



30 September 2015

NON - CONFIDENTIAL

Mr Rhys Piper
A/g Director – Operations 2
Anti-Dumping Commission
Level 35
55 Collins Street
Melbourne VIC 3001

Dear Mr Piper,

**PV MODULES OR PANELS FROM CHINA: DUMPING MARGIN –
TRINA SOLAR**

As you know, we represent Trina Sola (“Trina”) to this investigation.

The Commission’s use of surrogate benchmark prices of domestically purchased PV cells in the construction of Trina’s normal values (“NV”) for PV modules produced from self-produced PV cells is, among other things, unlawful.

Customs (International Obligations) Regulation 43(2) provides that –

If:

- (a) an exporter or producer of like goods keeps records relating to the like goods; and*
- (b) the records:*
 - (i) are in accordance with generally accepted accounting principles in the country of export; and*
 - (ii) reasonably reflect competitive market costs associated with the production or manufacture of like goods;*

the Minister must work out the amount by using the information set out in the records.

According to this Regulation, the cost of production of Trina’s PV modules must be worked out using the information set out in Trina’s production cost records, unless the costs set out in these records do not reasonably reflect competitive market costs. **The Commission has no evidence that Trina’s records of the cost of production of self-produced PV cells used in the production of PV modules do not reasonably reflect competitive market costs.**

Trina’s records in relation to the production cost of PV modules include separate records of the costs of self-produced PV cells and out-sourced PV cells (domestic and import purchases). Trina’s cost records re self-produced PV cells include a record of all costs

incurred in the production of PV cells used in the production of PV modules, ie. materials, labour, manufacturing overhead and other costs per the attached (confidential) table. Trina's cost records re out-sourced PV cells include purchase prices and into-store costs of domestically purchased and imported cells.

While we disagree with it, we can understand the Commission's finding that the Chinese domestic market for PV cells is not a competitive market and therefore Trina's cost records concerning domestically purchased PV cells used in the production of PV modules are not competitive market costs, resulting in the use of benchmark purchase prices as surrogate costs for domestically purchased PV cells, in the construction of NVs for Trina's PV modules.

However, we cannot understand how the Commission can possibly reach a finding that Trina's cost records concerning self-produced PV cells do not reasonably reflect competitive market costs without evidence that the recorded cost items in relation to Trina's production of PV cells are not market competitive costs, as required by Regulation 43(2). It is of important note in this regard that Trina's cost records also include a breakdown of the costs of self-produced wafers used in PV cell – PV module production (see attached confidential table). Some wafers are purchased and those that are self-produced are made from [REDACTED] silicon.

It is absolutely unlawful for the Commission to not use Trina's recorded costs of production of self-produced PV cells used in its production of PV modules in the construction of NVs for PV modules without evidence that Trina's recorded costs incurred in the production of PV cells do not reasonably reflect competitive market costs.

While the use of any surrogate costs for the cost of self-produced PV cells in construction of NVs for Trina's PV modules is unlawful for reasons outlined above, the Commission's use of benchmark prices for domestically purchased PV cells as surrogate costs for Trina's self-produced PV cells is illogical and irrational and **produces an artificially inflated DM for Trina's PV module exports.**

Costs of self-produced PV cells and domestically purchased PV cells are very different. Self-produced PV cell cost is comprised of just cost of production, ie. material, labour and overhead, whereas the cost of domestically purchased PV cells is the suppliers' cost of production plus their selling, general administration and finance expenses and profit margin. In Trina's case, during the investigation period ("IP") the weighted average cost of production of PV cells was USD [REDACTED]/w whereas the weighted average of domestically purchased PV cells was USD [REDACTED]/w.

If it were to be proved that Trina's record of costs of production of the PV cells used in its production of PV modules includes costs which do not reasonably reflect competitive market costs, which has not been done, the surrogate costs to be included in the NV construction for PV modules would be substitute competitive market costs for those costs included in the PV cell cost records which are considered to be not competitive market costs. The result would be much lower NVs than those calculated by the Commission using benchmark prices for domestically purchased PV cells as surrogate costs for self-produced modules.

As the Commission has no evidence that Trina's recorded production costs in relation to self-produced PV cells used in the production of PV modules do not reasonably reflect competitive market costs, **according to Regulation 43(2) it is obliged to use Trina's**

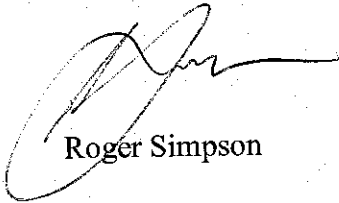
recorded costs of production of self-produced PV cells in its NV constructions for Trina's exports of PV modules.

The Commission's unlawful, illogical and irrational approach to construction of NVs for Trina's exports has resulted in a highly inflated dumping margin for Trina's exports. The Commission's dumping margin calculation for Trina's exports based on this unsustainable approach to NV construction is [REDACTED]%, whereas the dumping margin following the correct approach of no surrogate cost for self-produced PV cells is [REDACTED]% - calculation details are attached to my email of 1 September 2015.

The Commission's highly inflated unsustainable dumping margin for Trina's exports will cause significant inflation of the weighted average dumping margin for the exports of all investigated exporters of the subject merchandise which the Commission will take into account in its consideration of whether dumping of imports of the subject merchandise from China are the cause of material injury to the Australian industry.

The said erroneous approach to the Commission to a dumping margin assessment for Trina's exports is blatant and its dumping margin assessment of [REDACTED]% should certainly not be taken into account in the Commission's causal link consideration. If there is a particular market situation finding, a dumping margin of [REDACTED]% for Trina's exports should be taken into account in the Commission's causal link consideration.

Yours sincerely,



Roger Simpson