

Dated: November 10, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98-30805 Filed 11-17-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-832]

Initiation of Antidumping Duty Investigation: Dynamic Random Access Memory Semiconductors From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of antidumping investigation.

EFFECTIVE DATE: November 18, 1998.

FOR FURTHER INFORMATION CONTACT: Alexander Amdur at (202) 482-5346, John Conniff at (202) 482-1009 or Ron Trentham at (202) 482-6320, Import Administration—Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Initiation of Investigation

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351 (1998).

The Petition

On October 22, 1998, the Department of Commerce ("the Department") received a petition filed in proper form by Micron Technology, Inc. ("petitioner"). The Department received supplemental information to the petition on November 5, 1998. In accordance with section 732(b) of the Act, petitioner alleges that imports of dynamic random access memory semiconductors of one megabit and above ("DRAMs") from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States. The Department finds

that petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act, and has demonstrated sufficient industry support with respect to the antidumping investigation it is requesting the Department to initiate. See Determination of Industry Support for the Petition below.

Scope of Investigation

The products covered by this investigation are DRAMs from Taiwan, whether assembled or unassembled. Assembled DRAMs include all package types. Unassembled DRAMs include processed wafers, uncut die, and cut die. Processed wafers fabricated in Taiwan, but packaged or assembled into finished semiconductors in a third country are included in the scope. Wafers fabricated in a third country and assembled or packaged in Taiwan are not included in the scope.

The scope of this investigation includes memory modules. A memory module is a collection of DRAMs, the sole function of which is memory. Modules include single in-line processing modules ("SIPS"), single in-line memory modules ("SIMMs"), dual in-line memory modules ("DIMMs"), memory cards or other collections of DRAMs whether mounted or unmounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items that alter the function of the module to something other than memory, such as video graphics adapter ("VGA") boards and cards, are not included in the scope. Modules containing DRAMs made from wafers fabricated in Taiwan, but either assembled or packaged into finished semiconductors in a third country, are also included in the scope.

The scope includes, but is not limited to, video RAM ("VRAM"), Windows RAM ("WRAM"), synchronous graphics RAM ("SGRAM"), as well as various types of DRAM, including fast page-mode ("FPM"), extended data-out ("EDO"), burst extended data-out ("BEDO"), synchronous dynamic RAM ("SDRAM"), and "Rambus" DRAM ("RDRAM"). The scope of this investigation also includes any future density, packaging or assembling of DRAMs. The scope of this investigation does not include DRAMs or memory modules that are reimported for repair or replacement.

The DRAMS subject to this investigation are currently classifiable under subheadings 8542.13.80.05, 8542.13.80.24 through 8542.13.80.34 of

the Harmonized Tariff Schedule of the United States ("HTSUS"). Also included in the scope are Taiwanese DRAM modules, described above, entered into the United States under subheading and 8473.30.10.90 of the HTSUS or possibly other HTSUS numbers. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

As we discussed in the preamble to the Department's regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by December 2, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1874, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW, Washington, DC, 20230. This period of scope consultation is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determination.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that petitions be filed on behalf of a domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the Act directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission ("ITC"), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product to define the industry. However, while both the Department and the ITC must apply the same statutory definition of domestic like product, they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information.

Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.¹

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition. As noted earlier, the scope of the petition is limited to DRAMs of one megabit and above. This is petitioner's sole proposed domestic like product. The Department has no basis on the record to find this domestic like product definition clearly inadequate. The Department has, therefore, adopted the domestic like product definition set forth in the petition.

In this case, the Department determined that the petition and supplemental information contained adequate evidence of sufficient industry support; therefore, polling was not necessary. See Initiation Checklist, dated November 12, 1998, (public document on file in the Central Records Unit of the Department of Commerce, Room B-099). Additionally, no person who would qualify as an interested party pursuant to section 771(9)(A),(C), or (D) of the Act has expressed opposition to this petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Less Than Fair Value Allegation

Petitioner identified the following Taiwanese producers/exporters in the petition: Mosel-Vitellic, Inc., Winbond Electronics, Acer Semiconductor Manufacturing Inc., Powerchip Semiconductor Corp., United Microelectronics Corporation, Taiwan Semiconductor Manufacturing Corporation, Macronix International Co., Ltd., Alliance Semiconductor Corporation, Etron Technology, Inc., Taiwan Memory Technology, Inc. and G-Link Technology Corp. Petitioner further identified Vanguard International Semiconductor

Corporation ("Vanguard") and Nan Ya Technology Corporation ("Nan Ya") as two major producers/exporters of DRAMs from Taiwan. Petitioner based export price ("EP") on price quotes obtained by petitioner's sales personnel in the ordinary course of business. These price quotes were for delivery of 4x4 16 Megabit EDO DRAMs. Petitioner explained that it is Micron's practice to receive verbal quotes without written documentation and supplied an affidavit signed by a Micron sales representative attesting to the validity of the price quotes. All U.S. market price quotes were denominated in dollars and petitioner made no adjustments to these price quotes.

With respect to normal value ("NV") petitioner used prices, based on written price quotes for 4x4 16 megabit EDO DRAMs produced by Vanguard and Nan Ya. The price quotes were obtained by a private market research firm. Petitioner made no adjustment to these home market price quotes.

Petitioner alleged that sales of the foreign like product were made at prices below the cost of production within the meaning of section 773(b) of the Act and requested the Department to initiate a country-wide sales below cost investigation. To support this claim, petitioner compared the home market prices to each company's cost of production ("COP"). Petitioner calculated the COP for Vanguard and Nan Ya based on Micron's actual production experience with adjustments for known differences in costs incurred in Taiwan and the United States.

Petitioner determined the die sizes, mask levels, metal levels, and process technologies from examination of actual DRAM die from Vanguard and Nan Ya. For the purposes of the petition, the processing yields were assumed to be the same as those experienced by Micron. Petitioner derived labor rates from the Bureau of Labor Statistics. Because the most recent data available for Taiwan was from 1996, petitioner adjusted the labor rates for the 1997 inflation rate.

Petitioner adjusted utility expenses using the ratio of U.S. energy costs to Taiwanese energy costs, based on OECD energy price data. For Vanguard, petitioner derived general and administrative ("G&A") expenses, interest expenses, and research and development ("R&D") expenses from the company's financial statements for the six months ending June 30, 1998. See Exhibit 6 of the petition. Financial statements for the 1997 fiscal year were not available so these represent the most recent publicly available financial statements for Vanguard.

Petitioner was unable to obtain financial statements for Nan Ya and therefore based its G&A expenses and R&D expenses on Vanguard's financial statements. Interest expenses were calculated using the 1997 consolidated financial statements of Nan Ya's parent company, Nan Ya Plastics. See Exhibit 5 of the supplement to the petition.

Petitioner utilized Micron's intellectual property expenses, which reflect royalties paid to other companies for use of their technology in DRAM production. Again, petitioner believes that this estimate is conservative since Micron maintains a larger patent portfolio than either Vanguard or Nan Ya. By having a smaller patent portfolio, Vanguard and Nan Ya need more licensing agreements for DRAMs production.

Petitioner conservatively estimated a profit rate of zero for constructed value. Because the home market prices of Vanguard and Nan Ya were lower than the COP, normal value was based on CV for comparison to the U.S. prices. Petitioner used exchange rates as published by the Federal Reserve Bank of New York for currency conversions.

Based on comparisons of EP to NV, the petitioner estimated dumping margins from 48 to 69 percent.

Initiation of Cost Investigations

Pursuant to section 773(b) of the Act, petitioners provided information demonstrating reasonable grounds to believe or suspect that sales in the home market of Taiwan were made at prices below the COP and, accordingly, requested the Department to conduct a country-wide sales-below-COP investigation in connection with the requested antidumping investigation in Taiwan. The Statement of Administrative Action ("SAA"), accompanying the URAA, H.R. Doc. No. 103-316, vol. 1 at 833 (1994), states that an allegation of sales below COP need not be specific to individual exporters or producers. The SAA also states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation." *Id.*

Further, the SAA provides that "new section 773(b)(2)(A) retains the current requirement that Commerce have 'reasonable grounds to believe or suspect' that below-cost sales have occurred before initiating such an investigation." Reasonable grounds will "exist when an interested party provides specific factual information on costs and prices, observed or

¹ See *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

constructed, indicating that sales in the foreign market in question are at below-cost prices." *Id.* Based upon the petition for the representative foreign like products to its adjusted costs of production, in accordance with section 773(b)(2)(A)(i) of the Act, we find the existence of "reasonable grounds to believe or suspect" that sales of these foreign like products in Taiwan were made below their respective COP's. Accordingly, the Department is initiating the requested country-wide cost investigation.

Initiation of Antidumping Investigation

We have examined the petition on DRAMs from Taiwan and have found that it meets the requirements of section 732 of the Act, including the requirements concerning allegations of the material injury or threat of material injury to the domestic producers of a domestic like product by reason of the complained-of imports, allegedly sold at less than fair value. Therefore, we are initiating an antidumping duty investigation to determine whether imports of DRAMs from Taiwan are being, or are likely to be, sold in the United States at less than fair value. Unless extended, we will make our preliminary determination by April 1, 1999.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the authorities of Taiwan. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition (as appropriate).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine by December 7, 1998, whether there is a reasonable indication that imports of DRAMs from Taiwan are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination in the investigation will result in this investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 771 (i) of the Act.

Dated: November 12, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98-30855 Filed 11-17-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-814]

Pure Magnesium From Canada; Notice of Extension of Time Limit for Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit for the final results of the fifth review of the antidumping duty order on pure magnesium from Canada. The period of review is August 1, 1996 through July 31, 1997. This extension is made pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: November 18, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-0189.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (*i.e.*, November 9, 1998), the Department of Commerce ("the Department") is extending the time limit for completion of the final results to not later than March 8, 1999. See November 2, 1998 Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement Richard W. Moreland to Assistant Secretary for Import Administration Robert LaRussa on file in the public file of the Central Records Unit, B-099 of the Department.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675 (a)(1)) and 19 CFR 351.213(h)(2).

Dated: November 4, 1998.

Susan Kuhbach,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 98-30854 Filed 11-17-98; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-122-829, A-533-814, A-588-844, A-580-830, A-469-808, A-583-829]

Notice of Preliminary Determinations of Sales at Less Than Fair Value and Postponement of Final Determinations—Stainless Steel Round Wire From Canada, India, Japan, Spain, and Taiwan; Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination—Stainless Steel Round Wire From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 18, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Schauer (Canada, Spain) at (202) 482-4852; Diane Krawczun (India) at (202) 482-0198; Jarrod Goldfeder (Japan), at (202) 482-1784; or Gabriel Adler (the Republic of Korea, Taiwan) at (202) 482-1442, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 1998).

Preliminary Determinations

We preliminarily determine that stainless steel round wire from Canada, India, Japan, Spain, and Taiwan is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. We also preliminarily determine that stainless steel round wire from the Republic of Korea (Korea) is not being sold, or is not likely to be sold, in the United States at less than fair value. The estimated margins are shown in the *Suspension of Liquidation* section of this notice.

Case History

These investigations were initiated on May 6, 1998. See *Initiation of Antidumping Duty Investigations: Stainless Steel Round Wire from Canada, India, Japan, the Republic of Korea, Spain, and Taiwan*, 63 FR 26150