COUNCIL REGULATION (EEC) No 2338/77

of 24 October 1977

opening, allocating and administering a Community tariff quota for ferro-chromium containing not less than 4 % by weight of carbon, falling within subheading ex 73.02 E I of the Common Customs Tariff, and extending the benefit of this quota to certain imports of ferro-chromium containing a quantity of between 3 and 4 % by weight of carbon

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, by its Regulation (EEC) No 270/77 (1), the Council opened for 1977 and apportioned among the Member States a Community tariff quota of a total size of 52 000 tonnes for ferro-chrome containing not less than 4 % by weight of carbon and has extended the application of this quota to certain imports of ferro-chrome containing between 3 and 4 % by weight of carbon falling within subheading ex 73.02 E I of the Common Customs Tariff;

Whereas, for the product in question, Community production is inadequate and producers are unable to meet the total requirements of consumer industries in the Community; whereas, having regard to the most recent economic data for 1977 on consumption, production, exports to third countries, imports under the inward processing arrangements or other tariff preference scheme and taking account of the stocks held by a number of Member States on 31 December 1976, there is reason to assume that the additional Community import requirements in respect of imports from third countries may reach the level of 90 000 tonnes during 1977; whereas it is therefore in the Community's interest to suspend in respect of this metal the application of the Common Customs Tariff duty until 31 December 1977, within a suitable tariff quota; whereas, in order not to raise the question of the prospects for development of the Community production sector, it is appropriate to fix the quota volume and the rate of duty applicable at the level of 44 300 tonnes and 3 % respectively;

Whereas relatively limited imports of ferro-chromium containing a quantity of between 3 and 4 % by weight of carbon are foreseeable for this quota period; whereas provision should be made on a temporary basis for the extension of the benefit of the tariff quota in question to these imports, limiting it, however, to 20 % of the quota volume taking account of the existence of Community production;

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, however, since the quota is an autonomous Community tariff quota intended to cover import needs arising in the Community, it may be allocated on the basis of the temporary import needs from third countries expressed by each of the Member States; whereas, on the basis of economic information supplied and allowing for duty-free supplies from the Community or certain third countries, these needs would amount to the following percentages of the tariff quota; whereas this system of allocation also ensures the uniform application of the Common Customs Tariff:

Benelux	21·44,
Denmark	0·19,
Germany	15·83,
France	17·21,
Ireland	0·02,
Italy	6·77,
United Kingdom	32·80;

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 Member States and the second held as a reserve to

(1) OJ No L 39, 10. 2. 1977, p. 2.

cover subsequently the requirements of Member States which have exhausted their new shares; 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 41 760 tonnes;

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 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 and until 31 December 1977 a tariff quota of 44 300 tonnes shall be opened within the Community in respect of ferro-chromium containing not less than 4 % by weight of carbon falling within subheading ex 73.02 E I of the Common Customs Tariff.

2. During this period the Member States shall be authorized within the 20 % limit of the quotas allocated to them or which they levy on the reserve in accordance with Articles 2 and 3 to charge against the said tariff quota, imports of ferro-chromium containing a quantity of between 3 and 4 % by weight of carbon.

3. Within this quota, the customs tariff duty shall be suspended at 3 %.

Article 2

1. A first instalment of 41 760 tonnes of this Community tariff quota shall be allocated among the Member States; the shares, which subject to Article 5 shall be valid until 31 December 1977, shall be as follows for each Member State:

Benelux	9 500 tonnes,
Denmark	84 tonnes,
Germany	7 014 tonnes,
France	7 624 tonnes,
Ireland	8 tonnes,
Italy	3 000 tonnes,
United Kingdom	14 530 tonnes.

2. The second instalment of 2 540 tonnes shall constitute a reserve.

Article 3

1. As soon as one of the Member States 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 5, 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.

This process shall continue until the reserve is exhausted.

4. Notwithstanding paragraphs 1 to 3, a Member State 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 4

Additional shares drawn pursuant to Article 3 shall be valid until 31 December 1977.

Article 5

The Member States shall not later than 15 December 1977 return to the reserve the unused portion of their initial share which on 1 December 1977 exceeds 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.

Not later than 15 December 1977 the Member States shall notify the Commission of the total quantities of the products in question imported up to and including 1 December 1977 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 use to which products charged against their quotas may be put.

Article 7

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 the information reaches it, inform each State of the extent to which the reserve has been used up.

Not later than 20 December 1977 it shall inform the Member States of the amounts still in reserve following any return of shares pursuant to Article 5.

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 Article 3 are opened in such a way that importations may be charged without interruption against their accumulated share of the tariff 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 State 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 the Member States have used up their shares shall be determined on the basis of the importations charged against their shares in accordance with paragraph 3.

Article 9

At the request of the Commission, the Member States shall inform it of imports 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 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 Luxembourg, 24 October 1977.

For the Council

The President

A. HUMBLET