II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 December 1993

on the extension of the legal protection of topographies of semiconductor products to persons from the United States of America

(94/4/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products [1], and in particular Article 3 (7) thereof,

Having regard to the proposal from the Commission,

Whereas the right to legal protection of topographies of semiconductor products in the Community applies to persons qualifying for protection under Article 3 (1) to (5) of Directive 87/54/EEC;

Whereas this right can be extended, by a Council Decision, to persons who do not benefit from protection under the said provisions;

Whereas the extension of the protection in question should, as far as possible, be decided upon for the Community as a whole;

Whereas such protection has previously been extended in respect of certain countries and territories on an interim basis only, in accordance wich Decision 93/16/EEC [2] which expires on 31 December 1993 with respect to the United States of America;

Whereas protection has been extended to companies and other legal persons in respect of the United States, as Commission Decision 93/217/EEC [3] determined that the United States fulfils, until 31 December 1993, the condition of reciprocity laid down in Article 1 (2) of Council Decision 93/16/EEC;

Whereas the United States have an appropriate legislation and are expected to continue to protect topographies of semiconductor products under their national law and make this protection available to those persons from the Member States of the Community who benefit from the right to protection under Directive 87/54/EEC;

Whereas at the moment all Member States of the Community have adopted national legal measures implementing Directive 87/54/EEC;

Whereas it is appropriate to continue to extend protection to the United States until 1 July 1994, to allow time for the procedure for granting mutual unlimited protection to be completed,

HAS ADOPTED THIS DECISION:

Article 1

1. Member States shall extend the right to protection under Directive 87/54/EEC as follows:

(a) natural persons who are nationals of the United States or who have their habitual residence in the territory of the United States shall be treated as if they were nations of a Member State;

(b) companies or other legal persons of the United States which have a real and effective industrial or commercial establishment in the United States shall be treated as if they had a real and effective industrial or commercial establishment on the territory of a Member State.

[1] OJ No L 24, 27. 1. 1987, p. 36.
[2] OJ No L 11, 19. 1. 1993, p. 20.
[3] OJ No L 94, 20. 4. 1993, p. 30.

2. The application of subparagraph (1) (b) shall be subject to the condition that companies or other legal persons of a Member State which have a right to protection under Directive 87/54/EEC benefit from protection in the United States.

3. The fulfilment, by the United States, of the conditions laid down in paragraph 2, shall be determined by the Commission and communicated to the Member States.

Article 2

This Decision shall apply from 1 January 1994.

Member States shall extend the right to protection under this Decision to the persons referred to in Article 1 until 1 July 1994.

Any exclusive rights acquired under Decision 90/511/EEC (1), Decision 93/16/EEC or this Decision shall continue to produce their effect for the period laid down under Directive 87/54/EEC.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 20 December 1993.

For the Council

The President

W. CLAES

(1) OJ No L 285, 17. 10. 1990, p. 31.