



ANTI – DUMPING SPECIALISTS

ACN 056 514 213 ABN 87 056 514 213

31 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 OR PANELS FROM CHINA

This submission, made on behalf of Trina Solar, addresses the Commission's incorrect finding that *due to the existence of a "particular market situation", the costs of the major raw materials (PV cells) are not the market competitive costs.*¹

We will shortly be making a submission refuting the Commission's finding that a particular market situation ("PMS") exists in China for sales of PV modules or panels², but we now make the point that a finding of a PMS for PV modules does not necessarily lead to a finding that the costs of major raw materials (PV cells) used in the production of PV modules are not *competitive market costs*, as has been found by the Commission.

For there to be a finding that Trina's recorded costs for PV cells used in the production of PV modules do not reasonably reflect competitive market costs, it must be proved that the Chinese domestic market for PV cells is not a competitive market. And this cannot be done as the Chinese domestic market for PV cells is certainly a competitive market.

As explained in our submission of 13 August, there is no statutory definition of *competitive market* as referred to in Regulation 43(2)(b)(ii) of the Customs (International Obligations) Regulations. It is therefore necessary to rely upon the literal economic description of *competitive market* in determining whether certain costs reasonably reflect competitive market costs for the purpose of Regulation 43(2)(b)(ii). The literal economic description of a *competitive market* is 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;

¹ Sanjay Sharma email to Roger Simpson of 27 August 2015.

² Ibid.

- 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 Chinese domestic market for PV cells certainly meets the above literal economic description of a *competitive market* for the following reasons:

- There are a large number of PV cell producers who compete with each other to satisfy the requirements of a large number of consumers of PV cells (PV module producers);
- The majority of domestically consumed PV cell sales are made by non-government owned PV cell manufacturing companies to non-government owned PV module producers;
- There are no single PV cell producers or group of PV cell producers, or single PV cell consumers or group of PV cell consumers who influence the price of PV cells or how the PV cell market operates;
- There is no substantial product differentiation in the Chinese domestic PV cell market; and
- PV cell producers and consumers are free to enter the market.

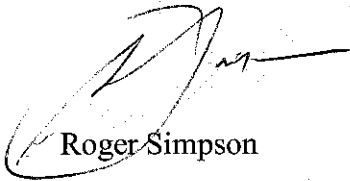
The Government of China (“GOC”) does not control the domestic market price of PV cells. It may be that certain GOC policies concerning the development of the PV industry have impacted on supply and demand and production costs of PV cells in China, causing downward movement of the overall PV cell domestic market price level. However, this downward movement of the overall PV cell domestic market price level has not impacted on the competitive nature of the PV cell market. That is, **GOC policies have not created a non-competitive domestic market for PV cells.** They have not affected the competitive market circumstances outline above.

If it is considered that certain GOC policies concerning development of the PV industry have caused reduction of PV cell costs and this cost reduction has flown through to PV cell price reduction (domestic and export) causing reduction of PV module costs and prices (domestic and export), grounds may exist for **subsidy investigation**, but such consideration **does not provide grounds for using surrogate PV cell costs in constructing a normal value in a dumping investigation.** To use surrogate PV cell costs in the construction of a normal value for PV modules in this dumping investigation, it must be proved that the said GOC policies have created a non-competitive domestic market for PV cells and therefore the cost of domestically purchased PV cells are not market competitive costs. And this cannot be done!

In addition, it is of important note that, even if it were able to be found that GOC policies did create a non-competitive market, it could only be Trina’s costs of domestically purchased PV cells used in the production of PV modules that could be considered to be not competitive market costs. Such finding could not cause the costs of PV cells used in the production of PV modules which are not domestically purchased, ie. self-produced or imported, to be considered not competitive market costs. There would therefore be no grounds for the Commission to use surrogate PV cell costs for self-produced or imported PV cells in its constructed normal values for Trina’s PV module exports. It is of major concern that the

Commission has used surrogate costs for self-produced cells in its preliminary constructed normal value assessments.³

Yours sincerely,



Roger Simpson

³ Sanjay Sharma email to Roger Simpson of 27 August 2015.