



4 September 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 OR PANELS FROM CHINA: CAUSATION**

This submission, made on behalf of Trina Solar (“Trina”), is in response to Tindo Solar’s (“Tindo”) submission of 31 August 2015 as it relates to the “Causal link investigation”.

The facts established by this investigation, as reported in SEF No. 239, have led to the Commission’s findings that -

- *injury, if any, to Tindo, or the hindrance, if any, to establishment of an Australian industry, caused by the dumping of goods exported from China is negligible; and*
- *Tindo’s performance has been affected by:*
  - *it entering the PV modules or panels market at a time when the market had reached its peak and was in decline;*
  - *the availability of exports from China at prices significantly below Tindo’s cost of production, even without dumping; and*
  - *Tindo’s decision to primarily focus on a particular model of PV module or panel that is at the premium end of the market.<sup>1</sup>*

Tindo’s submission provides no additional evidence/information such as to cause the Commission to revise these findings.

Furthermore, if the Commission now concludes that a particular market situation (“PMS”) exists in China for PV modules or panels (with which we disagree) and recalculates dumping margins (“DMs”) based on constructed normal values (“NVs”) using surrogate costs for PV cells, these recalculated DMs will not provide reason for the Commission to find that dumped exports of PV modules or panels from China are, of themselves, the cause of material injury to the Australian industry producing PV modules or panels (Tindo).

<sup>1</sup> SEF No. 239, section 8.1.

The Commission's recalculated DMs will not change its abovestated finding per SEF No. 239 that Tindo's performance has been affected by the following:

- It entering the PV modules or panels market at a time when the market had reached its peak and was in decline;
- The availability of exports from China at prices significantly below Tindo's cost of production, even without dumping; and
- Tindo's decision to primarily focus on a particular model of PV module or panel that is at the premium end of the market.

The Commission's investigation found that the average price undercutting margin was 45% and it will continue to be the case that –

- *the size of the dumping margins is such that if the export prices were equivalent to the normal values established for the investigation period, the importers' selling prices, at a level of trade comparable with Tindo, would still undercut Tindo's selling price by a significant degree.*<sup>2</sup>

Given the average price undercutting margin of 45%, the Commission's recalculated DMs do not change its conclusion that –

- *even in the absence of dumping the price offers of the imported goods from China would provide a significant competitive advantage to importers. If the export prices during the investigation period were equivalent to the normal values found, that is there was no dumping, Tindo would still have been required to reduce its initial prices to match those lower import offers and attract custom.*<sup>3</sup>

**That is, in the absence of dumping at the recalculated margins, Tindo would still have suffered significant (material) price depression.**

Concerning volume effect, the Commission's recalculated DMs cannot change its findings that –

- *Tindo's business plan and strategies were prepared in 2010 when the market was growing and Tindo was expected to commence operating in 2011. However, Tindo commenced operating in 2012, when the market had started to decline, therefore some of the assumptions and forecasts in Tindo's original business plan were not accurate at the time of its entry;*
- *Tindo's focus has been on AC PV modules or panels which are more expensive and are attractive to a more limited group of customers (i.e. to those people who are willing to spend more for the benefits said to be provided by AC modules or panels); and*
- *Tindo was able to grow its overall sales volume over its first 18 months of operation, albeit not in line with its forecasts. However, it cannot be reasonably concluded that Tindo's volume of sales was inconsistent with overall market trends.*<sup>4</sup>

That the recalculation of DMs will not change the Commission's above findings must lead to its maintenance of the following conclusion –

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<sup>2</sup> SEF No. 239, section 8.3.

<sup>3</sup> Ibid, section 8.4.4.

<sup>4</sup> Ibid, section 8.5.4.

- *The Commission is not satisfied that Tindo's loss of volume to distributors and its inability to grow volume in line with its business projections is due to the dumping of PV modules or panels from China.*<sup>5</sup>

Consequently, the recalculation of DMs by the Commission will not change its conclusions that –

- *The Commission considers that the imposition of a dumping duty at the levels found is not likely to influence consumers to switch to Tindo's AC modules or panels; and*
- ***dumping has not caused volume injury, in terms of loss of sales volumes, to the Australian industry and nor did it hinder Tindo's ability to achieve higher sales volumes than it did during the investigation period.***<sup>6</sup> (emphasis added).

It is demonstrated by the above that the Commission's recalculated DMs will not cause change to its findings per SEF No. 239 that dumping was not the cause of Tindo's material injury in the forms of price depression and loss of sales volume. It then follows that it cannot be found that dumping at the recalculated levels is the cause of Tindo's material injury in the form of reduced profit and profitability.

With regard to Tindo's reduced profit and profitability, recalculation of DMs does not change the Commission's finding that –

- *Tindo has suffered injury in the form of losses and negative profitability, however a new company can generally be expected to incur losses in the first few years of its operation due to start-up costs and the establishment of a customer base.*<sup>7</sup>

Consequent upon the foregoing, reconsideration of whether dumping at the recalculated levels has caused material injury or hindrance to the establishment of an industry must result in conclusions that –

- **in the absence of dumping, Tindo would have suffered material injury in the form of lost sales volume, price depression and suppression and reduced profit and profitability because of factors other than dumping.** These other factors include the following:
  - Tindo entered the PV modules or panels market at a time when the market had reached its peak and was in decline;
  - Undumped prices of exports from China were significantly below Tindo's cost of production; and
  - Tindo's decision to primarily focus on a particular model of PV module or panel that is at the premium end of the market.<sup>8</sup>

The primary reason for **undumped prices** of PV module or panel exports from China (at recalculated levels) being significantly below Tindo's selling prices and cost of production and negatively affecting its economic performance, is the large comparative cost advantage of Chinese producers/exporters, due mainly to –

- scale of economy; and
- Tindo purchases and imports the major cost component, PV cells, from China, whereas the majority of PV cells used by major Chinese producers/exporters of PV modules are self-produced.

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<sup>5</sup> SEF No. 239, section 8.5.4.

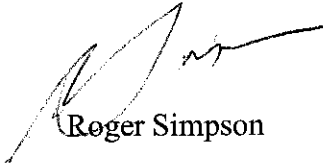
<sup>6</sup> Ibid.

<sup>7</sup> Ibid, section 7.7.1.

<sup>8</sup> Ibid, section 8.1.

It must be concluded that the recalculated DMs do not change the fact that without the occurrence of dumping material injury would still have been experienced by Tindo because of a number of other factors identified by the investigation and therefore **it cannot be concluded that dumping is, of itself, the cause of material injury to Tindo or hindrance of its establishment of an industry.** Consequently the Commission is obliged to proceed with termination of this investigation as proposed in SEF No. 239.

Yours sincerely,



Roger Simpson