



## **ANTI- DUMPING NOTICE NO. 2014/38**

### **Certain crystalline silicon photovoltaic modules or panels**

### **Exported from the People's Republic of China**

### **Initiation of an Investigation into Alleged Dumping**

#### ***Customs Act 1901 – Part XVB***

I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (the Commissioner) have initiated an investigation following an application lodged by Tindo Manufacturing Pty Ltd, a manufacturer of certain crystalline silicon photovoltaic modules or panels (PV modules or panels) (“the goods”) in Australia. The application seeks the publication of a dumping duty notice in respect of certain crystalline silicon photovoltaic modules or panels exported to Australia from the People's Republic of China (China).

The application alleges that the goods have been exported to Australia at prices less than their normal value and that dumping has caused material injury to the Australian industry through:

- lost sales revenue;
- price depression;
- price suppression;
- loss of profit; and
- reduced profitability.

The non-confidential version of the application, which contains the basis of the alleged dumping, is available on the public record.

A notice under subsection 269TC(4) of the *Customs Act 1901* (the Act) advising initiation of this investigation was published in *The Australian* newspaper on 14 May 2014.

#### **The Goods**

The following is a description of the goods covered by the investigation:

Certain crystalline silicon photovoltaic modules or panels, whether exported assembled or unassembled, and whether or not they have an inverter, capable of producing any power in terms of watt.

The following product types are excluded from the application:

- cells and wafers of the type used in PV modules or panels;

- solar chargers that consist of less than six cells, are portable and supply electricity to devices or charge batteries; and
- PV products that are permanently integrated into electrical goods, where the function of the electrical goods is other than power generation, and where these electrical goods consume the electricity generated by the integrated crystalline silicon photovoltaic cell(s).

The goods are currently classified to the following tariff subheadings of Schedule 3 to the *Customs Tariff Act 1995*:

- 8541.40.00, statistical code 53;
- 8501.61.00, statistical codes 33 and 24;
- 8501.62.00, statistical code 34;
- 8501.63.00, statistical code 40; and
- 8501.64.00, statistical code 41.

The rate of Customs duty payable under each of the tariff subheadings is as follows:

- 8541.40.00 (statistical code 53); 8501.63.00 (statistical code 40) and 8501.64.00 (statistical code 41) are duty free; and
- 8501.61.00 (statistical codes 33 and 24) and 8501.62.00 (statistical code 34) have a duty rate of 5% for all countries except for DCS (4%) and DCT (5%) countries. China is defined as DCS therefore duty is payable at the rate of 4%.

### **Investigation Process**

The investigation period is 1 July 2012 to 31 December 2013. The Anti-Dumping Commission (the Commission) will examine exports to Australia of the goods during that period to determine whether dumping has occurred. The Commission will examine details of the Australian market from 1 January 2010 for injury analysis purposes.

Where the Parliamentary Secretary to the Minister for Industry (the Parliamentary Secretary) is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of the goods that have already been exported to Australia is less than the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Parliamentary Secretary may, by public notice, impose interim dumping duties.

Where there are grounds for the Parliamentary Secretary to publish a dumping duty notice in respect of the goods, the Commission will examine whether the trade in the dumped goods give rise to retrospective notices being published pursuant to section 269TN of the Act, and make recommendations to the Parliamentary Secretary accordingly.

As the application alleges matters relevant to the Parliamentary Secretary's consideration of the lesser duty rule, namely there is a "particular market situation" pursuant to

subparagraph 269TAC(2)(a)(ii) of the Act, the Commission will examine this matter and make a recommendation to the Parliamentary Secretary as to the proposed level of duty to be applied in any dumping duty notice.

### **Public Record**

I must maintain a public record of each inquiry. Documents included in the public record may be examined at the Commission's office by contacting the Case Manager on the details provided below. Alternatively the public record is available at [www.adcommission.gov.au](http://www.adcommission.gov.au)

The public record will contain, among other things, a copy of the application, consideration report number 239 (CON 239) and a copy of all submissions from interested parties.

### **Lodgement of Submissions**

Interested parties, as defined by subsection 269T(1) of the Act, are invited to lodge submissions concerning the publication of the dumping duty notice sought in the application, no later than the close of business on **23 June 2014**, addressed to:

The Director  
Operations 3  
Level 5 Customs House  
Anti-Dumping Commission  
5 Constitution Ave  
Canberra City ACT 2601

or by email [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au), or by fax to 1300 882 506 or +61 2 6275 6888 (outside Australia).

Interested parties wishing to participate in the investigation must ensure that submissions are lodged by the due date. Interested parties should note that I am not obliged to have regard to a submission received by the Commission after the date above if to do so would, in my opinion, prevent the timely placement of the statement of essential facts on the public record.

Interested parties may reply to matters raised by other parties during the course of the investigation and in response to the statement of essential facts.

The public record must contain, among other things, a copy of all submissions from interested parties. Letters and electronic mail are generally regarded as submissions if they contain information relevant to the inquiry.

Interested parties claiming that information contained in their submission is confidential, or that the publication of the information would adversely affect their business or commercial interests, must:

- (i) provide a summary containing sufficient detail to allow a reasonable understanding of the substance of the information that does not breach that confidentiality or adversely affect those interests, or
- (ii) satisfy me that there is no way such a summary can be given to allow a reasonable

understanding of the substance of the information.

Submissions containing confidential information must be clearly marked "FOR OFFICIAL USE ONLY".

Interested parties must also lodge a non-confidential version or a summary of their submission in accordance with the requirement above clearly marked "PUBLIC RECORD", which will be placed on the public record. Parties must provide two copies of each version.

### **Exporters and Importers**

The import data available to the Commission indicates that there are a large number of exporters and importers of PV modules or panels from China. Section 269TACAA of the Act states that where the number of exporters are so large that it is not practicable to examine the exports of all those exporters, a selection can be made on the basis of exporters who are responsible for the largest volume of exports to Australia that can be reasonably examined. The Commission will contact those identified exporters directly and invite them to complete a questionnaire. Certain importers will also be contacted directly and invited to complete a questionnaire.

All other exporters and importers of the PV modules or panels wishing to participate and complete a questionnaire please email [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au) as soon as possible and the Commission will forward the relevant questionnaire and spreadsheets for completion. The investigation may be extended to such exporters and importers unless to do so would prevent its timely completion of the investigation.

### **Provisional Measures**

A preliminary affirmative determination may be made not earlier than 60 days after the date of initiation provided that there appears to be sufficient grounds for the publication of a dumping duty notice. In accordance with section 269TD of the Act, provisional measures, in the form of securities in respect of interim dumping duty that may become payable on the goods may be imposed where a preliminary affirmative determination has been made.

### **Statement of Essential Facts**

The dates specified in this notice for lodging submissions must be observed to enable the Commission to report to the Parliamentary Secretary within the legislative timeframe. A statement of essential facts will be placed on the public record by 1 September 2014, or by such later date as the Parliamentary Secretary may allow in accordance with section 269ZHI of the Act. The statement will set out the essential facts on which I propose to base a recommendation to the Parliamentary Secretary. That statement will invite interested parties to respond to the issues raised within 20 days of the statement being placed on the public record.

Submissions received in response to the statement of essential facts will be taken into account in completing the report and recommendation to the Parliamentary Secretary.

## **Report to the Parliamentary Secretary**

A recommendation to the Parliamentary Secretary will be made in a report on or before 16 October 2014 (or such later date as the Parliamentary Secretary may allow), unless I terminate the investigation.

The Parliamentary Secretary must make a declaration within 30 days after receiving the report, or due to special circumstances, such longer period as the Parliamentary Secretary considers appropriate.

## **Review Officer**

Certain parties will have the right to seek review with the Anti-Dumping Review Panel in accordance with Division 9 of Part XVB of the Act of either a decision by the Commissioner to terminate the investigation, or a decision of the Parliamentary Secretary after considering the Commission's report.

## **Anti-Dumping Commission Contact**

Enquiries about this notice may be directed to the case manager on telephone number (02) 6275 8008, fax number 1300 882 506 or +61 2 6275 6888 (outside Australia) or [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au).



Dale Seymour  
Commissioner  
Anti-Dumping Commission

14 May 2014