REGULATION (EEC) No 3591/73 OF THE COUNCIL

of 28 December 1973

on the opening, allocation and administration of a Community tariff quota for unwrought magnesium falling within subheading No 77.01 A of the Common Customs Tariff

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof;

Having regard to the proposal from the Commission;

Whereas, in an exchange of letters of 30 June 1967, confirmed in an exchange of letters of 16 April 1973 the European Economic Community has undertaken, as regards unwrought magnesium falling within tariff subheading No 77.01 A, to open an annual Community tariff quota for a quantity such that Community requirements for the said goods not covered by Community production may be imported duty-free;

Whereas, under Article 39 of the Act of Accession, the new Member States must on 1 January 1974 make the first move towards alignment of their national tariffs on the Common Customs Tariff as regards the said goods; whereas, therefore, the needs of those Member States for imports from third countries should from that date onwards be covered by the tariff quota in question during the period thereof; whereas these requirements may not include imports to which some other preferential tariff treatment may apply; whereas the duties to be applied by the new Member States under the said tariff quota must be in conformity with the relevant provisions of the Act of Accession;

Whereas in order to establish the volume of the Community tariff quota an assessment must be made of the total consumption by the user industries of the Member States during the tariff year and of the Community production level for the same period; whereas even a very rough assessment of total consumption and production for 1974 will be highly unreliable since it is at present impossible to estimate either the volume of unwrought magnesium used in certain Member States in the year under consideration or the likely level of Community output which is likely to increase considerably as a result of extensions to existing plant in the Community; whereas there is in any case no likelihood of Community production meeting the demand; whereas the annual quota volume must therefore be fixed at an appropriate level, probably about 10 250 metric tons; whereas this assessment is based on conservative estimates and later adjustments are not excluded;

Whereas the market in magnesium containing not less than 99·8 % by weight of pure magnesium (hereinafter called 'unwrought magnesium not in alloy') and in magnesium containing less than 99·8 % by weight of pure magnesium (herein after called 'unwrought magnesium in alloy') differ considerably; whereas a distinction should therefore be made between the two qualities and the quota volume under consideration should be divided between them;

Whereas in the case of unwrought magnesium not in alloy, and assuming a quota volume of 10 250 metric tons, the need to import some 1 000 metric tons from third countries has been established; whereas this figure is justified both by the former ratio of consumption of this quality to total consumption of magnesium and by the short term outlook for Community production of this quality of magnesium;

Whereas equal and continuous access to the quota should be ensured for all importers and the rate of levy for the tariff quota should be applied consistently to all imports 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 said goods 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 year in question;

Whereas, however, the available statistics of imports from third countries into the new Member States to which no equivalent tariff preference was applied under any other preferential arrangements only cover the year 1972 and the first few months of 1973; whereas during the year 1972 such imports by each of the Member States represented the following percentages of total Community imports of the said goods; whereas, for the year 1973, on the basis of the most recent forecasts by the Member States, which have been confirmed by the imports statistics for the first few months, these percentages are as follows:

— *for unwrought magnesium not in alloy:*

	1972	1973
Benelux	11·63	16·08
Denmark	0·08	0·06
Germany	59·15	55·64
France	3·61	3·09
Ireland	0·04	0·03
Italy	0·42	0·37
United Kingdom	25·07	24·73

— *for unwrought magnesium in alloy:*

Benelux	0·32	1·12
Denmark	0·05	0·04
Germany	96·98	97·05
France	0·08	0·04
Ireland	0·02	0·01
Italy	1·86	1·27
United Kingdom	0·68	0·47

Whereas in view of these factors and of market forecasts for these products in 1974 the initial percentage shares in the quota volume can be expressed roughly as follows:

— *for unwrought magnesium not in alloy:*

Benelux	14·60
Denmark	0·06
Germany	54·81
France	1·70
Ireland	0·03
Italy	0·40
United Kingdom	28·40

— *for unwrought magnesium in alloy:*

Benelux	1·31
Denmark	0·03
Germany	96·82
France	0·03
Ireland	0·02
Italy	1·30
United Kingdom	0·49

Whereas, to take account more accurately of future import trends for the said goods, the total quota volume for each quality of unwrought magnesium should be divided into two tranches, the first being allocated among the Member States and the second held as a reserve to cover at a later date the requirements of Member States who have used up their initial shares; whereas to give importers some certainty the first tranches should be fixed at 850 metric tons of unwrought magnesium not in alloy and 8 250 metric tons of unwrought magnesium in alloy, the balances being held as the reserves;

Whereas the initial shares may be used up fairly quickly; whereas, therefore, to avoid disruption of supplies, any Member State which has almost used up one of its initial shares should draw a supplementary share from the appropriate 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;

Whereas if, at a given date in the quota period, a Member State has a considerable quantity of one of its initial shares left over, it is essential that it should return a significant proportion thereof to the appropriate reserve, to prevent a part of one or other quota volume 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

1. During the period from 1 January to 31 December 1974 a Community tariff quota of 10 250 metric tons shall be opened in the Community for unwrought magnesium falling within subheading 77.01 A of the Common Customs Tariff.

2. The volume of the tariff quota shall be divided as follows:

(a) as to 1 000 metric tons for unwrought magnesium containing not less than 99·8 % by weight of pure magnesium ('unwrought magnesium not in alloy'); and

(b) as to 9 250 metric tons for unwrought magnesium containing less than 99·8 % by weight of pure magnesium ('unwrought magnesium in alloy').

3. Imports of the said goods may not be counted under this tariff quota if they are already free of customs duties under other preferential tariff treatment applied by certain Member States, in particular under free trade agreements.

4. Within this tariff quota the Common Customs Tariff duties shall be totally suspended.

5. Within this tariff quota the new Member States shall apply duties calculated in accordance with the relevant provisions of the Act of Accession.

Article 2

1. The first tranche of each of these quota amounts consisting of 850 metric tons of unwrought magnesium not in alloy and 8 250 metric tons of unwrought magnesium in alloy shall be allocated among the Member States; the respective shares of the Member States, which, subject to Article 5, shall be valid from 1 January to 31 December 1974, shall be as follows:

(a) for unwrought magnesium not in alloy:

Benelux	124·1 metric tons
Denmark	0·5 metric tons
Germany	465·8 metric tons
France	14·5 metric tons
Ireland	0·3 metric tons
Italy	3·4 metric tons
United Kingdom	241·4 metric tons

(b) for unwrought magnesium in alloy:

Benelux	108 metric tons
Denmark	2 metric tons
Germany	7 988 metric tons
France	2 metric tons
Ireland	2 metric tons
Italy	108 metric tons
United Kingdom	40 metric tons

2. The second tranches, of 150 metric tons and 1 000 metric tons respectively, shall be held as Community reserves.

Article 3

1. If 90 % or more of one of a Member State's initial shares as specified in Article 2 (1), or of that share minus the portion returned to the appropriate reserve where Article 5 is applied, has been used up, that Member State shall without delay, by notifying the Commission, draw a second share equal to 10 % of its initial share, rounded up where necessary to the next unit, to the extent permitted by the amount of the reserve.

2. If, after one or other of its initial shares has been used up, 90 % or more of the second share drawn by a Member State has been used up, that Member State shall, in accordance with the conditions imposed by paragraph 1, draw a third share equal to 5 % of its initial share, rounded up where necessary to the next unit.

3. If, after one or other of its second shares has been used up, 90 % or more of the third share drawn by a Member State has been used up, that Member State shall, in accordance with the same conditions, draw a fourth share equal to the third.

This process shall continue to apply until the reserves are used up.

4. By way of derogation from paragraphs 1 to 3, a Member State may draw shares lower than those

fixed in those paragraphs if there are grounds for believing that those fixed may not be used up. It shall inform the Commission of its reasons for applying this paragraph.

Article 4

Supplementary shares drawn pursuant to Article 3 shall be valid until 31 December 1974.

Article 5

A Member State which on 15 September 1974 has not used up one or other of its initial shares shall return to the appropriate reserve not later than 10 October 1974 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.

Member States shall, not later than 10 October 1974, notify the Commission of the total quantities of the said goods imported up to and including 15 September 1974 and charged against the Community quota and any quantities of the initial shares returned to the reserves.

Article 6

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

It shall inform the Member States, not later than 15 October 1974, of the amount still in reserve after amounts have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which uses up a 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 7

1. Member States shall take all measures necessary to ensure that supplementary shares drawn pursuant to Article 3 are opened in such a way that imports may be charged without interruption against their accumulated shares in the Community quota.

2. Member States shall ensure that importers of the said goods established in their territory have free access to the shares allocated to them.

3. The extent to which a Member State has used up its shares shall be determined on the basis of the quantities of the said goods entered for home use.

Article 8

Member States shall inform the Commission at regular intervals of imports actually charged against their shares.

Article 9

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

Article 10

This Regulation shall enter into force on 1 January 1974.

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

Done at Brussels, 28 December 1973.

For the Council

The President

Ove GULDBERG