II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 11 March 1991

accepting undertakings offered by certain exporters in connection with the anti-dumping proceeding concerning imports of certain types of electronic microcircuits known as EPROMs (erasable programmable read only memories) originating in Japan and terminating the investigation with regard to these exporters

(91/131/EEC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community [1], and in particular Article 10 thereof,

After consultation within the Advisory Committee as provided for in the above Regulation,

Whereas :

A. PROCEDURE

(1) In December 1986, the Commission received a complaint lodged by the European Electronic Component Manufacturers' Association (EECA) allegedly on behalf of practically all actual or potential Community producers of EPROMs (erasable programmable read only memories). The complaint contained evidence of dumping of EPROMs originating in Japan and of substantial injury within the meaning of Article 4 (1) or Regulation (EEC) No 2423/88 resulting therefrom. This evidence was considered sufficient to justify the initiation of a proceeding.

(2) The Commission accordingly announced, by a notice published in the *Official Journal of the European Communities* [2], the initiation of an anti-dumping proceeding concerning imports into the Community of certain types of electronic micro-circuits known as EPROMs, falling at the time of initiation within subheading ex 85.21 D of the Common Customs Tariff and corresponding to NIMEXE codes ex 85.21-47, ex 85.21-69 and ex 85.21-71, originating in Japan and commenced an investigation.

B. PRICE UNDERTAKINGS

(3) The following exporters, namely Fujitsu Ltd, Hitachi Ltd, Mitsubishi Electric Corp., NEC Corp., Sharp Corp., Texas Instruments Japan Ltd and Toshiba Corp., upon a suggestion made by the Commission in accordance with Article 10 (3) of Regulation (EEC) No 2423/88, offered undertakings concerning their exports of EPROMs to the Community.

(4) The Commission considers that price undertakings by the Japanese exporters involved would be the most appropriate measure in this case since they could incorporate the necessary conditions to provide the required flexibility. The effect of the said undertakings will be to ensure that sales prices in the Community do not fall below a certain reference price level considered adequate to eliminate to a satisfactory extent the injury caused to the complainant companies, due consideration being

[1] OJ No L 209, 2. 8. 1988, p. 1.

[2] OJ No C 101, 14. 4. 1987, p. 10.

given to the exporters' costs of production. The reference price level will be determined quarterly on the basis of constructed values. In addition, the correct operation of the undertakings can be effectively monitored.

(5) In these circumstances, the undertakings offered are considered acceptable and the investigation may, therefore be terminated in so far as these exporters are concerned.

(6) Should these undertakings not be respected and withdrawn by the Commission, or should they be denounced by an exporter concerned, the Commission may, in accordance with Article 10 (6) of Regulation (EEC) No 2423/88, immediately impose a provisional duty and the Council may impose subsequently a definitive duty on the basis of the findings and conclusions of the investigation referred to in Council Regulation (EEC) No 577/91 [1].

(7) Objections to this course of action were raised in the Advisory Committee by two Member States. Therefore, in conformity with the provisions of Articles 10 (1) and 9 (1) of Regulation (EEC) No 2423/88, the Commission submitted to the Council a report on the results of the consultation, together with a proposal that the undertakings be accepted and the investigation be terminated. As the Council has not decided otherwise within one month, the Commission can adopt the present Decision,

HAS DECIDED AS FOLLOWS:

Article 1

The undertakings offered by Fujitsu Ltd, Hitachi Ltd, Mitsubishi Electric Corp., NEC Corp., Sharp Corp., of Japan, Texas Instruments Japan Ltd and Toshiba Corp. in connection with the anti-dumping proceeding concerning imports of certain types of microcircuits known as EPROMs falling within CN code ex 8542 11 10, ex 8542 11 30, 8542 11 63, 8542 11 65, or 8542 11 66, ex 8542 11 76 and originating in Japan, are hereby accepted.

Article 2

The investigation in connection with the anti-dumping proceeding referred to in Article 1 is hereby terminated in respect of the companies named in that Article.

Done at Brussels, 11 March 1991.

For the Commission

Frans ANDRIESSEN

Vice-President

[1] See page 1 of this Official Journal.