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Subject: Council Regulation (EC) No. 493/05
- LCD Monitors Customs Duty

Under Council Regulation 493/2005, the customs duty on certain LCD monitors up to a screen size of 19 inches (48.5cm) is autonomously suspended until 31st December, 2006 with prolongation a matter for Council to decide.

The need for Regulation 493/2005 in the first instance arose from a reclassification of LCD monitors, which altered the customs duty from a zero rate to a 14% rate. Following discussions between industry and the Commission, an economic solution was proposed i.e. to suspend the duty on "up to 19 inch" screen size". In the discussions at Council in February 2005, Ireland, in particular, noted that while this represented a good effort to meet the needs of industry, there were nevertheless some major deficiencies in the proposal and expressed concern about the possible ramifications for existing PC manufacturers located in the EU. Our concerns have since been validated.

In the first instance, the existing threshold screen size level of 19 inches, while representing a good effort to meet industry needs, is nevertheless arbitrary. The consequence is that it discriminates against some suppliers of LCD monitors which in reality cannot be considered to be TVs and are not competing in the TV market. This is even more so the case for EU based manufacturers producing PC's not for domestic users but rather primarily for businesses.

There is now a direct threat to jobs in existing PC manufacturers who, for example, manufacture Computer Processing Units (CPUs) in the EU but import and pay 14% duty on LCD monitors for use with the CPUs.

As most PC manufacturers also employ personnel in the EU in substantial numbers in non manufacturing activities, these jobs also come under threat due to critical mass and local skills being relocated outside the EU.

A third element is the obvious and real threat to the EU winning new industries into the EU as well as expansion of the functions and activities of existing industries.

The Irish delegation makes the foregoing points as they have been made by industry to the highest levels of Government and are a serious threat to maintaining industries and employment opportunities in the EU.

Possible Solutions

In the first instance the Irish delegation supports a prolongation of duty suspension on LCD monitors. Secondly, the delegation considers that the scope of the Regulation should be amended to ensure that companies are not discriminated against solely on screen size where they are clearly not competing in the TV market but rather solely in the PC market. In addition, the delegation recognises that the scope of the Regulation should also be such that its coverage comes within the scope of the International Technology Agreement (ITA).

A possible solution might be to maintain the existing text of Regulation 493/05 and add

“or monitors with a screen pixel pitch smaller than 0.31mm not incorporating a television tuner”.

The background and basis for this text is outlined on pages 6 and 7 of the attached submission prepared by a number of companies and industry associations.

The Irish delegation is open to other suggested texts that the Commission or Member States might wish to propose.

At the Customs Council Working Party in May, the Commission agreed to take up discussions with Member States during the course of 3rd/4th July, which coincides with a meeting of the Tariff Suspensions/Quota Group. The Irish delegation asks Member States and the Commission to give consideration to this important issue with a view to finding a positive outcome.

In that context, the delegation wishes to express its appreciation to the Commission for its document of Taxud/0748/2006 and confirmation of the joint meeting of 4th July.

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Position Paper

on

**Liquid Crystal Display Monitors
Duty Suspension**



**Concerning the prolongation and modification of the suspension
of
autonomous common customs tariff duties on
Liquid Crystal Display technology monitors mainly
used as output units of computers**



Leadership in Information and Communications Technology



May 16, 2006



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Introduction

Apple Computer Inc., Dell Computer Corporation Limited., Hewlett Packard Company, ICT Ireland, ICT-Office (the Dutch IT trade association), NEC Display Solutions Europe GmbH and Sun Microsystems, Inc., ("The Parties") acknowledge the current suspension of customs duties of certain types of Liquid Crystal Display ("LCD") monitors. However, as a result of the Agreement on trade in information technology products ("ITA"), The Parties believe that all LCD monitors that are mainly used as output units of automatic data-processing machines and that are classified under CN-heading 85.28 should fall under a duty suspension. Modification and prolongation of the current customs duty suspension is therefore required.

Council Regulation (EC) No. 493/2005, introduced the suspension of the autonomous Common Customs Tariff duties on certain types of Liquid Crystal Display ("LCD") monitors¹. Because of obligations of the Community, certain types of LCD monitors classified under CN-heading² 85.28 were made subject to a 0% customs duty. This suspension measure will expire by December 31, 2006. The current suspension applies to:

*"monitors with a diagonal measurement of the screen of 48,5 cm or less and with an aspect ratio of 4:3 or 5:4"*³

The Parties respectfully request to prolong the suspension after December 31, 2006 and modify the duty suspension in such a way that all modern LCD monitors that are mainly used as output units of automatic data-processing machines will benefit from this suspension. As ruled in ITA "display units of automatic data processing machines"⁴ should benefit from a customs duty zero rate. The Parties propose to modify the suspension in such a way that compliance with ITA is ensured and all monitors that are principally used for computer purposes can benefit from a customs duty zero rate.

We propose to replace the current monitor definition by the following wordings:

"monitors with a screen pixel pitch smaller than 0.31 mm not incorporating a television tuner"

¹ Council Regulation (EC) No. 493/2005 dated March 16, 2005. OJ L 82 dated March 31, 2005, pages 1-2.

² Combined Nomenclature heading

³ Article 1, Council Regulation (EC) No. 493/2005

⁴ Attachment B of ITA contains a positive list of specific products to be covered by ITA wherever they are classified in the Harmonized System. Attachment B clearly determines that "flat panel displays (including LCD, Electro Luminescence, Plasma and other technologies) for products falling within this agreement, and parts thereof" are to be included under ITA.

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This paper sets out our *prima facie* basis for the prolongation and modification of the customs duty suspension. We trust that this effort will help the European Commission and the Member States to create the obligatory and required customs duty regime for LCD monitors, and we look forward to discussing these points further in the weeks to come.

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Current Status

Based on the general rules for interpretation of the Harmonized System and note 5B to Chapter 84 of the CN⁵, LCD monitors of a kind **solely or principally used in an automatic data processing system** are to be classified under CN heading 84.71. Recent classification Regulations by the European Commission⁶ reveal that the Commission is of the opinion that *de facto* the majority of the modern LCD monitors, even if they are principally used as an output unit for automatic data processing system, are now classified under CN heading 85.28. LCD monitors classified under CN heading 85.28 are subject to a 14% customs duty rate, while LCD monitors classified under CN heading 84.71 are zero rated.

In the interest of the Community, certain types of LCD monitors classified under CN heading 85.28 may be subject to an autonomous customs duty suspension upon importation of the monitors into the free circulation of the EU with the publication of Council Regulation (EC) No. 493/2005⁷. Unless it is extended, the suspension measure will expire by December 31, 2006. Such expiration will result in levying 14% duties on all imported modern LCD monitors principally used in automatic data processing systems.

The Parties disagree with the Commission's interpretation of the CN when it concerns the classification of modern LCD monitors that are mainly used as output units of computers. However, The Parties agree with the Commission that it is in the Community's interest to levy a customs duty zero rate on LCD monitors that are mainly used as output units of automatic data-processing machines, even when they are classified under heading 85.28. As a result of the current classification policy and the experience with the current duty suspension, The Parties see an urgent need to modify the definition of the LCD monitors that qualify for the suspension. The expiration of the suspension measure will have an enormous impact for the Community consumers and the Community industry. Furthermore, the result will be a clear non-compliance with ITA⁸.

⁵ Automatic data-processing machines may be in the form of systems consisting of a variable number of separate units. Subject to paragraph E below, a unit is to be regarded as being a part of a complete system if it meets all of the following conditions:

- (a) it is of a kind solely or principally used in an automatic data-processing system;
- (b) it is connectable to the central processing unit either directly or through one or more other units; and
- (c) it is able to accept or deliver data in a form (codes or signals) which can be used by the system.

⁶ Commission Regulation (EC) No. 634/2005 dated April 26, 2005. OJ L 106 dated April 27, 2005, pages 7-9. Commission Regulation (EC) No. 2171/2005 dated December 23, 2005. OJ L 346 dated December 29, 2005, pages 7-9.

⁷ Observation 4, Council Regulation (EC) No. 493/2005 dated March 16, 2005

⁸ Under ITA, the contracting parties, including the Community, agreed to eliminate the duties on Information Technology products covered by ITA. LCD computer monitors and LCD flat panel displays are covered by ITA. Imposing duties on LCD computer monitors is a clear violation of ITA.

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Indeed, although ITA contributes to the Lisbon goals by exempting IT products from customs duties, The Parties experience an “erosion” of ITA. This is because many computer monitors are being systematically brought into the video related customs classification, triggering an excessively high customs duty on IT products when imported into the Community. It is critical for The Parties that the terms of ITA be uniformly applied and the exemptions envisaged be justly applied to such products which truly belong to that category.

The prolongation of a modified suspension regime for certain LCD monitors classified under CN heading 85.28 is required to safeguard the interests of all parties. Furthermore, The Parties stress that it is crucial to have a modified suspension regime in place as long as LCD monitors that are mainly used as output units of computers, are classified under 85.28 or a similar classification that otherwise results in a positive customs duty rate.

In the long term, The Parties would very much like to seek the support of the European Council, the European Commission and the Member States in insisting on the implementation of the terms of ITA and in the elimination of Community customs duties on products which meet the terms of ITA. The Parties would like the Community and its institutions, together with the Member States, to constantly focus on this matter, as well as at WTO level through the NAMA discussions.

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Proposed customs duty suspension

To comply with technological developments and the increasing consumer demand for widescreen and larger LCD computer monitors The Parties propose not to refer to diagonal measurement, aspect ratio or connections in the new version of duty suspension definition, as these criteria have no direct relevance to the end use of the monitors. The Parties respectfully request to base the prolonged suspension measure on the pixel size⁹ criterion, which does have a logical link to the end use of a monitor. It is the view of The Parties that the pixel size provides an excellent and easy way to verify the criterion to determine whether a LCD monitor is to be considered a monitor which is mainly used as an output unit of an automatic data-processing machine.

The pixel pitch, also known as dot pitch, is the distance between one pixel (or dot) to the other. The smaller the pixel pitch, measured in fractions of millimeters, the crisper the image. For example, a .28 pixel pitch means dots are 28/100ths of a millimeter apart. A pixel pitch of .31 or less provides a sharp image, especially for text.

It is stressed again that The Parties' intention is not to modify the suspension in such a way that LCD monitors which are not principally used as display units for computers can benefit from the customs duty suspension. The Parties do not intend to see other monitors, e.g. televisions, benefiting from the suspension. The only goal of The Parties is to ensure that a duty suspension in place for all LCD monitors, including the large screen LCD monitors which are used in the automatic data processing environment in innovative and creative sectors such as, amongst others, the design sector, the financial sector, the editing sector, the chemical sector and the pharmaceutical sector, that will be used as display units of computers.

The pixel pitch size criterion which is proposed by The Parties is also used in the ITA as a decisive criterion to separate CRT type display units of automatic data processing machines from other monitors. The Parties confirm that this criterion is a far better criterion than the current size or aspect ratio criteria, because it has a direct relation to the end use of the monitor (i.e. computer) and therefore they fully support the use of the pixel size as THE decisive criterion in the duty suspension definition.

Based on technical know-how and the market situation The Parties have the following observations regarding the pixel size:

⁹ The "dot pitch" size in CRT

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- Computer monitors are viewed from a close distance. Monitors designed to be viewed from close distance need to have a high pixel density. There is a clear and direct relationship between the viewing distance and the capabilities of the human eye¹⁰. As a result, monitors which will be viewed from a greater distance, will require a lower pixel density. Creating a high-density panel is more expensive and adds no value to the image for the customer viewing it from a greater distance. Because of the higher production costs, only computer monitors will be designed and manufactured with a high pixel density.
- Monitors destined for TV/video purposes are not manufactured with a high pixel density since this will result in a higher consumer price for the monitor. In today's economy and market, consumers are not willing to pay a higher price for a feature from which they will not benefit.
- Automatic data processing machine monitors place a higher value on the number of pixels which equates to useable work space. The higher the amount of pixels that is available on screen, the more can be seen at once without having to scroll in a window or change between windows.
- TV monitors with a lower pixel density are brighter. The more pixels, the less light is let through. This is an important feature of televisions. Computer monitors do not require the same brightness due to the fact that they are used at much closer range.

From a practical point of view it is noted that the pixel density of the monitor at hand will be easy to verify by the local customs authorities as this information is normally available in the accompanying documentation (e.g. brochures) and is also mentioned on the packaging of monitor. In addition, the pixel pitch size is easy calculable, namely:

horizontal length of the active display area in mm divided by horizontal resolution

¹⁰ Annex 1 to this position paper. This information is available from <http://www.burnyourbonus.co.uk/hdtv-faq/faq3.html>

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Conclusion

The Parties request a prolongation of a modified customs duty suspension for modern LCD monitors. The proposed definition for monitors that should fall under the suspension is:

“monitors with a screen pixel pitch smaller than 0.31 mm not incorporating a television tuner”

The Parties would very much like to seek the support of the European Council, the European Commission and the Member States in insisting on the implementation of the ITA terms in the elimination of duties in the Community on products which meet the terms of ITA.

We welcome any feedback on this proposal, and an open and honest dialogue with the European Council, the European Commission and the Member States' representatives.

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ANNEX 1

What resolution can the eye see?¹¹

Assuming you have good 20/20 vision the highest resolution you can appreciate depends on the size of the screen and how close you view it from. Research by the BBC confirmed that the correct figure for 20/20 visual acuity is a sixtieth of a degree. Smaller detail blends together and is not appreciated by the eye. This means that for someone with 20/20 vision the smallest pixel distance they should need is the viewing distance divided by 3400. If you sit 2.7 meters from the TV screen (this is the UK average according to the BBC) then you want a pixel size of 0.8 mm. By this logic you should be content with the standard definition 576 lines up to screen diagonal sizes of 37", 720 lines up to 45" and 1080 lines up to 70". This assumes 20/20 vision which most people can manage with glasses if necessary. Some people may have only 20/30 or 20/40 vision in which case they may not see the benefits of HDTV at all. Many people have 20/15 vision or even 20/10, in which case they would appreciate HDTV on smaller screens. The following table shows the optimal screen sizes for different formats (number of lines and aspect ratio) depending on vision and viewing distances.

Table of Optimal Screen sizes													
viewing distance		20/20 vision						20/15 vision					
		480i 4/3	480i 16/9	576i 4/3	576i 16/9	720p 16/9	1080i 16/9	480i 4/3	480i 16/9	576i 4/3	576i 16/9	720p 16/9	1080i 16/9
1 meters	3 feet	< 9"	< 11"	< 11"	< 13"	13"- 17"	17"- 25"	< 7"	< 8"	< 8"	< 10"	10"- 13"	13"- 19"
1.5 meters	5 feet	< 14"	< 17"	< 16"	< 20"	20"- 25"	25"- 37"	< 10"	< 13"	< 12"	< 15"	15"- 19"	19"- 28"
2 meters	6.5 feet	< 18"	< 22"	< 22"	< 27"	27"- 34"	34"- 50"	< 14"	< 17"	< 16"	< 20"	20"- 25"	35"- 38"
2.5 meters	8 feet	< 23"	< 28"	< 27"	< 34"	34"- 42"	42"- 63"	< 17"	< 21"	< 21"	< 25"	23"- 32"	32"- 47"
3 meters	10 feet	< 27"	< 33"	< 33"	< 40"	40"- 50"	50"- 76"	< 20"	< 25"	< 25"	< 30"	30"- 38"	38"- 57"
4 meters	13 feet	< 37"	< 45"	< 44"	< 54"	54"- 67"	67"- 101"	< 27"	< 34"	< 33"	< 40"	40"- 50"	50"- 76"
5 meters	16 feet	< 46"	< 56"	< 55"	< 67"	67"- 84"	84"- 126"	< 34"	< 42"	< 41"	< 50"	50"- 63"	63"- 95"

For example, if you sit about 8 feet (2.5 meters) from your screen and plan to get a 720p HDTV set, you should go for a screen size in the range 34 to 42 inches (this is diagonal size). If it is smaller than 34 inches you will be no better off than with standard definition TV at that distance, and if it is larger than 42 inches you will be too close and will see the pixels (assuming 20/20 vision). This may lead to eye-strain. As another example, if you are lucky enough to have acquired a 50 inch 1920 x 1080 screen to watch 1080i broadcasts you should sit no closer than 2 meters for 20/20 vision (2.7 m for 20/15 vision.) If you set further away than 3 meters you would not be benefiting from the higher resolution and would have been better off with 720 lines. This demonstrates that getting the right screen size and viewing distance is quite critical.

¹¹ <http://www.burnyourbonus.co.uk/hdtv-faq/faq3.html>