COUNCIL REGULATION (EEC) No 2967/92

of 12 October 1992

amending Regulation (EEC) No 2112/90 imposing a definitive anti-dumping duty on imports of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan and collecting definitively the provisional duty

THE COUNCIL 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 14 thereof,

Having regard to the proposal submitted by the Commission after consultations within the Advisory Committee as provided for under the above Regulation,

Whereas :

I. Previous procedure

(1) The Commission, by Regulation (EEC) No 165/90 (2), accepted undertakings offered by certain producing companies in connection with the anti-dumping proceeding concerning imports of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan falling within CN codes 8542 11 12, 8542 11 14, 8542 11 16 and 8542 11 18 for finished DRAMs, within CN code ex 8542 11 01 for DRAM wafers, within CN code ex 8542 11 05 for DRAM dice and within CN codes ex 8473 30 10 or ex 8548 00 00 for DRAM memory boards (DRAM modules). In addition and subsequently, the Council, by Regulation (EEC) No 2112/90 (3), imposed a definitive anti-dumping duty on imports of the product concerned.

II. Review procedure

(2) By a notice published on 25 February 1992 (4) the Commission, after consultation within the Advisory Committee, and in accordance with Article 14 of Regulation (EEC) No 2423/88, initiated a partial review of Regulation (EEC) No 2112/90 with regard to DRAMs produced in Japan by Motorola Incorporated (Motorola), imports of which are subject to the definitive anti-dumping duty.

III. Commission Decision

(3) On the basis of the findings of the partial review, the Commission has accepted an undertaking offered by Motorola by Commission Decision 92/494/EEC (5), in accordance with Article 10 of Regulation (EEC) No 2423/88.

IV. Amendment of the reviewed measures

(4) In view of Decision 92/494/EEC, Regulation (EEC) No 2112/90 should be amended in order to exempt DRAMs produced by Motorola from the definitive duty.

(5) After the adoption of Regulation (EEC) No 2112/90, several Japanese producers from which undertakings have been accepted contacted the Commission and requested that the names of some of their affiliated companies which had not been involved in DRAM exports to the Community when Regulation (EEC) No 2112/90 was published should be added to the list in Annex I to Regulation (EEC) No 2112/90, since DRAM exports to the Community would be made by these companies in the future.

(6) The Commission considers this request fully justified and the Council confirms this view. Therefore the list in Annex I must be amended.

(7) Since the review related only to the circumstances of one producer in Japan, the measures contained in the aforementioned Regulations (EEC) No 165/90 and (EEC) No 2112/90 are not being amended or confirmed within the meaning of Article 15 (1) of Regulation (EEC) No 2423/88 and consequently the date on which they were due to expire pursuant to this provision remains unchanged,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No 2112/90 is hereby amended as follows :

(1) OJ No L 209, 2. 8. 1988, p. 1.
(2) OJ No L 20, 25. 1. 1990, p. 5.
(3) OJ No L 193, 25. 7. 1990, p. 1. Regulation as amended by Regulation (EEC) No 3049/90 (OJ No L 292, 24. 10. 1990, p. 16).
(4) OJ No C 50, 25. 2. 1992, p. 3.

(5) See page 43 of this Official Journal.

1. the first indent of Article 1 (4) shall be replaced by the following:

'— they are produced and exported to the Community by the following companies, which have offered undertakings which have been accepted pursuant to Article 2 of Regulation (EEC) No 165/90 and pursuant to Article 1 of Decision 92/494/EEC:

— Fujitsu Limited,

— Hitachi Ltd,

— Matsushita Electronics Corporation,

— Mitsubishi Electric Corporation,

— Motorola Incorporated, USA,

— NEC Corporation,

— NMB Semiconductor Co. Ltd,

— Oki Electric Industry Co. Ltd,

— Sanyo Electric Co. Ltd,

— Sharp Corporation,

— Texas Instruments (Japan) Ltd, and

— Toshiba Corporation, or that';

2. the third indent of Article 1 (4) shall be replaced by the following:

'— they are produced, and sold for export to the Community, by one of the companies listed in the first indent: in this case, exemption from the duty shall be conditional upon presentation to the customs authorities of documentation from the producers confirming that it sold the products for which the exemption is sought for export to the Community; the documentation, the format of which is contained in Annex III, must contain a clear description of the device type(s) sold, the total quantity per device type, the unit price per device type or a statement that the price was not lower than the applicable reference price, the invoice number and the confirmation that these products were produced and sold for export to the Community by the said company under the undertakings referred to in Article 2 of Regulation (EEC) No 165/90 or in Article 1 of Decision 92/494/EEC.';

3. Annex I shall be amended as follows:

(a) the following names shall be added to the lists of companies, being companies affiliated respectively to:

— Fujitsu Ltd Japan:

'— Fujitsu Devices Inc., Japan,'

— Sanyo Electric Co. Ltd:

'— Shin-Nichi Electronics Co., Ltd, Japan,

— Os Semiconductor Co., Ltd, Japan,

— Shinwa Electronic Device Co., Ltd, Japan,

— Shinyo Electronics Co., Ltd, Japan,

— Sanyo Semiconductor Taipei Co., Ltd, Taiwan,

— Sanyo Semiconductor Distribution (USA) Corporation, USA,

— Sanyo Semiconductor First Sales Co. Ltd, Japan,'

— Sharp Corporation:

'— Sharp Electronic Components (Taiwan) Corporation, Taiwan,

— Sharp Technology (Taiwan) Corporation, Taiwan,

— Sharp Electronics (Taiwan) Co. Ltd, Taiwan,'

— Texas Instruments (Japan) Ltd:

'— Texas Instruments International Trade Corp. (Sverige filialen), Sweden,'

— Matsushita Electronics Corporations:

'— Matsushita Semiconductor Corporation of America (Masca), USA.';

(b) the list of companies affiliated to NEC Corporation shall be replaced by the following:

'— NEC Electronics Inc., USA,

— NEC Electronics Singapore Pte. Ltd, Singapore

— NEC Electronics Hong Kong Limited, Hong Kong,

— NEC Australia Pty Ltd, Australia,

— NEC Semiconductors (Malaysia) Sdn. Berhad, Malaysia,

— NEC Electronics Taiwan Ltd, Taiwan.';

(c) the following list of companies shall be added:

'Companies affiliated to Motorola Incorporated, USA:

— Motorola Canada Limited, Canada,

— Motorola Hong Kong Limited, Hong Kong,

— Motorola Semiconductors Ltd, Hong Kong,

— Nippon Motorola Ltd (NML), Japan,

— Motorola Korea Ltd, Republic of Korea,

— Motorola Malaysia Sdn. BHD, Malaysia,

— Motorola Electronics Private Ltd, Singapore.';

4. Annex II shall be replaced by the following:

'ANNEX II

Taric and additional codes

CN code	Taric code
ex 8542 11 01	8542 11 01*10
ex 8542 11 05	8542 11 05*30
ex 8473 30 10	8473 30 10*40
ex 8548 00 00	8548 00 00*20

Additional codes	Firms/rate
8295	Fujitsu Limited Hitachi Ltd Matsushita Electronics Corporation Mitsubishi Electric Corporation Motorola Incorporated, USA NEC Corporation NMB Semiconductor Co. Ltd Oki Electric Industry Co. Ltd Sanyo Electric Co. Ltd Sharp Corporation Texas Instruments (Japan) Ltd Toshiba Corporation: *No anti-dumping duty*(1)
8296	Other 60 %

(1) Also included here are the affiliated companies mentioned in Annex I and other companies complying with the conditions in the third indent of Article 1 (4) of this Regulation.';

5. Annex III shall be replaced by the following:

'ANNEX III

Certification document pursuant to the third indent of Article 1 (4) of this Regulation

<table>
<tr><td colspan="2">1 Exporter (Name and full address)</td><td colspan="2">DOCUMENTATION
FOR IMPORT OF DRAMs
IN THE EUROPEAN COMMUNITY</td></tr>
<tr><td colspan="2">2 Consignee (Name and full address)</td><td colspan="2">3 ISSUING COMPANY
(Name and full address)</td></tr>
<tr><td colspan="2">NOTE
This documentation must be presented to the competent customs office in the European Community together with the entry for free circulation relating to the products</td><td colspan="2">4 Invoice number(s)</td></tr>
<tr><td>5 Description of the device type(s)</td><td>6 Total quantity per device type</td><td>7 Unit price per device type</td></tr>
<tr><td colspan="3">8 This is to confirm that the products shown above were produced and sold for export to the European Community by the company shown in Box 3 under the undertaking referred to in Regulation (EEC) No 165/90 or in Decision 92/494/EEC

Place and date: .....

Signature: .....</td></tr>
<tr><td colspan="3">9 For use by competent customs office in the European Community'.</td></tr>
</table>

Article 2

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 12 October 1992.

For the Council

The President

W. WALDEGRAVE