

COMMISSION IMPLEMENTING REGULATION (EU) 2017/1524
of 5 September 2017

withdrawing the acceptance of the undertaking for two exporting producers under Implementing Decision 2013/707/EU confirming the acceptance of an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China for the period of application of definitive measures

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union ('the Treaty'),

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic anti-dumping Regulation'), and in particular Article 8 thereof,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽²⁾ ('the basic anti-subsidy Regulation'), and in particular Article 13 thereof,

Having regard to Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ⁽³⁾, and in particular Article 3 thereof,

Having regard to Commission Implementing Regulation (EU) 2017/367 of 1 March 2017 imposing a definitive anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 11(3) of Regulation (EU) 2016/1036 ⁽⁴⁾, and in particular Article 2 thereof,

Having regard to Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China ⁽⁵⁾, and in particular Article 2 thereof,

Having regard to Commission Implementing Regulation (EU) 2017/366 of 1 March 2017 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 18(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 19(3) of Regulation (EU) 2016/1037 ⁽⁶⁾, and in particular Article 2 thereof,

Informing the Member States,

Whereas:

A. UNDERTAKING AND OTHER EXISTING MEASURES

- (1) By Regulation (EU) No 513/2013 ⁽⁷⁾, the European Commission ('the Commission') imposed a provisional anti-dumping duty on imports into the European Union ('the Union') of crystalline silicon photovoltaic modules ('modules') and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China ('the PRC').

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ OJ L 176, 30.6.2016, p. 55.

⁽³⁾ OJ L 325, 5.12.2013, p. 1.

⁽⁴⁾ OJ L 56, 3.3.2017, p. 131.

⁽⁵⁾ OJ L 325, 5.12.2013, p. 66.

⁽⁶⁾ OJ L 56, 3.3.2017, p. 1.

⁽⁷⁾ OJ L 152, 5.6.2013, p. 5.

- (2) A group of exporting producers gave a mandate to the China Chamber of Commerce for Import and Export of Machinery and Electronic Products ('CCCME') to submit a price undertaking on their behalf to the Commission, which they did. It is clear from the terms of that price undertaking that it constitutes a bundle of individual price undertakings for each exporting producer, which is, for reasons of practicality of administration, coordinated by the CCCME.
- (3) By Decision 2013/423/EU ⁽¹⁾, the Commission accepted that price undertaking with regard to the provisional anti-dumping duty. By Regulation (EU) No 748/2013 ⁽²⁾, the Commission amended Regulation (EU) No 513/2013 to introduce the technical changes necessary due to the acceptance of the undertaking with regard to the provisional anti-dumping duty.
- (4) By Implementing Regulation (EU) No 1238/2013, the Council imposed a definitive anti-dumping duty on imports into the Union of modules and cells originating in or consigned from the PRC ('the products concerned'). By Implementing Regulation (EU) No 1239/2013, the Council also imposed a definitive countervailing duty on imports into the Union of the products concerned.
- (5) Following the notification of an amended version of the price undertaking by a group of exporting producers ('the exporting producers') together with the CCCME, the Commission confirmed by Implementing Decision 2013/707/EU ⁽³⁾ the acceptance of the price undertaking as amended ('the undertaking') for the period of application of definitive measures. The Annex to this Decision lists the exporting producers for whom the undertaking was accepted, inter alia:
 - (a) Alternative Energy (AE) Solar Co. Ltd covered the TARIC additional code: B799 ('AE Solar')
 - (b) Wuxi Saijing Solar Co. Ltd covered by the TARIC additional code: B890 ('Wuxi Saijing').
- (6) By Implementing Decision 2014/657/EU ⁽⁴⁾, the Commission accepted a proposal by the exporting producers together with the CCCME for clarifications concerning the implementation of the undertaking for the products concerned covered by the undertaking, that is modules and cells originating in or consigned from the PRC, currently falling within CN codes ex 8541 40 90 (TARIC codes 8541 40 90 21, 8541 40 90 29, 8541 40 90 31 and 8541 40 90 39) produced by the exporting producers ('product covered'). The anti-dumping and countervailing duties referred to in recital 4 above, together with the undertaking, are jointly referred to thereafter as 'measures'.
- (7) By Implementing Regulation (EU) 2015/866 ⁽⁵⁾, the Commission withdrew the acceptance of the undertaking for three exporting producers.
- (8) By Implementing Regulation (EU) 2015/1403 ⁽⁶⁾, the Commission withdrew the acceptance of the undertaking for another exporting producer.
- (9) By Implementing Regulation (EU) 2015/2018 ⁽⁷⁾, the Commission withdrew the acceptance of the undertaking for two exporting producers.
- (10) The Commission initiated an expiry review investigation of the anti-dumping measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁸⁾ on 5 December 2015.
- (11) The Commission initiated an expiry review investigation of the countervailing measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁹⁾ on 5 December 2015.
- (12) The Commission also initiated a partial interim review of the anti-dumping and countervailing measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽¹⁰⁾ on 5 December 2015.

⁽¹⁾ OJ L 209, 3.8.2013, p. 26.

⁽²⁾ OJ L 209, 3.8.2013, p. 1.

⁽³⁾ OJ L 325, 5.12.2013, p. 214.

⁽⁴⁾ OJ L 270, 11.9.2014, p. 6.

⁽⁵⁾ OJ L 139, 5.6.2015, p. 30.

⁽⁶⁾ OJ L 218, 19.8.2015, p. 1.

⁽⁷⁾ OJ L 295, 12.11.2015, p. 23.

⁽⁸⁾ OJ C 405, 5.12.2015, p. 8.

⁽⁹⁾ OJ C 405, 5.12.2015, p. 20.

⁽¹⁰⁾ OJ C 405, 5.12.2015, p. 33.

- (13) By Implementing Regulation (EU) 2016/115 ⁽¹⁾, the Commission withdrew the acceptance of the undertaking for another exporting producer.
- (14) By Implementing Regulation (EU) 2016/185 ⁽²⁾, the Commission extended the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 1238/2013 on imports of the products concerned originating in or consigned from the People's Republic of China to imports of the product concerned consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not.
- (15) By Implementing Regulation (EU) 2016/184 ⁽³⁾, the Commission extended the definitive countervailing duty imposed by Implementing Regulation (EU) No 1239/2013 on imports of the products concerned originating in or consigned from the People's Republic of China to imports of the product concerned consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not.
- (16) By Implementing Regulation (EU) 2016/1045 ⁽⁴⁾, the Commission withdrew the acceptance of the undertaking for another exporting producer.
- (17) By Implementing Regulation (EU) 2016/1382 ⁽⁵⁾, the Commission withdrew the acceptance of the undertaking for another five exporting producers.
- (18) By Implementing Regulation (EU) 2016/1402 ⁽⁶⁾, the Commission withdrew the acceptance of the undertaking for another three exporting producers.
- (19) By Implementing Regulation (EU) 2016/1998 ⁽⁷⁾, the Commission withdrew the acceptance of the undertaking for another five exporting producers.
- (20) By Implementing Regulation (EU) 2016/2146 ⁽⁸⁾, the Commission withdrew the acceptance of the undertaking for another two exporting producers.
- (21) Following the expiry and interim reviews referred to in recitals 10-12, the Commission maintained the measures in force by Implementing Regulations (EU) 2017/366 and (EU) 2017/367.
- (22) The Commission also initiated a partial interim review on the form of measures by a Notice of Initiation published in the *Official Journal of the European Union* ⁽⁹⁾ on 3 March 2017.
- (23) By Implementing Regulation (EU) 2017/454 ⁽¹⁰⁾, the Commission withdrew the acceptance of the undertaking for four exporting producers.
- (24) By Implementing Decision (EU) 2017/615 ⁽¹¹⁾, the Commission accepted a proposal by a group of exporting producers together with the CCCME concerning the implementation of the undertaking.
- (25) By Implementing Regulation (EU) 2017/941 ⁽¹²⁾, the Commission withdrew the acceptance of the undertaking for two exporting producers.
- (26) By Implementing Regulation (EU) 2017/1408 ⁽¹³⁾, the Commission withdrew the acceptance of the undertaking for another two exporting producers.
- (27) By Implementing Regulation (EU) 2017/1497 ⁽¹⁴⁾, the Commission withdrew the acceptance of the undertaking for one exporting producer.

⁽¹⁾ OJ L 23, 29.1.2016, p. 47.

⁽²⁾ OJ L 37, 12.2.2016, p. 76.

⁽³⁾ OJ L 37, 12.2.2016, p. 56.

⁽⁴⁾ OJ L 170, 29.6.2016, p. 5.

⁽⁵⁾ OJ L 222, 17.8.2016, p. 10.

⁽⁶⁾ OJ L 228, 23.8.2016, p. 16.

⁽⁷⁾ OJ L 308, 16.11.2016, p. 8.

⁽⁸⁾ OJ L 333, 8.12.2016, p. 4.

⁽⁹⁾ OJ C 67, 3.3.2017, p. 16.

⁽¹⁰⁾ OJ L 71, 16.3.2017, p. 5.

⁽¹¹⁾ OJ L 86, 31.3.2017, p. 14.

⁽¹²⁾ OJ L 142, 2.6.2017, p. 43.

⁽¹³⁾ OJ L 201, 2.8.2017, p. 3.

⁽¹⁴⁾ OJ L 218, 24.8.2017, p. 10.

B. TERMS OF THE UNDERTAKING

- (28) The exporting producers agreed, inter alia, not to sell the product covered to the first independent customer in the Union below a certain minimum import price ('the MIP') within the associated annual level of imports to the Union ('annual level') laid down in the undertaking. The MIP is set on a cash equivalent basis. If the payment term is different from the cash equivalent basis, a certain deduction is applied to the invoice value when compliance with the MIP is compared.
- (29) The exporting producers also agreed to sell the product covered only by means of direct sales. For the purpose of the undertaking, a direct sale is defined as a sale either to the first independent customer in the Union or via a related party in the Union listed in the undertaking.
- (30) The undertaking also clarifies, in a non-exhaustive list, what constitutes a breach of the undertaking. That list includes, in particular, making compensatory arrangements with customers and taking part in a trading system leading to a risk of circumvention. The list also includes indirect sales to the Union by companies other than those listed in the undertaking. In addition, giving misleading descriptions of the characteristics of the modules also constitutes a breach.
- (31) The undertaking also obliges the exporting producers to provide the Commission on a quarterly basis with detailed information on all their export sales to and re-sales in the Union ('the quarterly reports'). This implies that the data submitted in these quarterly reports must be complete and correct and that the reported transactions fully comply with the terms of the undertaking. Reporting of re-sales in the Union is a particular obligation when the product covered is sold to the first independent customer through a related importer. Only these reports enable the Commission to monitor whether the re-sale price of the related importer to the first independent customer is in accordance the MIP.
- (32) The exporting producer is liable for the breach of any of its related parties, whether or not listed in the undertaking.
- (33) The exporting producers also undertook to consult the Commission regarding any difficulties or questions, technical or otherwise, which may arise during the implementation of the undertaking.

C. MONITORING OF THE EXPORTING PRODUCERS

- (34) While monitoring compliance with the undertaking, the Commission verified information submitted by AE Solar and Wuxi Saijing that was relevant to the undertaking. The Commission also assessed publicly available information regarding the corporate structure of AE Solar.
- (35) The Commission also requested assistance and received evidence from customs authorities of one Member State on the basis of Articles 8(9) and 14(7) of the basic anti-dumping Regulation and Articles 13(9) and 24(7) of the basic anti-subsidy Regulation.
- (36) The findings listed in recitals 37 to 42 address the problems identified for AE Solar and Wuxi Saijing which oblige the Commission to withdraw acceptance of the undertaking for those two exporting producers.

D. GROUNDS TO WITHDRAW THE ACCEPTANCE OF THE UNDERTAKING

- (a) AE Solar
- (37) In its quarterly reports, AE Solar had reported several sales transactions of the product covered to an allegedly unrelated importer in the Union and had issued undertaking invoices. Based on the information available to the Commission, the importer involved in these transactions was however related to AE Solar. The name of the allegedly unrelated importer in the Union is nearly identical to AE Solar's, they have the same web address structure and share the same logo. In addition, the web page of the allegedly unrelated importer refers to its production site in Asia. The web contact of AE Solar's sales manager automatically transfers to the website of

the allegedly unrelated importer in the Union, hence suggesting this party being related to AE Solar under Article 127(1)(a) of Commission Implementing Regulation (EU) 2015/2447⁽¹⁾ ('Union Customs Code Implementing Act'). In addition, in its quarterly reports, AE Solar used the customer number allocated to the above allegedly unrelated importer to report sales to a different customer in the Union, hence putting into question the correctness of the reports as referred to in recital 30. In addition, publicly available information suggests this latter customer in the Union being a related party of AE Solar too. The name of the sales contact of this customer in the Union is identical with the sales manager of AE Solar, hence related to AE Solar under Article 127(1)(a) of the Union Customs Code Implementing Act. As none of these importers are listed as a related party in the undertaking, AE Solar breached the terms of the undertaking as described in recitals 28 to 30.

- (38) None of the re-sales by the related importers was reported to the Commission. Consequently, AE Solar also breached the terms of the undertaking as described in recitals 31 and 32.

(b) Wuxi Saijing

- (39) Based on the evidence received from customs authorities, Wuxi Saijing had set up a trading system with one unrelated importer to sell solar modules below the MIP since the entry into force of the undertaking. Wuxi Saijing issued undertaking invoices respecting the MIP to this customer and the customer first paid the face value due for these transactions to Wuxi Saijing.
- (40) However, Wuxi Saijing and its unrelated customer referred to in recital 39 kept a parallel sales record tracking the difference between the face value of the undertaking invoice prices and the actual sales prices, which latter were systematically below the MIP. Wuxi Saijing compensated its unrelated customer for the difference between the face value and the actual sales price by payments of private invoices. Such pattern constitutes a breach of the undertaking as referred in recitals 28 and 30.
- (41) Wuxi Saijing also breached its reporting obligation as described in recital 31 by not reporting the above benefits granted to its unrelated customer.
- (42) Finally, based on the evidence received from customs authorities, Wuxi Saijing issued several undertaking invoices for modules to which so-called optimisers were attached. These products are classifiable under CN code ex 8501 31 00 and are not covered by the undertaking. Wuxi Saijing had declared these products as solar panels under CN code ex 8541 40 90 and had obtained export undertaking certificates for these products. Such practise also constitutes a breach of the undertaking as described in recital 30 as the characteristics of the products were misleadingly described.

E. INVALIDATION OF UNDERTAKING INVOICES

- (43) The indirect sales transactions made by AE Solar are linked to the following undertaking invoices:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
AE-20150703-AE	20.7.2015
AE-20151026-AE	14.11.2015
PRAF02316001-1	31.3.2016
AE-20160513-AE	1.6.2016
AE-20160530-AE	15.6.2016
PRAF02316001-2	22.4.2016
AE2017051002	15.5.2017

⁽¹⁾ OJ L 343, 29.12.2015, p. 558.

- (44) The sales transactions made by Wuxi Saijing to the unrelated customer referred to in recitals 39 are linked to the following undertaking invoices:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
PI-EC130821KR	21.8.2013
PI-EC130924KR	24.9.2013
PI-EC130909KR-1	9.9.2013
PI-EC130909KR-2	9.9.2013
PI-EC130930KR	24.10.2013
PI-EC131008KR	4.11.2013
PI-EC140222KR	4.3.2014
PI-EC140114KR	22.1.2014
PI-EC140207KR	4.3.2014
PI-EC140513KR	18.6.2014
PI-EC140416KR	24.4.2014
PI-EC140919KR	23.9.2014
PI-EC140623KR	8.7.2014
PI-EC140821KR	8.9.2014
PI-EC140714KR	23.7.2014
PI-EC140804KR	25.8.2014
PI-EC140919KR-M	30.10.2014
PI-EC140925KR	11.10.2014
PI-EC150319KR-1	24.3.2015
PI-EC150113KR-55	30.1.2015
PI-EC150326KR	26.3.2015
PI-EC150319KR-2R	24.3.2015
PI-EC150109KR	16.1.2015
PI-EC150113KR-57	16.3.2015
PI-EC150429KR-1	2.6.2015
PI-EC150429KR-2	2.6.2015
PI-EC150113KR-57R	26.5.2015
PI-EC150617KR	7.8.2015

Number of Commercial invoice accompanying goods subject to an undertaking	Date
PI-EC15813KR	6.9.2015
PI-EC150907KR	11.11.2015
PI-EC15831KR	12.10.2015
PI-EC151013KR	11.11.2015
PI-EC150906KR	1.11.2015
PI-EC150918KR	11.11.2015
PI-EC150930KR	1.11.2015
PI-EC151025KR	23.12.2015
PI-EC160113KR	28.1.2016
PI-EC151224KR4	18.1.2016
PI-EC160111KR	16.2.2016
PI-EC160112KR	16.2.2016
PI-EC151224KR3	18.1.2016
PI-EC151224KR2	13.1.2016
PI-EC160115KR	28.1.2016
PI-EC160114KR	16.2.2016
PI-EC160202KR	28.3.2016
PI-EC151224KR1	13.1.2016
PI-EC160316KR-R	12.4.2016
PI-EC160320KR	27.4.2016
PI-EC160317KR-R	14.4.2016
PI-EC160401KR2	12.5.2016
PI-EC160408KR-R	4.5.2016
PI-EC160318KR-R	22.4.2016
PI-EC160401KR1	12.5.2016
PI-EC160407KR-R	4.5.2016
PI-EC160409KR	31.5.2016
PI-EC160410KR	7.6.2016
PI-EC160319KR	25.4.2016
PI-EC160428KR-1	18.7.2016

- (45) Therefore, in accordance with Article 3(2)(b) of Implementing Regulation (EU) No 1238/2013 and Article 2(2)(b) of Implementing Regulation (EU) No 1239/2013, these invoices are declared invalid. The customs debt incurred at the time of acceptance of the declaration for release into free circulation should be recovered by the national customs authorities under Article 105(3)-(6) of Regulation (EU) No 952/2013 of the European Parliament and of the Council⁽¹⁾ when the withdrawal of the undertaking in relation to the two exporting producers enters into force. The national customs authorities responsible for the collection of duties will be informed accordingly.
- (46) In this context, the Commission recalls that pursuant to Article 3(1)(b) read in conjunction with Annex III, point 7 of Implementing Regulation (EU) No 1238/2013, Article (2)(1)(b) read in conjunction with Annex III, point 7 of Implementing Regulation (EU) 2017/367 and to Article 2(1)(b) read in conjunction with Annex 2, point 7 of Implementing Regulation (EU) No 1239/2013, Article 2(2)(b) read in conjunction with Annex 2, point 7 of Implementing Regulation (EU) 2017/366, imports are only exempted from duties if the invoice indicates the price and possible rebates for the product covered. Where those conditions are not complied with, duties are due, even where the commercial invoice accompanying the goods has not been invalidated by the Commission.

F. ASSESSMENT OF PRACTICABILITY OF THE OVERALL UNDERTAKING

- (47) The undertaking stipulates that a breach by an individual exporting producer does not automatically lead to the withdrawal of the acceptance of the undertaking for all exporting producers. In such a case, the Commission should assess the impact of that particular breach on the practicability of the undertaking with the effect for all exporting producers and the CCCME.
- (48) The Commission accordingly assessed the impact of the breaches by AE Solar and Wuxi Saijing on the practicability of the undertaking with the effect for all exporting producers and the CCCME.
- (49) The responsibility for the breaches lies alone with the exporting producers in question; the monitoring has not revealed any systematic breaches by a major number of exporting producers or the CCCME.
- (50) The Commission therefore concluded that the overall functioning of the undertaking is not affected and that there are no grounds for withdrawal of the acceptance of the undertaking for all exporting producers and the CCCME.

G. WRITTEN SUBMISSIONS AND HEARINGS

- (51) Interested parties were granted the opportunity to be heard and to comment pursuant to Article 8(9) of the basic anti-dumping Regulation and Article 13(9) of the basic anti-subsidy Regulation. Both exporting producers and two importers submitted comments.
- (52) Regarding AE Solar, the allegedly unrelated importer in the Union confirmed the relationship between the two companies, however, it alleged that it had never sold modules or cells below the MIP to the first independent customer in the Union. The Commission considers that the relationship on its own constitutes a breach of the undertaking and that the invoices relating to the indirect sales to this importer were not made and reported in conformity with the undertaking. The Commission therefore rejects this argument. In addition, the Commission notes that the invoices submitted by AE Solar do not prove that the MIP was respected for the above transactions as the resale invoices covered both solar panels and other products.
- (53) Wuxi Saijing submitted that it had never compensated the unrelated importer in the Union and submitted a corresponding global statement by an auditor. The Commission cannot accept this global statement which does not contain any further evidence on the lack of compensation to the unrelated importer, in particular to refute the arguments and evidence on the compensation disclosed to Wuxi Saijing. The Commission therefore rejects the argument.
- (54) Both Wuxi Saijing and the unrelated importer in the Union submitted that the products referred to in recital 42 should be classified under CN code ex 8541 40 90 and referred to various technical specifications. The Commission rejects this argument as the classification of products is made following an importer's declaration and lies with the responsibility of national customs authorities who had classified the products under CN code ex 8501 31 00. Any disagreement on the classification of the product should, accordingly, be addressed to the national customs authorities directly.

⁽¹⁾ OJ L 269, 10.10.2013, p. 1.

- (55) Wuxi Saijing's unrelated importer requested access to confidential information which had been disclosed to Wuxi Saijing. The Commission rejects this request for disclosure as the unrelated importer is not party to the undertaking and because the disclosure contains confidential business information of Wuxi Saijing.

H. WITHDRAWAL OF THE ACCEPTANCE OF THE UNDERTAKING AND IMPOSITIONS OF DEFINITIVE DUTIES

- (56) Therefore, in accordance with Article 8(9) of the basic anti-dumping Regulation, Article 13(9) of the basic anti-subsidy Regulation and also in accordance with the terms of the undertaking, the Commission concluded that the acceptance of the undertaking for AE Solar and Wuxi Saijing should be withdrawn.
- (57) Accordingly, pursuant to Article 8(9) of the basic anti-dumping Regulation and Article 13(9) of the basic anti-subsidy Regulation, the definitive anti-dumping duty imposed by Article 1 of Implementing Regulation (EU) 2017/367 and the definitive countervailing duty imposed by Article 1 of Implementing Regulation (EU) No 1239/2013 and maintained by Article 1 of Implementing Regulation (EU) 2017/366 automatically apply to imports originating in or consigned from the PRC of the product concerned and produced by AE Solar and Wuxi Saijing as of the day of entry into force of this Regulation.
- (58) The Commission also recalls that where the customs authorities of the Member States have indications that the price presented on an undertaking invoice does not correspond to the price actually paid, they should investigate whether the requirement to include any rebates in the undertaking invoices has been violated or the MIP has not been respected. Where customs authorities of the Member States conclude that there has been such a violation or whether the MIP has not been respected, they should collect the duties as a consequence thereof. In order to facilitate, on the basis of Article 4(3) of the Treaty, the work of the customs authorities of the Member States, the Commission should share in such situations the confidential text and other information of the undertaking for the sole purpose of national proceedings.
- (59) For information purposes the table in the Annex II to this Regulation lists the exporting producers for whom the acceptance of the undertaking by Implementing Decision 2013/707/EU is not affected,

HAS ADOPTED THIS REGULATION:

Article 1

Acceptance of the undertaking in relation to the following companies is hereby withdrawn:

Name of the company	TARIC additional code
Alternative Energy (AE) Solar Co. Ltd	B799
Wuxi Saijing Solar Co. Ltd	B890

Article 2

- The undertaking invoices listed in Annex I to this Regulation are declared invalid.
- The anti-dumping and countervailing duties due at the time of acceptance of the customs declaration for release into free circulation under Article 3(2)(b) of Implementing Regulation (EU) No 1238/2013 and Article 2(2)(b) of Implementing Regulation (EU) No 1239/2013 shall be collected.

Article 3

- Where customs authorities have indications that the price presented on an undertaking invoice pursuant to Article 3(1)(b) of Implementing Regulation (EU) No 1238/2013, Article 2(1)(b) of Implementing Regulation (EU)

2017/367, Article 2(1)(b) of Implementing Regulation (EU) No 1239/2013 and Article 2(1)(b) of Implementing Regulation (EU) 2017/366 issued by one of the companies from which the undertaking was initially accepted by Implementing Decision 2013/707/EU does not correspond to the price paid and that therefore those companies may have violated the undertaking, the customs authorities may, if necessary for the purpose of conducting national proceedings, request the Commission to disclose to them a copy of the undertaking and other information in order to verify the applicable minimum import price ('MIP') on the day when the undertaking invoice was issued.

2. Where that verification reveals that the price paid is lower than the MIP, the duties due as a consequence under Article 8(9) of Regulation (EU) 2016/1036 and Article 13(9) of Regulation (EU) 2016/1037 shall be collected.

Where that verification reveals that discounts and rebates have not been included in the commercial invoice, the duties due as a consequence under Article 3(2)(a) of Implementing Regulation (EU) No 1238/2013, Article 2(2)(a) of Implementing Regulation (EU) 2017/367, Article 2(2)(a) of Implementing Regulation (EU) No 1239/2013 and Article 2(2)(a) of Implementing Regulation (EU) 2017/366 shall be collected.

3. The information in accordance with paragraph 1 may only be used for the purpose of enforcement of duties due under Article 3(2)(a) of Implementing Regulation (EU) No 1238/2013, Article 2(2)(a) of Implementing Regulation (EU) 2017/367, Article 2(2)(a) of Implementing Regulation (EU) No 1239/2013 and Article 2(2)(a) of Implementing Regulation (EU) 2017/366. In this context, customs authorities of the Member States may provide the debtor of those duties with this information for the sole purpose of safeguarding their rights of defence. Such information may under no circumstances be disclosed to third parties.

Article 4

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 5 September 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

List of undertaking invoices issued by Alternative Energy (AE) Solar Co. Ltd, which are declared invalid:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
AE-20150703-AE	20.7.2015
AE-20151026-AE	14.11.2015
PRAF02316001-1	31.3.2016
AE-20160513-AE	1.6.2016
AE-20160530-AE	15.6.2016
PRAF02316001-2	22.4.2016
AE2017051002	15.5.2017

List of undertaking invoices issued by Wuxi Saijing Solar Co. Ltd, which are declared invalid:

Number of Commercial invoice accompanying goods subject to an undertaking	Date
PI-EC130821KR	21.8.2013
PI-EC130924KR	24.9.2013
PI-EC130909KR-1	9.9.2013
PI-EC130909KR-2	9.9.2013
PI-EC130930KR	24.10.2013
PI-EC131008KR	4.11.2013
PI-EC140222KR	4.3.2014
PI-EC140114KR	22.1.2014
PI-EC140207KR	4.3.2014
PI-EC140513KR	18.6.2014
PI-EC140416KR	24.4.2014
PI-EC140919KR	23.9.2014
PI-EC140623KR	8.7.2014
PI-EC140821KR	8.9.2014
PI-EC140714KR	23.7.2014
PI-EC140804KR	25.8.2014
PI-EC140919KR-M	30.10.2014
PI-EC140925KR	11.10.2014
PI-EC150319KR-1	24.3.2015

Number of Commercial invoice accompanying goods subject to an undertaking	Date
PI-EC150113KR-55	30.1.2015
PI-EC150326KR	26.3.2015
PI-EC150319KR-2R	24.3.2015
PI-EC150109KR	16.1.2015
PI-EC150113KR-57	16.3.2015
PI-EC150429KR-1	2.6.2015
PI-EC150429KR-2	2.6.2015
PI-EC150113KR-57R	26.5.2015
PI-EC150617KR	7.8.2015
PI-EC15813KR	6.9.2015
PI-EC150907KR	11.11.2015
PI-EC15831KR	12.10.2015
PI-EC151013KR	11.11.2015
PI-EC150906KR	1.11.2015
PI-EC150918KR	11.11.2015
PI-EC150930KR	1.11.2015
PI-EC151025KR	23.12.2015
PI-EC160113KR	28.1.2016
PI-EC151224KR4	18.1.2016
PI-EC160111KR	16.2.2016
PI-EC160112KR	16.2.2016
PI-EC151224KR3	18.1.2016
PI-EC151224KR2	13.1.2016
PI-EC160115KR	28.1.2016
PI-EC160114KR	16.2.2016
PI-EC160202KR	28.3.2016
PI-EC151224KR1	13.1.2016
PI-EC160316KR-R	12.4.2016
PI-EC160320KR	27.4.2016
PI-EC160317KR-R	14.4.2016
PI-EC160401KR2	12.5.2016

Number of Commercial invoice accompanying goods subject to an undertaking	Date
PI-EC160408KR-R	4.5.2016
PI-EC160318KR-R	22.4.2016
PI-EC160401KR1	12.5.2016
PI-EC160407KR-R	4.5.2016
PI-EC160409KR	31.5.2016
PI-EC160410KR	7.6.2016
PI-EC160319KR	25.4.2016
PI-EC160428KR-1	18.7.2016

ANNEX II

List of companies:

Name of the company	TARIC additional code
Jiangsu Aide Solar Energy Technology Co. Ltd	B798
Anhui Chaoqun Power Co. Ltd	B800
Anji DaSol Solar Energy Science & Technology Co. Ltd	B802
Anhui Schutten Solar Energy Co. Ltd Quanjiao Jingkun Trade Co. Ltd	B801
Anhui Titan PV Co. Ltd	B803
Xi'an SunOasis (Prime) Company Limited TBEA SOLAR CO. LTD XINJIANG SANG'O SOLAR EQUIPMENT	B804
Changzhou NESL Solartech Co. Ltd	B806
Changzhou Shangyou Lianyi Electronic Co. Ltd	B807
CHINALAND SOLAR ENERGY CO. LTD	B808
ChangZhou EGing Photovoltaic Technology Co. Ltd	B811
CIXI CITY RIXING ELECTRONICS CO. LTD ANHUI RINENG ZHONGTIAN SEMICONDUCTOR DEVELOPMENT CO. LTD HUOSHAN KEBO ENERGY & TECHNOLOGY CO. LTD	B812
CSG PVtech Co. Ltd	B814
China Sunergy (Nanjing) Co. Ltd CEEG Nanjing Renewable Energy Co. Ltd CEEG (Shanghai) Solar Science Technology Co. Ltd China Sunergy (Yangzhou) Co. Ltd China Sunergy (Shanghai) Co. Ltd	B809
Dongfang Electric (Yixing) MAGI Solar Power Technology Co. Ltd	B816
EOPLLY New Energy Technology Co. Ltd SHANGHAI EBEST SOLAR ENERGY TECHNOLOGY CO. LTD JIANGSU EOPLLY IMPORT & EXPORT CO. LTD	B817
Zhejiang Era Solar Co. Ltd	B818
GD Solar Co. Ltd	B820
Greenway Solar-Tech (Shanghai) Co. Ltd Greenway Solar-Tech (Huaian) Co. Ltd	B821

Name of the company	TARIC additional code
Guodian Jintech Solar Energy Co. Ltd	B822
Hangzhou Bluesun New Material Co. Ltd	B824
Hanwha SolarOne (Qidong) Co. Ltd	B826
Hengdian Group DMEGC Magnetics Co. Ltd	B827
HENGJI PV-TECH ENERGY CO. LTD	B828
Himin Clean Energy Holdings Co. Ltd	B829
Jiangsu Green Power PV Co. Ltd	B831
Jiangsu Hosun Solar Power Co. Ltd	B832
Jiangsu Jiasheng Photovoltaic Technology Co. Ltd	B833
Jiangsu Runda PV Co. Ltd	B834
Jiangsu Sainty Photovoltaic Systems Co. Ltd Jiangsu Sainty Machinery Imp. And Exp. Corp. Ltd	B835
Jiangsu Shunfeng Photovoltaic Technology Co. Ltd Changzhou Shunfeng Photovoltaic Materials Co. Ltd Jiangsu Shunfeng Photovoltaic Electronic Power Co. Ltd	B837
Jiangsu Sinski PV Co. Ltd	B838
Jiangsu Sunlink PV Technology Co. Ltd	B839
Jiangsu Zhongchao Solar Technology Co. Ltd	B840
Jiangxi Risun Solar Energy Co. Ltd	B841
Jiangxi LDK Solar Hi-Tech Co. Ltd LDK Solar Hi-Tech (Nanchang) Co. Ltd LDK Solar Hi-Tech (Suzhou) Co. Ltd	B793
Jiangyin Shine Science and Technology Co. Ltd	B843
Jinzhou Yangguang Energy Co. Ltd Jinzhou Huachang Photovoltaic Technology Co. Ltd Jinzhou Jinmao Photovoltaic Technology Co. Ltd Jinzhou Rixin Silicon Materials Co. Ltd Jinzhou Youhua Silicon Materials Co. Ltd	B795
Juli New Energy Co. Ltd	B846
Jumao Photonic (Xiamen) Co. Ltd	B847
King-PV Technology Co. Ltd	B848
Kinve Solar Power Co. Ltd (Maanshan)	B849

Name of the company	TARIC additional code
Lightway Green New Energy Co. Ltd Lightway Green New Energy(Zhuozhou) Co. Ltd	B851
Nanjing Daqo New Energy Co. Ltd	B853
NICE SUN PV CO. LTD LEVO SOLAR TECHNOLOGY CO. LTD	B854
Ningbo Jinshi Solar Electrical Science & Technology Co. Ltd	B857
Ningbo Komaes Solar Technology Co. Ltd	B858
Ningbo South New Energy Technology Co. Ltd	B861
Ningbo Sunbe Electric Ind Co. Ltd	B862
Ningbo Ulica Solar Science & Technology Co. Ltd	B863
Perfectenergy (Shanghai) Co. Ltd	B864
Perlight Solar Co. Ltd	B865
SHANGHAI ALEX SOLAR ENERGY SCIENCE & TECHNOLOGY CO. LTD SHANGHAI ALEX NEW ENERGY CO. LTD	B870
Shanghai Chaori Solar Energy Science & Technology Co. Ltd	B872
Propsolar (Zhejiang) New Energy Technology Co. Ltd Shanghai Propsolar New Energy Co. Ltd	B873
SHANGHAI SHANGHONG ENERGY TECHNOLOGY CO. LTD	B874
Shanghai ST Solar Co. Ltd Jiangsu ST Solar Co. Ltd	B876
Shenzhen Sacred Industry Co. Ltd	B878
Sopray Energy Co. Ltd Shanghai Sopray New Energy Co. Ltd	B881
SUN EARTH SOLAR POWER CO. LTD NINGBO SUN EARTH SOLAR POWER CO. LTD Ningbo Sun Earth Solar Energy Co. Ltd	B882
SUZHOU SHENGLONG PV-TECH CO. LTD	B883
TDG Holding Co. Ltd	B884
Tianwei New Energy Holdings Co. Ltd Tianwei New Energy (Chengdu) PV Module Co. Ltd Tianwei New Energy (Yangzhou) Co. Ltd	B885
Wenzhou Jingri Electrical and Mechanical Co. Ltd	B886
Shanghai Topsolar Green Energy Co. Ltd	B877

Name of the company	TARIC additional code
Shenzhen Sungold Solar Co. Ltd	B879
Wuhu Zhongfu PV Co. Ltd	B889
Wuxi Shangpin Solar Energy Science and Technology Co. Ltd	B891
Wuxi Solar Innova PV Co. Ltd	B892
Wuxi Taichang Electronic Co. Ltd China Machinery Engineering Wuxi Co. Ltd Wuxi Taichen Machinery & Equipment Co. Ltd	B893
Xi'an Huanghe Photovoltaic Technology Co. Ltd State-run Huanghe Machine-Building Factory Import and Export Corporation Shanghai Huanghe Fengjia Photovoltaic Technology Co. Ltd	B896
Yuhuan Sinosola Science & Technology Co. Ltd	B900
Zhangjiagang City SEG PV Co. Ltd	B902
Zhejiang Fengsheng Electrical Co. Ltd	B903
Zhejiang Global Photovoltaic Technology Co. Ltd	B904
Zhejiang Heda Solar Technology Co. Ltd	B905
Zhejiang Jiutai New Energy Co. Ltd Zhejiang Topoint Photovoltaic Co. Ltd	B906
Zhejiang Kingdom Solar Energy Technic Co. Ltd	B907
Zhejiang Koly Energy Co. Ltd	B908
Zhejiang Mega Solar Energy Co. Ltd Zhejiang Fortune Photovoltaic Co. Ltd	B910
Zhejiang Shuqimeng Photovoltaic Technology Co. Ltd	B911
Zhejiang Shinew Photoelectronic Technology Co. Ltd	B912
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company Zhejiang Yauchong Light Energy Science & Technology Co. Ltd	B914
Zhejiang Sunrupu New Energy Co. Ltd	B915
Zhejiang Tianming Solar Technology Co. Ltd	B916
Zhejiang Trunsun Solar Co. Ltd Zhejiang Beyondsun PV Co. Ltd	B917
Zhejiang Wanxiang Solar Co. Ltd WANXIANG IMPORT & EXPORT CO. LTD	B918
ZHEJIANG YUANZHONG SOLAR CO. LTD	B920