COUNCIL REGULATION (EEC) No 4099/87

of 22 December 1987

opening, allocating and providing for the administration of a Community tariff quota for ferro-phosphorus falling within code ex 7202 99 19 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 Community production of ferro-phosphorus containing by weight 15 % or more of phosphorus is currently insufficient to meet the requirements of Community user industries; whereas, consequently, the Community currently depends to a considerable extent on imports from third countries for its supplies of that product; whereas it is in the Community's interest to suspend totally the Common Customs Tariff duty on the products in question within the limits of a Community tariff quota of an appropriate volume; whereas, in order not to harm the prospects for increasing production of such goods within the Community while at the same time making adequate supplies available to user industries, the tariff quota should be limited to 56 000 tonnes of products intended for the manufacture of refined phosphoric iron or steel and opened for the period 1 January to 31 December 1988 at zero duty;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rates laid down for the quota should be applied consistently to all imports of the products in question into all Member States until the quota is exhausted; whereas, in the light of these principles, allocation of the tariff quotas among the Member States would seem to preserve the Community nature of the quotas; 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 the 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 period in question;

Whereas since this is an autonomous Community tariff quota intended to cover import needs arising in the Community, the quota volume may be allocated on the basis of each Member State's estimated provisional import needs from third countries; whereas these allocation arrangements will 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 certain Member States and the second held as a reserve to cover any subsequent requirements of those Member States which have used up their initial shares and any requirements which might arise in the other Member States; whereas, to afford importers in each Member State some degree of certainty, the first part of the Community tariff quota should be set at a relatively high level, which in this case could be 37 520 tonnes;

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 to inform the Member States accordingly;

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 (%)
09.2718	ex 7202 99 19	Ferro-phosphorus containing by weight 15 % or more of phosphorus, intended for the manufacture of refined phosphoric iron or steel	56 000	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. Use of the products for the particular purpose laid down shall be monitored in accordance with the relevant Community provisions.

Article 2

1. The first part of this Community tariff quota, amounting to 37 520 tonnes, shall be allocated among certain Member States; the quota shares shall be valid until 31 December 1988 and shall be as follows:

	(tonnes)
Benelux	20 921
Germany	10 123
Spain	3 778
France	1 688
Portugal	132
United Kingdom	878

2. The second part of the quota, amounting to 18 480 tonnes, shall constitute the reserve.

3. If an importer gives notification of imminent imports of the product in question into a Member State which has not been allocated an initial share 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 (1), 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 quota share has been used up, a Member State has used 90 % or more of its second share as well, it shall, using the procedure provided for in paragraph 1, draw a third share equal to 5 % of its initial share.

3. If, after its second share has been used up, a Member State has used 90 % or more of its third share, it shall forthwith, using the same procedure, 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. They shall inform the Commission of their reasons for applying this paragraph.

Article 4

The 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

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 7

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 shares of the Community tariff 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 concerned against their shares as and when the goods are entered with the customs authorities for free circulation.

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 8

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

Article 9

The Member States and the Commission shall cooperate closely to ensure that this Regulation is complied with.

Article 10

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 Commission

N. WILHJELM