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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 399/96

of 4 March 1996

extending the suspension of the definitive anti-dumping duties imposed on imports of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan and in the Republic of Korea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3283/94 of 22 December 1994 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 14 (4) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

(1) The Council, by Regulation (EEC) No 2112/90 [2], imposed a definitive anti-dumping duty on imports into the Community of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan and falling under:

— CN codes 8542 11 12, 8542 11 14, 8542 11 16 and 8542 11 18 for finished DRAMs,

— CN code 8542 11 01 for DRAM wafers, CN code ex 8542 11 05 for DRAM-dice or -chips,

and

— CN codes 8473 30 10 or ex 8548 00 00 for DRAM modules.

(2) By Regulation (EEC) No 611/93 [3], the Council imposed a definitive anti-dumping duty on imports into the Community of DRAMs originating in the Republic of Korea.

(3) The Commission, by Decision 95/197/EC of 8 June 1995 [4], supended the definitive anti-dumping duties imposed on DRAMs originating in Japan and the Republic of Korea for a period of nine months on the grounds that the market situation for the product in question had temporarily changed to the extent that injurious dumping no longer prevailed and that, therefore, the measures could be suspended for this period.

(4) On 15 July 1995, the Commission initiated a review [5] of the anti-dumping measures concerning DRAMs originating in Japan and the Republic of Korea, pursuant to Article 11 (3) and (7) of Regulation (EC) No 3283/94 in order to investigate the need for the continued imposition of the measures. This review is at present pending.

(5) Based on the information available on the market situation, in particular the sales reports of the exporters concerned, the Commission has examined whether the conditions for extending the suspension of the anti-dumping duties are met. In particular, the statistical information available and the sales data which the Commission has obtained from the Community producers and all known Japanese and Korean exporters show that, as the end of the initial period of suspension of the measures approaches, the DRAM market in the Community is still stable, with demand outstripping supply. Sales prices are high and the financial performances of the Community industry is still favourable. It was found that, in general, the market conditions described in recital (3) of Decision 95/197/EC have prevailed. Market forecasts indicate that such a market situation will be sustained at least for 1996 and the first part of 1997.

[1] OJ No L 349, 31. 12. 1994, p. 1. Regulation as last amended by Regulation (EC) No 1251/95 (OJ No L 122, 2. 6. 1995, p. 1).
[2] OJ No L 193, 25. 7. 1990, p. 1. Regulation as last amended by Regulation (EEC) No 2967/92 (OJ No L 299, 15. 10. 1992, p. 4).
[3] OJ No L 66, 18. 3. 1993, p. 1.
[4] OJ No L 126, 9. 6. 1995, p. 58.
[5] OJ No C 181, 15. 7. 1995, p. 13.

(6) However, it is also considered that, in view of the cyclical nature of the DRAM market in the past, the current market situation might be followed by a market down-turn. This could result in a recurrence of injurious dumping and would again necessitate the application of anti-dumping measures. This consideration appears to be supported by the fact that significant additional production capacities have recently been established worldwide and in particular in Japan and the Republic of Korea, and that, in addition, further capacities will be established in the near future. It is reasonable to assume that this increase in worldwide production capacity might aggravate a possible future market down-turn.

(7) In the light of the foregoing, it is considered appropriate to extend the suspension of the measures in question beyond the initial period of nine months, by a further period of one year, and it is considered unlikely that injurious dumping of DRAMs would recur on the Community market as a result of such extension.

(8) Therefore, in accordance with the provisions of Article 14 (4) of Regulation (EC) No 3283/94, the Commission informed the complainant of its intention to propose to the Council that the suspension of the abovementioned anti-dumping duties be extended for a period of one year and has provided the complainant with an opportunity to comment. The complainant raised no objections in this regard.

(9) In conclusion, it is considered that the requirements to extend the suspension of the duties concerned, pursuant to Article 14 (4) of Regulation (EC) No 3283/94, are met and that the suspension should therefore be extended for a period of one year.

(10) The Commission will continue to monitor closely the development of the DRAM market and the behaviour of individual market participants, as it has done so during the initial period of suspension. Should a situation arise in which injury to the Community industry recurs, the Commission will propose that the Council reinstate the above anti-dumping duties without delay.

(11) To this end, the obligation to submit reports on sales and prices pursuant to the undertakings will continue in order to enable the Commission to monitor the DRAM market. However, as previously stated, during the period of the extended suspension of the anti-dumping duties, the obligation to adhere to the minimum price provisions of these undertakings will be waived. The quarterly calculation and communciation of such prices to these companies by the Commission will therefore be discontinued during this period.

(12) The Advisory Committee was consulted on the suspension of the anti-dumping measures and raised no objections,

HAS ADOPTED THIS REGULATION:

Article 1

The suspension of the definitive anti-dumping duties imposed on imports of certain types of electronic microcircuits known as DRAMs originating in Japan and the Republic of Korea by Regulations (EEC) No 2112/90 and (EEC) No 611/93 respectively is hereby extended for a period of one year.

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 Brussels, 4 March 1996.

For the Council

The President

P. BARATTA