



5 February 2016

NON-CONFIDENTIAL

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

Dear Mr Peters,

INVESTIGATION - PV MODULES OR PANELS FROM CHINA

This submission, made on behalf of Changzhou Trina Solar Energy Co Ltd and Trina Solar (Changzhou) Science and Technology Co Ltd (collectively referred to as "Trina Solar"), is in relation to the Anti-Dumping Review Panel's ("ADRP") decision to revoke the Anti-Dumping Commission's ("Commission") termination of the captioned investigation.

Dumping margin

It is paramount that the 21.1% weighted average dumping margin ("DM") for Chinese exports of the subject merchandise determined by the Commission and taken into account by the ADRP in making its decision to revoke the Commission's termination, is significantly inflated. For reasons provided in our submission of 20 January 2016, the DM assessed by the Commission in relation to major exporter Trina Solar's exports is inflated by 75%. This high inflation of the DM applicable to Trina Solar's exports has resulted in significant inflation of the weighted average DM margin of Chinese exports taken into account by the ADRP in making its decision to revoke the Commission's termination. The Commission's correction of the weighted average of Chinese exports of the subject merchandise should negate the ADRP's decision to revoke the Commission's termination.

Poorly timed entry into market

The ADRP has confirmed the Commission's finding that the decline in the PV module or panel market following Tindo Manufacturing Pty Ltd's ("Tindo") entry into it is a factor other than dumping that caused injury to Tindo during the investigation period ("IP"). It also found that the increase in the market during the years prior to Tindo's entry into it has no relevance to this point.

There can be no doubt that the significant decline in the PV module or panel market after Tindo commenced business, which cannot be attributed to dumping, caused material injury to Tindo.

Level of trade

It is not appropriate to compare import prices of DC PV modules or panels with Tindo's prices at the installed end-user level, as the product sold at this level includes several components other than modules or panels, eg. inverters, mountings, interconnect cables, installation cost. All imports of Trina Solar's PV modules are sold at wholesale price to distributors who sell to installers who sell at installed end-user level. Trina Solar's and other exporters' importer customers who sell to distributors/retailers have no control over the additional costs involved in installed end-user sales.

As Tindo sold PV modules or panels at the wholesale level during the IP, as did importers, it is appropriate to make price comparison at this level, as the Commission did.

If there were periods during the IP when Tindo did not sell at wholesale level, an estimated Tindo wholesale price during those periods should be calculated by the addition of the cost of production of DC modules (no inverter), SG&A expenses and target net profit. This would be a far more reasonable approach than comparison of prices at installed end-user level which are sales of products which are not like products to the imports under investigation and not under the control of importers of them.

Market's preference for low priced DC Chinese product

It is a matter of fact that global markets (including Australia) for PV modules or panels are price sensitive.

The ADRP appears to have accepted the Commission's finding that the price of imported Chinese DC modules during the IP was much lower than that of Tindo's comparable product. The issue it has with this finding is –

- *whether or not, as Tindo alleges, the price advantage was from dumping or, as the ADC found, the contribution of dumping to this price advantage was negligible.¹*

The Commission's finding that the amount by which Tindo's prices of comparable products were higher than the imported products significantly exceeded the dumping margins that they had calculated (wtd. ave. 21.1%), must lead to a conclusion that factors other than dumping provided a significant price advantage to imports and therefore if they were undumped they would still have been considerably lower priced than Tindo's comparable products and preferred by the price sensitive market.

It is of important note that the Commission's correction of the 21.1% inflated weighted average DM used for its consideration of this matter will re-inforce this finding.

¹ ADRP Report, para 47.

The main factor other than dumping leading to this significant price advantage of imports of Chinese PV modules or panels is significant comparative cost advantage of Chinese producers coming mainly from economy of scale (Tindo's production capacity was about 0.1% of China's 2013 production). In addition, Tindo produces its PV modules from imported PV cells, whereas Chinese PV module producers use self-produced or domestically purchased PV cells. PV cells are the major component of PV modules.

Volume injury

Tindo did not suffer volume injury during the IP. The Commission's investigation found that Tindo's PV modules or panels sales volume increased during the IP. The question then is whether dumped imports materially hindered the establishment of an Australian industry (Tindo) by preventing its sales volume increase to its forecast sales volume during the IP.

The answer to this question is that it was factors other than dumping which prevented Tindo from achieving its forecast sales volume of PV modules or panels during the IP, as found by the Commission's investigation.

The principal factor other than dumping which prevented Tindo from achieving its forecast sales volume is the decline in the market following its entry into the market which was not forecast by Tindo. Another factor other than dumping to which this non-achievement of forecast sales volume is to be attributed is the global reduction in production costs of PV modules during the IP, which flowed through to global price reductions during the IP.

The dumping status of exports from China prior to the IP cannot be assumed. Therefore there are no grounds for Tindo's claim that it was the commencement of Chinese dumping after it entered the market in mid-2012 which prevented it from achieving its forecast sales volume of PV modules or panels.

As found by the Commission, even in the absence of dumping during the IP, ie. exports from China at undumped prices, PV modules or panels from China would have entered the Australian market during the IP at prices which significantly undercut Tindo's selling prices of PV modules or panels. As pointed out above, it was the comparative cost advantage of Chinese producers which attributed to their PV modules or panels exports at undumped prices entering the Australian market at prices with which Tindo could not compete without a loss on sales.

Tindo's sales volume during the IP was below that forecast because of the decline in the market and its inability to replace Chinese imports with its products to the extent necessary because of its inability to be price competitive in a price sensitive market without making PV module or panel sales at a loss. It is paramount that this inability to compete with prices of Chinese imports in the PV module or panel market without selling at loss applied even if the Chinese imports were at undumped prices.

The Commission's conclusion that Tindo's sales volume of PV modules or panels during the IP was below its forecast volume was because of factors other than dumping of exports from China is correct. In the absence of dumping from China, Tindo would not have been able to achieve its forecast PV modules or panels sales volume during the IP because of the decline in the Australian market for PV modules or panels and the decline in the prices of Chinese PV modules or panels because of reduced costs of production. It follows that dumping of

imports of PV modules or panels from China did not hinder the establishment of an Australian industry by sales volume effect.

Tindo's business plan

Concerning the ADRP's lack of understanding of the Commission's satisfaction that Tindo's inability to reduce its prices to the extent necessary to be competitive with the prices of undumped exports can lead to positive satisfaction that the injury caused by dumping was negligible², we consider that the Commission has positive satisfaction that the injury caused by dumping is negligible and satisfies s269TDA(13) because of its conclusion that in the absence of dumping Tindo would not have been able to reduce its selling prices of PV modules or panels to be competitive with imported PV modules or panels from China without selling at loss. The Australian market is price sensitive and to sell PV modules or panels at prices competitive with market prices of PV modules or panels imported from China at undumped prices would require Tindo to make sales at below cost.

With regard to the ADRP's problem with the Commission's conclusion because it considers that it ignores the possibility that an increase in the price of dumped imports to remove the dumping margin may have reduced the injury level³, we consider that because prices of imports increased to remove the dumping margin would still have entered the price sensitive market at prices well below Tindo's market prices, to compete with these undumped imports Tindo would have had to sell at materially injurious price levels. That is, to increase Chinese export prices to undumped levels would not have resulted in Tindo not experiencing material injury. It logically follows that the injury caused by dumping was negligible.

Qualitative features

It is not a matter of no one buying Tindo's product because its price premium was too high, it is a matter of the Australian market for PV modules or panels being so price sensitive that the number of buyers who would have been prepared to pay a significantly higher price for Tindo's PV modules or panels than for those from China at undumped prices, would have been insufficient for Tindo to not have experienced material injury through volume, price and profit effects during the IP.

Causal link

For reasons outlined above, it is a reasonable conclusion that in the absence of dumping, imports of PV modules or panels from China would have had such a price advantage over Tindo's PV modules or panels in the price sensitive Australian PV modules or panels market during the IP that Tindo would have suffered material injury through volume, price and profit effects. It logically follows that Tindo suffered material injury during the IP because of factors other than dumping and the injury caused by dumping was negligible.

It is of important note that the significant reduction of the weighted average DM taken into account by the Commission in making its termination decision, brought by the correction of Trina Solar's highly inflated DM, will reinforce the Commission's finding of no causal link between Tindo's material injury and dumped imports from China.

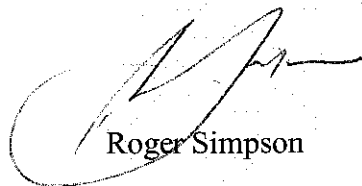
² ADRP Report, para 63.

³ Ibid, para 64.

It is also of important note that the ADRP has not made a finding that the Australian industry has suffered material injury from dumping.⁴

The bottom line is that, because the in-depth, 20-month investigation by the Commission found that **in the absence of dumping during the IP, ie. if exports from China had been exported at undumped prices during the IP, Tindo would have suffered material injury by reason of factors other than dumping during the IP, which must lead to the conclusion that dumping of itself was not the cause of the material injury suffered by Tindo during the IP.** Tindo has provided no evidence to refute the Commission's finding that in the absence of dumping during the IP Tindo would have suffered material injury. **It cannot be found that, but for dumping, Tindo would not have suffered material injury.** Consequently, this investigation must again be terminated by the Commission.

Yours sincerely,



Roger Simpson

⁴ ADRP Report, para 76.