

**Notice of initiation of a partial interim review of the countervailing measures applicable to imports of certain electronic microcircuits known as DRAMs (dynamic random access memories) originating in the Republic of Korea**

(2006/C 67/05)

The Commission has decided on its own initiative to initiate a partial interim review pursuant to Article 19 of Council Regulation (EC) No 2026/97 on protection against subsidised imports from countries not members of the European Community<sup>(1)</sup> ('the basic Regulation'). The review is limited in scope to the examination of subsidisation as far as Hynix Semiconductor Inc. is concerned.

### 1. Product under review

The product under review is certain electronic integrated circuits known as Dynamic Random Access Memories (DRAMs) manufactured using variations of metal oxide-semiconductors (MOS) process technology, including complementary MOS types (CMOS), of all types, densities, variations, access speed, configuration, package or frame, etc. originating in the Republic of Korea ('the product concerned'). DRAMs defined in the preceding paragraph take the following forms:

- DRAM wafers falling within CN code ex 8542 21 01 (Taric code 8542 21 01 10),
- DRAM chips (dies) falling within CN code ex 8542 21 05 (Taric code 8542 21 05 10),
- Mounted DRAMs falling within CN codes 8542 21 11, 8542 21 13, 8542 21 15 and 8542 21 17,
- Multi-combinational forms of DRAMs (memory modules, memory boards or other aggregate forms) falling within CN codes ex 8473 30 10 (Taric code 8473 30 10 10), ex 8473 50 10 (Taric code 8473 50 10 10) and ex 8548 90 10 (Taric code 8548 90 10 10),
- Chips and/or mounted DRAMs incorporated in multi-combinational forms of DRAMs provided the multi-combinational form of DRAM is originating in countries other than the Republic of Korea, falling within CN codes ex 8473 30 10 (Taric code 8473 30 10 10), ex 8473 50 10 (Taric code 8473 50 10 10) and ex 8548 90 10 (Taric code 8548 90 10 10).

These CN codes are given only for information.

### 2. Existing measures

The measure currently in force on imports of DRAMs from Hynix Semiconductor Inc. is a definitive countervailing duty imposed by Council Regulation (EC) No 1480/2003<sup>(2)</sup> on

imports of DRAMs originating in the Republic of Korea as amended by Council Regulation (EC) No 2116/2005<sup>(3)</sup>.

### 3. Grounds for the review

The Commission has received information from Hynix Semiconductor Inc. in which it is argued that the effects of all the subsidies that were found to be countervailable in the investigation that led to the imposition of measures by Regulation (EC) No 1480/2003 have ceased to exist.

On the other hand, the Commission received information from the Community producers, Infineon Technologies AG and Micron Europe Ltd, arguing that the existing measure on imports of the product under review from Hynix Semiconductor Inc. at its present level is no longer sufficient to counteract the subsidisation which is causing injury. It is argued that the subsidy amount has increased above the 34,8 % which is currently applicable to imports of DRAMs produced by Hynix Semiconductor Inc. It is alleged that Hynix Semiconductor Inc. benefits from a number of new subsidies granted by the Government of the Republic of Korea subsequent to the original period of investigation (2001). These alleged subsidies consist of a debt roll-over, a debt-to-equity swap, changes in interest payment conditions, loans by Government owned or directed banks to finance asset transfers, a capital write down plan, a cash-buyout plan, term loans and a revolving credit Agreement. These subsidies allegedly continue the trend of countervailable subsidies being granted by the Government of the Republic of Korea to Hynix Semiconductor Inc., which are causing injury and, therefore, the existing measure appears not to be, or no longer to be, sufficient to counteract them.

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 Hynix Semiconductor Inc. They are alleged to be limited to Hynix Semiconductor Inc. only, and therefore specific and countervailable. It is finally alleged that the measure in force is no longer adequate to counteract these countervailable subsidies.

In light of the above, the Commission considers that, as far as subsidisation of Hynix Semiconductor Inc. is concerned, there is sufficient *prima facie* evidence that the circumstances with regard to subsidization have changed significantly and, therefore, the measure in force should be reviewed.

<sup>(1)</sup> OJ L 288, 21.10.97, p. 1. Regulation as last amended by Council Regulation (EC) No 461/2004 (OJ L 77, 13.3.2004, p. 12).

<sup>(2)</sup> OJ L 212, 22.8.2003, p. 1.

<sup>(3)</sup> OJ L 340, 23.12.2005, p. 7.

#### 4. Procedure

Having determined, after consulting the Advisory Committee, that sufficient evidence exists to justify the initiation of a partial interim review, the Commission hereby initiates a review in accordance with Article 19 of the basic Regulation.

If it is determined that the measure in force on imports of DRAMs produced by Hynix Semiconductor Inc. should be amended, the extent to which the rate of duty applicable to imports produced by all other companies as set out in Article 1(2) of Regulation (EC) No 1480/2003 requires to be amended shall also be reviewed.

##### (a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to Hynix Semiconductor Inc., to the Korean authorities and any known financial institutions concerned. This information and supporting evidence should reach the Commission within the time limit set in point 5(a) of this notice.

##### (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 must reach the Commission within the time limit set in paragraph 5(a) 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 paragraph 5(b) of this notice.

#### 5. Time limits

##### (a) 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 Union*, 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.

##### (b) Hearings

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

#### 6. 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 numbers of the interested party. All written submissions, including the information requested in this notice, questionnaire replies and correspondence provided by interested parties on a confidential basis shall be labelled as 'Limited' <sup>(1)</sup> and, in accordance with Article 29(2) of the basic Regulation, shall be accompanied by a non-confidential version, which will be labelled 'For inspection by interested parties'.

Commission address for correspondence:

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Directorate B  
Office: J-79 5/16  
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#### 7. 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. If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 28 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

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<sup>(1)</sup> This means that the document is for internal use only. It is protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43). It is a confidential document pursuant to Article 29 of Council Regulation (EC) No 2026/97 (OJ L 288, 21.10.1997, p. 1) and Article 12 of the WTO Agreement on Subsidies and Countervailing Measures.