



Australian Government
Anti-Dumping Commission

PUBLIC RECORD

INVESTIGATION 239

ALLEGED DUMPING OF CERTAIN CRYSTALLINE SILICON PHOTOVOLTAIC MODULES OR PANELS

EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA

VISIT REPORT - IMPORTER

TRUE VALUE SOLAR PTY LTD

**THIS REPORT AND THE VIEWS OR RECOMMENDATIONS CONTAINED THEREIN
WILL BE REVIEWED BY THE CASE MANAGEMENT TEAM AND MAY NOT REFLECT
THE FINAL POSITION OF THE ANTI-DUMPING COMMISSION**

June 2014

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ABBREVIATIONS

\$	Australian dollars
The Act	<i>Customs Act 1901</i>
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
CIF	Cost, insurance and freight
Commission	Anti-Dumping Commission
EBIT	Earnings before Interest and Tax
FOB	Free On Board
GAAP	Generally accepted accounting principles
NIP	Non-injurious Price
PAD	Preliminary Affirmative Determination
SEF	Statement of Essential Facts
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	the Parliamentary Secretary to the Minister for Industry
USP	Unsuppressed Selling Price

1 BACKGROUND AND PURPOSE

1.1 The Application

On 4 February 2014, Tindo Manufacturing Pty Ltd (“Tindo”)(also known as the “Australian Industry”) lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice in respect of certain crystalline silicon photovoltaic (“PV”) modules or panels exported to Australia from China.

In the application Tindo alleged that it had suffered material injury caused by certain PV modules or panels exported to Australia from China at dumped prices.

The applicant claims the industry had been injured through:

- lost sales revenue;
- price depression;
- price suppression;
- loss of profit; and
- reduced profitability.

On 14 May 2014, the Anti-Dumping Commissioner (the Commissioner) initiated an investigation in the alleged dumping of PV modules or panels (the goods) exporter to Australia from China. Public notification of the initiation of the investigation was made on 14 May 2014 in *The Australian* newspaper and through the Anti-Dumping Notice No. 2014/38.

1.2 Previous investigations

There have been no recent dumping investigations in respect of PV modules or panels exporter to Australia from China

1.3 Meeting

Following the initiation of the investigation, a search of the Australian Customs and Border Protection Service’s (ACBPS) import database indicated that True Value Solar Pty Ltd (hereafter referred to as True Value) imported goods under investigation from China during the investigation period 1 July 2012 to 31 December 2013 (the investigation period). The ACBPS import database also confirmed that True Value was a major importer of PV modules or panels.

On 14 May 2014, the Anti-Dumping Commission (the Commission) notified True Value of the initiation of the investigation and sought its cooperation with the investigation and provided an Importer Questionnaire in respect of PV modules or panels, to complete. True Value was also provided with a list of its imports of PV modules or panels during the investigation period, extracted from the ACBPS’s import database, with selected consignments for further verification to source documentation.

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True Value completed the Importer Questionnaire, providing background and details regarding the company, overseas supplier information, imports and importation and selling expenses. A copy of True Value's Importer Questionnaire response is at **Confidential Attachment GEN 1.**

1.4 Purpose of visit

The purpose of the visit was to:

- confirm that True Value is the importer of certain PV modules or panels (the goods) and to obtain information to assist in establishing the identity of the exporter(s) of the goods;
- verify information on imports of the goods to assist in the determination of export prices;
- establish whether the purchases of the goods were arms-length transactions;
- establish post-exportation costs;
- identify sales and customers and verify sales volume, selling prices and selling costs;
- obtain general information about the Australian market for the goods; and
- provide the company with an opportunity to discuss any issues it believed relevant to the investigation.

1.5 Visit

Company	True Value Solar Pty Ltd, 8/170-180 Rooks Road, Vermont VIC 3133
Dates of visit	27 June 2014

The following were present at various stages of the meetings.

True Value Solar Pty Ltd	Leon Siebel – Group General Manager Steve Tamvakis – Financial Controller Moin Ul-Haq – Senior Business Advisor
PricewaterhouseCoopers	Bill Cole – Director, International Trade & Excise Alice Barclay – Senior Consultant, Tax & Legal
the Commission	Joanne Reid – Special Advisor Con Soumbassis – Senior Investigator Chris Kunaratnam – Senior Investigator

1.6 Investigation process and timeframes

We advised the company of the investigation process and timeframes as follows.

- the investigation period is from 1 July 2012 to 31 December 2013;

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- the injury analysis period is from 1 January 2010 to 31 December 2013 for the purpose of analysing the condition of the Australian industry;
- a preliminary affirmative determination (PAD) may be made no earlier than day 60 of the investigation (13 July 2014) and provisional measures may be imposed at the time of the PAD or at any time after the PAD has been made. We advised that the Commission would not make a PAD until it becomes satisfied that there appears to be, or that it appears there will be, sufficient grounds for the publication of a dumping duty notice and/or a countervailing duty notice;
- the Statement of Essential Facts (SEF) for the investigation was due to be placed on the public record by 1 September 2014. The Commission published Anti-Dumping Notice number 2014/77 on 1 September 2014, which stated that the Parliamentary Secretary has approved an extension to the SEF date. The SEF will now be placed on the public record by 5 November 2014 or such later date allowed by the Parliamentary Secretary under s.269ZHI of the Customs Act 1901 (the Act);
- the SEF will set out the material findings of fact on which the Commission intends to base its recommendations to the Parliamentary Secretary, and will invite interested parties to respond, within 20 days, to the issues raised therein;
- following receipt and consideration of submissions made in response to the SEF, the Commission will provide its final report and recommendations to the Parliamentary Secretary; and
- the final report is now due on or before 20 December 2014, unless further extension to the SEF or final report is approved by the Parliamentary Secretary.

True Value was co-operative and had most of the required documentation available for the meeting. It provided some further information requirements post the meeting.

1.7 Visit report

We explained to the company that we would prepare a report of our visit (this report) and provide it to the company to review its factual accuracy, and to identify those parts of the report it considers to be confidential.

We explained that, in consultation with the company, we would prepare a Public Record version of the report, and place this on the investigation's Public File.

2 THE GOODS

2.1 Description

The goods the subject of the application (the goods) are:

Certain crystalline silicon photovoltaic modules or panels, whether exported assembled or unassembled, and whether or not they have an inverter, capable of producing any power in terms of watt.

Exclusions:

The following product types are excluded from the application:

- cells and wafers of the type used in PV modules or panels;
- solar chargers that consist of less than six cells, are portable and supply electricity to devices or charge batteries; and
- PV products that are permanently integrated into electrical goods, where the function of the electrical goods is other than power generation, and where these electrical goods consume the electricity generated by the integrated crystalline silicon photovoltaic cell(s).

The application contains the following additional information in relation to the goods the subject to the application.

A PV module is a packaged, connected assembly of PV cells. A PV cell is an electrical device that converts the energy of light directly into electricity by the photo-electric effect. It is a form of photoelectric cell which, when exposed to light, can generate and support an electric current without being attached to any external voltage source, but does require an external load for power consumption.

The two key species of silicon crystalline cells in commercial use are poly crystalline (also known as multi crystalline) and mono crystalline cells. Both PV modules composed of poly crystalline and mono crystalline silicon cells are the goods the subject of this application.

A PV panel (or array) is a set of PV modules electrically connected and mounted on a supporting structure. The PV module can be used as a component of a larger PV system to generate and supply electricity in commercial and residential applications.

The two forms of power generated by the two different types of PV modules or panels are alternating current (AC) and direct current (DC). The AC modules or panels are ready to be plugged into the grid by use of an on-board micro-inverter, while the DC PV modules or panels need to be connected to a separate inverter that converts the electricity generated to AC power. Both AC and DC PV modules and panels are included in the description of the goods.

2.2 Tariff classification

The goods are classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995:

- 8541.40.00, statistical code 53;
- 8501.61.00, statistical codes 33 and 24;
- 8501.62.00, statistical code 34;
- 8501.63.00, statistical code 40; and
- 8501.64.00, statistical code 41.

The ACBPS' tariff branch has advised the Commission that the goods can be imported under tariff classifications 8541 and 8501. The Commission notes that the goods under consideration are defined by the description, not the tariff classification.

The rate of Customs duty payable under each of the tariff subheadings is as follows:

- 8541.40.00 (statistical code 53); 8501.63.00 (statistical code 40) and 8501.64.00 (statistical code 41) are duty free; and
- 8501.61.00 (statistical codes 33 and 24) and 8501.62.00 (statistical code 34) have a duty rate of 5 per cent for all countries except for DCS countries (4 per cent) and DCT (5 per cent). China is defined as DCS therefore duty is payable at the rate of 4 per cent.

There is currently no tariff concession order (TCO) applicable to the goods.

2.3 Like goods

True Value stated that majority of the PV modules or panels imported into Australia are DC Poly-crystalline modules.

True Value mainly sells DC modules (█%), which are mass-produced in China and do not have a built-in micro-inverter. It claimed that AC modules (ie with the in-built micro-inverter) as sold by the Australian industry, are more expensive to manufacture and hence more expensive to consumers. AC modules are however more energy effective and flexible as they can be installed on most roofs.

3 COMPANY DETAILS

3.1 Company Background

True Value commenced operations in 2009 with the commencement of the various state government tariff schemes, around Australia.

True Value is a wholly owned subsidiary of M + W Group

[REDACTED]. According to its website, M + W Group is based in Germany and undertakes projects, globally.

[REDACTED] [Relationship between True Value and M+W]

True Value's head office is based in Vermont, Victoria and it has around [REDACTED] employees in all states of Australia.

[REDACTED] [True value company structure]

At the verification visit, True Value provided a presentation outlining the company's business background and details of its operations. It advised the Commission that it was the largest solar company in Australia (**Confidential Attachment GEN 2**).

3.2 Accounting structure and details of accounting systems

True Value previously used [REDACTED] as its accounting system, but now uses [REDACTED] producing financial statements, purchase orders, inventory control and [REDACTED] for customer and sales information.

Its financial year is from 1 January to 31 December. The latest audited financial statements available are as at 31 December 2012. We were also provided with management accounts for the 12 months to December 2013 (**Confidential Attachments SALES 2 and 3**).

3.3 Relationship with suppliers and customers

3.3.1 Suppliers

The ACBPS import database indicated that True Value imported [REDACTED] PV modules or panels from Chinese suppliers during the investigation period.

Prior to the visit, True Value confirmed that the total volume of PV modules or panels imported by the company correctly reconciled with the ACBPS import database.

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The total quantity of PV modules or panels imported by True Value during the investigation period from each supplier is summarised in the following table:

Supplier	Volume (units of PV module s or panels)	Percenta ge
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Previously True Value sourced panels from many suppliers to meet its large demand requests but it is now trying to consolidate the number of its suppliers. Its two main suppliers, being [REDACTED] no w provide around [REDACTED] % of its panels with other suppliers during the investigation period being [REDACTED] [Internal company structure]

With regards to warranties, True Value advised that the suppliers were responsible for warranties. True Value advised that it had had no or minimal warranty claims. It stated that of around [REDACTED] panels sold annually it might incur warranty claims on less than [REDACTED]

True Value advised that all transactions with its suppliers were at an arm's length basis. We did not find any evidence that suggested otherwise.

3.3.2 Customers

During the Investigation Period, True Value sold [REDACTED] panels in over [REDACTED] individual sales with a total value of \$ [REDACTED]

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In its responses to the importer questionnaire, True Value provided all sales of PV modules or panels during the investigation period.

True Value considers itself to be a retailer, as it deals directly with its customers. It advised that the majority of its sales were to residential customers with systems of less than 5kW. Commercial sales comprised █% of all sales by revenue and volume and were usually for systems greater than 5kW. A breakdown of sales according to the number of panels sold in individual sale transactions is detailed below:

No. of panels sold	% of total quantity
█	█
█	█
█	█
█	█
█	█

It can be seen from the above table that the majority of sale transactions are for █, which implies that they are largely sold for general residential use █
█ [Customers]

True Value stated that it only supplies DC PV modules or panels in the Australian market. If requested by customers, True Value can also provide inverters.

True Value has █ [Number] Franchisees, which contribute approximately █ of total group revenue. They are based in regional areas (Albury, Bendigo etc). True Value provides the brand name, sells the panels at wholesale rates, assists with marketing and provides the warranties. A separate company, True Value Solar Franchise Pty Ltd, operates the franchises. Franchise sales are not included in the Importer Questionnaire – Part C (**Confidential Attachment GEN3**).

True Value believes it is a █ with regards to price and that the market was more of a driver than the cost of goods sold.

█ [Pricing strategy]

For the financial year ended 31 December 2013 (FY2013), the average customer spend per kW was █ Gross profit per kW was \$ █ the average panel price per kW was \$ █ and the average inverter cost per kW was \$ █ (**Confidential Attachment SALES 3**).

True Value has recently started to market LED lights as part of a 'cleaner/ greener' package with the PV panels, to customers.

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[Pricing strategy]

True Value considers [redacted] and [redacted] to be its main competitors at the moment.

True Value advised that as far as it was aware, none of its customers purchased PV modules or panels from the Australian industry.

4 AUSTRALIAN MARKET

4.1 General

Typical direct retail sales are driven by direct advertising via electronic and print media. True Value advertises and sells fully installed PV packages which consist of the PV panels, mount railings, an inverter (together called a “kit”), installation and other consumables and the cost of physical installation.

True Value mainly sells DC PV panels which do not have a built-in micro-inverter. Kits are sold separately. Around █% of True Value’s sales are of the 250W module. True Value commented that suppliers in China only manufacture 300W modules by special orders. True Value required 270W modules as per Customer request as a once only, for a commercial project.

The company uses a “█” strategy

█

[Pricing strategy] The package cost to customers is quoted after government rebates like the Small-scale Technology Certificates (STC’s) (see section 4.2 below).

True Value advised that when a customer seeks to purchase a package,

█

█ the installation and related costs remain an estimate until the site can be inspected and installation complexity verified. █

4.1.1 Distribution

Installers usually come to True Value’s warehouses and pick up the whole kit, which is then assembled on the customer’s site.

Orders / sales of greater than █ are managed by the company’s commercial team and are processed in a similar fashion, however these sales are likely to include face to face and relationship selling.

Sales to franchisees are made on an as ordered basis and are typically also for packages. As the franchisee receives customer orders, they place a █ stock order with True Value and typically pick these stock orders order from True Value’s distribution centre on the █.

4.1.2 Date of sale

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True Value's sales are booked at the [redacted].

It advised that it has a significant amount of [redacted]. The company advised that approximately [redacted] % of orders

"[redacted]
[redacted]
[redacted] [sales]

4.2 Commissions, rebates

STC's [redacted] in return for a lower total invoice price. The company then package these certificates and process them to form rebate income. The company estimates that these rebates account for approximately [redacted] % of the sales revenue, but noted that percentage had fallen since 2012, where income accounted for approximately [redacted] % of sales revenue. [redacted]

4.3 Verification to source documents

As a part of its responses to the importer questionnaire, True Value provided a line-by-line listing of all sales of PV modules during the investigation period (**Confidential Attachment GEN 3**).

The Commission selected ten invoices from the sales listing for verification and asked that True Value supply the following source documents:

- copies of the invoices, and
- proof of payment.

The source documents are at **Confidential Attachment SALES 4**.

True Value has supplied this information and the Commission has verified the details of these documents against the sales listing provided.

Customer name	Invoice number	Invoice date	Total invoiced price
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]

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[REDACTED]

Of the ten invoices, the Commission found one minor discrepancy ([REDACTED] - where the payment did not match the invoice price) which True Value subsequently clarified.

We noted that on the invoices, the price was for a whole package price and that it did not break-down the invoice price between panels, inverters and mounting/installation equipment.

4.4 Upwards sales verification

The Commission also asked for copies of the audited financial statements for upward verification of the sales listing. As the investigation is over an 18 month period (1 July 2012 to 30 June 2013), the commission sought to verify one complete financial year.

As the company's financial year is from January 1 to December 31, the Commission sought to verify the sales data supplied for the 2013 financial year.

Audited financial accounts were not available at the time of the visit; however the company supplied management reports. The Commission found that the sales data supplied as Part C for the 2013 financial year of \$ [REDACTED] reconciled back to "Customer payments installed" of \$ [REDACTED] in the Management reports to within a reasonable and acceptable level (variance of 0.13%) **(Confidential Attachment Sales 3)**.

4.5 Profitability of sales

As outlined in 4.1 above, True Value sells installed bundled products. Although the company is able to strip out the installation costs, the components of an installation (PV panels, mounting rails, inverter and consumables) cannot be separated for a profitability analysis of the PV panels alone.

[REDACTED]

Given the sales and margin model used by True Value and given that the PV packages comprise the vast amount of revenue to True Value; the Commission considers it reasonable to look at overall company profitability to assess whether the sales are profitable and at arm's length.

The Commission reviewed the 2013 financial year management reports for profitability and found that the company reported an EBIT of \$ [REDACTED].

Further we noted from the management accounts, that the average Panel price per kW for the 12 months to December 2013 was \$ [REDACTED] and that Panels comprised some [REDACTED]% of Revenue and average Customer Spend per kW. This further indicates that the sale of Panels is profitable to True Value **(Confidential Attachment SALES 3)**.

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We are therefore satisfied that all sales of PV modules or panels during the investigation period were profitable.

5 IMPORTS

5.1 Background

True Value imported [REDACTED] PV modules or panels in the investigation period and sold [REDACTED] PV modules or panels in the same period. At the meeting, True Value explained that the difference between the number of PV modules imported and sold in Australia during the investigation period is due to True Value, in addition to directly importing the goods under consideration from China, also purchasing PV modules or panels from Australian distributors that sourced the goods from Chinese suppliers. Around [REDACTED] of True Value's total sales were sourced from Australia.

A list of all importations during the investigation period for True Value is at **Confidential Attachment IMP 1**.

During the investigation period, some [REDACTED] of total imports were mono-crystalline and the remaining were poly-crystalline PV modules or panels. True Value's import data trend indicated that the move towards poly-crystalline products commenced in early 2013 with mono-crystalline cells largely sold in the earlier part of the investigation period. This is consistent with the Australian market, which now prefers multi (poly)-crystalline cells to the mono-crystalline cells. This is because the multi-crystalline cells have higher energy efficiency rate, are cheaper and are more effective than mono-crystalline cells (**Confidential Attachment IMP 1**).

5.2 Ordering process and price

[REDACTED]

g process]

True Value also orders supplies from [REDACTED] farm in Australia, where the turnaround time is one week. Supplies from [REDACTED] [supplier's name] local subsidiary are on the same terms and conditions as the panels from China. All purchases

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during the investigation period were in USD or EUR with True Value bearing any foreign exchange risk.

On the visit, True Value advised that [redacted]

[redacted] [supplier names] with its poly-crystalline modules is currently True Value's preferred panel product. It currently comprises some [redacted] of True Value's sales and True Value expects sales of this [redacted] product to grow.

- The premium poly-crystalline product offered by True Value is supplied by [redacted] [supplier name]. For such stock, the price is on [redacted] basis. The Commission has viewed a copy of [redacted] for modules: True Value will order [redacted] from [redacted] starting from September/ October 2013, continuously for 6 months. The [redacted] unit price is USD [redacted] to an Australian port.

for micro-inverters: shipments of approximately [redacted] units per month. The price is USD [redacted] which includes the end cables and connectors. [redacted] If the PV market situation in Australia changes significantly, then both parties are able to re-negotiate the Agreement (**Confidential Attachment SALES 5**).

True Value advised that in the last few years, it has not imported many micro-invertors. AC modules are considered to be the premium end of the market. They are more efficient and preferred by commercial customers, however are only sold by True Value on an ad hoc basis. They comprise less than [redacted]% of total sales.

Payment terms are usually a [redacted]% deposit with the rest payable within [redacted] days of the bill of lading date.

5.3 Forward orders

Supplier	Shipping Terms	Expected Arrival Date	Quantity	Product
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]

The total Forward Orders of [redacted] panels are approximately one month's import requirements for True Value [redacted]

5.4 Verification of imports

Prior to our visit, the Commission selected the following 10 Shipments from the ACBPS import database for verification:

Shipment No	Invoice Number	Arrival Date	Supplier Full Name	Invoice Term Type
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

True Value provided the following source documents in relation to each of the selected shipments:

- Commercial invoices
- Packing lists
- Bills of lading
- Customs broker and domestic freight invoices and
- Proof of purchase

The above documents are at **Confidential Attachment IMP 2**.

For each of the 10 selected shipments, we used the source documents provided to verify the listed quantity, invoice value and Australian importation costs to Part B of the importer questionnaire.

Proof of payment

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At the visit we asked True Value to provide proof of payment for the 10 selected shipments.

True Value advised that it was difficult for the company to find remittance advices and proofs of payment that exactly matched and corresponded to the ten selected shipments because its accounting processes and records were different during the investigation period. Often True Value pays its suppliers for multiple purchases at once and it was difficult to match the payments for each shipment individually.

True Value requested and we allowed time for it to locate the proof of payment documents and reconcile them to the 10 selected shipments.

Subsequent to the visit, True Value provided the proof of payment for the 10 selected shipment. We are satisfied that the proof of payment provided for the 10 selected shipments are the payments made in respect to those invoices. The price paid for the goods were the invoice prices.

We note that True Value's audited financial statements for FY 2013 contains a statement at Note 26 (ii) 'Other Related party transactions' that "... *All outstanding balances with related entities are priced on an arm's length basis*". Although True Value is not related to any of its suppliers, this provides further comfort that transactions were made on "an arm's length" basis.

Our conclusion in relation to the arm's length nature of the transactions is in Chapter 7.

5.4.1 Supplier invoice details

The commercial invoice details provided by True Value confirmed that the PV panels imported were from:

[REDACTED]

5.4.2 Shipment costs

True Value stated that all shipments were on [REDACTED] terms and that it does not pay for [REDACTED] [shipping terms]. Shipment costs were detailed in the Part B spreadsheet but were not able to be verified as the Bills of Lading for all of the shipments stated that the overseas freight was either pre-paid or as arranged, presumably by the exporter. True Value believes that [REDACTED] [supplier name] favourable shipping terms given its large consignments around the world.

5.4.3 Importation costs

From the information provided for the 10 selected shipments, we calculated the weighted average cost of importation to be \$ [REDACTED] per watt.

The import cost calculation is at **Confidential Appendix IMP 3**.

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5.5 Selling, General and Administration Costs

The selling price for each shipment was left blank in Part B of the Importer Questionnaire however at the verification visit, True Value provided an extract from its management accounts for the 12 months to December 2013, which showed that expenses as a percentage of revenue ranged between ■■■% and ■■■% on a monthly basis with the actual annual amount being ■■■% (**Confidential Attachment SALES 3**).

5.6 Export prices for selected shipments

Based on verification of all selected shipments, we calculated the weighted average ■■■ price (in AUD) for the goods over the investigation period:

Weighted Export Price	Average cost/ watt
Weighted Average ■■■ Price	\$ ■■■

As noted previously, all invoices are on a ■■■ basis as the exporter ■■■ to True Value in Australia.

6 WHO IS THE IMPORTER AND EXPORTER

6.1 Who is the importer?

We reviewed the documents provided in respect of the selected shipments. We note that True Value:

- is named as the customer on the invoices;
- is named as the consignee on the bill of lading and the packing list; and
- pays for the inland delivery of the goods.

We consider True Value to be the beneficial owner of the goods at the time of importation, and therefore the importer.

6.2 Who is the exporter?

The Commission will generally identify the exporter as:

- a principal in the transaction, located in the country of export from where the goods were shipped, who gave up responsibility by knowingly placing the goods in the hands of a carrier, courier, forwarding company, or their own vehicle for delivery to Australia; or
- a principal in the transaction located in the country of export, who owns, or previously owned, the goods but need not be the owner at the time the goods were shipped.

Where there is no principal in the country of export, the Commission will normally consider the exporter to be the person who gave up responsibility for the goods as described above.

- Upon review of the source documentation provided we are satisfied that for [redacted] [supplier names] the commercial invoices identify the supplier;
- the bills of lading identify the supplier as the shipper of the goods;
- the supplier arranges and pays for the goods to be transported to the wharf and loaded onto the ship in the country of export; and
- True Value pays the relevant supplier.

Accordingly [redacted] we [redacted] consider [redacted] [supplier names] to be the exporters of the goods.

7 ARMS LENGTH

In determining export price under s. 269TAB(1)(c) and normal values under s. 269TAC(1), the legislation requires that the relevant sales are arm's length transactions.

Section 269TAA outlines the circumstances in which the price paid or payable shall not be treated as arm's length. These are where:

- there is any consideration payable in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the buyer, or an associate of the buyer, and the seller, or an associate of the seller;
- in the opinion of the Parliamentary Secretary, the buyer, or an associate of the buyer, will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or any part of the price.

Furthermore, where:

- goods are exported to Australia otherwise than by the importer and are purchased by the importer from the exporter (whether before or after exportation) for a particular price; and
- the Parliamentary Secretary is satisfied that the importer, whether directly or through an associate or associates, sells those goods in Australia (whether in the condition in which they were imported or otherwise) at a loss;

the Parliamentary Secretary may treat the sale of those goods at a loss as indicating that the importer or an associate of the importer will, directly or indirectly, be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the whole or a part of the price.

For sales between True Value and its suppliers during the investigation period, overall the sales of the imported PV modules or panels in the Australian market were profitable (█%). The purchase price of PV modules from all suppliers appears to be determined based on genuine commercial negotiation.

Therefore, we are satisfied that sales between True Value and its suppliers were arm's length transactions.

8 GENERAL COMMENTS

True Value commented that the Australian industry was more like a bespoke manufacturer and manufactured to order. It does not publish its price list and potential clients had to submit an on-line inquiry. It was thus difficult to compare the small Australian industry with mass-producing export competitors from China.

It commented that there was a need to change consumer sentiment with regards to the benefits of PV energy, notwithstanding the winding back of tariffs.

9 UNSUPPRESSED SELLING PRICE

Unsuppressed selling price (USP) and non-injurious price (NIP) issues are examined at an early stage of an investigation and, where possible and appropriate, preliminary examinations are made during the application consideration period for the purpose of assessing injury and causal link and therefore the appearance of reasonable grounds for the publication of a dumping duty notice.

The Commission generally derives the NIP by first establishing a price at which the applicant might reasonably sell its product in a market unaffected by dumping. This price is referred to as the USP.

The Commission's preferred approach to establishing USP's observes the following hierarchy:

- industry selling prices at a time unaffected by dumping;
- constructed industry prices – industry cost to make and sell plus profit; or
- selling prices of un-dumped imports.

Having calculated the USP, the Commission then calculates a non-injurious price by deducting the costs incurred in getting the goods from the export free on board point (or another point if appropriate) to the relevant level of trade in Australia. The deductions normally include overseas freight, insurance, into-store costs and amounts for importer expenses and profit.

At the time of the visit the Commission explained the purpose and calculation of USP and NIP. True Value did not have any comments on the calculation of an USP or NIP.

10 RECOMMENDATIONS

As a result of the importer questionnaire submitted by True Value and the verification conducted on site, we are of the opinion that:

- the goods have been exported to Australia, otherwise than by the importer;
- the goods have been purchased by the importer from the exporter;
- purchases of the goods by the importer from the exporter were arm's length transactions and
- the goods are subsequently sold by the importer to a person who is not an associate of the importer.

We recommend that export price be established under s269TAB(1)(a) of the Act, being the invoiced price from the suppliers.

11 APPENDICES AND ATTACHMENTS

Confidential Attachment	
Confidential Attachment GEN 1	Importer Questionnaire – Part B
Confidential Attachment GEN 2	True Value Company Presentation
Confidential Attachment GEN 3	Importer Questionnaire – Part C
Confidential Attachment SALES 1	Customer pricing offers
Confidential Attachment SALES 2	Audited FY2012 Financial statements
Confidential Attachment SALES 3	Unaudited management accounts for 12 months to December 2013
Confidential Attachment SALES 4	Selected Sales and Source documents
Confidential Attachment SALES 5	Renesola's Long-term Cooperation Agreement
Confidential Attachment IMP 1	List of all Imports
Confidential Attachment IMP 2	Source documents for Selected Shipments
Confidential Attachment IMP 3	Import cost calculations