



Australian Government
Anti-Dumping Review Panel

Application for review of a Commissioner's decision

Customs Act 1901 s 269ZZQ

Use this form¹ to apply for review of a reviewable decision of the Commissioner of the Anti-Dumping Commission made on or after 2 November 2015.

Section 269ZZO *Customs Act 1901* sets out who may make an application for review to the ADRP of a review of a decision of the Commissioner.

All sections of the application form must be completed unless otherwise expressly stated in this form.

Fees

Your application must be accompanied by the application fee. Please provide a copy of your proof of payment with the application. Information about fees and refunds is on the ADRP website.

Time

Applications must be made within 30 days after the applicant was notified of the reviewable decision.

Conferences

You or your representative may be asked to attend a conference with the Panel Member appointed to consider your application before the Panel begins to conduct a review (by public notice in the case of termination decisions and by notice to the applicant and the Commissioner in the case of negative prima facie decisions, negative preliminary decisions and rejection decision). Failure to attend this conference without reasonable excuse may lead to your application being rejected. The Panel may also call a conference after the Panel begins to conduct a review. Conferences are held between 10.00am and 4.00pm (AEST) on Tuesdays or Thursdays. You will be given seven (7) business days' notice of the conference date and time. See the ADRP website for more information.

¹ Form approved by the Senior Member of the Anti-Dumping Review Panel under *section 269ZY Customs Act 1901*.

Further application information

You or your representative may be asked by the Panel Member to provide further information to the Panel Member in relation to your answers provided to questions 10, 11 and/or 12 of this application form (s269ZZQA(1)). See the ADRP website for more information.

Withdrawal

You may withdraw your application at any time, by following the withdrawal process set out on the ADRP website.

In certain circumstances some or all of your application fee may be refunded if you withdraw your application. See the ADRP website for more information.

If you have any questions about what is required in an application, refer to the ADRP website. You can also call the ADRP Secretariat on (02) 6276 1781 or email adrp@industry.gov.au.

PART A: APPLICANT INFORMATION

1. Applicant's details

Applicant's name: Tindo Manufacturing Pty Ltd (ABN: 94 154 806 194)
Address: 6 Second Avenue, Mawson Lakes, South Australia 5095

Type of entity (trade union, corporation, government etc.): Private Company

2. Contact person for applicant

Full name: Mr Adrian Ferraretto
Position: Managing Director
Email address: Adrian@tindosolar.com
Telephone number: 0408 700 965

3. Set out the basis on which the applicant considers it is entitled to apply for review to the ADRP under section 269ZZO

Tindo Manufacturing Pty Ltd (hereafter referred to as "Tindo") was the applicant company seeking the imposition of dumping and countervailing measures on certain photovoltaic modules or panels exported from the People's Republic of China ("China").

4. Is the applicant represented?

Yes – See attached authority.

If the application is being submitted by someone other than the applicant, please complete the attached representative's authority section at the end of this form.

****It is the applicant's responsibility to notify the ADRP Secretariat if the nominated representative changes or if the applicant become self-represented during a review.****

PART B: REVIEWABLE DECISION TO WHICH THIS APPLICATION RELATES

5. Indicate the section(s) of the *Customs Act 1901* the reviewable decision was made under

- Subsection 269TC(1) or (2) – *a negative prima facie decision*
- Subsection 269TDA(1), (2), (3), (7), (13), or (14) – *a termination decision*
- Subsection 269X(6)(b) or (c) – *a negative preliminary decision*
- Subsection 269YA(2), (3), or (4) – *a rejection decision*
- Subsection 269ZDBEA(1) or (2) – *an anti-circumvention inquiry termination decision*

6. Provide a full description of the goods which were the subject of the reviewable decision

The goods the subject of the application are:

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 (PV modules or panels).

Exclusions:

The following product types are excluded:

- *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 to charge batteries; and*
- *PV products that are permanently integrated into electrical goods, whether 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 application included the following additional information in relation to the subject goods:

A PV module is a packaged, connected assembly of solar PV cells. A solar PV cell is an electrical device that converts the energy of light directly into electricity by the photoelectric effect. It is a form of photoelectric cell (in that its electrical characteristics—e.g. current, voltage, or resistance—vary when light is incident upon it) which, when exposed to light, can generate and support an electric current without being attached to any external voltage source, but does require an external load for power consumption.

A solar panel (or array) is a set of PV modules electrically connected and mounted on a supporting structure. The PV module can be used as a component of a larger PV system to generate and supply electricity in commercial and residential applications.

The relationship between PV cells, modules and panels (or arrays) are illustrated in the following diagram A-3.1, below.

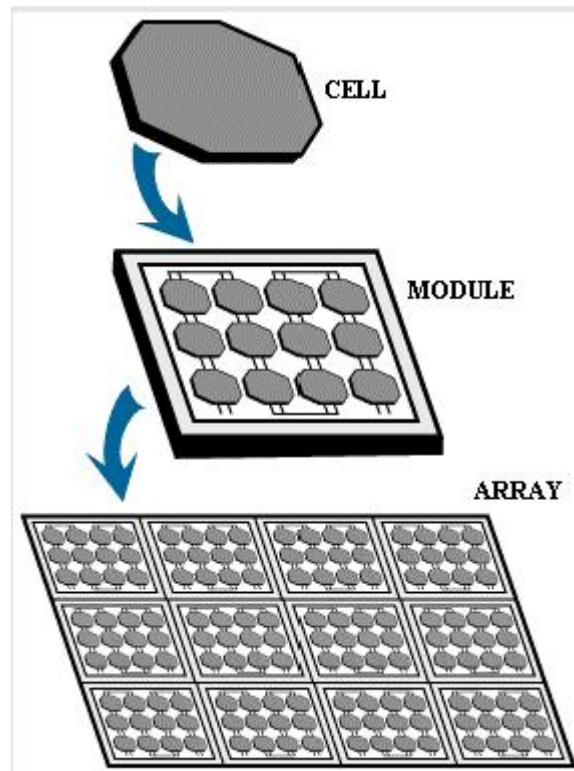


Diagram A-3.1 Graphical representation of relationship between PV cells, modules and panels (or arrays) (Source: *Gil Knier*, 'How do photovoltaics work?', NASA, 2002)

The efficiency of a PV module determines the area of a module given the same rated output - an 8% efficient 240 Watt module will have twice the area of a 16% efficient 240 Watt module. A single solar module can produce only a limited amount of power; most installations contain multiple modules. Therefore, an installed PV system typically includes, at a minimum, a PV panel or an array of solar modules, an inverter and interconnection wiring.

PV modules or panels installed in Australia must be certified and approved to AS/NZS 5033 photovoltaic installations. This standard is called up by AS3000 which is legislated in each State. Section 4 states that modules or panels shall be compliant with IEC/EN 61730 and either IEC/EN 61215 or IEC/EN 61646. This was enforced since 1 June 2009. PV systems above 50 volts (open circuit) or 240 Watts must meet Application Class A of IEC/EN61730.

From 16 July 2013 PV modules or panels installed on roofs must be compliant with IEC 61730 only, and must be certified as Fire Class C or better. Roof integrated modules may have additional requirements under the *Building Code of Australia* (BCA).

PV systems less than 50 Volt (open circuit) or 240 Watts do not need Application Class A of IEC/EN 61730 certification, however they should have Application Class C of IEC/EN 61730.

The Clean Energy Council maintains the database and website listing of AS 5033 compliant PV modules or panels. The list shows the licence holder, model number and power rating of each approved module. This should correspond directly with the module label. The modules should be advertised and sold under the same name and model numbers. Brand names which are owned by the certificate holder can be shown in brackets on the website listing. Brand names should only be used in association with

the certificate holder name.

The modules are always listed on the AS5033 compliant modules list under the certificate holder name, and the model numbers shown on the certificate. Importers or distributors branding OEM products must obtain a certificate in their own name showing their product numbers, as offered for sale in Australia.

7. Provide the tariff classifications/statistical codes of the imported goods

The goods are classified to the following tariff subheadings in 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.

8. If applicable, provide the Anti-Dumping Notice (ADN) number of the reviewable decision

If your application relates to only part of a decision made in an ADN, this must be made clear in Part C of this form.

Anti-Dumping Notice No. 2015/118 dated 6 October 2015 notified the Commissioner's decision to terminate the investigation. A copy of the notice is attached to this application for review.

9. Provide the date the applicant received notice of the reviewable decision

Tindo Solar received notification of the Commissioner's decision to terminate on 6 October 2015.

Refer to Appendix C.

PART C: GROUNDS FOR YOUR APPLICATION

If this application contains confidential or commercially sensitive information, the applicant must provide a non-confidential version of the grounds that contains sufficient detail to give other interested parties a clear and reasonable understanding of the information being put forward.

Confidential or commercially sensitive information must be marked '**CONFIDENTIAL**' (bold, capitals, red font) at the top of each page. Non-confidential versions should be marked '**NON-CONFIDENTIAL**' (bold, capitals, black font) at the top of each page.

For lengthy submissions, responses to this part may be provided in a separate document attached to the application. Please check this box if you have done so:

10. Set out the grounds on which the applicant believes that the reviewable decision is not the correct or preferable decision

10.1 Introduction

The Commissioner's decision to terminate the investigation into dumped crystalline photovoltaic modules or panels ("PV modules or panels", or "the goods") was based upon a finding that the injury caused by the dumped exports from China was considered "negligible".

Tindo considers that the Commissioner's decision is incorrect and a recommendation to the Parliamentary Secretary that the dumped Chinese exports had caused material injury to the Australian industry producing like goods is the correct or preferred decision. The Commissioner's decision that the injury to the Australian industry was influenced by:

- the size of the dumping margins found relative to the difference in prices actually obtained for the dumped imports compared to the Australian industry;
- the availability of exports from China which, if not dumped, would have still been at prices significantly below Tindo's cost of production;
- the price sensitivity and preference of the downstream market for direct current (DC) rather than alternating current (AC) models; and
- Tindo's primary product offering being AC PV modules or panels, which were marketed as premium models and were priced significantly higher than the imported DC PV models or panels during the investigation period.

Additionally, the Commissioner referred to further influencing factors, including:

- Tindo's poor timing in entering the Australian market at a time of decreasing demand;
- The market's apparent preference for cheaper DC solar modules or panels; and
- Tindo's poor marketing efforts.

Tindo will address each of the identified grounds raised by the Commissioner in Termination Report No. 239 and demonstrate why the Commissioner's decision is not the correct or preferred decision.

10.2 Background to DC and AC Solar Panels

In both of the Statement of Essential Facts Report No. 239 and Termination Report No. 239, the Commission demonstrated it has not properly and fully understood Tindo's product offering and technology, and appears confused as to relative differences between DC and AC solar panels.

All solar panels manufactured by Tindo are DC solar panels. Tindo offers its DC panels to the market with or without an attached inverter. It is therefore incorrect for the Commission to conclude that Tindo's primary product offering being AC PV modules or panels.

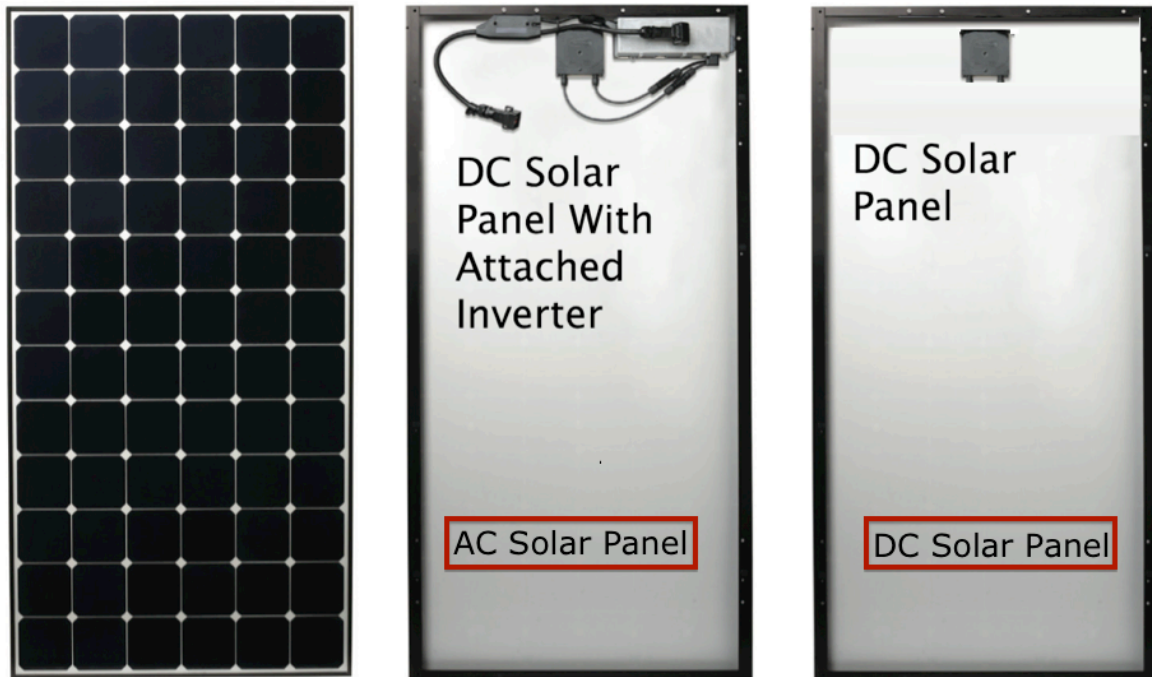


Figure 1: AC and DC Solar Panel

Figure 1 identifies the subtle differences between AC and DC PV solar modules or panels. An attached inverter on a solar panel is appealing to installers as it is faster and easier to install.

Micro inverters also offer the following benefits:

- The ability to monitor each panel remotely from a smart phone anywhere in the world;
- The elimination of a large inverter mounted on the wall of a building and the labour, safety, hardware and cost associated with mounting the inverter to the wall;
- Micro inverter systems are extra low voltage meaning fire risk is greatly reduced;
- Micro inverter systems individually control the performance of each panel whereas with a conventional solar system, if one panel is underperforming due to shade or other factors, then every other panel connected in series to this panel is reduced to the level of the lowest performing panel in the string (Please refer to Figure 2);
- Designing of the solar system is greatly simplified; and
- Micro inverter systems are generally higher yielding solar systems – that is, a 5kW micro inverter system is generally regarded as being able to generate more electricity than a 5kW conventional solar system.

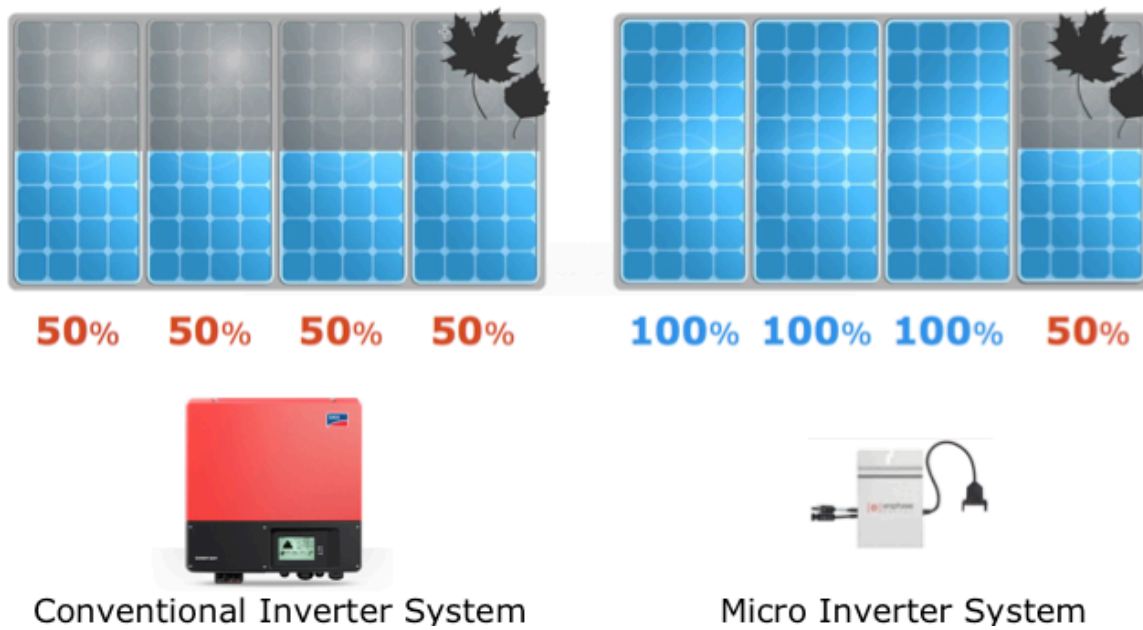


Figure 2: Shading Performance of Conventional vs Micro Inverter System

The majority of Tindo customers have opted for a micro inverter to be factory fitted to the solar panel. By contrast, Chinese manufacturers do not pre-attach inverters as this would result in a reclassification of the imported solar panel. If a Chinese exporter pre-attaches an inverter on a solar panel, the panel **and** inverter are then subject to a 5% import duty under tariff subheading 8501.31.00, as opposed to importing solar panels duty free under tariff subheading 8541.40.00 without an inverter.

Hence the installation of inverters to solar panels is generally undertaken in Australia and not imported pre-attached to solar panels imported from China. Tindo understands that the vast majority of micro inverters imported into Australia are then matched with the imported solar panels or modules (imported without inverter).

It should also be noted that micro inverter systems cost more than conventional inverter systems. When buying, for example, a 5kW solar system, you can either use a single 5kW inverter, or you can use 20 x 250W micro inverters.

10.3 Fair comparison

In the Tindo Submission dated 4-May-2015, Tindo provided wholesale comparison costs of an [redacted] 5kW inverter and an [redacted] micro-inverter which showed a single 5kW [redacted] inverter cost [redacted] compared to 5kW of micro inverters costing [redacted]. It is therefore critical that when contrasting offers for dumped Chinese PV solar modules or panels, that account is taken as to whether:

- a fair comparison is being made with the locally manufactured PV solar module or panel the imported PV solar module or panel; and
- that the cost of the inverter system is individually identified (so that “bare” prices of the PV solar module or panel can be made).

Tindo therefore rejects the Commission’s finding that had the Chinese exports not been at dumped prices, they would still have undercut Tindo’s cost of production as the Commission did not take full account of the items included (i.e. PV solar module with attached inverter

versus imported PV solar module panel excluding inverter).

10.4 Tindo’s entrance into Australian market

Tindo rejects the Commission’s following statement concerning the timing of its entrance into the Australian market²:

“The Commission considers that Tindo’s performance has been adversely affected by:

- the timing of its entry to the PV modules or panels market, which occurred when the market had reached its peak and was in decline”*

The market during the Investigation Period was [REDACTED] larger than expected. The independent Ernst & Young 2011 Business Plan for Tindo projected [REDACTED] market size for [REDACTED] and was extrapolated by Tindo as follows:

Year	Estimated Market Size	Actual Market Size	Estimated vs Projected
2011	[REDACTED] MW	[REDACTED] MW	[REDACTED] %
2012	[REDACTED] MW	[REDACTED] MW	[REDACTED] %
2013	[REDACTED] MW	[REDACTED] MW	[REDACTED] %
Total	[REDACTED] MW	[REDACTED] MW	[REDACTED] %

The market size during the investigation period was significantly larger than forecasts and that expected by Tindo, and as far as market opportunity is concerned. With the benefit of hindsight, Tindo’s timing for entering an expanding market was perfectly timed and, in the absence of dumping, should have permitted Tindo to increase production to maximize production capacity (estimated at approximately [REDACTED] of the total Australian market in the investigation period)³.

However, the dumped exports at prices that significantly undercut Tindo’s prices prevented Tindo from capitalizing on the unique opportunity to establish itself in an expanding market.

The following chart in Figure 3 uses the same data from Figure 11 in Termination Report No. 239 albeit with a trend line inserted. This clearly demonstrates market demand in the PV solar module or panel industry was trending upwards over the prescribed injury period.

² Termination Report No. 279, Section 8.1, P.58.

³ Tindo notes the Commission’s comments relating to Tindo’s market share (i.e. less than 1 per cent) and the level of non-dumped Chinese imports would be below Tindo’s cost of production. Both considerations were elements of the Productivity Commission’s proposed “bounded” public interest test recommendation (Report No. 48 of December 2009) which were rejected by the Federal Government.

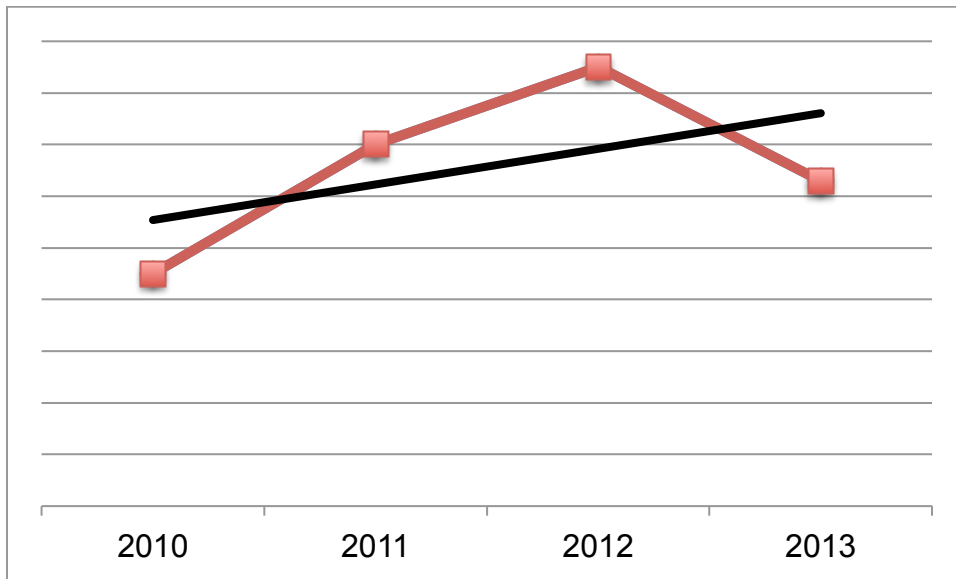


Figure 3: Solar PV Installations in Australia

It is Tindo's view that its timed entrance onto the Australian market was ideal as the solar panel industry was experiencing record breaking installation rates (as supported by market statistics) and was readily observable by observing the ubiquitous solar panel installations on millions of roofs Australia wide.

Tindo did not enter a declining market. Tindo entered a rapidly growing market that was trending upwards. There was never a better time volume wise to be participating in the Australian PV solar module or panel industry.

Over the four years from [redacted] – [redacted], demand for PV solar modules or panels was [redacted] times greater in volume compared to the preceding 4 years - as evidenced by the chart in Figure 4.

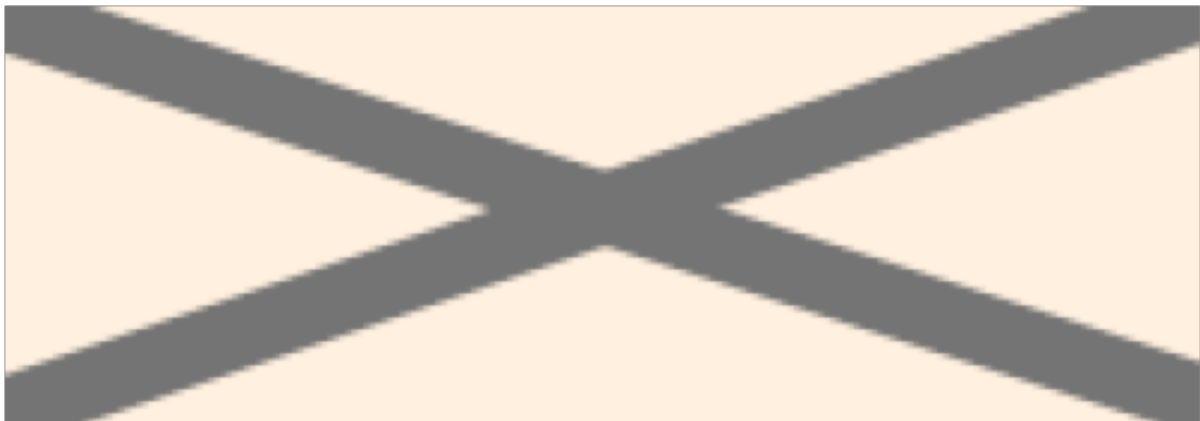


Figure 4: Solar PV Installations in Australia

Tindo also has concerns with the following misleading statement in Section 8.5.2 of the Termination Report No. 239 with regard to the South Australian Feed in Tariff:

“the FIT incentive offered by various States and Territories have been consistently decreasing since 2010”

Further, Tindo was further concerned with the following *incorrect* statement in Section 8.6.4 of the

Report No. 239 with regard to the South Australian Feed-In-Tariff:

“...the South Australian government reduced the FIT rate to zero in September 2013, therefore gaining increased sales volumes in this market was likely to be more difficult.”

This statement is incorrect, as the Commission has ignored the installation period of the South Australian Feed-in-Tariff. New solar installations were able to access the South Australian Feed-in-Tariff up until January 2014, which is after the investigation period ended (hence the inaccuracy of the Commission’s statements). The SA Power Networks Industry Bulletin date 4 October 2013 clearly states:

*“To qualify for the 16c feed-in scheme, a qualifying customer must have **INSTALLED** their approved solar generator by no later than **29 JANUARY 2014** and have made an **APPOINTMENT** with SA Power Networks to have an import/export meter installed by this date.”*

A copy of the SA Power Networks bulletin can be found in Appendix A.

It should also be noted that 29 January 2014 is post the investigation period (1 July 2012 to 31 December 2013). The Commission has made an error with its timing and this directly impacts on the credibility and accuracy of the conclusions reached by the Commission.

The cause of material injury to Tindo was the dumped Chinese PV solar modules or panels – not (an erroneously assessed) depressed market or the ending of the South Australian feed-in-tariff.

Tindo entered and participated in the local PV solar modules or panel market in a boom time coinciding with the South Australian Feed-in-Tariff available throughout the entire investigation period.

Tindo submits that the Commission has incorrectly concluded that Tindo’s entry onto the Australian market was poorly timed as supporting evidence confirms:

- The market was expanding when Tindo commenced operations;
- The market was larger than anticipated by Ernst & Young and the size estimated by Tindo;
- The South Australian Feed-in-Tariff was available for the entire investigation period;
- Tindo’s timing with respect to market size is not a factor whatsoever in Tindo’s injury; and
- Tindo’s injury was not caused by a soft market or the alleged removal of a feed-in-tariff, but by dumped Chinese solar panels that undercut Tindo’s selling prices for like goods.

10.5 Tindo’s Level of Trade

Throughout Report No. 239, the Commission refers to Tindo’s selling prices as more expensive than the imported “undumped” Chinese PV solar modules or panels. The Commission predominantly compares sales of Tindo panels against wholesale sales of dumped Chinese PV solar modules or panels. The Commission then concludes that the price gap is so large (after taking account of the dumping) that Tindo would not be able to compete in any case.

The level of trade and methodology used by the Commission significantly disadvantages Tindo and does not appropriately represent Tindo’s business model.

The majority of Tindo sales during the investigation period were to end-users and not to

wholesale customers – refer to Figure 5.

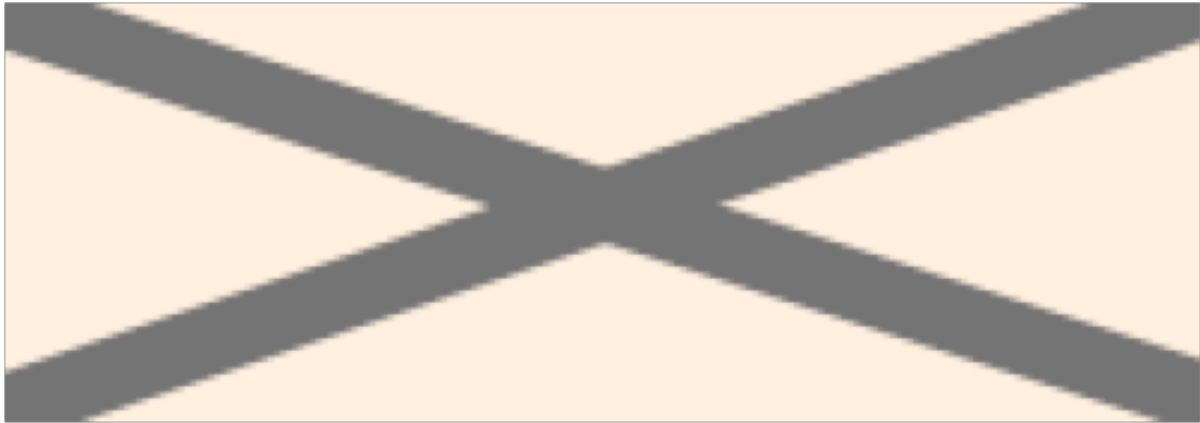


Figure 5: Tindo's Percentage of Sales to End Users

The data used to form the chart in Figure 5 was obtained from a spreadsheet forwarded to the Commission on 26 February 2015. The title of the spreadsheet was *20150226 - Trade vs End User List for Sanjay.xlsx*.

By the end of the investigation period, [REDACTED] of Tindo sales were to end-users. Hence, the level of trade used by the Commission in Report No. 239 to contrast sales of imported Chinese PV solar modules or panels at the wholesale level is not the same as almost all sales by Tindo.

Report No. 239's methodology also differs from the approach taken in Commission's Statement of Essential Facts.

The following is an excerpt from 8.4.2 of the Commission's Statement of Essential Facts:

“ Installed PV modules or panels – sales to end-users

The Commission used Tindo's installation costs to calculate the weighted average net installed price (AUD per watt) of poly-crystalline DC PV modules and added that cost to the selling price of the imported PV modules or panels.

Two of the five major importers sell poly-crystalline DC PV modules to end-users inclusive of installation. Those two importers collectively accounted for approximately 5 per cent of imports of poly-crystalline DC PV modules exported from China during the investigation period. Prices of those imports undercut Tindo's installed price by between 11 per cent and 28 per cent.

The weighted average price undercutting by those two importers during the investigation period is around 20 per cent.” (emphasis added)

It appears from the Termination Report that the Commission has not adequately considered in its analysis sales to end users by Tindo despite this level of trade representing the bulk of Tindo's sales activities. It is not clear why the Termination Report has not included an analysis of sales to end users as was provided in the SEF especially given that by the end of the investigation period, [REDACTED] of Tindo's sales were to end users. Please refer to Figure 5.

Using the residual exporters determined dumping margin of 21.1%, Tindo Solar's sales to end users would be very close to, the same price, or even cheaper than un-dumped sales to end users of Chinese panels.

The Commission has failed to focus on the appropriate end-user level of trade in the following

statement at 8.7 of the Termination Report:

Although the imported products were dumped, even in the absence of dumping (that is, if the imported goods had been sold at a price which was commensurate with the normal value plus importation costs) the gap between Tindo's price (regardless of AC or DC) and the price of imported DC models has meant that imports remain at a significant price advantage over the investigation period.

The above statement is misleading and not correct when analyzing sales of panels to end-users. The statement is based predominantly on an analysis of wholesale sales of solar panels which does not properly represent Tindo's level of sales.

Tindo re-asserts that in the absence of dumping, Tindo's price to the end user would have been the same or cheaper than a solar system using the dumped Chinese PV solar modules or panels.

The SEF's finding of 20 per cent undercutting combined with the Termination Report's finding of a 21.1% dumping margin suggests Tindo's offering to end users would be very similar to the same system using dumped Chinese PV solar modules or panels.

Tindo has concerns with the following erroneous statement in Section 8.1 of the Termination Report No. 239 with regard to pricing differential:

"...the application of a dumping duty would have little remedial effect on the specific forms of injury being suffered by Tindo."

Again, these comments reflect the wrong level of trade comparison. These comments are not based on sales made to the end-user.

A dumping margin of 21.1% applied to the majority of Chinese exports would provide Tindo with a very competitive offering to end users and would be most beneficial in growing Tindo's manufacturing business.

Tindo similarly has concerns with the following statement in Section 8.4.2 of the Termination Report No. 239 with regard to the Commission's analysis methodology:

Following the publication of the SEF, the Commission revised its pricing analysis by comparing imported poly-crystalline DC PV modules or panels to Tindo's quarterly net selling price (AUD per watt), at a comparable level of trade. This is because the Commission could only realistically compare actual sales at this level without making any adjustments or assumptions. To conduct this analysis, the Commission used verified domestic sales data of Tindo's manufactured goods during the investigation period and the verified sales data of the five major importers."

This analysis is flawed as it does not properly consider the bulk of Tindo's business which involves sales to end-users.

Tindo therefore contends:

- An analysis of sales to end users has been omitted from the Termination Report despite being included in the SEF;
- Sales to end-users made up █████ of Tindo's sales activities by the end of the investigation period and are an essential part of Tindo's business model;
- The dumping of Chinese panels (by up to 38.8 per cent, with most at around 20 per cent dumping margins) have had a direct impact on Tindo's sales to end users;
- In the absence of dumping, Tindo's price to the end user would have been the same or cheaper than a solar system using Chinese panels; and
- Dumping margins in the range 16.1 per cent to 38.8 per cent has caused injury to Tindo's sales and not "other factors" as claimed by the Commission.

10.6 Market's Preference for Low Priced DC

In the SEF and Termination Report, the Commission makes regular comparisons between AC and DC solar panels. On numerous occasions in the Termination Report, it is suggested that the market preferred to buy DC solar panels and that's why Tindo was injured.

The implication of these statements is that customers couldn't buy DC panels from Tindo.

However, Tindo *did offer* DC panels (i.e. all goods are DC modules or panels sold by Tindo).

The only reason that the market chose Chinese DC solar panels over Tindo, is that they were cheaper. They were cheaper because they were dumped. Unfortunately there seems to be much misunderstanding and confusion by the Commission about the technology and this has resulted in incorrect assumptions and conclusions.

Tindo has concerns with the accuracy pertaining to the following statement in Section 8.1 of the Termination Report No. 239 with regard to Tindo's panel offering:

"The Commission considers that Tindo's performance has been adversely affected by:

- *the price sensitivity and preference of the market for cheaper, DC models of PV modules or panels which represented only a small proportion of Tindo's offer to the market."*

This statement incorrectly implies that Tindo did not substantially offer DC panels to the market.

Tindo also has concerns with the following statement (also in Section 8.1 of the Termination Report No. 239) with regard to the market preferring lower priced DC modules:

"The Commission's view is that these lost sales were due to the preference of end users for the lower priced DC models."

This statement also implies that Tindo did not substantially offer DC solar panels to the market. Moreover, the "lower priced DC models" were dumped.

Tindo also additional concerns on the following statement in Section 8.4.4 of the Termination Report No. 239 with regard to its business plan:

The Commission noted that in the investigation period Tindo's business and marketing plan was clearly directed towards AC PV modules or panels. Tindo automatically quotes a price for AC PV modules or panels unless specifically requested to quote for DC PV modules or panels."

The Commission is correct in observing that the 2011 Ernst & Young business plan was directed towards solar panels with attached micro inverters.

However the Ernst & Young business plan was scrapped as soon as the Chinese started dumping panels and Tindo's business plan changed to actively marketing AC and DC solar solar systems to end users.

Tindo did offer DC panels to the market.

Appendix B (confidential) is a copy of the Tindo Wholesale Price list from during the investigation period.

Tindo gave DC panels with and without attached inverters equal "offering" to the customer. The wholesale price list clearly shows that Tindo markets both DC and AC solar panels.

Tindo has concerns on the following statement in Section 8.5.4 of the Termination Report No. 239 with regard to selling AC panels:

“The Commission considers that the imposition of a dumping duty at the levels found would not have significantly influenced consumers to switch to Tindo’s AC modules or panels during the investigation period.”

This statement implies that Tindo was expecting customers to switch from Chinese DC to Tindo AC modules.

This is not the case.

Tindo offered both AC and DC solar panels to its customers. Tindo understands and knows the cost and value difference between a Chinese DC solar system and a Tindo AC solar system. Tindo did not expect customers to switch from Chinese DC solar panels to Tindo AC modules however, Tindo does expect customers to switch from Chinese DC to Australian DC solar panels.

Tindo did not exclusively market AC panels. Tindo marketed AC and DC solar panels during the bulk of the investigation period. The Commission’s misunderstanding of the Tindo business model has resulted in erroneous conclusions on material injury being caused by factors other than dumping.

Tindo has some concerns on the following statement in Section 8.4.5 of the Termination Report No. 239 with regard to selling AC panels:

“...the Commission is not satisfied that, in the absence of dumping, Tindo would have been able to reduce its selling prices of AC PV modules to the extent required to ensure Tindo’s prices were competitive with DC PV modules exported from China, even after allowing for the premium that would be expected for an AC model over a DC model.”

Tindo agrees with the Commission that an AC solar panel with an attached inverter will always be more expensive than a DC solar panel.

In June-2013, the wholesale price of a Tindo 250W DC solar panel was [REDACTED] and an AC unit was [REDACTED]. When buying for example a 5kW solar system, you can either use a single 5kW inverter, or you can use 20 x 250W micro inverters.

The cost of 20 x micro inverters is more than the cost of a single 5kW inverter.

In the Tindo Submission dated 4 May 2015 to the Commission, Tindo provided wholesale comparison costs of an [REDACTED] 5kW inverter and an [REDACTED] micro-inverter which showed a single 5kW inverter cost [REDACTED] compared to 5kW of micro inverters costing [REDACTED].

It is incorrect and naïve for the Commission to price compare a DC solar panel without an attached inverter to a DC solar panel with an attached inverter.

For the Commission to argue and compare the price of a solar panel with an attached micro inverter to one without an attached micro inverter demonstrates clearly that the Commission is confused and has misunderstood the solar technology, product offerings and the Tindo business model.

Furthermore the statement once again reinforces the Commission’s implications that Tindo did not offer DC panels as well as claiming that Tindo expected to be able to sell an AC solar system for the same price as a Chinese DC solar system.

Tindo has concerns with the following statement in Section 8.7 of the Termination Report with regard to the wholesale market preferring DC panels:

“In so far as the wholesale market is concerned, the decline in sales has been primarily caused by the preference of the end users for lower priced DC models.”

This is a misguided and a simplistic conclusion by the Commission and is incorrect in more than one way:

- It incorrectly implies that Tindo refused to offer DC solar panels; and
- It does not address why wholesale customers changed from buying Tindo solar panels to suddenly stop buying Tindo solar panels.

The Ernst & Young Business Plan did focus on the marketing of solar panels with attached inverters however once the Chinese starting dumping panels, customers stopped buying Tindo and the Ernst & Young Business Plan was scrapped.

Following this, Tindo offered both DC panels with and without attached micro inverters for the bulk of the investigation period to the wholesale and end user markets. Other than dumping, there is no other reason as to why Tindo's wholesale customers stopped buying panels especially when the following is considered:

- Tindo offered by DC and AC solar panels;
- The solar market was booming; and
- There were attractive feed-in-tariffs in place.

The only reasonable explanation is that customers wanted cheaper panels than what Tindo was able to provide.

To provide further perspective on the incorrect claims about customers preferring DC, during the investigation period the popularity of micro inverters and AC solar panels rapidly expanded Australia wide.

There were many new entrants in the micro inverter market including businesses dedicated to selling micro inverters and AC solar panels including:

- XXX
- XXX

████ retrofitted █████ inverters on to dumped ET Solar panels.

The vast majority of micro inverters imported into Australia ended up being mated to a dumped Chinese DC solar panel.

This caused further price and volume injury to Tindo, which is inextricably linked to cheaper dumped Chinese solar panels.

However putting the popularity of micro inverters aside, Tindo did offer both AC and DC solar panels to the Australian market.

The Commission's conclusion that Tindo did not offer DC units is incorrect. End users chose to buy Chinese DC solar panels over Tindo DC solar panels because they were cheaper and dumped – not because Tindo failed to offer DC panels to the market.

10.7 Tindo Marketing

Tindo rejects the following misleading statement in Section 8.6.4 of Termination Report No. 239 with regard to the South Australian Feed-in-Tariff:

“based on observations of public advertisements for PV modules or panels, Tindo does not appear to aggressively market its product as compared to its competitors”

It is very disappointing that the Commission has made this assessment without fully exploring the evidence relating to Tindo's marketing activities. Upon what basis has the Commission assessed Tindo's marketing as insufficiently aggressive? These comments about Tindo's

marketing are a generalization and incorrect.

Tindo has been extremely successful at marketing, public relations and Government relations.

- The Prime Minister Julia Gillard officially opened the new Tindo Solar factory during the investigation period.
- Tindo received much free media on TV, print, radio and Internet.
- Tindo has conducted multiple open days and training days for its dealer network at its factory.
- Tindo advertised monthly factory tours on commercial radio, where Tindo would regularly have full sessions of the general public who would receive a presentation about Tindo and a factory tour.
- Tindo welcomed community groups for the same and often had clubs, industry organisations, Government agencies, and schools.
- Tindo management presented at national industry conferences.
- Tindo staff were regularly interviewed by local and national ABC talk back radio such as ABC's very popular Macca's Australia All Over about solar and other renewable energy related subjects and actively pursued these talking spots.
- Tindo participated in commercial print and radio advertising.

Tindo was extremely active in marketing and was also very effective at getting the message out to the public about its superior product.

The Commission's untested generalization that Tindo did not aggressively market its products is inaccurate and unfounded and once again goes to undermining its assumptions and conclusions.

10.8 Volume Injury

Tindo is concerned by the Commission's statement on volume-effect injury:

"...dumping has not caused volume injury, in terms of loss of sales volumes, to the Australian industry and nor did it hinder Tindo's ability to achieve higher sales volumes than it did during the investigation period."

Once the Chinese solar companies started dumping solar panels, Tindo's wholesale market collapsed (because prices were falling, Tindo had to market direct to end-user). Tindo was forced to restructure and decided to focus on selling solar panels direct to the end user.

During the investigation period, the Ernst & Young business plan's budgets were not achieved.

- [REDACTED] – Ernst & Young budgeted sales
- [REDACTED] – Tindo actual sales achieved

The [REDACTED] reduction in actual versus budgeted sales meant that Tindo needed to urgently restructure. Tindo's fixed monthly costs of operations and expenses needed to be spread across fewer solar panels. This becomes a double feedback loop and requires careful management to break the cycle.

The drop in volume was very injurious to Tindo as it forced Tindo to cover its monthly operational expenses over fewer solar panels.

Tindo therefore rejects the Commission's claims that the cause of injury to the Australian industry as being due to:

- Tindo's bad timing in entering a market in decline;
- The market's preference for cheaper DC solar panels; and
- Tindo's poor marketing efforts,

cannot be substantiated, are incorrect and misleading. The available evidence does confirm that Tindo did suffer volume injury (the reduction in budgeted sales at the wholesale level due to dumped Chinese imports) and was forced to restructure its operations (and sell direct to end-users).

10.9 Tindo Business Plan

The Commission repeatedly makes reference in Termination Report No. 239 to the Tindo business plan. Tindo engaged Tier 1 accounting firm, Ernst & Young to write its business plan and budget forecasts.

Tindo would like to provide some perspective on the following statement in Section 8.4.4 of the Termination Report with regard to its business plan:

“The business plan shows Tindo’s estimate of the price being offered for imported panels at the time of preparing the business plan. Based on these estimates, the forecast selling price at the commencement of Tindo’s operation was not too dissimilar to the then forecast price of imported models. However, based on evidence gathered during the investigation it is apparent that the estimates of the import selling prices were greatly overstated.”

The Commission is correct in observing:

- The actual selling price of imported panels was initially correct in the Ernst & Young Business Plan.
- The Ernst & Young Business Plan did not predict a sudden drop in the price of Chinese solar panels.

This is the sequence of events:

- Jul-12: Tindo commenced selling panels and has a good wholesale market;
- Sep-12: Chinese start dumping panels;
- Oct-12: Tindo’s wholesale customers stop buying panels;
- Nov-12: Tindo decided to go downstream and sell panels to end users

Other than dumping, there is no reasonable explanation from the Commission as to why Tindo’s wholesale business suffered injury.

The collapse of Tindo’s wholesale business was:

- Not due to a depressed market because the market was experiencing healthy growth;
- Not due to its product range as Tindo offered conventional DC as well as AC solar panels; and
- Not due to marketing as Tindo was prolific and effective with its marketing.

The following further statement is from Section 8.4.4 of the Termination Report:

“A comparison of the forecast price per watt for Tindo’s PV modules or panels with the actual selling price achieved shows that actual prices were significantly below the forecast. The business plan shows that Tindo projected that its selling price would reduce over time, in line with cost reductions, however the actual price reduction that occurred over the investigation period was of a greater magnitude than the forecast.”

Tindo nor its advisors Ernst & Young did not predict that the Chinese would start dumping panels.

The Commission knows that the price of the [REDACTED] solar panel fell [REDACTED] from October 2011 to June 2012. This was discussed in the Tindo Submission dated 4 May 2015.

The timing of the price drop from Chinese panel manufacturers is no coincidence as it

coincides with the US applying dumping duties on Chinese solar companies. The US market suddenly became less attractive and Australia became a dumping ground for the Chinese solar manufacturers.

When the Chinese started dumping:

- Assumptions that were made in the Ernst & Young Business Plan were no longer relevant; and
- Tindo was forced to act and change its business plan or face bankruptcy.

It was therefore observable that:

- The dumping of Chinese panels decimated Tindo's wholesale business and Tindo was forced to change its business model rendering the Ernst & Young business plan obsolete;
- It is unreasonable for the Commission to have expected Tindo and its advisors to have predicted the dumping of Chinese panels in its business plan;
- If Tindo knew the Chinese were going to dump panels in Australia at a rate of 21.1%, it is unlikely it would have set up a manufacturing plant in a dumped market environment;
- It is unreasonable for the Commission to continually make reference to an out of date business plan in the Termination Report and can only mean the Commission has misunderstood the Tindo business model which undermines the Commission's conclusions; and
- The Commission knows that the business plan did not predict dumping of 21.1% and the Commission also knows that Tindo was forced to change its business plan and the continual reference to the business plan only serves to reinforce the fact that the Commission is misunderstanding Tindo's business plan.

10.10 Qualitative Features

Tindo has concerns with the following statement in Section 8.1 of the Termination Report No. 239 with regard to the apparent pricing differential between Tindo and the dumped imports:

“Even if the imported products were not dumped, the Commission's view is that the significant remaining price differential would not have resulted in a shift towards Tindo's products during the investigation period.”

Throughout the SEF and Termination Report, the Commission is expressing its opinions that even with a dumping margin applied, no one would buy Tindo as its price premium would be too high when compared to say Trina, ET or Renesola.

The Commission is suggesting that panels are commodity products, that they are extremely transparent and price sensitive, so no one will ever buy Tindo because its price premium is too large.

■■■■ was the number one selling solar panel in Australia during the investigation period.

However ■■■■ average selling price is ■■■■ higher than other tier 3 Chinese manufacturers.

Going by the Commission's own logic, no one would be buying ■■■■ because its price premium is too large. Everyone would be buying the cheaper tier 3 solar panel instead. However PV solar modules or panels are not a pure commodity and qualitative benefits are considered when system owners make their purchasing decisions.

Tindo did sell solar panels during the investigation period due to its qualitative benefits to the end user.

■■■■ was the No. 1 selling solar panel by volume in Australia during the investigation period and it certainly was not the cheapest panel in Australia.

Cheap Chinese tier 3 panels have a significant price advantage over [REDACTED] yet [REDACTED] is the No. 1 selling panel in Australia during the investigation period.

Tindo has demonstrated that it can make sales and has continued to make sales of its more expensive, high quality solar panel.

If it weren't for dumped Chinese solar panels, the gap between Tindo and Chinese panels would have narrowed, allowing Tindo to grow its business as its value for money proposition improved by 21.1%

It may therefore be concluded that:

- The logic used by the Commission is simplistic and contradictory as the most popular solar panel brand in Australia is significantly more expensive than other tier 3 Chinese manufacturers.; and
- If it weren't for dumped Chinese solar panels, Tindo's value for money proposition to end-users would have drastically improved.

10.11 Causal Link

The Commission's assessment of causal link does not take full account of the price undercutting experienced by Tindo during the investigation period. This is reflected in the following statement at Section 9.1 of the Termination Report No. 239 with regard to the Commission's analysis methodology

"...the Commission has found that the dumped goods caused negligible injury to the Australian industry."

The Commission has not provided an assessment of how the injury caused by dumping is negligible. The "other factors" claimed of a depressed market and Tindo's lack of marketing skills have been refuted as not being supported by the available evidence.

The Commission has ignored and dismissed several strong examples provided by Tindo with material injury suffered with a direct link to dumping.

These examples were clear and relevant in that they compared Tindo AC solar installations to Chinese AC solar installations as well as Tindo DC compared to Chinese DC.

Tindo provided these examples in its original Application as well as its submission dated 7 September 2015. Tindo has summarized the examples provided hereunder.

Example #1 ([REDACTED]) has the following sequence of events:

- Aug-2013: Tindo quotes [REDACTED] for a [REDACTED] AC solar system
- Sep-2013: Customer receives quote for [REDACTED] for Chinese [REDACTED] AC solar system
- Sep-2013: Tindo reduces its price to [REDACTED] to compete with Chinese solar system

Example #1 outcome:

- Tindo wins the job
- Tindo is forced to discount [REDACTED] or [REDACTED]
- Tindo sustains injury directly linked to dumped Chinese panels

Example #2 ([REDACTED]) has the following sequence of events:

- Aug-2013: Tindo quotes [REDACTED] for a [REDACTED] AC solar system
- Sep-2013: Customer receives quote for [REDACTED] for Chinese [REDACTED] AC solar system
- Sep-2013: Tindo reduces its price to [REDACTED] to compete with Chinese solar system

Example #2 outcome:

- Tindo wins the job
- Tindo is forced to discount [REDACTED] or [REDACTED]
- Tindo sustains injury directly linked to dumped Chinese panels

Example #3 ([REDACTED]) has the following sequence of events:

- Sep-2013: Tindo quotes [REDACTED] for a [REDACTED] DC solar system
- Sep-2013: Customer receives quote for [REDACTED] for Chinese [REDACTED] DC solar system
- Sep-2013: Tindo reduces its price to [REDACTED] to compete with Chinese solar system

Example #3 outcome:

- Tindo wins the job
- Tindo is forced to discount [REDACTED] or 8.13%
- Tindo sustains injury directly linked to dumped Chinese panels

Example #4 ([REDACTED]) has the following sequence of events:

- Sep-2013: Tindo quotes [REDACTED] for a [REDACTED] AC solar system
- Sep-2013: Customer receives quote for [REDACTED] for Chinese [REDACTED] AC solar system

Example #4 outcome:

- Tindo loses the job
- Tindo loses potential revenue of [REDACTED]
- Tindo sustains injury directly linked to dumped Chinese panels

Example #5 ([REDACTED]) has the following sequence of events:

- Sep-2013: Tindo quotes [REDACTED] for a [REDACTED] DC solar system
- Sep-2013: Customer receives quote (est) for [REDACTED] for Chinese [REDACTED] DC solar system

Example #5 outcome:

- Tindo loses the job
- Tindo loses potential revenue of [REDACTED]
- Tindo sustains injury directly linked to dumped Chinese panels

Example #6 ([REDACTED]) has the following sequence of events:

- Jul-2013: Tindo quotes [REDACTED] for a [REDACTED] AC solar system – a price which reflected at that time known price undercutting of Chinese modules.
- Aug-2013: Tindo receives indications of price undercutting and revises its price down to [REDACTED]

Example #6 outcome:

- Tindo wins the job
- Tindo loses potential revenue of [REDACTED]
- Tindo sustains injury directly linked to dumped Chinese panels

The available evidence submitted by Tindo supports its allegations that it was experiencing material injury from dumping, and that Tindo was competing directly with the dumped Chinese exports in an expanding local market for PV solar modules or panels. The claims that the Commission has tendered as being the cause of injury to Tindo are incorrect and misleading, and cast doubt as to Tindo's knowledge of the Australian PV solar modules or panels market.

Tindo respectfully rejects the Commission's finding in Termination Report No. 239 that injury attributable to the Australian industry manufacturing PV solar modules or panels is negligible. The evidence available to the Commission confirms that non-dumped exports of PV solar modules or panels exported from China would be priced at similar levels to PV solar modules or panels produced and sold by Tindo. In an expanding market (with applicable feed-in-tariffs available), there are no other factors that can be attributed as having caused injury to the Australian industry.

11. Identify what, in the applicant's opinion, the correct or preferable decision (or decisions) ought to be, resulting from the grounds raised in response to question 10

It is Tindo's opinion that the correct and preferred decision in Investigation No. 239 involves a finding that the dumped Chinese exports of PV solar modules or panels with margins ranging from 16.1 per cent to 38.8 per cent were a cause of material injury to the Australian industry manufacturing like goods.

The correct or preferred decision by the Commission involves the recommendation to the Parliamentary Secretary to impose interim dumping duties on all exports of PV solar modules or panels exported from China.

Tindo requests the Anti-Dumping Review Panel to revoke the Commissioner's Termination Report No. 239 and require the Commission to publish a Statement of Essential Facts at the earliest opportunity.

12. Set out the reasons why the proposed decision provided in response to question 11 is materially different from the reviewable decision

Only answer question 12 if this application is in relation to a reviewable decision made under subsection 269X(6)(b) or (c) of the Customs Act.

APPENDIX A – SAPN BULLETIN



SA Power Networks | Industry News

The Solar Feed-in Scheme Has Closed – What Next?

4 October 2013

SA Power Networks

The SA Government's Solar Feed-in Scheme has now closed to new entrants.

SA Power Networks received 16,400 Solar Small Embedded Generator (SEG) applications during September 2013. The challenge for the industry now is to install all of the solar systems for these customers by 29 January 2014 to enable these customers to be considered for the 16c Feed-in Tariff.

To qualify for the 16c feed-in scheme, a qualifying customer must have **INSTALLED** their approved solar generator by no later than **29 JANUARY 2014** and have made an **APPOINTMENT** with SA Power Networks to have an import/export meter installed by this date. Only having an import/export meter installed does not guarantee the customer will qualify for the feed-in scheme, nor does it allow a customer to preserve 'entitlements' or enable the customer to have a solar generator installed at a later date and still qualify for the feed-in scheme.

Action for installers

To ensure only qualifying customers receive the appropriate feed-in tariff, from today, 4 October 2013, SA Power Networks requires Solar Installers to leave a copy of the Electrical Certificate of Compliance, (ECC), for the solar installation on site for our Technicians to pick up at the time our meter(s) are installed. Failure to leave the ECC may result in the customer not being able to participate in the State Government Feed-in Scheme until the customer can provide SA Power Networks with the required evidence. It is recommended that the ECC should indicate the make and model of the inverter(s), the solar array peak generation capacity and panel wattage and number of solar panels installed.

As a reminder to all, the following is an extract for the SA Power Networks Industry News July 2013 edition relating to making an appointment for a meter installation with SA Power Networks.

Making an appointment with SA Power Networks means:

- 1) A Form A application must have been sent to the customer's Retailer with sufficient time for the Retailer and SA Power Networks to have received and processed the application.
 - a. *Please note that processing times can vary depending on demand and in some cases take several weeks. It is strongly recommended that customers lodge their fully completed and compliant Form A application with their Retailer by 1 January 2014 to ensure their application can be processed in time to enable an appointment booking to be made before the cut off date of 29 January 2014. SA Power Networks can not guarantee that Form A applications lodged with a customer's Retailer after this date can be processed in time to meet the regulatory cut off date.*
- 2) A connection appointment has been booked with SA Power Networks.
- 3) Lodging a Form A application with the customer's Retailer and/or the Retailer passing a request onto SA Power Networks does not constitute an appointment with SA Power Networks.



Appointments can be booked with SA Power Networks on-line via our REX system for registered users or by contacting the SA Power Networks Builders & Contractors Line on 1300 650 014 after we have received and processed a customer's Form A application. The Builders & Contractors phone line is open for bookings from 8:00am to 5:00pm ACST/ACDT Monday to Friday only. The REX on-line system is generally available for registered users on a 24/7 basis.

One final reminder re cancellations and charges

If an appointment is made with SA Power Networks and the customer or their agent subsequently cancels their contract to install a solar SEG system, but the meter installation appointment is not cancelled and we attend the site and install a meter, the customer will still be liable for the meter charge.

For all Customer Connection work undertaken by SA Power Networks, if the requested meter or service connection works can not be successfully completed during our initial site attendance on the appointment date due to access, compliance, safety or customer related issues, the person or company that made the appointment will be liable for a 'Wasted Visit' fee.


It would be appreciated if all Solar Providers and Electrical Contractors can remind your clients of these fees and that SA Power Networks charges all customers a fee for the installation of import/export meters for their solar SEG systems.

Authorised by: Ian Rogers, Manager Connection Services, SA Power Networks



**APPENDIX B – TINDO WHOLESALE PRICE LIST (June-2013) -
CONFIDENTIAL**

APPENDIX C – COPY OF PUBLIC NOTICE & ADN

													
Australian Government Anti-Dumping Commission													
<p align="center"><i>Customs Act 1901 – Part XV B</i></p>													
<p align="center">CERTAIN CRYSTALLINE SILICON PHOTOVOLTAIC MODULES OR PANELS EXPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA</p>													
<p align="center">TERMINATION OF AN INVESTIGATION</p>													
<p align="center"><i>Public notice under subsection 269TDA (15) of the Customs Act 1901</i></p>													
<p>On 14 May 2014 I, Dale Seymour, Commissioner of the Anti-Dumping Commission initiated an investigation into the alleged dumping of certain crystalline silicon photovoltaic modules or panels (the goods) exported to Australia from the People's Republic of China (China), following an application lodged by Tindo Manufacturing Pty Ltd under subsection 269TB(1) of the <i>Customs Act 1901</i> (the Act).</p>													
<p>I published a notice in <i>The Australian</i> newspaper on 14 May 2014 notifying of the initiation of the investigation, and issued Anti-Dumping Notice (ADN) No. 2014/38, which contains further details on the investigation, available at www.adcommission.gov.au.</p>													
<p>As a result of the Commission's investigation, I am satisfied that:</p>													
<ul style="list-style-type: none"> in relation to the following four selected exporters in the sample, the goods exported by those exporters have been dumped, the dumping margins range from 16.1 percent to 38.8 percent and the weighted average dumping margin for all other exporters is 21.1 percent as summarised in the table below: 													
<table border="1"> <thead> <tr> <th>Exporter / Manufacturer</th> <th>Product dumping margin</th> </tr> </thead> <tbody> <tr> <td>Changzhou Trina Solar Energy Co. Ltd; and Trina Solar (Changzhou) Science and Technology Co. Ltd</td> <td>19.9%</td> </tr> <tr> <td>ET Solar Energy Limited; ET Solar Industry Limited; and ET Energy Co. Limited</td> <td>19.8%</td> </tr> <tr> <td>Wuxi Suntech Power Co., Ltd</td> <td>38.8%</td> </tr> <tr> <td>ReneSola Jiangsu Limited and ReneSola Zhejiang Limited</td> <td>16.1%</td> </tr> <tr> <td>Residual Exporters</td> <td>21.1%</td> </tr> </tbody> </table>	Exporter / Manufacturer	Product dumping margin	Changzhou Trina Solar Energy Co. Ltd; and Trina Solar (Changzhou) Science and Technology Co. Ltd	19.9%	ET Solar Energy Limited; ET Solar Industry Limited; and ET Energy Co. Limited	19.8%	Wuxi Suntech Power Co., Ltd	38.8%	ReneSola Jiangsu Limited and ReneSola Zhejiang Limited	16.1%	Residual Exporters	21.1%	
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<ul style="list-style-type: none"> the injury, to the Australian industry or the hindrance, to the Australian industry's establishment, caused by PV modules or panels exported to Australia at dumped prices is negligible, therefore, I have decided to terminate the investigation as so far as it relates to China in accordance with subsection 269TDA(13) of the ACT. 													
<p>In making the decision to terminate, I had regard to the application, the <i>Statement of Essential Facts No. 239</i>, submissions received from interested parties, and other relevant information received throughout the course of the investigation.</p>													
<p><i>Termination Report No. 239</i>, which sets out reasons for my termination decision, including the material findings of fact and law upon which the decision is based, has been placed on the Commission's public record www.adcommission.gov.au.</p>													
<p>The applicant may request a review of the decision to terminate the investigation by lodging an application with the Anti-Dumping Review Panel in the approved form and manner within 30 days of the publication of this notice.</p>													
<p>Enquiries about this notice may be directed to the case manager on telephone number +61 2 6276 1462, fax number +61 3 8539 2499 or e-mail at operations2@adcommission.gov.au.</p>													
<p>Dale Seymour Commissioner Anti-Dumping Commission 6 October 2015</p>													
<p align="right">GT17818</p>													



ANTI-DUMPING NOTICE NO. 2015/118

Certain crystalline silicon photovoltaic modules or panels

Exported from the People's Republic of China

TERMINATION OF AN INVESTIGATION

Customs Act 1901 – Part XVB

On 14 May 2014 I, Dale Seymour, Commissioner of the Anti-Dumping Commission initiated an investigation into the alleged dumping of certain crystalline silicon photovoltaic modules or panels (the goods) exported to Australia from the People's Republic of China (China), following an application lodged by Tindo Manufacturing Pty Ltd under s.269TB(1) of the *Customs Act 1901* (the Act).

I published a notice in *The Australian* newspaper on 14 May 2014 notifying of the initiation of the investigation, and issued Anti-Dumping Notice (ADN) No. 2014/38, which contains further details on the investigation, available at www.adcommission.gov.au.

As a result of the Commission's investigation, I am satisfied that:

- in relation to the following four selected exporters in the sample, the goods exported by those exporters have been dumped, the dumping margins range from 16.1 percent to 38.8 percent and the weighted average dumping margin for all other exporters is 21.1 percent as summarised in the table below:

Exporter / Manufacturer	Product dumping margin
Changzhou Trina Solar Energy Co. Ltd; and Trina Solar (Changzhou) Science and Technology Co. Ltd	19.9%
ET Solar Energy Limited; ET Solar Industry Limited; and ET Energy Co. Limited	19.8%
Wuxi Suntech Power Co., Ltd	38.8%
ReneSola Jiangsu Limited and ReneSola Zhejiang Limited	16.1%
Residual Exporters	21.1%

- the injury, to the Australian industry or the hindrance, to the Australian industry's establishment, caused by certain crystalline silicon photovoltaic modules or panels exported to Australia at dumped prices is negligible, therefore, I have decided to terminate the investigation as so far as it relates to China in accordance with subsection 269TDA(13) of the Act.

In making the decision to terminate, I had regard to the application, the *Statement of Essential Facts No. 239*, submissions received from interested parties, and other relevant information received throughout the course of the investigation.

Termination Report No. 239, which sets out reasons for my termination decision, including the material findings of fact and law upon which the decision is based, has been placed on the Commission's public record at www.adcommission.gov.au.

A notice of my decision to terminate the investigation was published in *The Australian* newspaper on 6 October 2015.

The applicant may request a review of the decision to terminate the investigation by lodging an application with the Anti-Dumping Review Panel in the approved form and manner within 30 days of the publication of the public notice.

Enquiries about this notice may be directed to the case manager on telephone number +61 2 6276 1462, fax number +61 3 8539 2499 or e-mail at operations2@adcommission.gov.au.

Dale Seymour
Commissioner
Anti-Dumping Commission

6 October 2015

PART D: DECLARATION

The applicant/the applicant's authorised representative [*delete inapplicable*] declares that:

- The applicant has paid the application fee and attached a copy of proof of payment to this application;
- The applicant understands that the Panel may hold conferences in relation to this application, either before or during the conduct of a review. The applicant understands that if the Panel decides to hold a conference *before* beginning to conduct a review, and the applicant (or the applicant's representative) does not attend the conference without reasonable excuse, this application may be rejected;
- The information and documents provided in this application are true and correct. The applicant understands that providing false or misleading information or documents to the ADRP is an offence under the *Customs Act 1901* and *Criminal Code Act 1995*.



Signature:.....

Name: Adrian Ferraretto

Position: Managing Director

Organisation: Tindo Solar Manufacturing Pty Ltd

Date: 5 / 11 / 15

PART E: AUTHORISED REPRESENTATIVE

This section must only be completed if you answered yes to question 4.

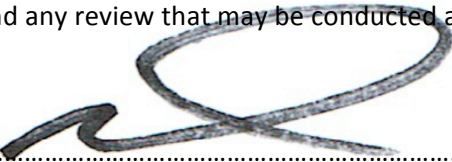
Provide details of the applicant's authorised representative

Full name of representative: John O'Connor
Organisation: John O'Connor and Associates Pty Ltd
Address: P.O. Box 329, Coorparoo QLD 4151
Email address: jmoconnor@optusnet.com.au
Telephone number: (07) 3342 1921

Representative's authority to act

****A separate letter of authority may be attached in lieu of the applicant signing this section****

The person named above is authorised to act as the applicant's representative in relation to this application and any review that may be conducted as a result of this application.

Signature: .....
(Applicant's authorised officer)

Name: Adrian Ferraretto
Position: Managing Director
Organisation: Tindo Solar Manufacturing Pty Ltd
Date: 5 / 11 / 15