

18 September 2015

This submission is made to the Anti-Dumping Commission with regard to the alleged dumping of certain crystalline silicon photovoltaic (PV) modules or panels exported from the People's Republic of China (China).

SEF Findings

Trina Solar's submission of 4 September 2015 states that Tindo's submission of 31 August 2015 provides no additional evidence/information such as to cause the Commission to revise the following Anti-Dumping Commission findings:

Based on the information available at the time of making the SEF, the Commissioner has made an assessment that the injury, if any, to Tindo or the hindrance, 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 (emphasis added).

The Commission considers 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 market¹.*

Tindo submits that in its submission of 4 May 2015 it addressed each of the above mentioned findings.

In summary:

- Tindo does not dispute that the market did decline in 2013 versus 2012. This decline in the market was incorporated in the Ernst & Young Tindo Business Plan **dated October 2011** – not the Business

¹ SEF, page 53

Plan dated 2010 as has been erroneously referred to by the Commission. The market decline was considered and accounted for in the Ernst & Young Tindo Business Plan and any claims to the contrary are completely false.

- Tindo is extremely dissatisfied at the unreasonably low levels of dumping margins assessed by the Commission in the SEF.
- Tindo contends that the dumping margins assessed by the Commission in the SEF are grossly understated by the Commission firstly, not making a finding of market situation in China and secondly, not taking into consideration all relevant costs.
- Tindo manufactures and markets solar panels with and without integrated microinverters. Microinverter systems have massive market share in USA and are not considered to be “premium”. In any case, Tindo offers solar panel systems with integrated microinverters along with solar panel systems with larger string inverters.

Dumping Margins

Tindo notes Trina Solar’s reference to recalculated dumping margins. Tindo requests the Commission to make any revised dumping margins available on the public record so that Tindo has an opportunity to review the methodology and understand the implications for this investigation.

Causal link

Tindo notes that the following extracts from the Commission SEF are in the context of the Commission finding an average dumping margin of 3.9%.

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 degree²

² SEF, page 53

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.³

Without knowing the revised dumping margins, Tindo is unable to comment as to the relativity of revised dumping margins and the level of price undercutting assessed by the Commission.

Tindo also submits that in terms of going forward what is **most relevant** is the analysis of price undercutting for installed PV modules or panel sales to end users thus reflecting Tindo's business model.

Verified data from the SEF⁴ shows the weighted average price undercutting during the investigation period to be 20% for installed PV modules or panel sales to end users.

Tindo notes that the **Ministerial Direction on Material Injury 2012**. In particular the following requirement that dumping of subsidization need not be the sole cause of injury to the industry.

In the past some uncertainty has arisen over establishing the requirements for material injury where other factors may be contributing to injury suffered by the industry. Injury caused by other factors must not be attributed to dumping or subsidization. However, I direct that dumping or subsidisation need not be the sole cause of injury to the industry.

And that

*In cases where it is asserted that **an Australian industry would have been more prosperous if not for the presence of dumped imports**, I direct that you be mindful that a decline in an industry's rate of growth may be just as relevant as the*

^{2b} SEF, page 55

³ SEF, page 56

⁴ SEF, page 55

movement of an industry from growth to decline. (Emphasis added.)

As highlighted in the Tindo submission of 4 May 2015, at about the time Tindo commenced operations in May 2012 Chinese PV prices declined significantly and at a far greater rate than the drop in the price of Cells. According to ██████████ Annual reports, they showed a 36.9% decline in Average Selling Prices from October 2011 to June 2012.

In its submission of 7 September Tindo provided evidence that quantified Tindo's price suppression and lost sales directly attributable to the dumped exports from China. Tindo contends that it has clearly demonstrated that if not for the presence of those dumped imports Tindo's revenue would have increased and this increased revenue is **material** to a newly established business.

Tindo notes that in the SEF the Commission's test for causal link was based on the margin of price undercutting (assessed by the Commission) equalling the dumping margins (assessed by the Commission). This approach would appear to be **contrary to the Ministerial Direction** that dumping need not be the sole cause of injury to the industry.

In its submission of 4 September 2015 Trina Solar referenced the following with regard to volume effect and stated that the Commission's recalculated dumping margins 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 plane were not accurate at the time of its entry;*
- *Tindo's focus has been on ACPV 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.*⁵

Each of above referenced points was addressed in the Tindo submission of 4 May 2015.

In summary:

- The Tindo Business Plan prepared by Ernst & Young was dated **October 2011**⁶. The Commission is referring to the wrong business plan in the SEF.
- Tindo's October 2011 Business Plan predicted and planned for the following:
 - continued reduction in the price of solar panels over the three year forecast;
 - sales to the wholesale market, only; and
 - phasing out of Government rebates and feed in tariffs.
- Tindo did offer and does continue to offer both solar panels with and without attached microinverters. It was up to the customer to choose which product they preferred to go with. Tindo has been effective in communicating the benefits of solar panel systems incorporating microinverters, which is why the majority of its customers chose to go this way. If Tindo was not effective at selling the benefits of solar panel systems with microinverters, then most of its sales would have been regular solar panels with string inverters. In any case, microinverter solar systems in the residential market in California have a 50% market share – hardly a “limited group of customers”. Australia has businesses such as [REDACTED] and [REDACTED] both multi million dollar operations dedicated to selling microinverters. Microinverters are hugely popular in Australia with hundreds of thousands of units deployed nationally.
- Around the time Tindo commenced operations in May 2012 Chinese PV prices declined significantly and at a far greater rate than the drop in price of cells. Chinese manufacturers cumulatively started reporting billion dollar losses.
- According to [REDACTED] Annual reports, they showed a 36.9% decline in Average Selling Prices from October 2011 to June 2012.

⁵ SEF, page 59

⁶ The Commission was provided with a copy of the 2011 Business Plan as part of the dumping application; refer confidential attachment A-9.6.

- In 2012 ██████ made losses of 20%, ██████ losses of 30% and ██████ losses of 25%. Tindo contends that if these vertically integrated companies that are in the business of manufacturing and selling modules were profitable, that is, their sales revenue exceeded their expenses; Tindo would also be making a profit. Tindo contends that the non-market competitive situation in China and the predatory nature of these manufacturers to grab market share in export markets has driven these losses.
- The predatory competition forced Tindo to change its business model from sales to wholesalers and go downstream to end users. The alternative was face bankruptcy.

Taking into consideration the above facts Tindo contends that it is not reasonable for the Commission to conclude that

Noting the significant difference in selling price between AC PV modules and DC PV modules, 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 due to the dumping of PV modules or panels from China⁷ (emphasis added).

In its SEF the Commission stated that

As discussed in Section 8.3, the size of the dumping margins found are considered to be relatively small compared to the extent of the price undercutting by the imported goods (emphasis added). 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

The Commission therefore concludes that 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.⁸

⁷ SEF, page 59

⁸ SEF, page 59

In its submission of 4 May 2015 Tindo contested the dumping margins assessed by the Commission in the SEF and presented facts to support its claims.

In its submissions of 2 July 2015, 31 August 2015 and 7 September 2015 Tindo provided evidence to show that the imposition of dumping duties even at a dumping margin of [REDACTED] on would provide relief for Tindo on its prices of solar

Tindo disagrees with the Commission finding in the SEF that dumping has not caused volume injury. In its application and its submissions of 31 August 2015 and 7 September 2015 Tindo provided evidence of volume injury via lost sales to dumped imports from China.

With regard to the Commission's undercutting analysis and the results of such analysis being the basis of the Commission's causal link finding this was addressed by Tindo in its submission of 7 September 2015.

Basically Tindo disagrees that this is the definitive test of a causal link between the dumping (that has been found, whether it be at the SEF rate of [REDACTED] or at a significantly higher rate reflecting the market situation in China and all relevant costs) and the material injury (lost sales volume, price depression, price suppression and reduced profit and profitability).

In the SEF, the Commission made the following statement -

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 base⁹.

Tindo submits that this comment is a generalisation only. In the Ernst & Young October 2011 Tindo Business Plan, Tindo was expected to be profitable by its third quarter of module production.

In its submission of 4 September 2015 Trina Solar claims that it has a large comparative cost advantage due to scale of economy and self-production of PV cells. Tindo believes that the majority of Chinese solar

⁹ SEF, page 51

panel manufacturers do not manufacture their own PV cells. They source their cells from cell manufacturers.

According to [REDACTED] Annual reports, they showed an average operational expenditure (OPEX) cost of [REDACTED] over the investigation period. Confidential Attachment A shows Tindo's business plan where its OPEX matches this same amount at [REDACTED] when manufacturing a volume of [REDACTED] /month.

Tindo Solar can be competitive at a modest volume however dumped Chinese solar panels are causing volume suppression.

The Tindo Solar factory has a nameplate rating of [REDACTED] however it has been operating at [REDACTED] capacity due to volume suppression.

There are also cost advantages for Tindo in terms of delivery for businesses based in Australia and as outlined in its submission of 4 May 2015, at the time of the writing of the Tindo Business Plan in October 2011, the cost difference the Tindo solar panel with attached microinverter and the Chinese solar panel with a string inverter was very small and a Tindo solar system utilizing a string inverter instead of attached microinverters was [REDACTED] than a Chinese solar system with the same inverter type.

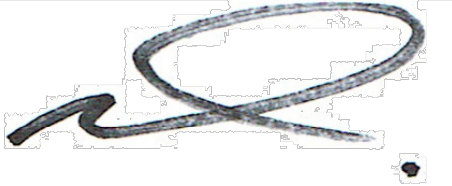
Unexpectedly, the reduction in Chinese prices from mid-2011 through to 2012 was sudden and deep and as explained above coincided with Chinese manufacturers cumulatively starting to report billion dollar losses.

In its submission of 2 July 2015 Tindo provided the commission with evidence of Tindo winning sales against dumped imports. Tindo contends that this evidence clearly demonstrates that Tindo **can** compete in the market and that the imposition of anti-dumping duties would alleviate injury that Tindo is experiencing from dumped imports.

Tindo requests a floor price on the dumped imports from a fixed and variable duty would stop exporters undercutting at lower prices and enhance Tindo's ability to compete in the market, win more sales, improve its profitability and **create more high tech green advanced manufacturing jobs in Australia.**

Tindo contends that the injury caused by dumping during the investigation period is material and that material injury is still being caused by dumped goods.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Adrian Ferraretto', with a small black square mark at the end of the signature.

**Adrian Ferraretto
Managing Director**