COUNCIL REGULATION (EC) No 664/96

of 29 March 1996

extending the suspension of the definitive anti-dumping duty imposed on imports of certain types of electronic microcircuits known as Eproms (erasable programmable read only memories) originating in Japan

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 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 consultations within the Advisory Committee as provided for by the abovementioned Regulation,

Whereas:

(1) The Council, by Regulation (EEC) No 577/91 [2], imposed a definitive anti-dumping duty on imports into the Community of certain types of electronic microcircuits known as Eproms (erasable programmable read only memories) originating in Japan, and falling under CN codes:

— 8542 11 33, 8542 11 34, 8542 11 35 or 8542 11 36 for finished UV erasable Eproms,

— ex 8542 11 38 for finished Flash Eproms,

— ex 8542 11 76 for OTPs,

— ex 8542 11 01 for wafers for all types of Eproms and

— ex 8542 11 05 for dice and chips for all types of Eproms.

(2) The Commission, by Decision 95/272/EC [3], suspended the definitive anti-dumping duty imposed on Eproms originating in Japan 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 anti-dumping duty could be suspended for this period.

(3) On 8 October 1995 the Commission initiated an interim review [4] of the anti-dumping measures concerning Eproms originating in Japan, pursuant to Article 11 (3) of Regulation (EC) No 3283/94 [5]. This review is at present pending.

(4) As in the case of another type of electronic microcircuits, i.e. D-RAMs, where the suspension of the anti-dumping duties was extended for one year by Regulation (EC) No 399/96 [6], the Commission has, based on the information available on the market situation, in particular the sales reports of the exporters concerned, examined whether the conditions for extending the suspension of the anti-dumping duty for imports of Eproms are met. In particular, the available statistical information and the sales data which the Commission has obtained from the Community producers and all known Japanese exporters show that, as the end of the initial period of suspension of the anti-dumping duty approaches, the Eprom market in the Community is still stable, with demand outstripping supply. Sales prices are high and the financial performance of the Community industry is still favourable. It was found that, in general, the market conditions described in recital (3) of Decision 95/272/EC have prevailed. Market forecasts indicate that such a market situation will be sustained at least for the next twelve months.

(5) However, it is also considered that, in view of the cyclical nature of the Eprom 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 call for anti-dumping measures to be applied. This consideration appears to be supported by the fact that significant additional production capacities have recently been established, in particular in Japan, 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.

[1] OJ No L 56, 6. 3. 1996, p. 1.
[2] OJ No L 65, 12. 3. 1991, p. 1. Regulation as last amended by Regulation (EEC) No 2860/93 (OJ No L 262, 21. 10. 1993, p. 1).
[3] OJ No L 165, 15. 7. 1995, p. 26.
[4] OJ No C 262, 7. 10. 1995, p. 9.
[5] OJ No L 349, 31. 12. 1994, p. 1. Regulation as last amended by Regulation (EC) No 384/96.
[6] OJ No L 55, 6. 3. 1996, p. 1.

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

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

(8) In conclusion, it is considered that the requirements to extend the suspension of the duty concerned, pursuant to Article 14 (4) of Regulation (EC) No 384/96, are met and that the suspension should therefore be extended for a period of one year.

(9) The Commission will continue to monitor closely the development of the Eprom-market and the behaviour of individual market participants, as it did 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 duty without delay.

(10) 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 Eprom market. However, during the period of the extended suspension of the anti-dumping duty, the obligation to adhere to the minimum price provisions of these undertakings will be waived. The quarterly calculation and communication of such prices to these companies by the Commission will therefore be discontinued during this period.

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

HAS ADOPTED THIS REGULATION:

Article 1

The suspension of the definitive anti-dumping duty imposed by Regulation (EEC) No 577/91 on imports of certain types of electronic mircocircuits known as Eproms (erasable programmable read only memories) originating in Japan is hereby extended for a period of one year until 15 April 1997.

Article 2

This Regulation shall enter into force on the day following that of 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, 29 March 1996.

For the Council

The President

T. TREU