



20 January 2016

**NON-CONFIDENTIAL**

Mr David Peters  
Operations 2  
Anti-Dumping Commission  
Level 35  
55 Collins Street  
Melbourne VIC 3001

Dear Mr Peters,

**RESUMPTION OF INVESTIGATION - PV MODULES OR PANELS FROM CHINA**

This letter, on behalf of Changzhou Trina Solar Energy Co Ltd and Trina Solar (Changzhou) Science and Technology Co Ltd (collectively referred to as Trina Solar), addresses the Anti-Dumping Commission's calculation of a 19.9% dumping margin for Trina Solar's exports as reported in Termination Report No. 239 (TER 239).

During several weeks before and after publication of TER 239, we made several submissions to the Commission demonstrating its erroneous calculation of the normal value (NV) applicable to Trina Solar's exports and consequent highly inflated dumping margin (DM) applicable to these exports. Our submissions prior to publication of TER 239 did not result in correction of the erroneous NV and inflated DM for TER 239. Our submissions following publication of TER 239 resulted in the Commission informing us that if the Anti-Dumping Review Panel (ADRP) were to revoke the termination decision per TER 239, it would have appropriate regard to our submissions during the resumed investigation – please refer to the attached (confidential) letter from Mr Paul Sexton, General Manager of the Commission.

This letter summarizes our submissions concerning the Commission's erroneous NV calculation and consequent highly inflated DM and requests correction thereof prior to publication of the new Statement of Essential Facts (SEF).

**Normal Value**

The Commission's error is the use of the benchmark prices of domestically purchased PV cells as surrogate costs for self-produced PV cells in the s269TAC(2)(c) construction of NVs

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of PV modules produced from Trina Solar's self-produced PV cells. There are two major issues with this approach:

1. The consideration that Trina Solar's recorded production costs of PV cells used in the production of PV modules do not reasonably reflect competitive market costs; and
2. The use of domestically purchased PV cells as surrogate costs for self-produced PV cells used in the production of PV modules.

The Commission's reported ground for its consideration that Trina Solar's recorded production costs of PV cells used in the production of PV modules do not reasonably reflect competitive market costs is that it *was not able to distinguish what proportion of imported silicon and/or wafers was used in the production of PV modules or panels exported to Australia*<sup>1</sup>. The Commission used this ground despite its finding that –

- the majority of Trina Solar's polysilicon used in the production of PV cells was imported<sup>2</sup> (this finding coming from data submitted by Trina Solar demonstrating that 65% of the polysilicon used in its production of PV cells was imported).

Evidence was provided to the Commission by email of 3 September 2015 that the "China Price" of polysilicon was higher than the "International Price" of polysilicon during the investigation period (IP).

In an email of 7 October 2015 we were informed by the Commission that the bench prices of domestically purchased PV cells were used as surrogate costs for self-produced PV cells as the "best available information" because –

- [Confidential]

It is of important note that in its investigation the Commission made no attempt to determine the amount of domestically produced polysilicon used in the production of PV modules exported to Australia – at no time was Trina Solar requested to provide this information.

The Commission noted in section 2.2.3.1 of Appendix 2 to SEF 239 that –

- the cost of Trina Solar's domestically purchased PV cells was significantly higher than that of its self-produced cells.

Even if it had been found that the costs of domestically produced polysilicon included in Trina Solar's recorded costs of production of PV cells used in the production of PV modules exported to Australia were not competitive market costs, the surrogate polysilicon costs used in the construction of NVs of the PV modules produced from these PV cells should have been competitive market costs of the polysilicon used in the production of them. Based on the information before the Commission, use of this correct methodology would have resulted in a negligible uplift to the NVs of PV modules produced from self-produced PV cells constructed from Trina Solar's recorded costs. There is no justification for the Commission's use of benchmark prices of domestically purchased PV cells as surrogate costs of self-

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<sup>1</sup> TER 239, section 6.4.3.

<sup>2</sup> TER 239, Appendix 2, section 2.2.3.1.

produced PV cells used in the production of PV modules exported to Australia, which highly inflated the constructed NVs for these PV modules.

### Export Price

The Commission has established the DM for Trina Solar for the IP in accordance with s269TACB(2)(a) of the Customs Act (the Act).<sup>3</sup> This section of the Act requires the DM for the IP to be calculated by the comparison of the weighted average of export prices (EPs) over the whole of the IP with the weighted average of NVs over the whole of the IP. The formula for "weighted average" is in s269T(5A) of the Act.

The Commission calculated weighted average EPs for each mono and poly modules from the actual EP data provided by Trina Solar in respect of exports of [Confidential]w of mono and [Confidential]w of poly modules ([Confidential]w) during the IP<sup>4</sup>. These weighted average EPs are -

	(USD/W)
Mono modules	[Confidential]
Poly modules	[Confidential] <sup>5</sup>

However, the Commission did not use the above weighted average of EPs it had calculated for the IP in its DM calculation<sup>6</sup>. It used quarterly weighted averages from the spreadsheet used to calculate these IP weighted average EPs<sup>7</sup> to calculate DMs for exports of [Confidential]w of mono and [Confidential]w of poly modules (total [Confidential]w). That is, it used EPs it had actually calculated for a total of [Confidential]w of module exports to calculate the DMs of a total of [Confidential]w – an additional [Confidential]w ([Confidential]%).

It was not appropriate for the Commission to use the quarterly weighted average EPs calculated in respect of this additional total quantity of [Confidential]w, as the circumstances of these additional sales were not necessarily the same as those of the export sales used for the calculation of weighted average quarterly EPs. They would have been higher, as they included direct sales by TED and TAU to unrelated Australian importer customers.

The Commission's inappropriate use of quarterly weighted average EPs of a total of [Confidential]w for exports of a total of [Confidential] in its DM calculation has added to the inflation of Trina Solar's DM. The weighted average of EPs over the IP that should have been compared with the weighted averages of NVs over the IP in the DM calculation are those which were actually calculated by the Commission in respect of [Confidential]w, ie. mono modules USD [Confidential]w and poly modules USD [Confidential]w. It is these EPs that we have taken into account in our attached DM calculation.

<sup>3</sup> TER 239, section 6.4.1.

<sup>4</sup> SEF 239, Appendix 6, tab "Part C – sales through TAU & TED".

<sup>5</sup> Commission email of 27 August 2015, attachment "Revised DM", tab "Deductive EP".

<sup>6</sup> Commission email of 27 August 2015, attachment "Revised DM", tab "DM".

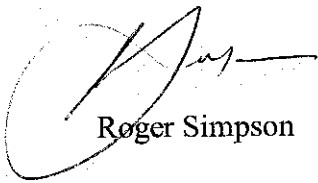
<sup>7</sup> SEF 239, Appendix 6, tab "Part C – sales through TAU & TED".

**Dumping Margin**

Using the outlined incorrect NV and EP methodologies, the Commission has calculated an overall DM for Trina Solar of 19.9%, whereas using correct methodologies Trina Solar's DM should be [Confidential]% - (confidential) calculation attached (originally provided to the Commission by our email of 1 September 2015).

It is of important note that correction of the Commission's highly inflated DM for Trina Solar's exports per TER 239 will have a significant impact on the weighted average DM for all exports from China.

Yours sincerely,



Roger Simpson