



16 March 2015

NON-CONFIDENTIAL

Ms Joanne Reid
Director
Anti-Dumping Commission
Customs House
5 Constitution Avenue
Canberra ACT 2600

Dear Ms Reid,

PHOTOVOLTAIC (PV) MODULES FROM CHINA

This submission, made on behalf of Changzhou Trina Solar Energy Co Ltd (“TCZ”) and Trina Solar (Changzhou) Science and Technology Co Ltd (“TST”), is in relation to the Commission’s dumping margin (“DM”) calculation in respect of TCZ, TST and Trina Solar Energy Development Pte Ltd (“TED”) exports per their Exporter Visit Report.

In its calculation of a 4.0% DM per section 11 of the Exporter Visit Report, the Commission has made a number of errors in export price (“EP”) and normal value (“NV”) assessments. Details follow.

Export Price (EP)

Arm’s length

The Commission’s investigation has found no evidence that in sales between TCZ/TST and TED/TAU (Trina Solar (Australia) Pty Ltd) –

- there is any consideration payable for in respect of the goods other than price;
- the price is influenced by a commercial or other relationship between the said parties;
- or
- TED or TAU will be reimbursed, be compensated or otherwise receive a benefit for, or in respect of, the price.

The Commission’s treatment of export sales between TCZ/TST and TED/TAU as non-arm’s length transactions is solely based on TAU’s income statements for FY 2013 and the 6 months to 31 December 2012 reporting losses¹. It cannot be assumed from these income statements that TED/TAU sales of the subject merchandise during the investigation period (“IP”) were at loss, as the sales revenue and cost of sales in these income statements cannot be linked to sales and purchases of the subject merchandise by TED/TAU. Furthermore,

¹ Exporter Visit Report, Section 4.7

verifiable evidence has been provided to the Commission proving that TED/TAU Australian resales of goods imported from TCZ and TST during the IP were not at loss.

Consequent upon the foregoing, sales between TCZ/TST and TED/TAU should be considered arm's length transactions and EP's determined on the following basis:

- TCZ/TST sales to importer TED.
The price paid by importer TED vide s269TAB(1)(a).
- TED export sales to importer TAU.
The price paid by TAU vide s269TAB(1)(a).

Deductive EP – profit

Putting aside the fact that EP of imports by TED and TAU should be determined vide s269TAB(1)(a), in its deductive EPs for these imports the Commission has included a profit factor of 6.4% based on the net profits of selected importers Solar Juice Pty Ltd, Solargain Pty Ltd and True Value Pty Ltd, which is far in excess of the net profitability of TED/TAU's Australian sales because –

- Solar Juice and Solargain are customers of importer/traders TED/TAU; and
- Solar Juice, Solargain and True Value sell value added products to installers and retailers and are at a very different level of trade than TED/TAU.

Calculation error

In its DM calculation the Commission has used a weighted average EP (USD █████/w FOB) which does not include the price paid by unrelated Australian importer customers of exporter TED (USD █████/w FOB). The inclusion of these sales by TED to unrelated Australian customers takes the weighted average EP to USD █████/w FOB.

Normal Value (NV)

In its NV assessment for mono modules vide s269TAC(1), the Commission has made an upward s269TAC(8) adjustment to the TAC(1) NV for poly modules in an amount which by far exceeds the additional cost to make and sell ("CTMS") mono modules plus a profit amount of █████%.

The mono NV used by the Commission in its Appendix 7 DM calculation (USD █████/w) includes an upward adjustment to the poly NV (USD █████/w) of USD █████/w, when the weighted average average CTMS plus profit amount of █████% is USD █████/w.


Using this TAC(8) upward adjustment of USD █████/w to the poly NV results in a NV of USD █████/w for mono modules for the IP in lieu of the USD █████/w used by the Commission in its DM calculation.

It is of important note that the weighted average of TCZ's domestic selling prices of mono modules to unrelated domestic customers during the IP was just USD █████/w higher than that of domestic sales of poly modules during the IP.

It is also of important note that there is no justification for a █████% profit mark-up to the CTMS difference when TCZ's sales of poly modules to unrelated domestic customers during the IP were at an overall █████% loss.

The issues with the Commission's EP and NV assessments as outlined above have been the subject of several emails to, and verbal discussions with, the ADC since our receipt of the draft Exporter Visit Report. We request your early advice of the Commission's reassessment of the DM applicable to Trina's exports taking these issues into account, as if this reassessment remains positive, we will need to proceed with the previously planned meeting prior to publication of the SEF, as it should be negative.

Yours sincerely,


for Roger Simpson