



25 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 Trina Solar, is in response to submissions by Tindo Solar loaded on to the Electronic Public Record on 17 February 2016.

Loans at less than market interest rate

In its application Tindo Solar claimed that the Chinese domestic market for PV modules or panels is a particular market situation ("PMS") because GOC policy provides for loans and credit facilities to the PV module or panel industry by State owned banks at preferential interest rates.

In its on-site investigation of Trina Solar, the Commission found that Trina Solar had loans from State owned and non-State owned banks at varying interest rates and those from State owned banks were higher than those from non-State owned banks. It found no evidence of GOC policy impacting on the interest rates applicable to Trina Solar's borrowings.¹

In its on-site investigation of other selected exporters, the Commission found no evidence of the creation of a PMS because of GOC policy providing for loans at preferential interest rates on borrowings. It found no evidence that the domestic selling prices of PV modules or panels would not be suitable for normal values because of GOC policy loans.²

In addition to the paramount fact that the Commission's on-site investigation did not find any evidence of Chinese manufacturers/exporters of PV modules or panels receiving loans at preferential interest rates because of GOC policy, if it were to be found that GOC policy did provide for loans to the PV module or panel industry at preferential interest rates, this would be a subsidy issue rather than a PMS issue in a dumping investigation because it would not prevent proper comparison of domestic and export prices.

¹ Exporter Visit Report re Trina Solar, chapter 8.

² TER 239, section 6.3.2.

Furthermore, the Commission's investigation did not find any evidence that the interest on bank loans to PV module or panel manufacturers/exporters were not competitive market interest rates.

Anti-Dumping Review Panel ("ADRP") findings

Tindo's poor timing

Tindo Solar's submission reinforces the Commission's finding that Tindo Solar's sales volume increased over the investigation period ("IP")³, ie. there was no actual volume injury experienced by Tindo Solar during the IP.

Concerning whether the decline in the market during the IP hindered the establishment of the Australian PV module or panel industry, Tindo Solar did not achieve its forecast sales volume because of the decline in the market following its entry into the market.

There can be no doubt that the significant decline in the Australian market during the IP, together with price reductions due to global cost reductions during this period, was the major contributor to Tindo Solar not achieving its forecast sales volume or selling prices during the IP.

The decline in the Australian market following Tindo Solar's entry into it obviously had a material negative impact on its economic performance during the IP and there is no evidence that, but for dumping, this material negative impact would not have occurred.

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.

³ TER 239, section 7.1(i).

Preference for cheap Chinese

As explained in our submission of 5 February 2016, 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. And it is important that the Commission's correction of the significantly inflated 21.1% weighted average dumping margin used for its consideration of this matter will reinforce this finding.

As also explained in our submission of 5 February 2016, 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

Please refer to "Tindo's poor timing" section above and also the "Volume injury" section of our submission of 5 February 2016.

Tindo's Business Plan

Please refer to the "Tindo's Business Plan" section of our submission of 5 February 2016.

Qualitative features

Please refer to the "Qualitative features" section of our submission of 5 February 2016.

Other factors

It is a matter of fact that contractions in demand after Tindo Solar's entry into the market were due to the market decline and reduction in global costs/prices and a preference for DC panels.

It is reasonable to conclude 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.

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

It is also of important note that the ADRP has not made a finding that the Australian industry has suffered material injury from dumping⁴.

PAD Material Injury Causal Link

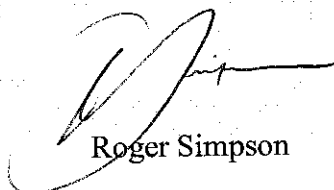
According to s269TD of the Act, a PAD can only be made if the Commissioner is satisfied that there are sufficient grounds for the publication of a dumping duty notice, ie. exports of PV modules or panels from China were at dumped prices and this dumping caused material injury to an Australian industry producing PV modules or panels or hindered the establishment of an industry producing PV modules or panels.

The Commission terminated this investigation because it found that the injury to an Australian industry producing PV modules or panels or the hindrance to the establishment of an Australian industry producing PV modules or panels is negligible, ie. not material.

The Commission's resumed investigation following the ADRP's revocation of its termination will not have sufficient evidence to be satisfied that the above finding leading to the termination is incorrect and that dumped exports from China have caused material injury to an Australian industry producing PV modules or panels, or material hindrance to the establishment of an Australian industry producing PV modules or panels. Therefore there are no grounds for the making of a PAD.

It is of important note that the ADRP did not find that the Australian industry suffered material injury from dumping.

Yours sincerely,



Roger Simpson

⁴ ADRP Report No. 29, para 76.