12 February 2016

Loans at less than market interest rate

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).

Finance and Loan costs

Tindo refers to its application and previous submissions noting loans and agreements from Chinese banks to Chinese Solar companies and the change in those solar companies from profit-making businesses to loss making businesses.

Tindo notes that Termination Report No. 239 does not provide analysis of the impact of GOC on the availability of credit to the exporters of PV panels. Noting that the GOC did not respond to GOC questionnaire Tindo requests that the Commission analyse the impact of the GOC on the finance and loan costs of the exporters using the information provided by Tindo in its submissions provided to the Commission during the course of the investigation.

In summary Tindo contends that, during the investigation period, **the interest rates for all banks in China were non-competitive market rates**, government owned and non-government owned banks.

In particular, Tindo refers to its submission dated 30 June 2015 (public record No 131 and 132) where Tindo submitted that

….**detailed information from the state owned Chinese banks and the Chinese Banking Regulatory Commission on the lending practices and risk assessment in relation to the loans and credit facilities provided to the Chinese solar companies is required** [emphasis added] to properly assess whether the loans and credit provided were at terms for what would apply in a competitive market.

Tindo submits that **seeking information from the exporters would not provide information on the banks risk assessment and lending practices for that company** [emphasis added]. Similarly, a comparison of short term loans between state owned and non-state owned banks does not give any indication of the banks practices.

Tindo submits that the finance and loan costs of the solar companies are not representative of competitive market costs.

The benchmark interest rate for China throughout the investigation period was 6% yet the exporter visit report shows interest rates of 5.6% to 6.5% for ET Solar and the reported interest rate for Suntech's borrowings is 6.2%. It is incongruous that companies with such high debt levels would be getting interest rates at or below the benchmark rate. When reference is made to the Chinese interest rate this often refers to the base interest rate. The central bank base interest rate or base rate is PBC's basic interest rate. The Chinese central bank has complete autonomy with regard to the use of monetary instruments. This means – amongst other things – that the bank sets the interest rates for commercial banks. The banks thereby has a lot of influence over the rates which need to be paid in the market for loans and mortgages and the interest paid on savings.

The effect of government backing and support on interest rates, loans and funds is demonstrated by an independent analysis of the USA government's bank guarantee during the Global Financial Crisis. The analysis shows an interest rate difference of over 5.2% between debt issued before and after the government guarantee.

Another example of the difference is shown for a recent debt issue by a listed Australian company with a similar debt level to that of Suntech. The difference between the rates for the listed company and the government guaranteed rate is over 7.7%. Of note is that the debt to equity ratio of the Australian company is 1.2, whilst that of Suntech was estimates as being as high as 2.8.

An independent study in relation to Suntech list loans from the two state owned banks, the China Development Bank and the bank of China, to Suntech. A comparison of the loan rates to the benchmark rates shows that in nearly all instances the loans were less than the benchmark rate, by up to 2.9%, and only in one instance was the loan at the benchmark rate.

The same study notes that the ready access to funds from the China Development Bank by Suntech makes servicing its debt load possible, which would not be the case for a company without government support.

Tindo refers to its previous submissions noting loans and agreements from Chinese banks to Chinese Solar companies and the change in those solar companies from profit-making businesses to loss making businesses. A 2013 analysis noted that China's top ten solar companies were USD16 billion in the red.

Tindo contends that in a normal market situation the solar companies would not be getting rates less than or at the benchmark rate but a rate that would have a risk premium applied of between 5.2% to 7.7% as evidence in the above examples for Australia and the USA.

Tindo submits that a premium should be applied to the interest and finance rates in the exporter accounts of 7.7% for Suntech and those companies with a similar debt to equity ratio and the lower rate of 5.2% to those companies with a lower debt to equity ratio.

In calculating interest and finance costs Tindo further submits that the Commission should take account of the cumulative effect the lower non-market rates have had on the companies costs in the investigation period from previous years. For example, Tindo has provided evidence of Suntech getting rates less than the competitive market rate since 2009.

The effect of this is that Suntech's total borrowings in the investigation period are lower than they would have been if its borrowings had been at market rates. This would mean the total finance and interest borrowings in the company accounts for the investigation period are effectively understated.

Tindo cannot empathise enough that the impact that the availability of credit and borrowings at non-competitive market rates has had on the prices of solar panels exported from China.

As an example, Attachment 1 shows the impact on Trina's FOB price per watt applying a benchmark rates of 5.26% (difference between USA government guarantee and non-guaranteed debt raising for banks as per previous submission) and 7.70% (difference between a private company issued bond and Australian government issued bond).

Analysis of the effective interest rate for Trina shows that the rate was less than the benchmark interest rate. The interest rate for Trina decreased at the same time as its losses increased and its debt to equity ratio increased, this is whilst the benchmark rate was stable or increasing.

Tindo contends that this evidences GOC support via non-market loans and credit support. In a normal market economy a company that had increasing losses and increasing debt to equity ratios would be assessed a higher credit risk and would incur a higher interest rate to take account of this credit risk.

Tindo submits that a comparison of loan rates between government and non-government banks as done in the exporter visit does not provide evidence of competitive market rates. As the influence of government banks in the market would distort the rates by non-government banks.

Tindo respectfully requests that the Commission revise the financing costs in the normal values to reflect borrowings at a competitive market rate.

Tindo submits that the higher rate of 7.7% is more appropriate to adjust the loan costs as this reflects the difference between government and private companies whilst the rate of 5.26% reflects the difference between governments and banks.

Tindo has calculated that this would increase dumping margins by 5% to 7%.

Tindo also refers to previous submissions on the provision of loans at less than market interest rates which outlines the investigation with regard to addressing the impact of the loans and credit facilities by state owned banks:

1. Tindo Application

One cause of "artificially low pricing" in the solar PV module market relates to the Chinese government's involvement in the domestic market which has materially distorted competitive conditions, in terms of such enterprise's working capital costs. Specifically, the Australian industry alleges that <u>loans and credit facilities by state owned Chinese banks</u> to Chinese solar PV cell and module manufacturers at <u>less than market interest rates</u>, and on terms that are preferential to such manufacturers that <u>do not take account of commercial credit risk and prudential lending practices</u> otherwise applied in the Chinese capital credit market.

The Australian industry alleges that <u>as a consequence of these so-called "policy loans"</u> prices of solar PV modules were artificially low, to the extent that domestic and export sales were, and continue to be unprofitable. <u>This is reflected in the financial statements of the three largest Chinese solar PV cell</u> and module manufacturers, that indicates unprofitable trading.

2. ADC Consideration Report

Based on the preliminary assessment of the information provided by the applicant and preliminary assessment of information considered in CON 237, the Commission considers it is appropriate to examine Tindo"s market situation claims during the course of the investigation. The Commission will seek the necessary information from Chinese exporters and the GOC in order to independently assess the market situation claims.

3. Extensions

In September 2014 the ADC requested an extension to the investigation due to "the complexity in assessing the claims in relation to a "market situation" for PV modules or panels sold in China."

In March 2015 the ADC sought another extension to the SEF "Due to the continuing heavy workload of the Commission and the complexities associated with the investigation."

4. SEF

In the SEF the Commission noted in relation to loans that "In its investigations of the selected exporters, the Commission did not find any evidence that suggests that the alleged policy loans were provided by the GOC to the manufacturers of PV modules or panels that created a market situation such that the domestic selling prices of the PV modules or panels in China would not be suitable for normal value."

This response by the ADC appears to be at odds with the statements in the Consideration Report and extensions to the SEF that the ADC would be seeking responses from the GOC.

5. Tindo SEF submission

In its response to the SEF Tindo submitted that responses from exporters were not adequate to assess whether loans reflected market rates.

Tindo refers to its previous submissions on the GOC provision of loans and credit facilities preferential rates that do not take into account commercial risk and prudential lending practices that would otherwise apply in a competitive market."

Tindo submits that detailed information from the state owned Chinese Banks and the Chinese Banking Regulatory Commission on the lending practices and risk assessment in relation to the loans and credit facilities provided to the

Chinese solar companies is required to properly assess whether the loans and credit provided were at terms for what would apply in a competitive market.

Tindo submits that seeking information from the exporters would not provide information on the banks risk assessment and lending practices for that company. Similarly, a comparison of short term loans between state owned and non state owned banks does not give any indication of the banks practices."

Tindo provided evidence in its submission of the effect of government support on interest rates and the difference between debt issues by a private company and the government.

The effect of government backing and support on interest rates, loans and funds is demonstrated by an independent analysis of the USA governments bank guarantee during the Global Financial Crisis. The analysis shows an interest rate difference of over 5.2% between debt issued before and after the government guarantee.

Another example of the difference is shown for a recent debt issue by a listed Australian company with a similar debt level to that of Suntech. The difference between the rates for the listed company and the government guaranteed rates is over 7.7%. Of note is that the debt to equity ratio of the Australian company is 1.2, whilst that of Suntech was estimated as being as high as 2.8.

The ADC sent a questionnaire following the SEF to the GOC including questions on loans.

6. GOC questionnaire

At the time of initiating the investigation the Commissioner did not consider that there was sufficient evidence to investigate Tindo Solar's claim and did not request any information from the GOC in relation to this issue.

The above statement is at odds with the Consideration Report and extensions to the SEF. The ADC did not at any point make the above decision public which would have enabled Tindo to respond and provide further information if requested.

Loans questions in GOC questionnaire

Has the GOC issued or participated in the issuance of any debt or equity instruments in any business entity associated with the PV modules or panels industry in the last 5 years?

Document details of any loan programs specifically targeted at the PV modules or panels industry. Specify whether these programs enable industry participants to access loans with industry specific features (i.e. discounted interest rates or extended repayment schedules).

Provide details (quantify the value) of any government guarantee provided for any commercial loans by a business entity associated with the PV modules or panels industries in the last 5 years.

Has the GOC in the last 5 years through State Invested Enterprises (SIE) provided loans and credit facilities to the PV modules or panels, cells, wafers, ingots and polysilicon producers/traders/importers?

The GOC did not provide a response to any of the above questions.

7. Termination Report

In its examination of the selected exporters, the Commission did not find any evidence to suggest that the alleged 'policy loans' created a particular market situation such that the domestic selling prices of the PV modules or panels in China would not be suitable for normal value.

However the Termination Report further states.

Information in the Australian industry's application, and information available publicly, suggests the PV modules or panels industry in China is one that may have a considerable degree of GOC involvement.

There may be, for example, evidence of:

various forms of financial support and other subsidies provided to domestic PV modules or panels industry including refund or exemption of land fee, reduced corporate income tax, full or partial refund of value-added tax and reduced interest rates on loans by the GOC (including state banks);

It is the Commission's view that the Industry Catalogue provides the basis on which government assistance and regulation is applied to specified industries and projects. More specifically, the Industry Catalogue identifies industries and projects which are to be 'encouraged' under the FYP-NESD (12th) and details the types of GOC mandated assistance to be provided to these 'encouraged' industries and projects. For example, it notes that mandated support, to be provided to 'encouraged' industries includes support by providing 'credit loans' at lower interest rates from financial institutions and the exemption of equipment imported for encouraged projects from customs duties and import value-added taxes.

The Commission holds that 'encouraged' industries are eligible for additional support from the GOC including mandated access to credit loans and exemptions from customs duties and import value-added taxes for imported equipment.

Examples of preferential financial assistance to specific industries

Article 25. "Financial institutions may offer preferential loans with financial interest subsidy to projects for exploitation of renewable energy that are listed in the national development guidance catalogue of the renewable energy industry and meet the requirements for granting loans".

Resumption of investigation

Tindo submits that the above findings and its previous submissions support its contentions that loans and credit facilities by state owned Chinese banks to Chinese solar PV cell and module manufacturers at less than market interest rates, and on terms that are preferential to such manufacturers that do not take account of commercial credit risk and prudential lending practices.

Tindo notes that the Commission has not adjusted the exporters finance costs to take account of loans and credit facilities being provided at less than market rates. Tindo submits that the exporter costs should be adjusted to take this into account

PUBLIC RECORD

Effect of market interest cost on dumping margin

TRINA SOLAR FINANCIAL ACCOUNTS USD

Loans '000	2009	2010	2011	2012	2013
Short term	267,428	158,652	389,472	875,821	935,590
Long Term	182,516	299,977	520,151	415,150	100,502
	449,944	458,629	909,623	1,290,971	1,036,092
Interest '000	27,095	33,952	35,021	51,887	48,445
Rate	6.0%	7.4%	**3.9%**	**4.0%**	**4.7%**
Benchmark	5.3%	5.3%	6.0%	6.6%	6.0%
Effect of Govt control					
5.26%	10.6%	10.6%	11.3%	11.9%	11.3%
Competitive					
Market Int cost	47,514	50,587	104,297	161,325	128,987
Additional Interest	20,419	16,635	69,276	109,438	
New Debt		479,048	926,258	1,360,247	1,145,530
Total Equity	679,312	1,173,647	1,145,325	881,785	822,479
Debt/Equity ratio	0.7	0.4	0.8	1.5	1.3
Net revenue	845,136	1,857,689	2,047,902	1,296,655	1,774,971
Profit before Tax	120,922	359,522	-30,510	-291,960	-85,266
%	14%	19%	-1%	-23%	-5%

Watts sold	2013	2,584,300,000
Interest cost per watt non-market		0.019
Interest cost per watt market economy		0.050
Uplift		2.66

Loans '000	2009	2010	2011	2012	2013
Short term	267,428	158,652	389,472	875,821	935,590
Long Term	182,516	299,977	520,151	415,150	100,502
	449,944	458,629	909,623	1,290,971	1,036,092
Interest '000	27,095	33,952	35,021	51,887	48,445
Rate	6.0%	7.4%	**3.9%**	**4.0%**	**4.7%**
Benchmark	5.3%	5.3%	6.0%	6.6%	6.0%
Effect of Govt control					
7.70%	13.0%	13.0%	13.7%	14.3%	13.7%
Competitive					
Market Int cost	58,493	63,703	128,694	198,004	161,963
Additional Interest	31,398	29,751	93,673	146,117	
New Debt		490,027	939,374	1,384,644	1,182,209
Total Equity	679,312	1,173,647	1,145,325	881,785	822,479
Debt/Equity ratio	0.7	0.4	0.8	1.5	1.3
Net revenue	845,136	1,857,689	2,047,902	1,296,655	1,774,971
Profit before Tax	120,922	359,522	-30,510	-291,960	-85,266
%	14%	19%	-1%	-23%	-5%

Watts sold	2013	2,584,300,000
Interest cost per watt non-market		0.019
Interest cost per watt market economy		0.063
Uplift		3.34
Trina average sell price per watt 2013		0.69
Estimated export costs		0.06
FOB price per watt		**0.63**

Increase in margin

Uplift of 5.26% to Interest - increase in interest costs per watt	**0.03**
Increase as a percentage of FOB export price	**5.0%**
Uplift of 7.7% to Interest - increase in interest costs per watt	**0.04**
Increase as a percentage of FOB export price	**7.0%**

Notes

All Trina figures from p.2-3 of Annual Report 2013, previously submitted.
Benchmark rates from previous submissions 131-132.
Effect of government control as per previous submissions above. Detailed difference in interest costs.
Trina notes in annual report that its business is conducted in China

Method

Rate	Trina interest rate as per annual report
Added	Effect of Govt control to benchmark interest rate
Market Int cost	Interest cost calculated using benchmark rate plus Effect of Govt control
Additional Interest	Amount of additional interest without Govt control
New Debt	Debt that includes additional interest costs

Market interest cost is calculated on market rate plus additional interest cost from previous years.
Interest cost per watt non-market, calculated on watts sold and interest cost as per accounts
Interest cost per watt market economy, calculated on watts sold and interest cost as per calculated

Uplift — Amount that interest costs in exporters CTMS need to be uplifted to reflect market costs.