

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

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

(94/824/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⁽¹⁾, and in particular Article 3 (7) thereof,

Having regard to the proposal from the Commission,

Whereas the Agreement establishing the World Trade Organization (hereinafter, 'WTO Agreement') was signed on behalf of the Community; whereas the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter, 'the TRIPs Agreement'), annexed to the WTO Agreement, contains detailed provisions on the protection of intellectual property rights whose purpose is the establishment of international disciplines in this area in order to promote international trade and prevent trade distortions and friction due to the lack of adequate and effective intellectual property protection;

Whereas in order to ensure that all relevant Community legislation is in full compliance with the TRIPs Agreement, the Community must take certain measures in relation to current Community acts on the protection of intellectual property rights; whereas these measures

entail in some respects the amendment or modification of Community acts; whereas these measures also entail complementing current Community acts;

Whereas Directive 87/54/EEC concerns the legal protection of topographies of semiconductor products; whereas Articles 35 to 38 of the TRIPs Agreement set out the obligations of WTO Members in relation to the protection of layout-designs (topographies) of integrated circuits; whereas in accordance with Article 1 (3) and Article 3 of the TRIPs Agreement, the Community must ensure that nationals of all other WTO Members benefit from such protection and from the application of national treatment; whereas it is therefore necessary to extend the protection under Directive 87/54/EEC to nationals of WTO Members, without any reciprocity requirement; whereas it is adequate to use the procedure of Article 3 (7) of the Directive to this end,

HAS DECIDED AS FOLLOWS:

Article 1

Member States shall extend the legal protection for topographies of semiconductor products provided for under Directive 87/54/EEC as follows:

- (a) natural persons who are nationals of, or are domiciled in the territory of, a Member of the WTO Agreement, shall be treated as nationals of a Member State;

⁽¹⁾ OJ No L 24, 27. 1. 1987, p 36.

(b) legal entities which or natural persons who have a real and effective establishment for the creation of topographies or the production of integrated circuits in the territory of a Member of the WTO Agreement shall be treated as legal entities or natural persons having a real and effective industrial or commercial establishment in the territory of a Member State.

Article 2

1. This Decision shall enter into force on 1 January 1995.
2. It shall apply from 1 January 1996.
3. Council Decision 90/510/EEC of 9 October 1990 on the extension of the legal protection of topographies of

semiconductor products to persons from certain countries and territories ⁽¹⁾ is replaced as from the date of application of the present Decision, in so far as it concerns the extension of the protection under Directive 87/54/EEC to countries or territories Members of the WTO Agreement.

Article 3

This Decision is addressed to the Member States.

Done at Brussels, 22 December 1994.

For the Council

The President

H. SEEHOFER

⁽¹⁾ OJ No L 258, 17. 10. 1990, p 29. Decision as amended by Decision 93/17/EEC (OJ No L 11, 19. 1. 1993, p. 22).