

Notice of initiation of an anti-subsidy proceeding concerning imports of certain electronic microcircuits known as DRAMs (dynamic random access memories) originating in the Republic of Korea

(2002/C 177/02)

The Commission has received a complaint pursuant to Article 10 of Council Regulation (EC) No 2026/97⁽¹⁾ ('the Basic Regulation'), alleging that imports of certain electronic microcircuits known as DRAMs (dynamic random access memories), originating in the Republic of Korea ('country concerned'), are being subsidised and are thereby causing material injury to the Community industry.

1. Complaint

The complaint was lodged on 10 June 2002 by Infineon Technologies AG ('the complainant') representing a major proportion, in this case more than 50 %, of the total Community production of DRAMs.

2. Product

The product allegedly being subsidised is certain electronic microcircuits known as DRAMs (dynamic random access memories) of all types, densities (including future densities) and variations, whether in processed wafer or die form, or assembled or further processed in modules or other aggregate form, manufactured using variations of Metal Oxide Semiconductor (MOS) process technology, including complementary MOS types (CMOS), irrespective of access speed, configuration, package or frame, etc., originating in the Republic of Korea ('the product concerned'), currently classifiable within CN codes 8542 21 11, 8542 21 13, 8542 21 15, 8542 21 17, 8542 21 01, 8542 21 05 and 8548 90 10, ex 8473 30 10 and ex 8473 50 10. These CN codes are only given for information.

3. Allegation of subsidisation

It is alleged that the producers of the product concerned from the Republic of Korea have benefited from a number of subsidies granted by the Government of the Republic of Korea. These subsidies are tax benefits for export losses, syndicated and other subsidised loans (including rate cuts and extension of maturities), State guaranteed export credits, a Korea Development Bank debenture programme, the Seoul Guarantee Insurance Company programme, debt roll-overs, and a debt for equity swap programme.

The total subsidy is estimated to be significant.

It is alleged that the above schemes are subsidies since they involve a financial contribution from the government of the Republic of Korea and confer a benefit to the recipients, i.e. to exporters/producers of DRAMs. They are alleged to be contingent upon export performance, or otherwise limited to certain companies and therefore specific and countervailable.

4. Allegation of injury

The complainant has provided evidence that imports of the product concerned from the Republic of Korea have increased overall in absolute terms and in terms of market share.

It is alleged that the volumes and the prices of the imported product concerned have, among other consequences, had a negative impact on the market share held and the level of prices charged by the Community industry, resulting in substantial adverse effects on the overall performance and the financial situation of the Community industry.

5. Procedure

Having determined, after consulting the Advisory Committee, that the complaint has been lodged by or on behalf of the Community industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 10 of the Basic Regulation.

5.1. Procedure for the determination of subsidisation and injury

The investigation will determine whether the product described in point 2 originating in the Republic of Korea is being subsidised and whether this subsidisation has caused injury.

(a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the Community industry and to any association of producers in the Community, to the exporters/producers in the Republic of Korea, to any association of exporters/producers, to the importers, to any association of importers named in the complaint, and to the authorities of the Republic of Korea.

In any event, all parties should contact the Commission forthwith by fax, but not later than the time limit set out in point 6(a) of this notice, in order to find out whether they are listed in the complaint and, if necessary, request a questionnaire, given that the time limit set in point 6(b) of this notice applies to all such interested parties.

⁽¹⁾ OJ L 288, 21.10.1997, p. 1.

(b) *Collection of information and holding of hearings*

All interested parties are hereby invited to make their views known, submit information other than questionnaire replies and to provide supporting evidence. This information and supporting evidence has to reach the Commission within the time limit set in point 6(b) of this notice.

Furthermore, the Commission may hear interested parties, provided that they make a request showing that there are particular reasons why they should be heard. This request must be made within the time limit set in point 6(c) of this notice.

5.2. **Procedure for assessment of Community interest**

In accordance with Article 31 of the Basic Regulation and in the event that the allegations of subsidisation and injury caused thereby are substantiated, a decision will be reached as to whether the adoption of anti-subsidy measures would not be against the Community interest. For this reason the Community industry, importers, their representative associations, representative users and representative consumer organisations, provided that they prove that there is an objective link between their activity and the product concerned, may, within the time limits set in point 6(b) of this notice, make themselves known and provide the Commission with information. The parties which have acted in conformity with the precedent sentence may request a hearing setting the particular reasons why they should be heard within the time limit set in point 6(c) of this notice. It should be noted that any information submitted pursuant to Article 31 will only be taken into account if supported by factual evidence at the time of submission.

6. **Time limits**

(a) *For parties to request a questionnaire*

All interested parties should request a questionnaire as soon as possible, but not later than 15 days after the publication of this notice in the *Official Journal of the European Communities*.

(b) *For parties to make themselves known, to submit questionnaire replies and any other information*

All interested parties, if their representations are to be taken into account during the investigation, must make themselves known by contacting the Commission, present their views and submit questionnaire replies or any other

information within 40 days of the date of publication of this notice in the *Official Journal of the European Communities*, unless otherwise specified. Attention is drawn to the fact that the exercise of most procedural rights set out in the Basic Regulation depends on the party's making itself known within the aforementioned period.

(c) *Hearings*

All interested parties may also apply to be heard by the Commission within the same 40-day time limit.

7. **Written submissions, questionnaire replies and correspondence**

All submissions and requests made by interested parties must be made in writing (not in electronic format, unless otherwise specified), and must indicate the name, address, e-mail address, telephone and fax, and/or telex numbers of the interested party.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate B
Office J-79 05/16
B-1049 Brussels
Fax (32-2) 295 65 05
Telex: COMEU B 21877.

8. **Non-cooperation**

In cases in which any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made in accordance with Article 28 of the Basic Regulation, on the basis of the facts available.

Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of the facts available.

9. **Schedule of the investigation**

The investigation will be concluded, according to Article 11(9) of the Basic Regulation within 13 months of the date of the publication of this notice in the *Official Journal of the European Communities*. According to Article 12(1) of the Basic Regulation, provisional measures may be imposed no later than nine months from the publication of this notice in the *Official Journal of the European Communities*.