COUNCIL REGULATION (EEC) No 3674/85

of 20 December 1985

opening, allocating and providing for the administration of a Community tariff quota for ferro-silicon, falling within subheading 73.02 C of the Common Customs Tariff (1986)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Theaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the proposal from the Commission,

Whereas, as regards ferro-silicon falling within subheading 73.02 C, the European Economic Community has undertaken to open an annual duty-free tariff quota of 20 000 tonnes; whereas this should, however, be reduced to 12 600 tonnes take account of the traditional imports from EFTA countries which have been free of customs duty under the Agreements concluded with those countries, as well as obligations entered into in relation to a third country which has the right of the previous negotiator for this quota volume; whereas the quota concerned should therefore be opened on 1 January 1986 and allocated among the Member States by providing for Spain's and Portugal's participation as from 1 March 1986; whereas this participation can initially be confined to the possible application of Article 2 (4);

Whereas equal and continuous access to the quota should be ensured for all importers and the rate of duty for the tariff quota should be applied consistently to all imports until the quota is exhausted; whereas 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, to correspond as closely as possible to the actual trend to 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;

Wheras, during the last three years for which complete statistics are available, the corresponding imports into each of the Member States represented the following percentages of imports of the products in question from third countries not benefiting from an equivalent preferential arrangement:

	1982	1983	1984
Benelux	7,75	11,24	11,35
Denmark	0	0	0
Germany	72,26	76,83	73,57
Greece	0,01	0,04	0
France	1,31	0,30	0,56
Ireland	0,01	0	0
Italy	13,62	2,63	4,00
United Kingdom	5,04	8,96	10,52

Whereas, in view of these factors and of market forecasts for ferro-silicon for 1986, the initial percentage shares in the quota volume can be expressed approximately as follows:

Benelux	9,64
Denmark	0,01
Germany	70,83
Greece	0,02
France	1,67
Ireland	0,02
Italy	10,85
United Kingdom	6,96

Whereas, to take account of future import trends for the product concerned, the quota volume should be divided into two instalments, tho first being allocated among Member States of the Community of Ten and the second held as a reserve to cover subsequent the requirements of Member States which have used up their initial share as well as the requirements of the new Member States; whereas, to give importers some degree of certainty, the first instalment of the tariff quota should be fixed at a high level, which in this case could be approximately 95 % of the volume of the quota;

Whereas initial shares may be used up 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 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 the Member States and the Commission, which latter 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 that Member State should return a significant proportion to the reserve, in order to prevent a part of the Community quota remaining unused in one Member State while it could be used in others;

Whereas, since the Kingdom of Belguim, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are united within an 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 to 31 December 1986 a Community tariff quota of 12 600 tonnes shall be opened in the Community for ferro-silicon falling within subheading 73.02 C 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 quota the Common Customs Tariff duty shall be totally suspended.

4. Within the limits of this tariff quota, Spain and Portugal shall apply duties calculated in accordance with the relevant provisions in the 1985 Act of Accession.

Article 2

1. The Community tariff quota referred to in Article 1 shall be divided into two instalments.

2. A first instalment of 12 000 tonnes shall be allocated among the Member States of the Community of Ten; the shares, which, subject to Article 5, shall be valid from 1 January to 31 December 1986 shall be as follows:

	(tonnes)
Benelux	1 157
Denmark	1
Germany	8 500
Greece	2
France	200
Ireland	2
Italy	1 302
United Kingdom	836

3. The second instalment of 600 tonnes shall constitute the reserve.

4. If, from 1 March 1986, an importer notifies an imminent importation of the product in question in Spain or Portugal and requests the benefit of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to these requirements to the extent that the available balance of the reserve permits this.

Article 3

1. If a Member State has used 90 % or more of its initial share as fixed in Article 2 (2), 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 5 % of its initial share rounded up as necessary to the next whole number.

2. If a Member State, 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 2,5 % of its initial share rounded up as necessary to the next whole number.

3. If a Member State, after exhausting its second share, 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 reserve is 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 3 shall be valid until 31 December 1986.

Article 5

Member States shall, not later than 1 Oktober 1986, return to the reserve the unused portion of their initial share which, on 15 September 1986, 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 Oktober 1986, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1986,

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 charging of imports against their shares to products for certain intended uses. In that case the Community provisions on the matter shall be applied for checking that the product has been used for the stipulated purpose.

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 had been used up.

It shall, not later than 5 October 1986 inform the Member States of the amount still in reserve, following any return of shares 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 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 product in question entered with the customs authorities for free circulation.

Article 9

At the Commission's request, 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 1986.

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

Done at Brussels, 20 December 1985.

For the Council

The President

R. KRIEPS