policy may increasingly be determined by the WTO and similar arenas based on unfair or inappropriate trade law, rather than on climate science and the real world necessities of building a green economy," these organisations told the USTR.

"We urge the United States to agree to a solution that allows India to support and build its domestic solar industry, just as we do at home," said the letter signed by 12 organisations.

The organisations are 350.org, Action Aid USA, Center for Biological Diversity, Center for Food Safety, Center for International Environmental Law, Earth Day Network, EcoEquity, Friends of the Earth US, Global Exchange, Greenpeace USA, Institute for Policy Studies, Global Economy Project and Sierra Club.

Regarding the case brought by the US at WTO challenging domestic content rules and subsidies in India's national solar programme, the Jawaharlal Nehru National Solar Mission (JNNSM), the letter said challenging this programme undercuts India's efforts to pursue appropriate economic development and reduce poverty and to take urgently needed steps to tackle the pressing and shared challenge of climate change.

"We understand that the Office of the US Trade Representative is concerned about the expansion of India's domestic content rules to thin film solar technologies, which currently comprise the majority of US solar exports to India," it said.

While it is critical to support and build a US solar industry, the development of US solar industry should not come at the expense of India's ability to develop its solar industry, the organisations added.

"Domestic content rules have been a vital policy tool used to foster, nurture, and grow new industries throughout history and can be used today to build and support renewable energy industries.

Particularly in the context of the substantial challenges posed by climate change-- most recently highlighted by President Barack Obama in his inaugural and State of the Union addresses--it is critical that countries have every tool at their disposal to transition to clean renewable sources of energy, such as wind and solar power," the letter said.

India's ability to grow a domestic solar industry is critical for several vital reasons, the organisations said in the letter.

"First, the development of a viable domestic renewable energy industry is a way to increase the share of the energy market available to renewable energy. Currently, the energy market in India, and the financing available to it, is dedicated to fossil fuels.

"The use of domestic content rules can play an important role in developing a domestic solar industry and in diversifying the country's energy portfolio," it said.

"Second, domestic content rules can increase political support for clean energy programmes by generating local benefits such as new investment opportunities and green jobs.

"Ensuring that a significant proportion of these benefits remain in India is critical not only to addressing climate change, but to reducing poverty in India," the letter said.

"Finally, and most important, the ability of India to grow a domestic solar industry is critical to global efforts to tackle climate change. Our global climate will remain in danger if only some countries develop renewable energy industries while others continue to rely on fossil fuels.

"In order to avoid catastrophic climate impacts, all countries must urgently be investing in renewable energy technologies," it said.

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Green Groups Urge U.S. to Back Off Indian Solar Trade Case

Doug Palmer, Reuters

5 April 2013: U.S. environmental groups are pressing President Barack Obama's administration to back off a World Trade Organization case against India they say threatens the ability of the world's second most populous country to cut greenhouse gas emissions.

"We're really worried about this proliferation of trade cases on renewable energy," Ilana Solomon, trade representative for the Sierra Club, said in an interview on Thursday.

"With the climate crisis upon us, governments should have every tool at their disposal to incentivize renewable energy" and cut use of fossil fuels, Solomon said.

The U.S. Trade Representative's office in early February asked India for WTO consultations on its national solar program, the Jawaharal Nehru National Solar Mission.

That programme, launched in 2010, appears to discriminate against U.S. solar equipment by requiring solar energy producers to use Indian-manufactured solar cells and modules and by offering subsidies to those developers for using domestic equipment instead of imports, the USTR said.

That violates a core WTO principle that requires countries to treat foreign goods and services the same way they treat domestic goods and services, U.S. trade officials have said.

With the formal 60-day consultation period ending on Sunday and no sign of a deal, USTR could soon ask for a WTO dispute settlement panel to hear its complaint.

Andrea Mead, a spokeswoman for the USTR, declined to comment on the trade office's next step, but said there were better ways for India to support its solar energy sector.

"Countries have a wide range of policy tools available to promote increased reliance on clean energy that are far more effective than local content rules, and that do not unfairly discriminate against U.S. workers and businesses," she said.

The Sierra Club, Greenpeace USA and ten other environmental groups sent a letter in March to acting U.S. Trade Representative Demetrios Marantis expressing "deep concern" about the case.

"We urge the United States to agree to a solution that allows India to support and build its domestic solar industry, just as we do at home," the groups said.

India has argued that its solar policy measures are legal under WTO government procurement rules that permit countries to exempt projects from non-discrimination obligations.

But cases challenging local content rules have received a boost since the WTO ruled against Canada's requirements for a green energy plan in Ontario province. Canada has appealed that case, brought by Japan and the EU.

"There's a problem with the existing WTO rules from our perspective," Solomon said. "It is very difficult to design a program with domestic content rules at this point, despite the fact that domestic content rules have been used by industrial countries throughout history to develop new emerging industries," she said.

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India Targets More U.S. State Renewable Energy Programs

Daniel Pruzin, WTO Reporter

Geneva, 19 April 2013: India has identified an additional four U.S. state programs for the promotion of renewable energy that it says might be offering illegal subsidies in violation of World Trade Organization rules.

In a communication circulated to WTO members April 18, India said it was “concerned” that solar energy incentive programs in the states of Delaware, Minnesota, Massachusetts, and Connecticut “have provisions relating to local or domestic content requirements which raises issues of consistency with Article 3.2 (and) Article 3.1 (b)” of the WTO's Agreement on Subsidies and Countervailing Measures (SCM).

India said there were also “issues of consistency” with the WTO's Agreement on Trade-Related Investment Measures (TRIMs) and the General Agreement on Tariffs and Trade.

Two provisions of the SCM Agreement prohibit WTO member countries from providing subsidies contingent on the use of domestic over imported goods.

India's latest claims follow accusations circulated April 17 that incentive programs for the renewable energy sector in the states of Michigan and California and the cities of Los Angeles and Austin, Texas, may also be illegal under WTO rules because of domestic content requirements (75 WTO, 4/18/13).

India also charged April 17 that water utilities in South Carolina, Pennsylvania, West Virginia, and several New England states have been mandating domestic content for equipment use in water projects.

The Indian accusations come in the wake of a U.S. decision Feb. 6 to initiate WTO dispute proceedings to address what Washington charges are illegal domestic content requirements in India's national solar energy program (26 WTO, 2/7/13).

Dispute Follows Ontario Violations

In a separate complaint filed by the European Union and Japan, a WTO dispute panel ruled Dec. 19 that domestic content requirements in the Canadian province of Ontario's Feed-In-Tariff (FIT) program violated WTO rules (244 WTO, 12/20/12). The program requires renewable energy producers to meet a “Minimum Required Domestic Content Level” in the development and construction of electricity generation facilities.

Canada has appealed the ruling; a decision from the WTO's Appellate Body is due by May 6.

India asked the United States to provide information regarding the programs in Delaware, Minnesota, Massachusetts, and Connecticut as well as to provide information on any state, regional or local level renewable energy programs providing incentives contingent upon compliance with domestic content requirements.

The Indian claims are due to be raised at the next meeting of the WTO's SCM committee scheduled for April 22.

India notes that Delaware's Solar Renewable Energy Credits program grants energy suppliers an additional 10 percent credit toward meeting mandated requirements if at least 50 percent of the cost of the renewable energy equipment is sourced in the state.

Minnesota's Xcel Energy-Solar Rewards Program and MN Made PV Rebate Program require that solar photovoltaic module qualifying for incentives be manufactured in the state. Likewise the Commonwealth Solar II Photovoltaic Rebate Program in Massachusetts conditions the granting of rebates on solar modules being manufactured by a company with a “significant” Massachusetts presence.

Connecticut's Residential Solar Investment Program allows the state's Public Utilities Regulatory Authority to provide additional incentives for the use of major system components manufactured or assembled in Connecticut, India added.

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Some solar projects may escape local content rule

Richa Mishra, Business Line (The Hindu)

New Delhi, 21 April 2013: The Ministry for New and Renewable Energy proposes to have two categories of projects under the Jawaharlal Nehru National Solar Mission — one with mandated domestic content and the other allowing use of imported equipment.

To participate in the National Solar Mission, developers have to buy solar cells and modules from domestic manufacturers and sign power purchase agreements with power plants under the mission. In return, they receive benefits including subsidies through guaranteed long-term power tariffs.

US Pressure

By having two categories, the Ministry seems to have found a way to stave off US pressure not to bring in more products under the draft guidelines that mandate use of domestic equipment.

Off-grid projects under Batch I of the second phase began from April 1, and tenders for grid-connected projects will be out next month.

While all approvals are in place to rollout grid-connected projects under the second phase, guidelines spelling out the domestic content requirement still need to be formalised.

The second phase will be in two batches as the capacity is high — 3,000 MW.

The earlier proposal bringing more items, such as thin films and solar cells, under the domestic sourcing requirement had so irked the US that it had filed a complaint with the Dispute Settlement Body of the World Trade Organisation against the mandate that crystalline solar photovoltaic modules had to be sourced locally.

Tarun Kapoor, Joint Secretary (Solar), MNRE, said the Ministry was yet to firm up how much of the 750 MW being tendered would fall under the domestic content norm.

He said WTO norms were not being violated under the Solar Mission.

One of the Mission's main objectives is to promote domestic manufacturing in the sector, which is why certain domestic content requirements were made mandatory in various schemes under Phase I. In the second phase, the domestic sourcing content is being expanded.

At the 4th Clean Energy Ministerial, Prime Minister Manmohan Singh had said that "as we expand our reliance on solar energy, we are keen to ensure induction of the best technology and also encourage domestic production of the equipment needed.

Large Market

"India is potentially a large market for production of such equipment. It is also a potentially competitive attractive production base for supplying to other countries. We, therefore, encourage global manufacturers to set up production facilities in this area."

Following the launch of the mission in 2010, the domestic manufacturing capacity of SPV cells and modules has increased from about 200 MW to 2,000 MW. The sourcing of power generated from projects in the second phase will be done by Solar Energy Corporation, which has been formed primarily to execute the mission.

For the first phase, NTPC Vidyut Vyapar Nigam, the trading arm of NTPC, was designated as the nodal agency for sale and purchase of grid-connected solar power.

The first phase of the mission, which concludes on March 31, has 1,500 MW of installed capacity till now.

This includes States' capacity and migrant projects. An additional 10,000 MW will be implemented by the end of 12th Plan ending 2017.

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India worried over WTO's verdict on Ontario solar case

Richa Mishra & Amiti Sen, Business Line (The Hindu)

New Delhi, 19 May 2013: The World Trade Organization's (WTO) recent ruling against Ontario's domestic content requirements for renewable energy projects is setback for India, which is defending a similar case filed against it by the US.

But the country has not given up hopes of a favourable verdict, as it believes that the finer details of its case are different.

"Our situation is very different from Ontario's. In our case, production is for Government procurement, which cannot be brought under WTO discipline. Besides, in phase-II of the solar mission, we propose to divide the 750 MW capacity put on offer into two. Some projects would mandate domestic content, and some would be open for use of imported products," a senior official from the Ministry for New & Renewable Energy *told Business Line*.

The Commerce Department, which represents the country at the WTO, is analysing the details of the Ontario verdict.

"We are at the moment going through the judgement as we want to be clear about how the WTO arrived at its decision. This will help us fight our case better," a Commerce Department official said.

In February, the US filed a complaint with the Dispute Settlement Body of WTO against domestic content requirement in the Jawaharlal Nehru National Solar Mission (JNSSM), which mandates that solar photovoltaic modules based on crystalline technology have to be sourced locally. As per WTO rules, members cannot impose such conditions on investors.

India has so far argued in the WTO that as the power produced under the mission will be bought by NTPC, a public sector unit, it amounted to Government procurement, which does not fall under the ambit of WTO rules.

India is not a signatory to the Government Procurement Agreement of WTO, a plurilateral agreement that has just a few countries as members.

The US is hopeful that by successfully fighting its case at the WTO, it will manage to foil India's plans of extending the local content requirement to solar thin films, most of which are supplied by US companies, in the second phase of the mission beginning this year.

The Indian industry is, understandably, worried that removal of domestic content requirement could lead to foreign manufacturers benefiting from it at the cost of local producers.

"The core issue remains that any dilution of the domestic content requirement under the solar mission sets up perverse behaviour in the market place due to current global supply dynamics where value leaks out to exporters in the US and Asia," said Ajay Goel, CEO, TATA Power Solar.

Most Indian manufacturers continue to operate at less than 25 per cent capacity utilisation and incur huge losses.

In 2013, analysts expect there would be close to 1 GW worth of project installations in India, out of which only 10-15 per cent will use domestically made cells and modules, even though the domestic industry has a capacity to provide 100 per cent of these installations.

According to Raj Prabhu, CEO, Mercom Capital Group, India should amicably settle its dispute with the US and should help the domestic industry in other ways.

“The focus should be on creating a conducive investment environment with an eye on demand creation,” he added.

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Solar players upbeat over EU action against China

M. Ramesh, Business Line (The Hindu)

Chennai, 14 June 2013: Indian solar cell and module manufacturers are enthused by two developments in the last few days.

First, the European Union's action of imposing anti-dumping duty on solar panels imported from China has raised expectations that the Indian government will follow suit. (India has initiated anti-dumping investigations against companies in China, the US, Taiwan and Malaysia.)

Domestic content

Second, the Minister for New and Renewable Energy, Dr Farooq Abdullah, said on Wednesday that of the 750 MW to be tendered for bidding in Phase II of the National Solar Mission, 75 per cent would come under 'Domestic Content Requirement'— which means these solar plants will have to use locally produced modules.

"It was a pleasant surprise," said H.R. Gupta, MD, Indo Solar, a company that manufactures solar modules. Only a few days earlier, Gupta was lamenting about the sorry state of solar equipment manufacturers and how unfettered imports would ring the industry's death knell.

The Minister's statement about the 75 per cent DCR is yet to find mention in any policy document but the industry is enthused by the Minister's statement.

The Indian Solar Manufacturers Association had been demanding 100 per cent DCR in Phase II of the Solar Mission, but is now saying 75 per cent is not too bad.

"Some life will be brought back into the Indian industry," said Narender Surana, MD, Surana Ventures Ltd, both a manufacturer of modules and developer of solar projects.

Europe to rescue

Against this backdrop, developments in far away Europe have also brought cheer to the Indian industry. Last week, the EU imposed duties of 11.8 per cent on all Chinese solar panel imports for two months. From August 6, the duties go up to 47.6 per cent.

The European Trade Commissioner, Karel De Gucht, said that in his estimate "the fair sale price of a Chinese solar panel would actually be 88 per cent higher than the current price for which they are sold on the European market."

Surana feels that the EU action will result in European developers buying from India. "I am getting at least one enquiry each day," he said.

From the other side of the fence, Pashupathy Gopalan, Managing Director, SunEdison, a US-headquartered solar power company, says that mandated local purchase will raise the prices of solar power, "but if the government feels that that is the price to be paid for developing a solar manufacturing industry, so be it."

However, the government should be consistent in its approach, Gopalan feels. For instance, if the local content requirement is fixed at a level for a large capacity, then the industry will figure out how to deal with it. Gopalan also feels that solar power producers to buy locally produced modules, but the module manufacturers should be allowed to import cells.

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