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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 476/87

of 16 February 1987

opening, allocating and administering a Community tariff quota for ferro-chromium containing not less than 6 % by weight of carbon and falling within subheading ex 73.02 E I of the Common Customs Tariff

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, for ferro-chromium containing not less than 6 % by weight of carbon, production is, to a variable degree, inadequate in the Community and producers are unable to meet the total requirements of consumer industries ; whereas it is therefore in the Community's interest to suspend totally in respect of this metal the application of the Common Customs Tariff duty for a period running up to 31 December 1987 within a suitable tariff quota ; whereas, in order to avoid disturbing the equilibrium of the market for this ferro-alloy and to ensure parallel development in sales of Community production and in supplies to meet the requirements of consumer industries, it is appropriate to fix the quota volume at the provisional level of 120 000 tonnes covering immediate import needs from third countries : whereas, moreover, Member States should be free to authorize amounts to be charged against this volume only subject to certain conditions relating to destination ;

Whereas equal and continuous access to the quota should be ensured for all Community 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 should follow proportionately the requirements of the Member States calculated both from statistics of imports from third countries during a representative reference period and according to the economic outlook for the tariff year in question ;

Whereas, however, since the quota is an autonomous Community tariff quota intended to cover import needs arising in the Community, the quota volume may, as an experiment, be allocated on the basis of the temporary import needs from third countries estimated for each of the Member States ; whereas this system of allocation also ensures the uniform application of the Common Customs Tariff ;

Whereas, to take account of the possible import trends for the product concerned, the quota volume should be divided into two instalments, the first being allocated between the Member States and the second held as a reserve to cover any subsequent requirements of Member States which have used up their initial share ; whereas, to afford 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 90 % of the amount of the quota ;

Whereas initial shares may be used up at different rates ; whereas, to avoid disruption of supplies on this acount, it should be provided that any Member State whih has almost used up its initial share should draw an additional share from the reserve ; whereas each time its additional share 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 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 the Community tariff 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 on which this Regulation enters into force until 31 December 1987, the Common Customs Tariff duty on the following product shall be suspended at the level and within the limit of a Community tariff quota as shown below:

Order No	CCT heading No	Description	Amount of tariff quota (tonnes)	Rate of duty (%)
09.2711	ex 73.02 E I	Ferro-chromium containing not less than 6 % by weight of carbon	120 000	0

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

3. Imports of the product in question which already benefit from exemption from customs duties under another preferential tariff system are not to be charged against this tariff quota.

Article 2

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

2. A first instalment of 108 130 tonnes shall be allocated among the Member States; the shares, which, subject to Article 5, shall be valid until 31 December 1987, shall be as follows:

	(tonnes)
Benelux	5 560
Germany	35 000
Spain	12 450
France	24 000
Italy	18 670
United Kingdom	12 450

3. The second instalment of 11 870 tonnes shall constitute the reserve.

4. If an importer notifies the imminent import of the product in question into a Member State which does not participate in the initial allocation 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 so permits.

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 10 % of its intial 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 5 % of its initial share, rounded up, as necessary, to the 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 he 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 1987.

Article 5

Member States shall, not later than 1 October 1987, return to the reserve the unused portion of their intial share which, on 15 September 1987, 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 1987, notify the Commission of the total quantities of the product in question imported up to and including 15 September 1987 and charged against the Community quota and of any portion of their initial shares returned to the reserve.

Article 6

Member States may decide that only products to be used for certain purposes may be charged against their quota shares. In this case, control to ascertain that the products have been used for the particular purpose specified shall be carried out by applying the Community provisons on the subject.

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, uniform each State of the extent to which the reserves have been used up.

It shall, not later than 5 October 1987, 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 importations may be charged without interruption against their accumulated 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. Member States shall charge imports of the product in question against their shares as and when the product is entered with the customs authorities for free circulation.

4. The extent to which a Member Member State has used up its share 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 shares.

Article 10

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 third 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 Brussels, 16 February 1987.

For the Council

The President

L. TINDEMANS