COUNCIL REGULATION (EEC) No 2919/78

of 12 December 1978

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 (1979)

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 1979 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, it is unlikely that Community production will fully meet demand in the quota year; whereas the annual quota volume must therefore be fixed at an appropriate level, probably about 5 500 tonnes; 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 tonnes, the following quantities may be allocated to each quality of the product in question: 600 tonnes for extra-pure magnesium, 1 325 tonnes for unwrought magnesium not in alloy and 3 575 tonnes 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 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 must 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:

	1975	1976	1977
— *For extra-pure unwrought magnesium not in alloy*			
Benelux	10·04	9·86	20·45
Denmark	0	0·06	0·06
Germany	55·00	51·63	41·81
France	18·18	10·90	14·76
Ireland	0	0	0
Italy	7·47	0·53	1·84
United Kingdom	9·31	27·02	21·08
— *For unwrought magnesium in alloy*			
Benelux	1·88	0·39	0·74
Denmark	0	0·80	1·07
Germany	96·23	90·50	97·21
France	0	0·82	0·50
Ireland	0	0·65	0·30
Italy	1·08	0·13	0·09
United Kingdom	0·81	6·71	0·09

Whereas in view of these factors and of market forecasts for these products in 1979, 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; 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 instalments, 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 instalments should be fixed at 1 195 tonnes of unwrought magnesium not in alloy and 3 150 tonnes 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 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 1 January until 31 December 1979, a Community tariff quota of 5 500 tonnes shall be opened within 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 tonnes for unwrought magnesium containing 99·95% or more by weight of pure magnesium ('extra-pure magnesium'), intended for the nuclear industry. Control of the use for this special purpose shall be effected pursuant to the relevant Community provisions;

(b) 1 325 tonnes for unwrought magnesium containing 99·8% or more, but less than 99·95%, by weight of pure magnesium ('unwrought magnesium not in alloy');

(c) 3 575 tonnes 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.

Article 2

1. The volume of 600 tonnes, 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 instalment of each of the volumes provided for in Article 1 (2) (b) and (c), which amounts to 1 195 tonnes for unwrought magnesium not in alloy and 3 150 tonnes for magnesium in alloy, shall be divided among the Member States. The shares, which subject to Article 6 shall be valid until 31 December 1979, amount to the following quantities:

(a) *for unwrought magnesium not in alloy*	*(tonnes)*
Benelux	200
Denmark	0·5
Germany	810
France	40
Ireland	0·5
Italy	4
United Kingdom	140

(b) *for unwrought magnesium in alloy*	*(tonnes)*
Benelux	67
Denmark	1
Germany	3 040
France	1
Ireland	1
Italy	25
United Kingdom	15

2. The second instalment of 130 and 425 tonnes respectively shall constitute the reserves.

Article 4

1. If a Member State has used 90% or more of one of its initial shares as fixed in Article 3 (1), or of that share minus any portion returned to the relevant 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. If a Member State, after exhausting one or other of its initial shares, 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, rounded up as necessary to the next whole number.

3. If a Member State, after exhausting one or other of its second shares, has used 90% or more of the third share drawn by it, that Member State shall, in the manner and to the extent provided in paragraph 1, draw a fourth share equal to the third.

This process shall apply until the reserves are used up.

4. By way of derogation from paragraphs 1, 2 and 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 4 shall be valid until 31 December 1979.

Article 6

Member States shall, not later than 1 October 1979, return to the reserve the unused portion of their initial shares which, on 15 September 1979, is in excess of 20% of the initial volume. They may return a greater portion if there are grounds for believing that it may not be used in full.

Member States shall, not later than 1 October 1979, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1979 and charged against the Community quota and of any portion of their 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 5 October 1979, inform the Member States of the amount still in reserve, following any return of shares pursuant to Article 6.

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

2. The 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. The extent to which the Member States have used up their shares shall be determined on the basis of the imports of the products in question entered with the customs authorities for home use.

Article 9

At the request of the Commission, the Member States shall inform it of 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 1979.

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

Done at Luxembourg, 12 December 1978.

For the Council

The President

M. LAHNSTEIN