COUNCIL REGULATION (EEC) No 4098/87

of 22 December 1987

opening, allocating and providing for the administration of a Community tariff quota for ferro-chromium containing by weight more than 6 % of carbon, and falling within code 7202 41 90 of the combined nomenclature

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 proposal from the Commission,

Whereas there is a variable shortfall in Community production of ferro-chromium containing by weight more than 6 % of carbon and producers are thus unable to meet the total needs of user industries; whereas it is therefore in the Community's interest to suspend totally the customs duties applicable to that metal for a period ending on 31 December 1988 within the limits of a tariff quota fixed at an appropriate volume; whereas, in order to avoid disturbing the equilibrium of the market for that ferro-alloy and to ensure both an outlet for Community production and sufficient supplies for Community user industries, the quota volume should be fixed at a provisional 210 000 tonnes, thus covering immediate needs for imports from third countries; whereas, moreover, Member States should be free to make the charging of products against that volume subject to certain conditions concerning end use;

Whereas equal and continuous access to the quota should be ensured for all importers and the rate laid down for the quota should be applied consistently to all imports of the product in question until the quota is exhausted; whereas, in the light of these principles, allocation of the tariff quota among the Member States would seem to preserve the Community nature of the quota; whereas, in order to correspond as closely as possible to the real trend of the market for the product in question the allocation should reflect requirements of the Member States based on statistics of imports of the said product from third countries during a representative reference period and on the economic outlook for the quota year in question;

Whereas, since this is an autonomous Community tariff quota intended to cover import needs arising in the Community, the quota may, on an experimental basis, be allocated on the basis of each Member State's estimated provisional needs for imports from third countries; whereas these allocation arrangements also ensure the uniform application of the Common Customs Tariff;

Whereas, to allow for possible changes in imports of the said product, the quota volume should be divided into two parts, the first being allocated among the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial shares; whereas, to afford importers some degree of certainty, the first part of the Community tariff quota should be fixed at a high level, which in this case could be 75 % of the quota volume;

Whereas the initial shares of the Member States may be used up at different rates; whereas, in order to avoid any break in the continuity 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 one of its additional shares 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 must be valid until the end of the quota period; whereas this form of administration requires close cooperation between the Member States and the Commission and the latter must be able to monitor the extent to which the quota volume has been used up and 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 the Member State concerned should return a significant proportion thereof to the reserve in order to prevent part of the Community tariff quota from 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 operation concerning the administration of the quota 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 1988 the customs duty applicable to imports of the following product shall be suspended at the level indicated and within the limits of a Community tariff quota as shown below:

Order No	CN code	Description	Volume of quota (tonnes)	Rate of duty (%)
09.2711	7202 41 90	Ferro-chromium containing by weight more than 6 % of carbon	210 000	0

2. Within the limits of this tariff quota, the Kingdom of Spain and the Portuguese Republic shall apply customs duties calculated in accordance with the relevant provisions of the 1985 Act of Accession.

3. Imports of the product in question which benefit from exemption from customs duties under other preferential tariff arrangements shall not be charged against this tariff quota.

Article 2

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

2. The first part, amounting to 157 500 tonnes, shall be allocated among certain Member States; subject to Article 5, the quota shares shall be valid until 31 December 1988 and shall be as follows:

	(tonnes)
Benelux	11 403
Germany	51 345
Spain	18 553
France	31 390
Italy	28 539
United Kingdom	16 270

3. The second part, amounting to 52 500 tonnes, shall constitute the reserve.

4. If an importer gives notification of imminent imports of the product in question into a Member State to which no initial share has been allocated and applies to take advantage of the quota, the Member State concerned shall inform the Commission and draw an amount corresponding to its requirements to the extent that the available balance of the reserve so permits.

Article 3

1. If a Member State has used 90 % or more of its initial share as specified in Article 2 (2), or of that share less any portion returned to the reserve pursuant to Article 5, it shall forthwith, by notifying the Commission and to the extent that the reserve so permits, draw a second share equal to 10 % of its initial share, rounded up where necessary to the next whole number.

2. If, after its initial share has been used up, a Member State has used 90 % or more of its second share as well, it shall forthwith, using the procedure provided for in paragraph 1, draw a third share equal to 5 % of its initial share, rounded up where necessary to the next whole number.

3. If, after its second share has been used up, a Member State has used 90 % or more of its third share, it shall, using the procedure provided for in paragraph 1, draw a fourth share equal to the third.

This process shall continue until the reserve is used up.

4. By way of derogation from paragraphs 1, 2 and 3, Member States may draw smaller shares than those specified in the said paragraphs if there is reason to believe that they might not be used in full. Member States 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 1988.

Article 5

By 1 October 1988 at the latest, Member States must return to the reserve the unused portion of their initial share which, on 15 September 1988, is in excess of 20 % of the initial volume. They may return a greater portion if there is reason to believe that it might not be used.

By 1 October 1988 at the latest, Member States must notify the Commission of the total quantities of the product concerned imported on or before 15 September 1988 and charged against the Community quota and of any portion of their initial share that they are returning to the reserve.

Article 6

Member States may decide that only products intended for certain uses may be charged against their shares of the quota for the products in question. In this case use of the products for the prescribed specific purpose shall be monitored by application of the relevant Community provisions.

Article 7

The Commission shall keep account of the shares drawn by Member States pursuant to Articles 2 and 3 and shall inform

each Member State of the extent to which the reserve has been used up as soon as it has been notified.

It shall inform the Member States, not later than 5 October 1988, of the state of the reserve following any return of quota 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 final drawing.

Article 8

1. Member States shall take all appropriate measures to ensure that additional drawings of shares pursuant to Article 3 enable imports to be charged without interruption against their accumulated share of the Community quota.

2. Member States shall ensure that importers of the product concerned have free access to the quota shares allocated to them.

3. Member States shall charge imports of the product in question against their shares as and when the goods are entered with the customs authorities for free circulation.

4. The extent to which Member States have used up their shares shall be determined on the basis of the imports charged in accordance with paragraph 3.

Article 9

At the request of the Commission, Member States shall inform it of imports actually charged against their quota 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 1988.

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

Done at Brussels, 22 December 1987.

For the Council

The President

N. WILHJELM