Commission Implementing Regulation (EU) 2016/1998 of 15 November 2016 withdrawing the acceptance of the undertaking for five 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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withdrawing the acceptance of the undertaking for five 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,

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.

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1998. (See end of Document for details)*

(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 this Decision lists the exporting producers for whom the undertaking was accepted, inter alia:

(a) Wuxi Suntech Power Co. Ltd, Suntech Power Co. Ltd, Wuxi Sunshine Power Co. Ltd, Luoyang Suntech Power Co. Ltd, Zhenjiang Rietech New Energy Science Technology Co. Ltd and Zhenjiang Ren De New Energy Science Technology Co. Ltd together with their related companies in the Union, jointly covered by the TARIC additional code: B796 ('Wuxi Suntech');

(b) Jinko Solar Co. Ltd, Jinko Solar Import and Export Co. Ltd, ZHEJIANG JINKO SOLAR CO. LTD and ZHEJIANG JINKO SOLAR TRADING CO. LTD together with their related companies in the Union, jointly covered by the TARIC additional code: B845 ('Jinko Solar');

(c) Risen Energy Co., Ltd, together with its related company in the Union, jointly covered by the TARIC additional code: B868 ('Risen Energy');

(d) JingAo Solar Co. Ltd, Shanghai JA Solar Technology Co. Ltd, JA Solar Technology Yangzhou Co. Ltd, Hefei JA Solar Technology Co. Ltd and Shanghai JA Solar PV Technology Co. Ltd, together with their related company in the Union, jointly covered by TARIC additional code: B794 ('JA Solar'); and

(e) Sumec Hardware & Tools Co. Ltd and Phono Solar Technology Co. Ltd, together with their related companies in the Union, jointly covered by TARIC additional code: B866 ('Sumec').

(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 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.

(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 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[(18)], 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[(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.

B. TERMS OF THE UNDERTAKING AND VOLUNTARY WITHDRAWALS

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1998. (See end of Document for details)*

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

(20) Wuxi Suntech notified the Commission in August 2016 that it wished to withdraw from the undertaking.

(21) Jinko Solar, Risen Energy, JA Solar and Sumec notified the Commission in September 2016 that they also wished to withdraw from the undertaking.

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

(22) 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 has concluded that the acceptance of the undertaking for Wuxi Suntech, Jinko Solar, Risen Energy, JA Solar and Sumec shall be withdrawn.

(23) 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 Wuxi Suntech (TARIC additional code: B796), Jinko Solar (TARIC additional code: B845), Risen Energy (TARIC additional code: B868), JA Solar (TARIC additional code: B794) and Sumec (TARIC additional code: B866) as of the day of entry into force of this Regulation.

(24) For information purposes the table in 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:

(a) Wuxi Suntech Power Co. Ltd, Suntech Power Co. Ltd, Wuxi Sunshine Power Co. Ltd, Luoyang Suntech Power Co. Ltd, Zhenjiang Rietech New Energy Science Technology Co. Ltd and Zhenjiang Ren De New Energy Science Technology Co. Ltd together with their related companies in the Union, jointly covered by the TARIC additional code: B796 (‘Wuxi Suntech’);

(b) Jinko Solar Co. Ltd, Jinko Solar Import and Export Co. Ltd, ZHEJIANG JINKO SOLAR CO. LTD and ZHEJIANG JINKO SOLAR TRADING CO. LTD together with their related companies in the PRC and in the Union, jointly covered by the TARIC additional code: B845 (‘Jinko Solar’);

(c) Risen Energy Co., Ltd, together with its related company in the Union, jointly covered by the TARIC additional code: B868 (‘Risen Energy’);

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2016/1998. (See end of Document for details)*

(d) JingAo Solar Co. Ltd, Shanghai JA Solar Technology Co. Ltd, JA Solar Technology Yangzhou Co. Ltd, Hefei JA Solar Technology Co. Ltd and Shanghai JA Solar PV Technology Co. Ltd, together with their related company in the Union, jointly covered by TARIC additional code: B794 ('JA Solar'); and

(e) Sumec Hardware & Tools Co. Ltd and Phono Solar Technology Co. Ltd, together with their related companies in the Union, jointly covered by TARIC additional code: B866 ('Sumec');

is hereby withdrawn.

Article 2

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, 15 November 2016.

For the Commission

The President

Jean-Claude JUNCKER