

## II

*(Acts whose publication is not obligatory)*

## COUNCIL

## COUNCIL DECISION

of 29 June 1995

on the extension of the legal protection of topographies of semiconductor products to persons from the United States of America

(95/237/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 87/54/EEC of 16 December 1986 on the legal protection of topographies of semiconductor products<sup>(1)</sup>, and in particular Article 3 (7) thereof,

Having regard to the proposal from the Commission,

Whereas the right to legal protection of topographies of semiconductor products in the Community applies to persons qualifying for protection under Article 3 (1) to (5) of Directive 87/54/EEC;

Whereas this right can be extended by Council Decision to persons who do not benefit from protection under the said provisions;

Whereas the extension of the protection in question should, as far as possible, be decided by the Community as a whole;

Whereas that protection has, since 7 November 1987, been extended to the United States of America by succes-

sive Council Decisions taken on an interim basis<sup>(2)</sup>, the latest of which is Decision 94/373/EC of 27 June 1994;

Whereas that Decision applies until 1 July 1995;

Whereas the United States of America has appropriate legislation on the protection of topographies of semiconductor products and the President of that country extended that protection to persons from the Member States of the European Community as from 1 July 1995 in his Proclamation of 23 March 1995;

Whereas the Agreement on trade-related aspects of intellectual property rights, which forms part of the results of the Uruguay Round of multilateral trade negotiations embodied in the Marrakesh Final Act of 15 April 1994, requires Members to grant protection to integrated-circuit topographies in compliance with its own provisions and with those of the Treaty on Intellectual Property in Respect of Integrated Circuits to which it refers;

Whereas that Agreement, together with that establishing the World Trade Organization (to which it is annexed), entered into force in the Community on 1 January 1995; whereas the developed countries which are Members of the Agreement establishing the World Trade Organization have one year following the entry into force of that Agreement in which to implement the Agreement on trade-related aspects of intellectual property rights;

<sup>(1)</sup> OJ No L 24, 27. 1. 1987, p. 36.

<sup>(2)</sup> Decision 87/532/EEC (OJ No L 313, 4. 11. 1987, p. 22); Decision 90/511/EEC (OJ No L 285, 17. 10. 1990, p. 31); Decision 93/16/EEC (OJ No L 11, 19. 1. 1993, p. 20); Decision 94/4/EC (OJ No L 16, 8. 1. 1994, p. 23); Decision 94/373/EC (OJ No L 170, 5. 7. 1994, p. 34).

Whereas Council Decision 94/824/EC of 22 December 1994 on the extension of the legal protection of topographies of semiconductor products to persons from a Member of the World Trade Organization (1) is to apply from 1 January 1996; whereas the United States of America is a Member of the World Trade Organization;

Whereas in view of the extension of the protection provided for by United States legislation to persons from the Member States of the European Community the right to protection under Directive 87/54/EEC should be extended to natural and legal persons from the United States of America with effect from 2 July 1995 and until Decision 94/824/EC applies, namely 1 January 1996,

HAS ADOPTED THIS DECISION:

*Article 1*

Member States shall extend the right to legal protection under Directive 87/54/EEC as follows:

- (a) natural persons who are nationals of the United States of America or who have their habitual residence in the territory of the United States of America shall be treated in the same way as nationals of a Member State;
- (b) companies or other legal persons from the United States of America which have a real and effective industrial or commercial establishment in that

country shall be treated as if they had a real and effective industrial or commercial establishment in the territory of a Member State.

*Article 2*

This Decision shall apply from 2 July 1995.

Member States shall extend the right to legal protection under this Decision to the persons referred to in Article 1 until 1 January 1996.

Any exclusive rights acquired under Decisions 87/532/EEC, 90/511/EEC, 93/16/EEC, 94/4/EC, 94/373/EC or under this Decision shall continue to produce their effects for the period laid down under Directive 87/54/EEC.

*Article 3*

This Decision is addressed to the Member States.

Done at Luxembourg, 29 June 1995.

*For the Council*

*The President*

J. BARROT

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(1) OJ No L 349, 31. 12. 1994, p. 201.