COUNCIL REGULATION (EEC) No 2304/77

of 18 October 1977

on the opening, allocation and administration of a Community tariff quota for ferro-silico-manganese falling within subheading 73.02 D of the Common Customs Tariff (1978)

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, as regards ferro-silico-manganese falling within subheading 73.02 D, the European Economic Community has undertaken to open an annual duty-free Community tariff quota of 50 000 tonnes; whereas the tariff quota in question should therefore be opened on 1 January 1978 and allocated among the Member States;

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 used up; whereas in the light of the principles outlined above, arrangements for the utilization of the Community tariff quota based on an allocation among Member States would seem to be consistent with the Community nature of the quota; whereas, in order that it may correspond as closely as possible to the actual market trends 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 statistical data on imports from third countries during a representative reference period and to the economic prospects for the quota period in question;

Whereas, during the last three years for which statistics are fully available, the corresponding imports into each of the Member States represented the following percentages of the total imports of the product in question:

	1974	*1975*	*1976*
Benelux	18·41	11·00	15·22
Denmark	0	0	0
Germany	58·88	71·52	67·87
France	0·46	0·58	1·68
Ireland	0	0·04	0
Italy	19·61	14·04	14·29
United Kingdom	2·64	2·82	2·94

Whereas, in view of these factors and of market forecasts for ferro-silico-manganese for 1978, the initial percentage shares in the quota volume may be expressed roughly as follows:

Benelux	14·47
Denmark	0·62
Germany	76·06
France	0·20
Ireland	1·04
Italy	3·44
United Kingdom	4·17

Whereas, to take account of future trends in imports of the product in question, the quota should be divided into two tranches, the first being allocated and the second forming a reserve intended to cover any subsequent requirements of Member States which have used up their initial share; whereas, in order to ensure a certain degree of security for importers, the first tranche of the Community tariff quota should be set at a high level which, in this case, might be 96 % of the volume of the quota;

Whereas Member States may use up their initial shares at different rates; whereas to provide for this eventuality and to avoid disruption of supplies, 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 used up, 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 collaboration between Member States and the Commission, which latter must, in particular, be able to keep a record of the extent to which the quota has 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 that Member State should return a significant proportion to the reserve so as to avoid a part of the quota remaining unused in one Member State when 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. For the period 1 January to 31 December 1978, a Community tariff quota of 50 000 tonnes shall be opened in the Community for ferro-silico-manganese falling within subheading 73.02 D of the Common Customs Tariff.

2. Imports of the product in question may not be charged against this tariff quota if they are already free of customs duties under other preferential tariff arrangements.

3. Within this tariff quota, the Common Customs Tariff duty shall be totally suspended.

Article 2

1. A first tranche of 48 000 tonnes of this Community tariff quota shall be allocated among the Member States ; the shares, which subject to Article 5 shall be valid from 1 January to 31 December 1978, shall be as follows :

	(tonnes)
Benelux	6 950
Denmark	300
Germany	36 500
France	100
Ireland	500
Italy	1 650
United Kingdom	2 000

2. The second tranche of 2 000 tonnes shall constitute the reserve.

Article 3

1. If 90 % or more of a Member State's initial share as fixed in Article 2 (1), or of that share minus any portion returned to the reserve where Article 5 has been applied, has been used up, that Member State 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. If, after its initial share has been used up, 90 % or more of the second share drawn by a Member State has been used up, 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, rounded up as necessary to the next whole number.

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

This process shall apply until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, Member States may draw lesser shares than those specified therein if there are grounds for believing that those specified may not be used up. They shall inform the Commission of their reasons for applying this paragraph.

Article 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1978.

Article 5

Member States shall return to the reserve, not later than 1 October 1978, the unused portions of their initial shares which, on 15 September 1978, are in excess of 20 % of the initial amounts. They may return a greater portion if there are grounds for believing that such portion may not be used up.

Member States shall notify the Commission, not later than 1 October 1978, of the total quantities of the product in question imported up to and including 15 September 1978 and charged against the Community quota and of any portion of their initial shares returned to the reserve.

Article 6

Member States may restrict the possibility of charging against their quotas to certain intended uses. In that case the Community provisions on the matter shall be applied for checking that the product has been so used.

Article 7

The Commission shall keep an account of the shares opened by the Member States pursuant to Articles 2 and 3 and, as soon as it has been notified, shall 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 1978, of the amount still in reserve after amounts have been returned thereto pursuant to Article 5.

It shall ensure that the drawing which exhausts the reserve 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. Member States shall take all appropriate measures to ensure that additional shares drawn pursuant to Article 3 are opened in such a way that

imports may be charged without interruption against their aggregate shares of the Community quota.

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

3. Member States shall charge imports 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 a Member State has used up its share shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 9

At the Commission's request, Member States shall inform it of the imports actually charged against their 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 1 January 1978.

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

Done at Luxembourg, 18 October 1977.

For the Council

The President

H. SIMONET