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*(Acts whose publication is obligatory)*

# COUNCIL REGULATION (EEC) No 126/76

## of 20 January 1976

## 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 1976 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 5 500 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 5 500 metric tons, the following quantities may be allocated to each quality of the product in question : 600 metric tons for extra-pure magnesium, 1 325 metric tons for unwrought magnesium not in alloy and 3 575 metric tons for unwrought magnesium in alloy ; whereas these figures appear justified both by the former ratios of consumption of these qualities to total consumption of magnesium and by the supply possibilities for these qualities of magnesium within the Community ;

Whereas equal and continuous access to the quota should be ensured for all imports 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 in the United Kingdom :

| — *for unwrought magnesium not in alloy :* | 1972 | 1973 | 1974 |
|---|---|---|---|
| Benelux | 12·27 | 6·55 | 23·18 |
| Denmark | 0·09 | 0 | 0 |
| Germany | 62·42 | 69·93 | 52·96 |
| France | 3·53 | 9·39 | 7·11 |
| Ireland | 0·09 | 0·01 | 0·01 |
| Italy | 0·44 | 3·06 | 2·21 |
| United Kingdom | 21·16 | 11·06 | 14·53 |

| — *for unwrought magnesium in alloy :* | 1972 | 1973 | 1974 |
|---|---|---|---|
| Benelux | 0·32 | 3·18 | 1·72 |
| Denmark | 0·06 | 0 | 0 |
| Germany | 97·51 | 93·23 | 94·26 |
| France | 0·06 | 0 | 1·57 |
| Ireland | 0·06 | 0·01 | 0 |
| Italy | 1·87 | 3·56 | 2·05 |
| United Kingdom | 0·12 | 0·02 | 0·39 ; |

Whereas in view of these factors and of market forecasts for these products in 1976, it is necessary in the case of extra-pure unwrought magnesium to allocate on an experimental basis the quota volume for this quality to the Community reserve and to provide for Member States which have requirements to be met to be able to draw upon this reserve in appropriate quantities, and whereas it is necessary to fix for the other qualities of magnesium initial percentage shares at approximately the following levels :

— *for unwrought magnesium not in alloy :*

| | |
|---|---|
| Benelux | 16·74 |
| Denmark | 0·04 |
| Germany | 67·80 |
| France | 3·34 |
| Ireland | 0·04 |
| Italy | 0·33 |
| United Kingdom | 11·71 |

— *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 unwrought magnesium not in alloy and in alloy, the total quota volume for these qualities 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 1 195 metric tons of unwrought magnesium not in alloy and 3 150 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 one of its members,

HAS ADOPTED THIS REGULATION :

*Article 1*

1. For the year 1976 a Community tariff quota of 5 500 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) 600 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) 1 325 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) 3 575 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 the tariff quota if they are already free of customs duties under other preferential tariff treatment.

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

5. Within the 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 volume of 600 metric tons, referred to in Article 1 (2) (a), allocated to extra-pure unwrought magnesium intended for the nuclear industry shall be allotted to the Community reserve.

2. If in a Member State a need is felt for extra-pure unwrought magnesium, that State shall draw, to the extent permitted by the amount of the reserve, a sufficient share of the reserve thus set up.

*Article 3*

1. A first tranche of each of the volumes provided for in Article 1 (2) (b) and (c), which amount to 1 195 metric tons for unwrought magnesium not in alloy and 3 150 metric tons for magnesium in alloy shall be divided among the Member States. The shares, which are valid up to 31 December 1976, subject to Article 6, amount to the following quantities :

(a) *for unwrought magnesium not in alloy :*

| | | |
|---|---|---|
| Benelux | 200 | metric tons |
| Denmark | 0·5 | metric ton |
| Germany | 810 | metric tons |
| France | 40 | metric tons |
| Ireland | 0·5 | metric ton |
| Italy | 4 | metric tons |
| United Kingdom | 140 | metric tons ; |

(b) *for unwrought magnesium in alloy :*

| | | |
|---|---|---|
| Benelux | 67 | metric tons |
| Denmark | 1 | metric ton |
| Germany | 3 040 | metric tons |
| France | 1 | metric ton |
| Ireland | 1 | metric ton |
| Italy | 25 | metric tons |
| United Kingdom | 15 | metric tons. |

2. The second tranches, of 130 metric tons and 425 metric tons respectively, shall be held as Community reserves.

*Article 4*

1. If 90 % or more of one of a Member State's initial shares as specified in Article 3 (1), or of that share minus the portion returned to the relevant reserve where Article 6 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, 2 and 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 5*

Supplementary shares drawn pursuant to Article 4 shall be valid until 31 December 1976.

*Article 6*

Member States shall return to the reserve, not later than 1 October 1976 the unused portion of their initial shares which, on 15 September 1976, is in excess of 20 % of the initial amount. They may return a greater portion if there are grounds for believing that such portion may not be used in full.

Member States shall, not later than 1 October 1976, notify the Commission of the total imports of the products concerned effected under the Community quotas up to and including 15 September 1976, and where appropriate, the proportion of each of their initial shares that they are returning to each of the reserves.

*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 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 5 October 1976, of the amount still in reserve after amounts have been returned thereto pursuant to Article 6.

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 8*

1. Member States shall take all measures necessary to ensure that supplementary shares drawn pursuant to Article 4 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 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 9*

Upon a request from the Commission, Member States shall inform it of imports actually charged against their shares.

*Article 10*

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

*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, 20 January 1976.

*For the Council*

*The President*

G. THORN