

COMMISSION DECISION

of 2 August 2013

accepting an undertaking offered in connection with the anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China

(2013/423/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ⁽¹⁾ ('the basic Regulation'), and in particular Articles 7, 8 and 9 thereof,

After consulting the Advisory Committee,

Whereas:

A. PROCEDURE

(1) By Regulation (EU) No 513/2013 ⁽²⁾, the Commission imposed a provisional anti-dumping duty on imports into the Union of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China (PRC).

B. UNDERTAKING

1. Undertaking offer

(2) Subsequent to the adoption of the provisional anti-dumping measures, a group of cooperating exporting producers, including their related companies in the PRC and in the European Union, and together with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (hereinafter: 'CCCME') offered a joint price undertaking in accordance with Article 8(1) of the basic Regulation. The undertaking offer was also supported by the Chinese authorities.

2. Evaluation of undertaking offer

(3) The undertaking offer has been examined against the background of changed market circumstances between the moment of the submission of the undertaking offer and the investigation period in the investigation that led to the imposition of provisional measures. Observed changes relate to a drop of both price levels and

consumption on the Union market and are linked to several factors established and analysed in the investigation that led to the imposition of provisional measures.

(4) Changes in price levels can sometimes be addressed in an undertaking by an indexation method which links minimum import prices to prices of raw materials as quoted in recognized and publicly available sources. However, no correlation between prices of raw materials and those of final products that would allow for a reliable indexation method could be established in the present case. In order to address an established change in price levels, an alternative method had to be established and price reports by representative and publicly available databases (Bloomberg ⁽³⁾ and pvXchange ⁽⁴⁾) specialised in the sector concerned have been used as a reference.

(5) In order to ensure that the undertaking is practicable, the Chinese exporters presented a joint undertaking offer with one minimum import price for photovoltaic modules and one for each of their key components (i.e. cells and wafers).

(6) Further, in order to reduce the risk of company channelling, and make it feasible and practical to monitor the number of participating exporters, the Chinese exporters offered to ensure that the volume of imports made under the undertaking would be at annual levels corresponding roughly to their current market performance.

(7) The exporters have offered a price undertaking. In order to assess whether that price undertaking removes the injurious effect of dumping, the Commission has analysed, inter alia, the current export prices and the level of provisional duty. On that basis, it was concluded that the price undertaking removes the injurious effect of dumping.

(8) The elimination of the injurious effect of dumping is therefore achieved by a price undertaking covering imports within an associated annual level and in addition an *ad valorem* provisional duty levied on imports above the annual level as referred to in recital 6 above.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽²⁾ OJ L 152, 5.6.2013, p. 5.

⁽³⁾ Paid information available to Bloomberg Professional Service subscribers only.

⁽⁴⁾ <http://www.pvxchange.com/>

- (9) The CCCME will also provide the Commission with regular and detailed information concerning the sales to the Union of the companies presenting the joint undertaking offer, allowing for the undertaking to be monitored effectively by the Commission. With a view to CCCME's active role, the support given by the Chinese authorities and the safety net in the form of annual level referred to in recital 6, the Commission considers the risk of circumvention limited and outweighed by considerations linked to the need to ensure security of supplies on the Union market.

C. COMMENT OF PARTIES AND ACCEPTANCE OF THE UNDERTAKING

1. Comments of parties

- (10) The undertaking offer has been made available to interested parties. No comments against its acceptance have been received so far.
- (11) In the view of the above, the undertaking offered by the exporting producers is acceptable. The companies concerned and the CCCME have been informed of the essential facts, considerations and obligations upon which the acceptance is based.
- (12) Further, to enable the Commission to monitor effectively compliance with the undertaking, when the request for release for free circulation is presented to the relevant customs authority, exemption from the anti-dumping duty will be conditional on:
- the presentation of a commercial invoice by the company listed in the Annex to this Decision and a certificate issued by the CCCME containing at least the elements listed in Annex II and Annex III of Regulation (EU) No 513/2013 respectively;
 - the fact that the imported goods are manufactured, shipped and invoiced directly by the companies listed in the Annex to this Decision either to their related companies in the Union acting as an importer and clearing the goods for free circulation in the Union as mentioned in the Annex to this Decision or to the first independent customer acting as an importer and clearing the goods for free circulation in the Union;
 - the fact that the goods declared and presented to customs correspond precisely to the description of the commercial invoice.
- (13) Where no such invoice and certificate are presented or when they do not correspond to the product presented to customs or a commercial invoice containing at least the elements of Annex IV of Regulation (EU) No

513/2013 is presented, the appropriate rate of anti-dumping duty shall instead be payable.

- (14) Whenever, pursuant to Article 8(9) of the basic Regulation, the Commission withdraws its acceptance of an undertaking following a breach by referring to particular transactions and declares the relevant undertaking invoices to be invalid, a customs debt shall be incurred at the time of acceptance of the declaration for release into free circulation.
- (15) Importers should be aware that a customs debt may be incurred, as a normal trade risk, at the time of acceptance of the declaration for release into free circulation as described in recitals 11 and 12 even if an undertaking offered by the manufacturer from whom they were buying, directly or indirectly, had been accepted by the Commission.
- (16) Pursuant to Article 14(7) of the basic Regulation, customs authorities should inform the Commission immediately whenever indications of a violation of the undertaking are found.
- (17) In the event of a breach or withdrawal of the undertaking or in case of withdrawal of acceptance of the undertaking by the Commission, the provisional anti-dumping duty imposed in accordance with Article 7 of the basic Regulation shall automatically apply by means of Article 8(9) of the basic Regulation.

HAS ADOPTED THIS DECISION:

Article 1

The undertaking offered by the exporting producers listed in the Annex of this Decision together with the China Chamber of Commerce for Import and Export of Machinery and Electronic Products (CCCME), in connection with the anti-dumping proceeding concerning imports of crystalline silicon photovoltaic modules and key components (i.e. cells and wafers) originating in or consigned from the People's Republic of China, is hereby accepted.

Article 2

This Decision shall enter into force on 6 August 2013.

Done at Brussels, 2 August 2013.

For the Commission

The President

José Manuel BARROSO

ANNEX

List of companies:

Name of the company	Taric additional code
Jiangsu Aide Solar Energy Technology Co. Ltd	B798
Anji DaSol Solar Energy Science & Technology Co. Ltd	B802
Anhui Schutten Solar Energy Co. Ltd Quanjiao Jingkun Trade Co. Ltd	B801
Xi'an SunOasis (Prime) Company Limited TBEA SOLAR CO. LTD XINJIANG SANG'O SOLAR EQUIPMENT	B804
CSI Solar Power (China) Inc. Canadian Solar Manufacturing (Changshu) Inc. Canadian Solar Manufacturing (Luoyang) Inc. CSI Cells Co. Ltd	B805
Changzhou NESL Solartech Co. Ltd	B806
Changzhou Trina Solar Energy Co. Ltd Trina Solar (Changzhou) Science & Technology Co. Ltd Changzhou Youze Technology Co. Ltd	B791
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
CNPV Dongying Solar Power Co. Ltd	B813
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
Chint Solar (Zhejiang) Co. Ltd	B810
Delsolar (Wujiang) Ltd	B792
Dongfang Electric (Yixing) MAGI Solar Power Technology Co. Ltd	B816
Era Solar Co. Ltd	B818
ET Solar Industry Limited ET Energy Co. Ltd	B819
GD Solar Co. Ltd	B820
Konca Solar Cell Co. Ltd Suzhou GCL Photovoltaic Technology Co. Ltd Jiangsu GCL Silicon Material 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 (Suzhou) Limited	B850

Name of the company	Taric additional code
Guodian Jintech Solar Energy Co. Ltd	B822
Hangzhou Bluesun Solar Energy Technology Co. Ltd	B824
Hangzhou Zhejiang University Sunny Energy Science and Technology Co. Ltd Zhejiang Jinbest Energy Science and Technology Co. Ltd	B825
Hanwha SolarOne (Qidong) Co. Ltd	B826
Hengdian Group DMEGC Magnetics Co. Ltd	B827
HENGJI PV-TECH ENERGY CO. LTD.	B828
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	B835
Jiangsu Sainty Machinery Imp. And Exp. Corp. Ltd	B835
Jiangsu Seraphim Solar System Co. Ltd	B836
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 LDK Solar Hi-Tech Co. Ltd LDK Solar Hi-Tech (Nanchang) Co. Ltd LDK Solar Hi-Tech (Suzhou) Co. Ltd	B793
Jiangyin Hareon Power Co. Ltd Hareon Solar Technology Co. Ltd Taicang Hareon Solar Energy Co. Ltd	B842
Jiangyin Shine Science and Technology Co. Ltd	B843
JingAo Solar Co. Ltd Shanghai JA Solar Technology Co. Ltd JA Solar Technology Yangzhou Co. Ltd Hefei JA Solar Technology Co. Ltd Shanghai JA Solar PV Technology Co. Ltd	B794
Jinko Solar Co. Ltd Jinko Solar Import and Export Co. Ltd ZHEJIANG JINKO SOLAR CO. LTD ZHEJIANG JINKO SOLAR TRADING CO. LTD	B845
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

Name of the company	Taric additional code
Juli New Energy Co. Ltd	B846
Jumao Photonic (Xiamen) Co. Ltd	B847
Kinve Solar Power Co.Ltd (Maanshan)	B849
Lightway Green New Energy Co. Ltd Lightway Green New Energy(Zhuozhou) Co. Ltd	B851
MOTECH (SUZHOU) RENEWABLE ENERGY CO. LTD	B852
NICE SUN PV CO. LTD LEVO SOLAR TECHNOLOGY CO. LTD	B854
Ningbo Huashun Solar Energy Technology Co. Ltd	B856
Ningbo Jinshi Solar Electrical Science & Technology Co. Ltd	B857
Ningbo Komaes Solar Technology Co. Ltd	B858
Ningbo Osda Solar Co. Ltd	B859
Ningbo Qixin Solar Electrical Appliance Co. Ltd	B860
Ningbo Sunbe Electric Ind Co. Ltd	B862
Ningbo Ulica Solar Science & Technology Co. Ltd	B863
Perlight Solar Co. Ltd	B865
Phono Solar Technology Co. Ltd Sumec Hardware & Tools Co. Ltd	B866
RISEN ENERGY CO. LTD	B868
SHANDONG LINUO PHOTOVOLTAIC HI-TECH CO. LTD	B869
SHANGHAI ALEX SOLAR ENERGY SCIENCE & TECHNOLOGY CO. LTD	B870
SHANGHAI ALEX NEW ENERGY CO. LTD	B870
Shanghai BYD Co. Ltd BYD(Shangluo)Industrial Co.Ltd	B871
Shanghai Chaori Solar Energy Science & Technology Co. Ltd Shanghai Chaori International Trading Co. Ltd	B872
SHANGHAI SHANGHONG ENERGY TECHNOLOGY CO. LTD	B874
SHANGHAI SOLAR ENERGY S&T CO. LTD Shanghai Shenzhou New Energy Development Co. Ltd Lianyungang Shenzhou New Energy Co. Ltd	B875
Shenzhen Sacred Industry Co.Ltd	B878
Shenzhen Topray Solar Co. Ltd Shanxi Topray Solar Co. Ltd Leshan Topray Cell Co. Ltd	B880

Name of the company	Taric additional code
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
Wenzhou Jingri Electrical and Mechanical Co. Ltd	B886
Wuhu Zhongfu PV Co. Ltd	B889
Wuxi Saijing Solar Co. Ltd	B890
Wuxi Shangpin Solar Energy Science and Technology Co. Ltd	B891
Wuxi Solar Innova PV Co. Ltd	B892
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 Zhenjiang Ren De New Energy Science Technology Co. Ltd	B796
Wuxi Taichang Electronic Co. Ltd Wuxi Machinery & Equipment Import & Export 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	B896
Shanghai Huanghe Fengjia Photovoltaic Technology Co. Ltd	B896
Xi'an LONGi Silicon Materials Corp. Wuxi LONGi Silicon Materials Co. Ltd	B897
Years Solar Co. Ltd	B898
Yingli Energy (China) Co. Ltd Baoding Tianwei Yingli New Energy Resources Co. Ltd Hainan Yingli New Energy Resources Co. Ltd Hengshui Yingli New Energy Resources Co. Ltd Tianjin Yingli New Energy Resources Co. Ltd Lixian Yingli New Energy Resources Co. Ltd Baoding Jiasheng Photovoltaic Technology Co. Ltd Beijing Tianneng Yingli New Energy Resources Co. Ltd Yingli Energy (Beijing) Co. Ltd	B797
Yuhuan BLD Solar Technology Co. Ltd Zhejiang BLD Solar Technology Co. Ltd	B899
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 Jiutai New Energy Co. Ltd Zhejiang Topoint Photovoltaic Co. Ltd	B906

Name of the company	Taric additional code
Zhejiang Kingdom Solar Energy Technic Co. Ltd	B907
Zhejiang Shuqimeng Photovoltaic Technology Co. Ltd	B911
Zhejiang Sunflower Light Energy Science & Technology Limited Liability Company Zhejiang Yauchong Light Energy Science & Technology Co. Ltd	B914
Zhejiang Trunsun Solar Co. Ltd Zhejiang Beyondsun PV Co. Ltd	B917
Zhejiang Xiongtai Photovoltaic Technology Co. Ltd	B919
ZHEJIANG YUANZHONG SOLAR CO. LTD	B920
RENESOLA ZHEJIANG LTD RENESOLA JIANGSU LTD	B921
Zhongli Talesun Solar Co. Ltd	B922
ZNSHINE PV-TECH CO. LTD	B923