REGULATION (EEC) No 2089/74 OF THE COUNCIL

of 2 August 1974

on the opening, allocation and administration of an autonomous Community tariff quota for 1974 for ferro-silico-manganese falling within subheading 73.02 D 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 28 thereof;

Having regard to the draft Regulation submitted by the Commission;

Whereas, as regards ferro-silico-manganese falling within subheading 73.02 D of the Common Customs Tariff, a conventional duty-free Community tariff quota of 50 000 metric tons has been opened by the Council for 1974 and allocated among the Member States by Regulation (EEC) No 3588/73 [1];

Whereas, bearing in mind present Community production capacity, the abovementioned quota will not cover the entire Community import requirements of ferro-silico-manganese from third countries; whereas it is therefore desirable that an autonomous Community tariff quota limited to 32 000 metric tons be opened; whereas, so as not to prejudice Community development prospects in the production area concerned, the quota duty applicable should be fixed at 4 %;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of duty for the tariff quota should be applied consistently to all imports until the quota is exhausted; whereas, in the light of these principles, arrangements for the utilization of the tariff quota based on an allocation among Member States would seem to be consistent with the Community nature of the quota; whereas, to correspond as closely as possible to the actual trend of the market in the product in question, allocation of the quota should be in proportion to the requirements of the Member States as calculated by reference to statistics of imports from third countries during a representative reference period and to the economic outlook for the quota period in question;

Whereas, on the basis of statistics available at the time and allowing for the foreseeable development of the ferro-silico-manganese market during 1974, the tariff quota of 50 000 metric tons opened by Regulation (EEC) No 3588/73 was allocated in the following percentages:

Benelux	8·33
Denmark	0·62
Germany	82·20
France	0·10
Ireland	1·04
Italy	3·54
United Kingdom	4·17;

Whereas, since the quota is an autonomous Community tariff quota intended to cover additional import needs arising in the Community, the allocation of the additional share may be made on the basis of the actual needs expressed by each of the Member States; whereas the United Kingdom, Ireland, Germany, the three Member States comprising the Benelux Economic Union and Italy have stated that they require further supplies of 3 400, 200, 35 000, 15 400 and 2 500 metric tons respectively; whereas the other Member States have not used up enough of their share of the initial quota opened by the abovementioned Regulation, according to the most recently available economic information and statistics, to justify at present their participation in the proposed supplementary tariff quota; whereas, moreover, should additional needs arise subsequently in those Member States they may have recourse to the procedure set up under Article 3 of this Regulation; whereas this system of allocation also ensures the uniform application of the Common Customs Tariff;

Whereas, to take account of future import trends for the product concerned, the quota should be divided into two tranches, the first being allocated among the abovementioned Member States and the second held as a reserve to cover subsequently the requirements of Member States which have exhausted their new shares and any additional requirements which might arise in the other Members States; whereas, to give importers of Member States some degree of certainty, the first tranche of the tariff quota should be fixed at a relatively high level which could be 30 000 metric tons;

Whereas Member States may exhaust their initial shares at different rates; whereas to avoid disruption of supplies on this account it should be provided that any Member State which has almost used up its initial share should draw an additional share from the reserve; whereas each time its additional share is almost exhausted a Member State should draw a further share, and so on as many times as the reserve allows; whereas the initial and additional shares should be valid until the end of the quota period; whereas this form of administration requires close

[1] OJ No L 365, 31. 12. 1973, p. 31.

collaboration between the Member States and the Commission, and the Commission must be in a position to keep account of the extent to which the quotas have been used up and to inform the Member States accordingly ;

Whereas if at a given date in the quota period a considerable quantity of a Member State's initial share remains unused it is essential that such State should return a significant proportion thereof to the reserve, in order to prevent a part of a 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 united within and 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 any one of its members,

HAS ADOPTED THIS REGULATION :

Article 1

1. From the date of entry into force of this Regulation until 31 December 1974 a tariff quota of 32 000 metric tons shall be opened within the Community in respect of ferro-silico-manganese falling within subheading 73.02 D of the Common Customs Tariff.

2. Within this quota, Community Customs Tariff duty shall be suspended at 4 %.

3. Within this quota, Member States shall apply quota duties calculated in accordance with the relevant provisions of the Act of Accession.

Article 2

1. A first tranche of 30 000 metric tons of this Community tariff quota shall be allocated among certain Member States ; the shares, which subject to Article 6 shall be valid until 31 December 1974, shall be as follows :

Benelux	8 000 metric tons
Germany	18 000 metric tons
Ireland	100 metric tons
Italy	2 000 metric tons
United Kingdom	1 900 metric tons.

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

Article 3

Should ferro-silico-manganese be required in Denmark or France, these Member States shall draw a sufficient share from the reserve to the extent that the reserve so permits.

Article 4

1. As soon as one of the Member States referred to in Article 2 has used 90 % or more of its initial share as fixed in Article 2 (1), or of that share minus any portion returned to the reserve pursuant to Article 6, it shall forthwith, by notifying the Commission, draw a second share, to the extent that the reserve so permits, equal to 10 % of its initial share rounded up as necessary to the next whole number.

2. As soon as one of the Member States, after exhausting its initial share, has used 90 % or more of the second share drawn by it, that Member State shall forthwith, in the manner and to the extent provided in paragraph 1, draw a third share equal to 5 % of its initial share.

3. As soon as one of the Member States, after exhausting its second share, has used 90 % or more of the third share drawn by it, that Member State shall forthwith, and in accordance with the same conditions, draw a fourth share equal to the third.

It shall continue in this fashion until the reserve is exhausted.

4. By way of derogation from paragraphs 1 to 3, the Member States may draw shares lower than those specified in those paragraphs if there are grounds for believing that those specified may not be used in full. Any Member State applying this paragraph shall inform the Commission of its grounds for so doing.

Article 5

Additional shares drawn pursuant to Article 4 shall be valid until 31 December 1974.

Article 6

Any Member State referred to in Article 2 which on 15 October 1974 has not exhausted its initial share shall not later than 10 November 1974 return to the reserve the unused portion in excess of 20 % of the initial amount. It may return a greater portion if there are grounds for believing that such portion may not be used in full.

Those Member States shall, not later than 10 November 1974, notify the Commission of the total quantities of the product in question imported up to and including 15 October 1974 and charged against the Community quota and of any portion of these initial shares 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 the information reaches it, inform each State of the extent to which the reserve has been used up.

It shall, not later than 15 November 1974, inform the Member States of the amount still in reserve following any return of shares pursuant to Article 6.

It shall ensure that when an amount exhausting the reserve is drawn the amount so drawn does not exceed the balance available, and to this end shall notify the amount of that balance to the Member State making the last drawing.

Article 8

1. The Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to either Article 3 or Article 4 are opened in such a way that importations may be charged without interruption against their accumulated shares of the relevant quota.

2. The Member States shall ensure that importers of the product in question established in their territories have free access to the shares allocated to them.

3. The Member States shall charge importations of the product in question against their shares as and when the product is entered with the customs authorities for home use.

4. The extent to which the Member States have used up their shares shall be determined on the basis of the importations charged against those shares in accordance with paragraph 3.

Article 9

Every Member State shall notify the Commission at regular intervals of the importations charged against its shares.

Article 10

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 11

This Regulation shall enter into force on the seventh 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, 2 August 1974.

For the Council

The President

B. DESTREMAU