REGULATION (EEC) No 3459/73 OF THE COUNCIL

of 17 December 1973

on the opening, allocation and administration of a supplementary Community tariff quota for ferro-silico-manganese falling within subheading No 73.02 D of the Common Customs Tariff for 1973

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 28 thereof;

Having regard to the draft Regulation submitted by the Commission;

Whereas by Council Regulation (EEC) No 2730/72 (1) the Council opened and allocated among the Member States, for the year 1973, a duty-free conventional Community tariff quota of 50 000 metric tons of ferro-silico-manganese falling within subheading No 73.02 D of the Common Customs Tariff;

Whereas in view of current Community production potential, the abovementioned 50 000 metric ton quota volume does not suffice to cover Community import requirements for ferro-silico-manganese from third countries; whereas it is therefore desirable to open a supplementary Community tariff quota for a amount which, in view of the need not to jeopardize future expansion of this Community production sector, should be restricted to 25 000 metric tons; whereas for the same reasons, the quota duty should be set at 4 %;

Whereas, as regards the product in question, the new Member States do not have to make any movement towards alignment of the national tariffs on the Common Customs Tariff; whereas the opening of a Community tariff quota thus involves no obligation for the new Member States to modify their customs tariffs as regards third countries; whereas therefore it should be provided that only the Member States of the Community as originally constituted should use the tariff quotas and charge against their shares products imported both from third countries and from the new Member States; whereas the Community tariff quota must reflect the terms specified above;

(1) OJ No L 291, 28. 12. 1972, p. 64.

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of levy for the tariff quota should be applied consistently to all imports of the product in question until the quota is used up; whereas, in the light of the principles outlined above, a Community tariff arrangement based on an allocation between the Member States would seem to preserve the Community nature of the quota; whereas to represent as closely as possible the actual development of the market in the product in question the allocation should follow proportionately the requirements of the Member States calculated both from statistics of imports from third countries during a representative reference period and from the economic outlook for the tariff period in question;

Whereas in view of the statistics for 1969 to 1971 and of market forecasts for ferro-silico-manganese for the current year the percentage shares in the 50 000 metric ton quota volume opened by the abovementioned Regulation are as follows:

Benelux	8·72
France	0·21
Germany	87·24
Italy	3·83

Whereas, since the quota in question is an autonomous Community tariff quota which is intended to cover supplementary import needs arising within the Community, allocation of the supplementary quota volume may be based on the true needs expressed by each of the Member States; whereas Germany and the three Member States constituting the Benelux Economic Union have communicated supplementary needs of some 30 000 metric tons and 4 880 metric tons respectively; as regards the other Member States, the extent to which the shares allocated to them in the initial 50 000 metric ton quota opened by the abovementioned Regulation has been used up and the most recent economic information and statistics available would not at present justify their participation in the proposed increase in the Community tariff quota; whereas, should further needs later arise in those Member States, however, they could always invoke

Article 3 of this Regulation; whereas this system of allocation also permits the Common Customs Tariff to be applied uniformly;

Whereas, to take account of future trends of imports of the product under consideration, the total quota volume should be divided into two tranches, the first being shared between Germany and the Benelux and the second held as a reserve to cover at a later date the requirements of these Member States, should they use up their new share, and any further needs arising in other Member States; whereas to give Member State importers some certainty and to make it possible to sell Community production without difficulty, the first tranche of the Community quota should be fixed at 24 000 metric tons;

Whereas the initial shares of Member States may be used up more or less quickly; whereas, therefore, to avoid disruption of supplies any Member State which has almost used up its initial share, must draw a supplementary share from the reserve; whereas this must be done by each Member State as each one of its supplementary shares is almost used up, and as many times as the reserve allows; whereas the initial and supplementary shares must be valid until the end of the quota period; whereas this form of administration requires close collaboration between the Member States and the Commission, and the Commission must be in a position to follow the extent to which the quota volume has been used up and inform the Member States thereof;

Whereas if, at a given date in the quota period, a considerable quantity of the initial share is left over in a Member State, it is essential that each state should return a significant proportion to the reserve, to prevent a part of the Community quota from remaining unused in one Member State while it could be used in others;

Whereas since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are jointly represented by the Benelux Economic Union any measure concerning the administration of the shares allocated to that economic union may be carried out by one of its members,

HAS ADOPTED THIS REGULATION:

Article 1

Until 31 December 1973 the Common Customs Tariff duty on ferro-silico-manganese falling within subheading No 73.02 D shall be suspended up to 4 % on a supplementary Community tariff quota of 25 000 metric tons.

Article 2

1. A first tranche of 24 000 metric tons shall be allocated among certain Member States; the shares which, subject to Article 6, shall be valid until 31 December 1973, shall be as follows:

Benelux	3 680 metric tons
Germany	20 320 metric tons.

2. The second tranche, of 1 000 metric tons, shall constitute a reserve.

Article 3

If needs for ferro-silico-manganese arise in France or Italy, those Member States may, to the extent that the reserve is sufficient, draw an adequate share from the reserve.

Article 4

1. If 90 % or more of the initial share as defined in Article 2 (1) of either of the Member States specified in Article 2, or of that share minus the portion returned to the reserve where Article 6 is applied, has been used up, that Member State shall without delay, by notifying the Commission, draw a second share, to the extent that the reserve is sufficient equal to 10 % of its initial share.

2. If, after its initial share has been used up, 90 % or more of the second share drawn by either of the Member States have been used up, that Member State shall without delay, in accordance with the provisions of paragraph 1, draw a third share equal to 5 % of its initial share.

3. If, after its second share has been used up, 90 % or more of the third share drawn by either of the Member States has been used up, that Member State shall, in accordance with the provisions of paragraph 1, draw up a fourth share equal to the third.

This process shall apply by analogy until the reserve is used up.

4. Notwithstanding paragraphs 1 to 3, the Member State in question may draw shares lower than those fixed in those paragraphs if there are grounds for believing that those fixed may not be used up. They shall inform the Commission of their reasons for applying this paragraph.

Article 5

Supplementary shares drawn pursuant to Article 4 shall be valid until 31 December 1973.

Article 6

Either of the Member States specified in Article 2 which on 15 November 1973 has not used up its initial share shall return to the reserve not later than 10 December 1973 the unused portion exceeding 20 % of the initial amount. It may return a greater portion if there are grounds for believing that it may not be used up.

Those Member States shall, not later than 10 December 1973, notify to the Commission the total quantities of the product in question imported up to and including 15 November 1973 and charged against the Community quota and any quantities returned to the reserve.

Article 7

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 2, 3 and 4 and shall, as soon as information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 15 December 1973, inform the Member States of the amount still in reserve after returns have been made pursuant to Article 6.

It shall ensure that the drawing which uses up the reserve is limited to the balance available and to this end shall specify the amount thereof to the Member State making the last drawing.

Article 8

1. Member States shall take all appropriate measures to ensure that supplementary shares drawn pursuant to Article 3 or 4 are opened in such a way that charges may be made, without interruption, against their cumulative shares of the Community quota.

2. Each Member State shall ensure that importers of the product in question established in its territory have free access to the shares allocated to it.

3. Member States shall charge imports of the product in question both from third countries and from new Member States against their share as and when the product is entered for home use.

4. The extent to which a Member State has used up its share shall be determined on the basis of imports charged against it in accordance with paragraph 3.

Article 9

Member States shall regularly inform the Commission of imports actually charged against their shares.

Article 10

Member States and the Commission shall cooperate closely to ensure that this Regulation is observed.

Article 11

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

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

Done at Brussels, 17 December 1973.

For the Council

The President

I. NØRGAARD