I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2788/2000

of 18 December 2000

amending Regulation (EC) No 2402/98 imposing a definitive anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community [1], and in particular Article 11(3) thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

A. PREVIOUS PROCEDURES

1. Measures in force

(1) By Regulation (EC) No 2402/98 [2] ('the Regulation'), the Council imposed a definitive anti-dumping duty on imports of unwrought unalloyed magnesium originating in the People's Republic of China.

According to the Regulation, unwrought unalloyed magnesium comprises *inter alia*:

— unwrought magnesium unintentionally containing small amounts of other elements as impurities, and

— unwrought magnesium, intentionally containing added elements such as aluminium and zinc, which does not correspond to one of the alloys described in the Annex to the Regulation.

2. Anti-absorption investigation

(2) Following a request lodged by the Community industry, the Commission initiated on 4 September 1999 [3] an anti-absorption investigation. The findings of this investigation were published in the *Official Journal of the European Communities* [4].

B. INVESTIGATION CONCERNING THE PRODUCT SCOPE

1. Procedure

(3) On 8 February 2000, by a notice published in the *Official Journal of the European Communities* [5], the Commission initiated an interim review, pursuant to Article 11(3) of Council Regulation (EC) No 384/96, ('the basic Regulation'). The interim review was limited in scope to the clarification of the product covered by the Regulation.

(4) This was done following a request by two Community importers: Pro.cat Scarl, Bolzano, Italy, and De Stefani Luigi, Trento, Italy ('the applicants'). They argued that certain types of magnesium alloys not listed in the Annex to the Regulation, in particular magnesium alloy ingots for anode casting, met international standards for being considered as 'alloys' and should consequently not be covered by the anti-dumping measures.

(5) The evidence submitted in the request was considered sufficient for the initiation of an interim review. The Commission officially advised the authorities of the exporting country and parties known to be concerned of the initiation of this review.

(6) The Commission sent questionnaires to exporting producers, importers, the Community industry, steel and magnesium associations and users who cooperated in the investigation that led to the existing measures. Five replies were received.

2. Findings

(7) It is recalled that the Regulation considered the risk of circumvention of the measures by wrongly declaring imports of unwrought unalloyed magnesium as alloys, in defining the product concerned as described in recital (1). The Regulation contained an Annex setting out those alloys which correspond to previously established industrial standards.

[1] OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 2238/2000 (OJ L 257, 11.10.2000, p. 2).
[2] OJ L 298, 7.11.1998, p. 1. Regulation as amended by Regulation (EC) No 2315/2000 (OJ L 267, 20.10.2000, p. 17).
[3] OJ C 253, 4.9.1999, p. 15.
[4] OJ L 267, 20.10.2000, p. 17.
[5] OJ C 35, 8.2.2000, p. 12.

(8) It was found that there are two European standards for magnesium alloys EN 12438:1998 ('Chemical composition of magnesium alloy ingots for anode castings') and EN 1753:1997 ('Chemical composition of magnesium alloy ingots'), defined by the European Committee for Standardisation (CEN). These European standards correspond to international industry standards.

(9) The alloys defined in the standard EN 1753:1997 ('Chemical composition of magnesium alloy ingots'), which coincide with the Annex to the Regulation, were excluded from the scope of the product concerned in the Regulation. The standard EN 12438:1998 ('Chemical composition of magnesium alloys ingots for anode castings') was finalised in April 1998 and not brought to the attention of the Commission during the investigation that led to the existing measures. It could thus not be taken into account.

(10) The present investigation established that alloys covered by the standard EN 12438:1998 ('Chemical composition of magnesium alloys ingots for anode castings') should also be excluded from the measures as they correspond to the definition of alloys which were originally excluded. Indeed, these alloys are designed for applications for which alloyed magnesium is typically required and were used by downstream industries prior to the imposition of provisional measures in May 1998. No party questioned these facts.

(11) In addition it was found that in the publication of the Annex of the Regulation there were some incorrect transcriptions of European standard EN 1753:1997 ('Chemical composition of magnesium alloy ingots'). The latter should be rectified.

(12) One user of magnesium, producing alloys, opposed the exclusion of the abovementioned alloys from the anti-dumping measures. This cooperating user argued that imports of these alloys would injure its business. This argument is entirely irrelevant. Indeed, the Regulation imposed anti-dumping measures on unwrought unalloyed magnesium, and alloys should not, therefore, have been subject to anti-dumping measures. One importer of magnesium argued that alloys covered by standard EN 12438:1998 ('Chemical composition of magnesium alloys ingots for anode castings') should not be excluded from the measures without substantiating its position.

(13) During the investigation, the question was raised whether not only ingots, but also certain elementary castings made of the magnesium alloys defined in the CEN standards are excluded from the measures in place. In this respect it is considered that, like any metals, magnesium is in a liquid form when it emerges from furnaces and takes a given shape when becoming solid. When processed, magnesium comes out of furnaces as a continuous bar that is cut into parts (generally called ingots) so that it can be transported and further processed. It could however be the case that the given form is not that of an ingot but of a 'notch bar', a 'slab', a 'stick', a 'cake', a 'cube', etc. Therefore, it was concluded that all the possible forms for unwrought magnesium should be considered as equivalent to the form 'ingot'. More processed articles of magnesium and magnesium alloys do not fall under the category 'unwrought' and therefore are not concerned by the measures.

(14) Given the fact that the present review investigation is limited to the clarification of the product that was intended to be covered by the original measures and to prevent any subsequent prejudice to importers of the product, it is appropriate that the findings be applied from the date of the entry into force of the Regulation.

(15) Given the above, it is considered appropriate to amend the Regulation to clarify the product definition and to exclude not only alloys conforming to the European standard EN 1753:1997 ('Chemical composition of magnesium alloy ingots') but also those conforming to the European standard EN 12438:1998 ('Chemical composition of magnesium alloys ingots for anode castings') from the measures by amending the Annex to the Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 2402/98 is hereby amended as follows:

The Annex shall be replaced by the following:

'*ANNEX*

Unwrought magnesium:

— Material designation in accordance with CEN standard EN 1753:1997:

Alloy group	Material designation		Composition % (mass fraction)														
	Symbol	Number	Element	Mg	Al	Zn	Mn	RE [1]	Zr	Ag	Y	Li	Si	Fe	Cu	Ni	Others
MgAlZn	EN-MBMgAl8Zn1	EN-MB21110	min.	Remainder	7,2	0,45	0,17	—	—	—	—	—	—	—	—	—	—
			max.	—	8,5	0,9	—	—	—	—	—	—	0,05	0,004	0,025	0,001	0,01
	EN-MBMgAl9Zn1(A)	EN-MB21120	min.	Remainder	8,5	0,45	0,17	—	—	—	—	—	—	—	—	—	—
			max.	—	9,5	0,9	—	—	—	—	—	—	0,05	0,004	0,025	0,001	0,01
	EN-MBMgAl9Zn1(B)	EN-MB21121	min.	Remainder	8,0	0,3	—	—	—	—	—	—	—	—	—	—	—
			max.	—	10,0	1,0	—	—	—	—	—	—	0,3	0,03	0,20	0,01	0,05
MgAlMn	EN-MBMgAl2Mn	EN-MB21210	min.	Remainder	1,7	—	0,35	—	—	—	—	—	—	—	—	—	—
			max.	—	2,5	0,20	—	—	—	—	—	—	0,05	0,004	0,008	0,001	0,01
	EN-MBMgAl5Mn	EN-MB21220	min.	Remainder	4,5	—	0,27	—	—	—	—	—	—	—	—	—	—
			max.	—	5,3	0,20	—	—	—	—	—	—	0,05	0,004	0,008	0,001	0,01
	EN-MBMgAl6Mn	EN-MB21230	min.	Remainder	5,6	—	0,23	—	—	—	—	—	—	—	—	—	—
			max.	—	6,4	0,20	—	—	—	—	—	—	0,05	0,004	0,008	0,001	0,01
MgAlSi	EN-MBMgAl2Si	EN-MB21310	min.	Remainder	1,9	—	0,20	—	—	—	—	—	0,7	—	—	—	—
			max.	—	2,5	0,20	—	—	—	—	—	—	1,2	0,004	0,008	0,001	0,01
	EN-MBMgAl4Si	EN-MB21320	min.	Remainder	3,7	—	0,20	—	—	—	—	—	0,7	—	—	—	—
			max.	—	4,8	0,20	—	—	—	—	—	—	1,2	0,004	0,008	0,001	0,01
MgZnCu	EN-MBMgZn6Cu3Mn	EN-MB32110	min.	Remainder	—	5,5	0,25	—	—	—	—	—	—	—	2,4	—	—
			max.	—	—	6,5	0,75	—	—	—	—	—	0,20	0,05	3,0	0,01	0,01

Alloy group	Material designation		Composition % (mass fraction)														
	Symbol	Number	Element	Mg	Al	Zn	Mn	RE [1]	Zr	Ag	Y	Li	Si	Fe	Cu	Ni	Others
MgZnREZr [2]	EN-MBMgZn4RE1Zr	EN-MB35110	min.	Remainder	—	3,5	—	1,0	0,1	—	—	—	—	—	—	—	—
			max.	—	—	5,0	0,15	1,75	1,0	—	—	—	0,01	0,01	0,03	0,005	0,01
	EN-MBMgRE3Zn2Zr	EN-MB65120	min.	Remainder	—	2,0	—	2,4	0,1	—	—	—	—	—	—	—	—
			max.	—	—	3,0	0,15	4,0	1,0	—	—	—	0,01	0,01	0,03	0,005	0,01
MgREAgZr [3]	EN-MBMgRE2Ag2Zr	EN-MB65210	min.	Remainder	—	—	—	2,0	0,1	2,0	—	—	—	—	—	—	—
			max.	—	—	0,2	0,15	3,0	1,0	3,0	—	—	0,01	0,01	0,03	0,005	0,01
	EN-MBMgRE2Ag1Zr	EN-MB65220	min.	Remainder	—	—	—	1,5	0,1	1,3	—	—	—	—	0,05	—	—
			max.	—	—	0,2	0,15	3,0	1,0	1,7	—	—	0,01	0,01	0,1	0,005	0,01
MgYREZr [4]	EN-MBMgY5RE4Zr	EN-MB95310	min.	Remainder	—	—	—	1,5	0,1	—	4,75	—	—	—	—	—	—
			max.	—	—	0,20	0,15	4,0	1,0	—	5,5	0,20	0,01	0,01	0,03	0,005	0,01
	EN-MBMgY4RE3Zr	EN-MB95320	min.	Remainder	—	—	—	2,4	0,1	—	3,7	—	—	—	—	—	—
			max.	—	—	0,20	0,15	4,4	1,0	—	4,3	0,20	0,01	0,01	0,03	0,005	0,01

[1] RE = Rare earth metals
[2] Cerium rich
[3] Neodymium rich
[4] Neodymium and heavy RE rich

— Material designation in accordance with CEN standard EN 12438:1998:

Alloy group	Material designation		Composition % (mass fraction)									
	Symbol	Number	Element	Mg	Al	Zn	Mn	Si	Fe	Cu	Ni	Others
MgAlZn	EN-MBMgAl3Zn1	EN-MB21130	min.	Remainder	2,6	0,7	0,20	—	—	—	—	—
			max.	—	3,5	1,4	1,0	0,30	0,01	0,05	0,001	0,05
	EN-MBMgAl6Zn1	EN-MB21140	min.	Remainder	5,6	0,7	0,20	—	—	—	—	—
			max.	—	6,5	1,4	1,0	0,30	0,01	0,05	0,001	0,05
	EN-MBMgAl6Zn3	EN-MB21150	min.	Remainder	5,1	2,1	0,20	—	—	—	—	—
			max.	—	7,0	4,0	1,0	0,30	0,01	0,05	0,001	0,05
MgMn	EN-MBMgMn1	EN-MB40010	min.	Remainder	—	—	0,50	—	—	—	—	—
			max.	—	0,01	0,05	1,3	0,05	0,02	0,02	0,001	0,05
	EN-MBMgMn2	EN-MB40020	min.	Remainder	—	—	1,20	—	—	—	—	—
			max.	—	0,01	0,05	2,5	0,05	0,02	0,02	0,001	0,05

Note: The material designation is in accordance with EN 1754.'

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Communities* and shall apply to all imports of unwrought unalloyed magnesium originating in the People's Republic of China which entered into free circulation in the Community as from 8 November 1998.

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

Done at Brussels, 18 December 2000.

For the Council

The President

D. VOYNET