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(Acts whose publication is obligatory)

REGULATION (EEC) No 3174/74 OF THE COUNCIL

of 11 December 1974

opening, allocating and providing for the administration of a Community tariff quota for unwrought magnesium falling within subheading 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 dated 30 June 1967, confirmed in an exchange of letters dated 16 April 1973, the European Economic Community has undertaken, as regards unwrought magnesium falling within tariff subheading 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, 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 quota year and of the Community production level for the same period; whereas even a very rough assessment of total consumption and production for 1975 would 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; whereas, in any case, there is no likelihood of Community production fully meeting demand in the quota year; whereas the annual quota volume must therefore be fixed at an appropriate level, probably about 12 000 metric tons; whereas this assessment is based on conservative estimates and later adjustments are not excluded; whereas the duties to be applied by the new Member States under the said tariff quota must comply with the relevant provisions of the Act of Accession;

Whereas the markets in magnesium containing 99·95 % or more by weight of pure magnesium (hereinafter called 'extra-pure magnesium'), in magnesium containing 99·8 % or more, but less than 99·95 %, 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 (hereinafter called 'unwrought magnesium in alloy') differ considerably; whereas a distinction should therefore be made between these three qualities and the quota volume under consideration should be divided between them;

Whereas, taking into account an overall, provisional quota volume of 12 000 metric tons, it has been found that there exists an immediate need to import some 700 metric tons of extra-pure magnesium, 1 500 metric tons of unwrought magnesium not in alloy and 9 800 metric tons of unwrought magnesium in alloy; whereas these figures would seem to be justified both by the former ratios of consumption of these qualities to total consumption of magnesium and by the short-term outlook for Community production of these qualities 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 quota year in question;

Whereas, however, the available statistics of imports into the Member States from third countries which did not benefit from an equivalent tariff preference under any other preferential arrangements cover only unwrought magnesium in alloy and unwrought magnesium not in alloy; whereas, during the last three years for which statistics are available, such imports represented the following percentages of total imports of the said goods; whereas, from the information at present to hand, it would seem that imports of extra-pure magnesium are effected almost wholly into the United Kingdom, where they are incorporated in the statistics concerning unwrought magnesium not in alloy:

— *for unwrought magnesium not in alloy:*

	1971	1972	1973
Benelux	8·39	12·27	6·59
Denmark	0·10	0·09	0
Germany	60·47	62·42	70·34
France	3·75	3·53	9·45
Ireland	0·10	0·09	0·01
Italy	1·16	0·44	2·49
United Kingdom	26·03	21·16	11·12

— *for unwrought magnesium in alloy:*

	1971	1972	1973
Benelux	0·18	0·32	3·18
Denmark	0·04	0·06	0
Germany	94·67	97·51	93·33
France	1·86	0·06	0
Ireland	0·05	0·06	0·01
Italy	3·11	1·87	3·46
United Kingdom	0·09	0·12	0·02

Whereas, in view of these factors and of market forecasts for these products in 1975, the United Kingdom should, on an expertimental basis, be allotted a preponderant share of this quality of magnesium and the other Member States should be allotted smaller shares, while safeguarding the Community character of this quota by setting up an adequate reserve, and the initial percentage shares for the other qualities of magnesium should be fixed approximately at the following levels:

— *for unwrought magnesium not in alloy:*

Benelux	15·60
Denmark	0·06
Germany	62·50
France	4·50
Ireland	0·03
Italy	0·40
United Kingdom	16·91

— *for unwrought magnesium in alloy:*

Benelux	2·12
Denmark	0·03
Germany	96·50
France	0·03
Ireland	0·02
Italy	0·80
United Kingdom	0·50

Whereas, in order to take more accurate account 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, in order to guarantee importers some degree of security, the first tranches should be fixed at 500 metric tons of extra-pure magnesium, 1 250 metric tons of unwrought magnesium not in alloy and 8 000 metric tons of unwrought magnesium in alloy, the balances being held as the reserves;

Whereas the initial shares may be used up more or less quickly; whereas, therefore, in order to avoid disrupting supplies, any Member State which has almost used up one of its initial shares should draw a supplementary share from the relevant reserve; whereas this must be done by each Member State as each one of its supplementary shares is almost used up, 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 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 relevant 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 any one of its members,

HAS ADOPTED THIS REGULATION :

Article 1

1. During the period from 1 January to 31 December 1975 a Community tariff quota of 12 000 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) 700 metric tons for unwrought magnesium containing 99·95 % or more by weight of pure magnesium ('extra-pure magnesium'), intended for the nuclear industry, under customs or equivalent administrative control ;

(b) 1 500 metric tons for unwrought magnesium containing not less than 99·8 % or more, but less than 99·95 %, by weight of pure magnesium ('unwrought magnesium not in alloy') ;

(c) 9 800 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 shall 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 tranches of these quotas, of 500 metric tons of extra-pure magnesium, 1 250 metric tons of unwrought magnesium not in alloy and 8 000 metric tons of unwrought magnesium in alloy respectively, 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 1975, shall be as follows :

(a) for extra-pure magnesium :

Benelux	3 metric tons,
Denmark	1 metric ton,
Germany	1 metric ton,
France	1 metric ton,
Ireland	1 metric ton,
Italy	1 metric ton,
United Kingdom	492 metric tons ;

(b) for unwrought magnesium not in alloy :

Benelux	195 metric tons,
Denmark	1 metric ton,
Germany	781 metric tons,
France	56 metric tons,
Ireland	1 metric ton,
Italy	5 metric tons,
United Kindgom	211 metric tons ;

(c) for unwrought magnesium in alloy :

Benelux	170 metric tons,
Denmark	2 metric tons,
Germany	7 720 metric tons,
France	2 metric tons,
Ireland	2 metric tons,
Italy	64 metric tons,
United Kingdom	40 metric tons.

2. The second tranches, of 200 metric tons, 250 metric tons and 1 800 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 relevant 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, where necessary rounded off upwards to the next unit, in so far as 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 laid down in paragraph 1, draw a third share equal to 5 % of its initial share, where necessary rounded off upwards 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. Notwithstanding paragraphs 1 to 3, a Member State may draw shares lower than those fixed in these paragraphs if there are grounds for believing that those fixed might 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 1975.

Article 5

A Member State which on 15 September 1975 has not used up one or other of its initial shares shall return to the relevant reserve not later than 10 October 1975 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 1975, notify the Commission of the total quantities of the said goods imported up to and including 15 September 1975 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 1975, 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 1975.

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

Done at Brussels, 11 December 1974.

For the Council

The President

M. CAVAILLE