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## Information and Notices

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EN

## I

(Information)

## COMMISSION

Ecu (¹)

25 April 1997

(97/C 130/01)

Currency amount for one unit:

Belgian and Luxembourg franc	40,3732	Finnish markka	5,88433
Danish krone	7,45113	Swedish krona	8,78402
German mark	1,95650	Pound sterling	0,702399
Greek drachma	311,421	United States dollar	1,14049
Spanish peseta	165,005	Canadian dollar	1,59200
French franc	6,60706	Japanese yen	143,188
Irish pound	0,736129	Swiss franc	1,66636
Italian lira	1949,36	Norwegian krone	8,04612
Dutch guilder	2,20091	Icelandic krona	81,2710
Austrian schilling	13,7702	Australian dollar	1,46648
Portuguese escudo	196,392	New Zealand dollar	1,64288
		South African rand	5,07060

The Commission has installed a telex with an automatic answering device which gives the conversion rates in a number of currencies. This service is available every day from 3.30 p.m. until 1 p.m. the following day.

Users of the service should do as follows:

- call telex number Brussels 23789,
- give their own telex code,
- type the code 'cccc' which puts the automatic system into operation resulting in the transmission of the conversion rates of the ecu,
- the transmission should not be interrupted until the end of the message, which is marked by the code 'ffff'.

*Note:* The Commission also has an automatic fax answering service (No 296 10 97/296 60 11) providing daily data concerning calculation of the conversion rates applicable for the purposes of the common agricultural policy.

(¹) Council Regulation (EEC) No 3180/78 of 18 December 1978 (OJ No L 379, 30. 12. 1978, p. 1), as last amended by Regulation (EEC) No 1971/89 (OJ No L 189, 4. 7. 1989, p. 1).

Council Decision 80/1184/EEC of 18 December 1980 (Convention of Lomé) (OJ No L 349, 23. 12. 1980, p. 34).

Commission Decision No 3334/80/ECSC of 19 December 1980 (OJ No L 349, 23. 12. 1980, p. 27).

Financial Regulation of 16 December 1980 concerning the general budget of the European Communities (OJ No L 345, 20. 12. 1980, p. 23).

Council Regulation (EEC) No 3308/80 of 16 December 1980 (OJ No L 345, 20. 12. 1980, p. 1).

Decision of the Council of Governors of the European Investment Bank of 13 May 1981 (OJ No L 311, 30. 10. 1981, p. 1).

**Communication of Decisions under sundry tendering procedures in agriculture (cereals)**

(97/C 130/02)

*(See notice in Official Journal of the European Communities No L 360 of 21 December 1982, page 43)*

Standing invitation to tender	Weekly invitation to tender	
	Date of Commission Decision	Maximum refund
Commission Regulation (EC) No 1144/96 of 25 June 1996 opening an invitation to tender for the refund or the tax for the export of barley to all third countries (OJ No L 151, 26. 6. 1996, p. 17)	24. 4. 1997	Tenders rejected
Commission Regulation (EC) No 1145/96 of 25 June 1996 opening an invitation to tender for the refund or the tax for the export of rye to all third countries (OJ No L 151, 26. 6. 1996, p. 20)	—	No tenders received
Commission Regulation (EC) No 1146/96 of 25 June 1996 opening an invitation to tender for the refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to all third countries, except for Switzerland and Liechtenstein (OJ No L 151, 26. 6. 1996, p. 23)	24. 4. 1997	Tenders rejected
Commission Regulation (EC) No 2264/96 of 27 November 1996 opening an invitation to tender for the refund for the export of durum wheat to all third countries (OJ No L 306, 28. 11. 1996, p. 20)	—	No tenders received
Commission Regulation (EC) No 2507/96 of 27 December 1996 opening an invitation to tender for refund for the export of oats produced in Finland and Sweden for export from Finland or Sweden to Switzerland and Liechtenstein (OJ No L 345, 31. 12. 1996, p. 12)	24. 4. 1997	Tenders rejected
Commission Regulation (EC) No 2517/96 of 27 December 1996 on a special intervention measure for maize in Greece (OJ No L 345, 31. 12. 1996, p. 58)	—	No tenders received
Commission Regulation (EC) No 1629/96 of 13 August 1996 on an invitation to tender for the refund on export of wholly milled round grain rice to certain third countries (OJ No L 204, 14. 8. 1996, p. 6)	24. 4. 1997	ECU 305,00/tonne
Commission Regulation (EC) No 1630/96 of 13 August 1996 on an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries (OJ No L 204, 14. 8. 1996, p. 9)	24. 4. 1997	ECU 299,00/tonne
Commission Regulation (EC) No 1631/96 of 13 August 1996 on an invitation to tender for the refund on export of wholly milled medium grain and long grain A rice to certain third countries (OJ No L 204, 14. 8. 1996, p. 12)	24. 4. 1997	ECU 320,00/tonne

## OPINION

of the Advisory Committee on Concentrations given at the 40th meeting on 5th November 1996 concerning a preliminary draft Decision relating to Case IV/M.784 — Kesko/Tuko

(97/C 130/03)

(Text with EEA relevance)

1. The Advisory Committee agrees with the Commission:
    - (a) (i) that the operation by which Kesko acquired the majority of the share capital of Tuko constitutes a concentration within the meaning of Article 3 (1) of the Merger Regulation but that it has no Community dimension within the meaning of Article 1 of the Merger Regulation;
    - (ii) that the concentration affects the trade between Member States within the meaning of Article 22 (3) of the Merger Regulation;
    - (b) about the definition of the relevant product markets as contained in the draft Decision;
    - (c) about the definition of the relevant geographic markets;
    - (d) that the concentration results in the creation or strengthening of a dominant position of Kesko/Tuko on the Finnish retail markets for daily consumer goods and on the markets for cash & carry sales of daily consumer goods;
    - (e) that the undertakings proposed by the parties are not sufficient to remedy the identified competition concerns;
    - (f) that the concentration has to be declared incompatible with the common market pursuant to Article 8 (3) of the Merger Regulation;
    - (g) that the Commission reserves measures in order to restore effective competition for a separate decision according to Article 8 (4) of the Merger Regulation.
  2. Requests that the Commission takes account of the points made by the Member States during the discussion of the case, in particular in respect of the product market definition.
  3. Requests that the Opinion of the Advisory Committee should be published in the *Official Journal of the European Communities*.
-

**Notice of initiation of anti-dumping proceedings concerning imports of potassium permanganate originating in India and the Ukraine**

(97/C 130/04)

The Commission has received a complaint pursuant to Article 5 of Council Regulation (EC) No 384/96 <sup>(1)</sup>, alleging that imports of potassium permanganate originating in India and the Ukraine are being dumped and are thereby causing material injury to the Community industry.

### 1. Complaint

The complaint was lodged on 14 March 1997 by the European Chemical Industry Council (Cefic).

### 2. Product

The product allegedly being dumped is potassium permanganate, currently classifiable within CN code 2841 61 00. This CN code is only given for information and has no binding effect on the classification of the product.

### 3. Allegation of dumping

#### (a) India

The allegation of dumping is based on a comparison of normal value established on the basis of constructed value with the export prices of the product concerned to the Community. On this basis the dumping margins calculated are substantial.

#### (b) The Ukraine

In view of the fact that the Ukraine is a non-market economy country, the complainant has proposed that normal value be established on the basis of the constructed normal value in India or the domestic price in the USA. The allegation of dumping is based on a comparison of normal values as set out above, with the export prices of the product concerned when sold for export to the Community. On this basis, the dumping margins calculated are substantial.

### 4. Allegation of injury

The complainant alleges and has provided evidence that imports from India and the Ukraine have increased significantly both in absolute terms and in terms of market share.

It is further alleged that, among other consequences, and taking into account the fact that past dumping practices by other countries had already injured the Community industry, the volume and prices of the imported products have had a negative impact on the quantities sold, the market share and the prices charged by the Community producers, resulting in a substantial adverse effect on the financial situation of the Community industry.

### 5. Procedure for determination of dumping and injury

Having determined, after consultation within 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 proceedings, the Commission has commenced an investigation pursuant to Article 5 of Regulation (EC) No 384/96.

#### (a) Questionnaires

In order to obtain the information it deems necessary for its investigation, the Commission will send questionnaires to the complainants, exporters and importers named in the complaint. At the same time a copy of the questionnaire will be sent to any known representative association of exporters or importers.

Exporters, importers and other interested parties are invited to contact the Commission forthwith in order to find out whether or not they are known to the Commission. The authorities of the exporting countries will be notified of the exporters named in the complaint. The exporters and importers which are not named in the complaint, because they were not known, should request a copy of the questionnaire as soon as possible, as they are also subject to the time limit set out in paragraph 7. Any request for questionnaires must be made in writing to the address mentioned below and should indicate the name, address, telephone, fax and/or telex numbers of the interested party.

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

All interested parties, provided that they can show that they are likely to be affected by the results of the investigation, are hereby invited to make their views known in writing and to provide supporting evidence.

<sup>(1)</sup> OJ No L 56, 6. 3. 1996, p. 1.

Furthermore, the Commission may hear the parties mentioned under (a) and other interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) *Selection of the market economy third country*

Based on the information provided by the complainant, India or the USA are envisaged as an appropriate market economy third country for the purpose of establishing normal value for the Ukraine, in accordance with Article 2 (7) of Regulation (EC) No 384/96. Parties to the investigation are hereby invited to comment on the appropriateness of this choice within the specific time limit set under paragraph 7.

**6. Community interest**

In accordance with Article 21 of Regulation (EC) No 384/96, and in order that an informed decision may be reached as to whether, in the event that the allegations of dumping and injury are substantiated, the adoption of anti-dumping measures would be in the Community interest, the complainants, importers and their representative associations, representative users and representative consumer organizations may, within the time limit specified in this notice, make themselves known and provide the Commission with information. It should be noted that any information submitted pursuant to this Article will only be taken into account if supported by factual evidence at the time of submission.

**7. Time limits**

(a) *General time limit*

Interested parties, if their representations are to be taken into account during the investigation, must make themselves known, present their views in

writing and submit information within 40 days from the date of the publication of this notice. Interested parties may also apply to be heard by the Commission within the same time limit. This time limit also applies to all other interested parties, including the parties not named in the complaint, and it is consequently in the interest of these parties to contact the Commission without delay at the address indicated below.

(b) *Specific time limit for selection of the market-economy third country*

Parties to the investigation who wish to comment on the appropriateness of India or the USA, envisaged as an appropriate market-economy third country for the purpose of establishing normal value for the Ukraine shall submit their observations within 10 days from the publication of this notice of initiation.

(c) *Commission address for correspondence*

European Commission  
Directorate-General I,  
External Relations: Commercial Policy and Relations  
with North America, the Far East, Australia and  
New Zealand,  
Directorates C and E,  
(Cort 100 4/30),  
Rue de la Loi/Wetstraat 200,  
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 otherwise does not provide 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 18 of Regulation (EC) No 384/96, on the basis of the facts available.

**Notice to Community importers of certain products originating in the People's Republic of China subject to quantitative quotas**

(97/C 130/05)

In accordance with Article 3 of Council Regulation (EC) No 520/94 of 7 March 1994 establishing a Community procedure for administering quantitative quotas<sup>(1)</sup>, Community importers are informed of the following:

1. By Regulation (EC) No 728/97 of 24 April 1997, the European Commission has laid down specific procedures for the redistribution in 1997 of portions unused in 1996 of certain Community quantitative quotas introduced in respect of the People's Republic of China by Council Regulation (EC) No 519/94 of 7 March 1994<sup>(2)</sup>.
  2. These quotas will be administered using the method based on traditional trade flows (Article 2 (2) (a) of Regulation (EC) No 520/94). Under this method, the quotas are divided into two parts, one reserved for traditional importers and the other for other importers. The part reserved for other importers will, however, be allocated on a pro rata basis according to the quantities requested; the quantity requested by a non-traditional importer may not exceed the quantity or value indicated for each product in Annex I to this notice.
- Traditional importers are those able to show that they imported into the Community the product or products covered by the quotas in question in the 1994 calendar year.
3. In order to qualify for the allocation of these quotas, Community importers, no matter where they are established in the Community, may lodge with the competent authorities of the Member State of their choice a single licence application for each quota, drawn up in the official language or languages of the Member State concerned. The list of competent authorities can be found in Annex II to this notice.
  4. In accordance with Article 3 of Commission Regulation (EC) No 738/94 of 30 March 1994 laying down certain rules for the implementation of

Regulation (EC) No 520/94<sup>(3)</sup>, the import licence application shall state only:

- (a) the applicant's full name and address (including telephone and fax numbers and any identification number registered with the competent national authorities) and VAT registration number, if liable for VAT;
- (b) the quota period in question, i.e. 'unused quantities of 1996';
- (c) where applicable, the full name and address of the declarant or the applicant's representative (including telephone and fax numbers);
- (d) a description of the goods, giving:
  - their trade description,
  - combined nomenclature (CN) code,
  - details of their origin and place of consignment;
- (e) the quantities or sums requested, expressed in the unit used to set the quota;
- (f) where the licence application relates to footwear and the quantitative quota covers two CN codes, a breakdown by CN code of the quantities requested;
- (g) the following statement followed by the date, the applicant's signature and his name printed in capital letters:

'I, the undersigned, declare that the information given in this application is correct and is given in good faith, that I am established in the European Community, and that this application is the only one made by me or on my behalf for the quota relating to the goods described in this application.'

I undertake to return the licence to the issuing authority within 10 working days of its expiry.'

<sup>(1)</sup> OJ No L 66, 10. 3. 1994, p. 1, Regulation as amended by Regulation (EC) No 138/96, 22. 1. 1996 (OJ No L 21, 27. 1. 1996, p. 6).

<sup>(2)</sup> OJ No L 67, 10. 3. 1994, p. 89, Regulation as last amended by Regulation (EC) No 1897/96, 1. 10. 1996 (OJ No L 250, 2. 10. 1996, p. 1).

<sup>(3)</sup> OJ No L 87, 31. 3. 1994, p. 47, Regulation as last amended by Regulation (EC) No 983/96, 31. 5. 1996 (OJ No L 131, 1. 6. 1996, p. 47).

5. To qualify for the allocation of that part of the quota reserved for traditional importers, importers shall enclose with their licence applications certified copies of the entries for release for free circulation made out during the 1994 calendar year in their name or that of the operator whose activities they have taken over in respect of the release for free circulation of the products originating in the People's Republic of China covered by the quantitative quota referred to in the licence application.

Alternatively, applicants may enclose with their licence applications documents drawn up and certified by the competent national authorities on the basis of the customs information available to them showing that the applicants or the operators whose activities they have taken over imported the products concerned during the 1994 calendar year.

Alternatively, applicants already holding import licences issued for 1997 pursuant to Commission Regulation (EC) No 1657/96<sup>(\*)</sup>, for products covered by the licence application may enclose a copy of their previous licences with their licence applications. In that case they shall indicate in their licence application the aggregate value of imports of the product in question in the year of the reference period.

6. With respect to non-traditional importers, only importers who can prove that they imported at least 80 % of the volume/value of the product for which they were granted an import licence pursuant to

Commission Regulations (EC) No 2319/95<sup>(\*)</sup> and/or (EC) No 899/96<sup>(\*)</sup>, or applicants who declare that they did not obtain an import licence pursuant to Commission Regulations (EC) No 2319/95 and/or (EC) No 899/96 shall be entitled to apply for import licences.

7. Applications for import licences may be lodged from the day after the publication in the *Official Journal of the European Communities* of Commission Regulation (EC) No 728/97 of 24 April 1997 until 24 May 1997 at 3 p. m. Brussels time.

8. The provisions governing the quotas referred to in this notice result from the following Regulations:

— Council Regulation (EC) No 520/94 of 7 March 1994 (OJ No L 66, 10. 3. 1994, p. 1),

— Council Regulation (EC) No 519/94 of 7 March 1994 (OJ No L 67, 10. 3. 1994, p. 89),

— Council Regulation (EC) No 538/95 of 6 March 1995 (OJ No L 55, 11. 3. 1995, p. 1),

— Council Regulation (EC) No 138/96 of 22 January 1996 (OJ No L 21, 27. 1. 1996, p. 6),

— Commission Regulation (EC) No 738/94 of 30 March 1994 (OJ No L 87, 31. 3. 1994, p. 47),

— Commission Regulation (EC) No 983/96 of 31 May 1996 (OJ No L 131, 1. 6. 1996, p. 47),

— Commission Regulation (EC) No 728/97 of 24 April 1997 (OJ No L 108, 25. 4. 1997, p. 19).

(\*) OJ No L 210, 20. 8. 1996, p. 12.

(\*) OJ No L 234, 3. 10. 1995, p. 16.

(\*) OJ No L 121, 21. 5. 1996, p. 8.



## ANNEX I

## Maximum quantity which may be requested by each importer other than traditional

Product description	HS/CN code	Predetermined maximum quantity
Footwear falling within HS/CN codes	ex 6402 99 <sup>(1)</sup>	4 000 pairs
	6403 51 6403 59	4 000 pairs
	ex 6403 91 <sup>(1)</sup> ex 6403 99 <sup>(1)</sup>	4 000 pairs
	ex 6404 11 <sup>(2)</sup>	4 000 pairs
	6404 19 10	4 000 pairs
Tableware, kitchenware of porcelain or china falling within HS/CN code	6911 10	4 tonnes
Ceramic tableware, kitchenware, other than of porcelain or china falling within HS/CN code	6912 00	4 tonnes
Glassware of a kind used for table, kitchen, toilet, etc. falling within HS/CN code	7013 <sup>(3)</sup>	3 tonnes
Toys falling within HS/CN codes	9503 41	ECU 90 000
	9503 49	
	9503 90	

<sup>(1)</sup> Excluding footwear involving special technology: shoes which have a cif price per pair of not less than ECU 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

<sup>(2)</sup> Excluding:

- (a) footwear which is designed for a sporting activity and has, or has provision for the attachment of, spikes, sprigs, stops, clips, bats or the like, with a non-injected sole;
- (b) footwear involving special technology; shoes which have a cif price per pair of not less than ECU 9 for use in sporting activities, with a single- or multi-layer moulded sole, not injected, manufactured from synthetic materials specially designed to absorb the impact of vertical or lateral movements and with technical features such as hermetic pads containing gas or fluid, mechanical components which absorb or neutralize impact or materials such as low-density polymers.

<sup>(3)</sup> Excluding glass-fronted clip-frames, consisting of a mechanically-gathered glass sheet with worked edges, a printed paper sheet and a piece of hardboard to support the picture, held together by clips of base metal.

## ANNEX II

ANEXO I — ANNEXE I — ANNEX I — ANHANG I — ALLEGATO I — ΠΑΡΑΡΤΗΜΑ I —  
ANEXO I — BIJLAGE I — BILAG I — LIITE I — BILAGA I

Lista de las autoridades nacionales competentes

Liste des autorités nationales compétentes

List of the national competent authorities

Liste der zuständigen Behörden der Mitgliedstaaten

Elenco delle competenti autorità nazionali

Πίνακας των αρμόδιων εθνικών αρχών

Lista das autoridades nacionais competentes

Lijst van bevoegde nationale instanties

Liste over kompetente nationale myndigheder

Luettelo kansallisista toimivaltaisista viranomaisista

Lista över nationella kompetenta myndigheter

1. *Belgique/België*

Ministère des affaires économiques/Ministerie van Economische Zaken

Administration des relations économiques, 4<sup>e</sup> division — Mise en œuvre des politiques commerciales/

Bestuur van de Economische Betrekkingen, 4e afdeling — Toepassing van de Handelspolitiek

Service "Licences"/Dienst Vergunningen

rue Général Léman/Generaal Lemanstraat 60

B-1040 Bruxelles/Brussel

Tél.: (32 2) 230 90 43

Fax: (32 2) 230 83 22-231 14 84

2. *Danmark*

Erhvervsfremme Styrelsen

Søndergade 25

DK-8600 Silkeborg

Tlf. (45) 87 20 40 60

Fax (45) 87 20 40 77

3. *Deutschland*

Bundesamt für Wirtschaft

Frankfurter Straße 29—31

D-65760 Eschborn

Tel.: (49-61-96) 404-0

Fax: (49-61-96) 40 42 12

4. *Ελλάδα*

Υπουργείο Εθνικής Οικονομίας

Γενική Γραμματεία Διεθνών Οικονομικών Σχέσεων

Γενική Διεύθυνση Εξωτερικών Οικονομικών και Εμπορικών Σχέσεων

Δ/ση Διαδικασιών Εξωτερικού Εμπορίου

Κορνάρου 1

GR-10563 Αθήνα

τηλ.: (30-1) 328 60 31, 328 60 32

τέλεφαξ: (30-1) 328 60 29, 328 60 59

5. *España*

Ministerio de Economía y Hacienda

Dirección General de Comercio Exterior

Paseo de la Castellana nº 162

E-28071 Madrid

Tel: (34-1) 349 38 94 — 349 38 78

Fax: (34-1) 349 38 32 — 349 38 31

6. *France*

Services des titres du commerce extérieur

8, rue de la Tour-des-Dames

F-75436 Paris Cedex 09

Tél.: (33 1) 44 63 25 25

Télécopieur: (33 1) 44 63 26 59 — 44 63 26 67

7. *Ireland*

Department of Tourism and Trade

Licensing Unit

Kildare Street

IRL-Dublin 2

Tel: (353-1) 662 14 44

Fax: (353-1) 676 61 54

8. *Italia*

Ministero del Commercio con l'estero  
Direzione generale delle importazioni e delle esportazioni  
Viale America 341  
I-00144 Roma  
Tel.: (39-6) 59 931  
Telefax: (39-6) 59 93 26 31 — 59 93 22 35  
Telex: 610083 — 610471 — 614478

9. *Luxembourg*

Ministère des affaires étrangères  
Office des licences  
Boîte postale 113  
L-2011 Luxembourg  
Tél.: (352) 22 61 62  
Télécopieur: (352) 46 61 38

10. *Nederland*

Centrale Dienst voor In- en Uitvoer  
Engelse Kamp 2  
Postbus 30003  
NL-9700 RD Groningen  
Tel. (31-50) 523 91 11  
Fax (31-50) 526 06 98

11. *Österreich*

Bundesministerium für wirtschaftliche Angelegenheiten  
Landstraßer Hauptstraße 55-57  
A-1031 Wien  
Tel.: (43-1) 71 10 23 61  
Fax: (43-1) 715 83 47

12. *Portugal*

Ministério da Economia  
Direcção-Geral do Comércio  
Avenida da República, 79  
P-1000 Lisboa  
Tel.: (351-1) 793 09 93 — 793 30 02  
Telefax: (351-1) 793 22 10 — 796 37 23  
Telex: 13418

13. *Suomi*

Tullihallitus  
PL 512  
FIN-00101 Helsinki  
Puh. 358-9 61 41  
Telekopio: 358-9 614 2852

14. *Sverige*

Kommerskollegium  
Box 1209  
S-111 82 STOCKHOLM  
Tel.: 46 8 791 05 00  
Fax: 46 8 20 03 24

15. *United Kingdom*

Department of Trade and Industry  
Import Licensing Branch  
Queensway House  
West Precinct  
Billingham  
Stockton on Tees  
UK-TS23 2NF  
Tel: (44-1642) 36 43 33 — 36 43 34  
Fax: (44-1642) 53 35 57  
Telex: 58608'

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**Notice concerning anti-dumping measures in respect of certain types of electronic microcircuits known as DRAMs (dynamic random access memories) originating in Japan: change of name of a company from which an undertaking was accepted**

(97/C 130/06)

Imports of DRAMs from Japan are subject to a definitive anti-dumping duty of 60 %<sup>(1)</sup>. Undertakings were accepted from a number of Japanese producers of DRAMs, exempting them from the anti-dumping duty. One of those producers was NMB Semiconductor Co. Ltd (NMBS). NMBS has changed its name to Nippon Steel Semiconductor Corporation (NPNX) and the Commission has received a request from NPNX that appropriate action be taken to ensure that the change of name does not affect the right of the company to benefit from the undertaking given by the company under its previous name of NMBS.

The Commission has examined the information submitted by NPNX, which shows that the change of name followed the sale of a majority shareholding in NMBS. The Commission has concluded that this change in ownership of the company's shares has not changed the company's position as regards the determinations made in the anti-dumping proceeding, nor does it affect any of the considerations on which the acceptance of the undertaking was based. In view of the absence of any substantive change in circumstances, the Commission does not consider that an amendment to Council Regulation (EEC) No 2112/90 is required.

References to NMB Semiconductor Co. Ltd should in future be read as Nippon Steel Semiconductor Corporation in Article 1 (4) and Annex I to Council Regulation (EEC) No 2112/90. The companies mentioned in Annex I to Council Regulation (EEC) No 2112/90 as being affiliated to NPNX should in future read as Nippon Steel Semiconductor Corporation USA, Nippon Steel Semiconductor Corporation Singapore, Nippon Steel Semiconductor Corporation Hongkong, United Memories Inc. (USA) and Sun leaf (Japan).

It should be noted that the additional Taric code 8295 previously attributed to the company concerned remains applicable to it under the new name.

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<sup>(1)</sup> Council Regulation (EEC) No 2112/90, 25. 7. 1990 (OJ No L 193, 25. 7. 1990, p. 1).

## II

*(Preparatory Acts)*

## COMMISSION

**Amended proposal for a Council Regulation (EC) on speeding up and clarifying the implementation of the excessive deficit procedure<sup>(1)</sup>**

(97/C 130/07)

COM(97) 117 final — 96/0248(CNS)

*(Submitted by the Commission pursuant to Article 189a (2) of the EC Treaty on 19 March 1997)*

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular the second subparagraph of Article 104c (14), thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the European Monetary Institute,

- (1) Whereas for economic and monetary union to function smoothly, it is necessary not only that the convergence criteria be fulfilled, but also that economic and fiscal performances prove stable and durable; whereas the maintenance of sound budgetary positions in the Member States contributes in the medium and long term to the creation of the appropriate conditions for the sustained growth of output and employment; whereas budgetary discipline will be required in the third stage of economic and monetary union to safeguard monetary stability;
- (2) Whereas national budgetary policies need to be set so as to create room for manoeuvre in adapting to exceptional and cyclical disturbances and so as to avoid excessive deficits; whereas it is necessary to define the concept of an exceptional and temporary excess over the reference value when resulting from an unusual event or a severe economic downturn as referred to in Article 104c (2);
- (3) Whereas the Protocol No 5 on the excessive deficit procedure contains provisions relating to the implementation of the procedure foreseen in

Article 104c; whereas further implementing provisions are necessary; whereas, according to the second subparagraph of Article 104c (14), the Council shall adopt the appropriate provisions to that effect; whereas the provisions of this Regulation together with those of the Protocol constitute a new integrated set of rules;

- (4) Whereas in accordance with Article 109k (3) of the Treaty, Article 104c (9) and (11) shall not apply to the Member States with a derogation; whereas in accordance with paragraph 2 of Protocol No 12 on certain provisions relating to Denmark, Article 104c (9) and (11) shall not apply to Denmark as long as it has not withdrawn the notification made in the context of the Edinburgh decision of 12 December 1992, that it will not participate in the third stage; whereas paragraph 2 of Protocol No 11 on certain provisions relating to the United Kingdom of Great Britain and Northern Ireland stipulates that, *inter alia*, paragraph 5 of that said Protocol shall have effect if the United Kingdom notifies that Council that it does not intend to move to the third stage; whereas paragraph 5 stipulates that, *inter alia*, Article 104c (1), (9) and (11) of the Treaty shall not apply to the United Kingdom;
- (5) Whereas there is a need to establish definitions and deadlines for the application of the excessive deficit procedure in order to ensure its expeditious and effective application; whereas there is a need to specify how the sanctions foreseen in Article 104c of the Treaty could, on an annual basis, be imposed on Member States which persistently fail to correct an excessive deficit situation in order to ensure the effective application of the excessive deficit procedure;
- (6) Whereas the present Regulation forms part of the stability and growth pact for ensuring budgetary discipline in stage three of EMU; whereas the pact includes two main elements (i) strengthening the

<sup>(1)</sup> OJ No C 368, 6. 12. 1996, p. 12.

surveillance and coordination of budgetary policies and (ii) speeding up and clarifying the implementation of the excessive deficit procedure; whereas the first of these elements provides an early warning system in which divergences from Member States medium-term budgetary paths are identified and recommendations made by the Council to take corrective action well before a deficit position becomes excessive;

(7) Whereas the rules for such a strengthening of the surveillance and coordination of budgetary policies have been laid down in Council Regulation [...];

(8) Whereas the reinforced surveillance in the terms of Regulation [...] together with the Commission's monitoring of budgetary positions in accordance with Article 104c (2) should facilitate the effective and rapid implementation of the excessive deficit procedure;

(9) Whereas, in the light of the above, an overall maximum period of 10 months from the reporting date or any other activation of the procedure until, if necessary, the imposition of sanctions seems both feasible and appropriate in order to exert pressure on the Member State to implement corrective measures; in the event of a procedure starting in March this could lead to sanctions being imposed within the calendar year in which the procedure has been started;

(10) Whereas the Council recommendation for the correction of an excessive deficit or the later steps of the excessive deficit procedure should have been anticipated by the Member State concerned, which will have had an early warning and thus a long period to prepare corrective measures. Whereas the seriousness of moving into excessive deficit in stage three should call for urgent action from all those involved;

(11) Whereas when acting with a view to correcting the excessive deficit the government of the Member State concerned will, if required by national law, take measures associating the national parliament: whereas the excessive deficit procedure should enable parliaments to play their full role; whereas the national decision-making process in accordance with Article 3 of the Protocol No 5, should not, as such, hinder the expeditious implementation of the excessive deficit procedure;

(12) Whereas it is appropriate to establish deadlines in the Council recommendation under Article 104c (7) for the taking of effective action by the Member State concerned and for the correction of the excessive deficit;

(13) Whereas the aim of the excessive deficit procedure is to provide incentives to Member States to take corrective action and in that case the procedure should be held in abeyance; whereas the procedure shall immediately be resumed if the action is not being implemented or is proving to be inadequate;

(14) Whereas it is considered that, in order to ensure that the excessive deficit procedure has a sufficient deterrent effect, a non-interest-bearing deposit of appropriate size should be required from the Member State concerned when the Council decides to impose a sanction; whereas the excessive deficit procedure is an annual procedure and sanctions could therefore be imposed on an annual basis;

(15) Whereas the definition of sanctions on a prescribed scale removes uncertainties and would thus allow those involved in the procedure to have full information about it; whereas it is appropriate to relate the amount of the deposit to the GDP of the Member State concerned; whereas it is appropriate that the deposit should consist of a fixed component and a variable component proportional to the excess of the deficit over the 3 % of GDP reference value; whereas it is also appropriate to fix a maximum annual amount, as a percent of GDP, to the sanctions for the latter not to have counter-productive effects;

(16) Whereas in the event that the constitution of a non-interest-bearing deposit does not induce the Member State concerned to correct its excessive deficit within two years of the decision to impose a deposit, then it is appropriate to intensify the sanctions; whereas it is therefore appropriate to transform the deposit into a fine;

(17) Whereas significant progress in correcting the excessive deficit should allow for some lifting of sanctions in accordance with Article 104c (12); whereas the abrogation of all outstanding sanctions should only occur once the excessive deficit has been fully corrected;

(18) Whereas Council Regulation (EC) No 3605/93 on the application of the Protocol on the excessive deficit procedure annexed to the Treaty establishing the European Community <sup>(1)</sup> sets detailed rules for the reporting of budgetary data by the Member States;

(19) Whereas, according to Article 109f (8), where the Treaty provides for a consultative role for the European Central Bank (ECB), references to the ECB shall be read as referring to the European Monetary Institute before the establishment of the ECB,

HAS ADOPTED THIS REGULATION:

## SECTION 1

### Definitions

#### Article 1

This Regulation sets out the provisions to speed up and clarify the excessive deficit procedure, having the objective to deter excessive general government deficits and, if they occur, to correct them promptly.

#### Article 2

1. The excess of a government deficit over the reference value shall be considered exceptional and temporary, in accordance with the second indent of Article 104c (2a), when resulting from an unusual event outside the control of the relevant Member State and which has a major impact on the financial position of the general government, or when resulting from a severe economic downturn. In addition, if the unusual event or the severe economic downturn has come to an end or if it is forecast that it will come to an end in the calendar year following the year in which the deficit exceeds the reference value, budgetary forecasts provided by the Commission must indicate that the deficit would fall below the reference value in this same following year.

2. The Commission when preparing a report under Article 104c (3) shall consider, as a rule, an excess of the reference value resulting from an economic downturn to be exceptional only if there is an annual fall of real GDP of at least 2 %.

3. The Council when deciding, according to Article 104c (6), whether an excessive deficit exists shall in its overall assessment take into account any observations made by the Member State concerned showing that an annual fall of real GDP of less than 2 % is nevertheless exceptional in light of further supporting evidence, in particular on the abruptness of the downturn or on the accumulated loss of output relative to past trends.

## SECTION 2

### Speeding up the excessive deficit procedure

#### Article 3

1. Within two weeks of the adoption by the Commission of a report issued in accordance with Article 104c (3), the Economic and Financial Committee shall formulate an opinion in accordance with Article 104c (4).

2. The Commission, taking fully into account the opinion referred to in paragraph 1 and if it considers that an excessive deficit exists, shall address an opinion and a recommendation to the Council for a decision.

3. The Council shall decide on the existence of an excessive deficit in accordance with Article 104c (6), within three months of the reporting dates established in Article 4 (2) and (3) of Council Regulation (EC) No 3605/93. Where it decides on the existence of an excessive deficit in accordance with Article 104c (6) the Council at the same time shall issue recommendations to the Member State concerned in accordance with Article 104c (7).

4. The Council recommendation issued in accordance with Article 104c (7) shall establish a deadline for effective action to be taken by the Member State concerned and a deadline for the correction of the excessive deficit, which should be completed in the year following the identification of an excessive deficit unless special circumstances are given.

#### Article 4

1. Any Council decision to make its recommendations public having established that no effective action has been taken in accordance with Article 104c (8) shall be taken within four months of the decision on the existence of an excessive deficit in accordance with Article 104c (6) and the issuing of recommendations in accordance with Article 104c (7).

<sup>(1)</sup> OJ No L 332, 31. 12. 1993, p. 7.

2. The Council, when considering whether effective action has been taken in response to its recommendations issued in accordance with Article 104c (7), shall base its assessment on publicly announced decisions by the Government of the Member State concerned. If these publicly announced decisions are not legally enforced, or if the budgetary impact of these decisions is substantially weakened during the adoption process, then the Council shall resume the excessive deficit procedure immediately.

#### *Article 5*

Any Council decision to give notice to the Member State to take measures for the deficit reduction in accordance with Article 104c (9) shall be taken within one month of the Council Decision that no effective action has been taken in accordance with Article 104c (8).

#### *Article 6*

If a Member State fails to act in compliance with the successive decisions of the Council under Article 104c (7) and Article 104c (9), the Council shall, in accordance with Article 104c (11), decide to impose sanctions. Subject to the provisions in Article 9 of this Regulation, any such decision shall be taken no later than two months after the Council decision to give notice to the Member State to take measures in accordance with Article 104c (9).

#### *Article 7*

Subject to the provisions in Article 9 of this Regulation, the decision of the Council to impose sanctions, shall be taken within ten months of the reporting date of the figures confirming the existence of an excessive deficit. An expedited procedure shall be used in the case of a deliberately planned deficit which the Council decides is excessive.

#### *Article 8*

Any Council Decision to intensify sanctions (other than the imposition of fines dealt with in Article 13 of this Regulation) in accordance with Article 104c (11), or to abrogate some or all of its decisions in accordance with Article 104c (12), shall be taken no later than two months after the reporting dates pursuant to Regulation (EC) No 3605/93.

### SECTION 3

#### **Abeyance and monitoring**

##### *Article 9*

The excessive deficit procedure shall be held in abeyance if a Member State takes effective action in response to a recommendation under Article 104c (7) or a notice issued under Article 104c (9).

##### *Article 10*

1. The Commission and the Council shall monitor the implementation of action taken by Member States in response to recommendations issued under Article 104c (7) and notices issued under Article 104c (9). If action is not being implemented, or in the Council's view is ineffective thereby weakening its budgetary impact, the Council shall, as a rule, proceed immediately to a decision under Article 104c (9) or Article 104c (11) respectively.

2. If actual data indicate that an excessive deficit has not been corrected within the time limits specified either in recommendations issued under Article 104c (7) or notices issued under Article 104c (9), the Council shall, as a rule, proceed immediately to a decision under Article 104c (9) or Article 104c (11) respectively.

### SECTION 4

#### **Sanctions**

##### *Article 11*

Whenever the Council decides to apply sanctions to a Member State in accordance with Article 104c (11), a non-interest-bearing deposit shall, as a rule, be required. The Council may decide to supplement this deposit by the measures foreseen in the first and second indents of Article 104c (11).

##### *Article 12*

The amount of the deposit shall comprise a fixed component equal to 0,2 % of GDP, and a variable component equal to one tenth of the difference between the deficit as a percentage of GDP and the reference value in the year preceding the decision to impose



sanctions. An upper limit of 0,5 % of GDP is set for the annual amount of deposits.

#### *Article 13*

If the excessive deficit in the view of the Council has not been corrected, a deposit, as a rule, shall be converted to a fine two years after the decision to impose that deposit in accordance with Article 104c (11), without prejudice to Article 9 of this Regulation.

#### *Article 14*

In accordance with Article 104c (12), the Council may decide to abrogate some or all the sanctions defined in the first and second indents of Article 104c (11) to the extent that the Member State is making significant, though not yet sufficient progress in correcting the excessive deficit.

#### *Article 15*

In accordance with Article 104c (12), the Council shall abrogate all outstanding sanctions if the decision on the existence of an excessive deficit is abrogated. Fines imposed in accordance with Article 13 of this Regulation shall not be returned to the Member State concerned.

#### *Article 16*

Deposits as specified in Article 12 of this Regulation shall be lodged with the Commission. Interest on the deposits and fines specified in Article 13 of this Regulation constitute resources of the general budget of the European Communities.

#### *Article 17*

This Regulation shall enter into force on 1 January 1999.

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

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