Commission Implementing Regulation (EU) 2017/454 of 15 March 2017 withdrawing the acceptance of the undertaking for four 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

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of 15 March 2017

withdrawing the acceptance of the undertaking for four 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,

Informing the Member States,

Whereas:

A. UNDERTAKING AND OTHER EXISTING MEASURES

(1) By Regulation (EU) No 513/2013[(3)], 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').

(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[4], the Commission accepted that price undertaking with regard to the provisional anti-dumping duty. By Regulation (EU) No 748/2013[5], 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[6], 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[7], 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[8] the acceptance of the price undertaking as amended ('the undertaking') for the period of application of definitive measures. The Annex to Implementing Decision 2013/707/EU lists the exporting producers for whom the undertaking was accepted, inter alia:

(a) GCL System Integration Technology Co. Ltd, together with its related companies in the PRC, jointly covered by the TARIC additional code: B850 ('GCL Technology');

(b) Hareon Solar Technology Co. Ltd, together with its related companies in the PRC and in the Union, jointly covered by the TARIC additional code: B842 ('Hareon Solar');

(c) Jetion Solar (China) Co. Ltd, together with its related companies in the PRC and in the Union, jointly covered by the TARIC additional code: B830 ('Jetion Solar');

(d) Zhongli Talesun Solar Co. Ltd, together with its related company in the Union, jointly covered by the TARIC additional code: B922 ('Talesun Solar').

(6) By Implementing Decision 2014/657/EU[9] 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[10] the Commission withdrew the acceptance of the undertaking for three exporting producers.

(8) By Implementing Regulation (EU) 2015/1403[11] the Commission withdrew the acceptance of the undertaking for another exporting producer.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/454. (See end of Document for details)*

(9) By Implementing Regulation (EU) 2015/2018[12] 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*[13] 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*[14] 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*[15] on 5 December 2015.

(13) By Implementing Regulation (EU) 2016/115[16] the Commission withdrew the acceptance of the undertaking for another exporting producer.

(14) By Implementing Regulation (EU) 2016/185[17], the Commission extended the definitive anti-dumping duty imposed by Council 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[18], the Commission extended the definitive countervailing duty imposed by Council 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[19] the Commission withdrew the acceptance of the undertaking for another exporting producer.

(17) By Implementing Regulation (EU) 2016/1382[20] the Commission withdrew the acceptance of the undertaking for another five exporting producers.

(18) By Implementing Regulation (EU) 2016/1402[21] the Commission withdrew the acceptance of the undertaking for another three exporting producers.

(19) By Implementing Regulation (EU) 2016/1998[22] the Commission withdrew the acceptance of the undertaking for another five exporting producers.

(20) By Implementing Regulation (EU) 2016/2146[23] the Commission withdrew the acceptance of the undertaking for another two exporting producers.

B. TERMS OF THE UNDERTAKING

(21) As per the undertaking, any exporting producer may voluntarily withdraw its undertaking at any time during its application.

C. VOLUNTARY WITHDRAWAL

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/454. (See end of Document for details)*

(22) Jetion Solar, Hareon Solar and GCL Technology notified the Commission in October 2016 that they wished to withdraw from the undertaking.

(23) Talesun Solar notified the Commission in January 2017 that it wished to withdraw from the undertaking.

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

(24) 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 Jetion Solar, Hareon Solar, GCL Technology and Talesun Solar shall be withdrawn.

(25) 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) No 1238/2013 and the definitive countervailing duty imposed by Article 1 of Implementing Regulation (EU) No 1239/2013 automatically apply to imports originating in or consigned from the PRC of the product concerned and produced by Jetion Solar, Talesun Solar, Hareon Solar and GCL Technology as of the day of entry into force of this Regulation.

(26) 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.

(27) For information purposes the table in the Annex 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
GCL System Integration Technology Co. Ltd, Konca Solar Cell Co. Ltd, Suzhou GCL Photovoltaic Technology Co. Ltd, Jiangsu GCL Silicon Material	B850

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2017/454. (See end of Document for details)*

Technology Development Co. Ltd, Jiangsu Zhongneng Polysilicon Technology Development Co. Ltd, GCL-Poly (Suzhou) Energy Limited, GCL-Poly Solar Power System Integration (Taicang) Co. Ltd, GCL SOLAR POWER (SUZHOU) LIMITED, GCL Solar System (Shuzhou) Limited,	
Jiangyin Hareon Power Co. Ltd, Hareon Solar Technology Co. Ltd, Taicang Hareon Solar Co. Ltd, Hefei Hareon Solar Technology Co. Ltd, Jiangyin Xinhui Solar Energy Co. Ltd, Altusvia Energy (Taicang) Co. Ltd, together with their related company in the Union	B842
Jetion Solar (China) Co. Ltd, Junfeng Solar (Jiangsu) Co. Ltd, Jetion Solar (Jiangyin) Co. Ltd, together with their related company in the Union	B830
Zhongli Talesun Solar Co. Ltd, together with its related company in the Union	B922

Article 2

1 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 and Article 2(1)(b) of Implementing Regulation (EU) No 1239/2013 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 and Article 2(2)(a) of Implementing Regulation (EU) No 1239/2013 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 and Article 2(2)(a) of Implementing Regulation (EU) No 1239/2013. 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.