



13 August 2015

NON-CONFIDENTIAL

Mr Sanjay Sharma
Manager
Anti-Dumping Commission
Level 12, Industry House
10 Binara Street
Canberra ACT 2601

Dear Mr Sharma,

PV MODULES OF PANELS FROM CHINA – COMPETITIVE MARKET COSTS

As you are aware, we represent Trina Solar to the captioned investigation. We will later make a submission supporting our view that there is no evidence before the Commission that there is a particular market situation in China in relation to PV modules or panels as defined in section 269TAC(2)(a)(ii) of the Customs Act and Article 2.2 of the WTO Anti-Dumping Agreement. This submission addresses the question of whether the records of Trina Solar reasonably reflect competitive market costs associated with the production of like goods to the PV modules exported to Australia.

The Commission's email of 29 July 2015 suggests that it is of the view that the costs of PV cells and aluminium extrusions in Trina Solar's records do not reasonably reflect competitive market costs. The Commission has provided no reasons for its apparent consideration that the cost of PV cells in Trina Solar's records in relation to its production costs of PV modules do not reasonably reflect competitive market costs and appears to have relied upon the Commission's finding in a review of the anti-dumping measures applicable to aluminium extrusions that a particular market situation ("PMS") exists in China in respect of sales of aluminium extrusions for its apparent consideration that Trina Solar's recorded costs for aluminium extrusion do not reasonably reflect competitive market costs.

There is no statutory definition for "competitive market costs" referred to in Customs (International Obligations) Regulation 43(2)(b)(ii) and therefore it is necessary to rely upon the economic definition of "competitive market" for the determination of whether the costs under consideration for the purpose of Reg. 43(2)(b)(ii) reasonably reflect competitive market costs. The economic definition of a competitive market can be summarised as follows:

- A market with a large number of sellers who compete with each other to satisfy the requirements of a large number of buyers;
- No single seller, or group of sellers, and no single buyer, or group of buyers, being able to influence the price or how the market operates;
- There being no substantial product differentiation in the market; and

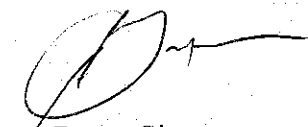
- Buyers and sellers can freely enter the market.

The Commission has no evidence that the Chinese domestic markets for the PV cells and aluminium extrusions are not competitive markets as outline above and therefore cannot conclude that Trina Solar's recorded costs of PV cells and aluminium extrusions used in the production of PV modules do not reasonably reflect competitive market costs.

That a Commission review of AD measures applicable to aluminium extrusions found that a PMS exists in China in relation to aluminium extrusions does not necessarily lead to a conclusion that the Chinese market for aluminium extrusions is not a competitive market as outlined above. The essential ground for the Commission's finding of a PMS for aluminium extrusions is its finding that the Government of China influenced the cost of primary aluminium used by exporters in their production of aluminium extrusion. It does not necessarily follow that a non-competitive market for the primary aluminium used in the production of aluminium extrusions causes there to be a non-competitive market for aluminium extrusions.

We request that the Commission reconsiders its apparent present view that the costs recorded by Trina Solar for its acquisition of the PV cells and aluminium extrusions used in the production of PV modules do not reasonably reflect competitive market costs, taking into account the economic definition of "competitive market" as outlined above.

Yours sincerely,



Roger Simpson