

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 699 final

Brussels, 13th November 1980

DRAFT COUNCIL REGULATION (EEC)

opening, allocating and administering a Community tariff quota for ferro-chromium containing not less than 4% by weight of carbon, falling within subheading ex 73.02 E I of the Common Customs Tariff, and extending the benefit of this quota for certain imports of ferro-chromium containing a quantity of between 3 and 4% by weight of carbon (1981)

(presented by the Commission to the Council)

COM(80) 699 final

EXPLANATORY MEMORANDUM

1. The Services of the Commission were called upon to examine, during a meeting of the Economic Tariff Problems Group on 9 September 1980, the question of opening, for 1981, an autonomous Community tariff quota for certain qualities of ferro-chromium containing a quantity of 4% (with a fixed limit of 3%) or more by weight of carbon (high carbon ferro-chromium). This meeting was followed by a discussion with the users on 22 September 1980.

2. During the discussion it transpired that :

- a) at the review carried out at the same period, the economic state of the Community market in high carbon ferro-chromium appeared to be less favourable than in 1980;
- b) in the Community, the productive capacity in respect of high carbon ferro-chromium is markedly underused and, according to forecasts for 1981, production might be voluntarily reduced in considerable proportions in exchange for dependable outlets inside the Community;
- c) the very provisional forecasts place the usual particulars for calculating the quota at the following approximate levels :

consumption		568 620 tonnes
actual production	about	133 000 tonnes
inward processing arrangements		negligible quantity
duty-free imports under the terms of other preferential systems (EFTA, Turkey, Zimbabwe)		118 460 tonnes
exports to third countries		4 000 tonnes;

- d) on this basis, import needs from third countries up to the end of 1981 might reach 300 000 tonnes depending on the extent which the forecast amounts actually are achieved.

3. In these circumstances, taking into account the uncertainties of consumption levels, Community production, the necessary imports from third countries, the need to ensure parallel development in the marketing of Community production and in the obtaining supplies for consumer industries under favourable conditions, the Commission considers it necessary to be particularly prudent in fixing the quota volume in order

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not to upset the market equilibrium.

For this purpose, the Commission intends to open for 1981 a nil-duty tariff quota, the provisional volume of which, covering the needs for the first four months (i.e. 100 000 tonnes), might be increased during the year to keep in step with the situation. There may well be a revision by the Economic Tariff Problems Group at the beginning of the year to give effect, (allowing for the duration of the approval procedures) to an increase as from 1 May 1981.

4. As usual in such cases, the proposed quota volume has been divided into two tranches, the first, corresponding to 80 % of this volume, being allocated among the Member States in proportion to their anticipated imports from third countries, the second, corresponding to the balance of the said volume, constituting a Community reserve. Setting up such a reserve can be all the better justified in this case as the quota volume is likely to be revised during the year, in order to meet more adequately the actual needs of consumer industries, and as the initial allocations have not been able to be calculated as exactly as would be wished.

The draft Regulation submitted by the Commission, moreover, lays down in its article 6 that Member States should be free to restrict the benefit of this tariff quota "to products to be used for certain purposes".

Draft
COUNCIL REGULATION (EEC) No ...
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opening, allocating and providing for the administration of a Community tariff quota for ferro-chromium containing not less than 4 % by weight of carbon falling within subheading ex 73.02 E I of the Common Customs Tariff and extending the benefit of this quota to certain imports of ferro-chromium containing a quantity of between 3 and 4 % by weight of carbon (198 1)

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 4 % by weight of carbon, Community production is, to a variable degree, inadequate 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 until 31 December 1981, 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 100 000 tonnes, covering import needs from third countries during the first few months of the year; whereas the fixing of this amount, based on conservative estimates, does not preclude future adjustment in line with changes in the situation; whereas, moreover, Member States should be free to authorize charges to be made against this volume only subject to certain conditions relating to use;

Whereas, relatively limited imports of ferro-chromium containing a quantity of between 3 and 4 % by weight of carbon are foreseeable for this quota period; whereas provision should be made on a temporary basis for the extension of the benefit of the tariff quota in question to these imports, limiting it however to 20 % of the quota volume taking account of the existence of Community production;

Whereas equal and continuous access to the quota should be ensured for all Community importers and the rate of duty for the tariff quota should be applied consistently to all imports until the quota is exhausted; whereas in the light of these principles arrangements for

the utilization of the 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 in 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;

Whereas, however, since the quota is an autonomous Community tariff quota intended to cover import needs arising in the Community, it may, as an experiment, be allocated on the basis of the temporary import needs from third countries expressed by each of the Member States while assuring a certain degree of compensation for those Member States which favour Community production when obtaining supplies; whereas this system of allocation also ensures the uniform application of the Common Customs Tariff;

Whereas, to take account of future import trends for the product concerned; the quota should be divided into two instalments, the first being allocated and the second held as a reserve to cover subsequently the requirements of Member States which have used up their initial shares and any additional requirements which might arise in the other Member States; whereas, to give importers of the Member States some degree of certainty, the first instalment of the tariff quota should be fixed at a relatively high level, which in this case should be 80 000 tonnes;

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 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, which

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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 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 1 January to 31 December 1981 a Community tariff quota of 100 000 tonnes shall be opened in the Community for ferro-chromium containing not less than 4% by weight of carbon, falling within subheading ex 73.02 E I of the Common Customs Tariff.
2. During this period the Member States shall be authorized within the 20% limit of the quotas allocated to them or which they levy on the reserve in accordance with Articles 2 and 3 to charge against the said tariff quota, imports of ferro-chromium containing a quantity of between 3 and 4% by weight of carbon.
3. Imports of the products in question may not be charged against this tariff quota if they are already free of customs duties under other preferential tariff arrangements.
4. Within this quota, the customs tariff duty shall be totally suspended.

Within the limits of this tariff quota Greece shall apply duties calculated in accordance with the relevant provisions laid down in the Act of Accession.

Article 2

1. A first instalment of 80 000 tonnes of this Community tariff quota shall be allocated among the Member States; the shares, which subject to Article 5 shall be valid until 31 December 1981, shall be as follows:

Benelux
Denmark

(tonnes)
5 080

16

Germany	31 832
Greece	8
France	19 464
Ireland	8
Italy	13 512
United Kingdom	10 080

2. The second instalment of 20 000 tonnes shall constitute the reserve.

Article 3

1. If a Member State has used 90% or more of its initial share as fixed in Article 2 (1), 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 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 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 to 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 1981.

Article 5

Member States shall, not later than 1 October 1981, return to the reserve the unused portion of their initial share which, on 15 September 1981, 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 1981, notify the Commission of the total quantities of the products in question imported up to and including 15 September 1981 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 product in question which may be charged against their quota shares to products to be used for certain purposes.

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 has been used up.

It shall, not later than 5 October 1981, inform the Member States of the amounts 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 tariff quota.

2. Member States shall ensure that importers of the product in question established in their territory 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 imports of the product in question entered with the customs authorities for free circulation.

Article 9

At the Commission's request, the Member States shall inform it of imports 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 1981.

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

Done at Brussels,

For the Council
The President

ex 39.02 C XI	Poly(vinyl formal), in one of the forms mentioned in Note 3(b) to Chapter 39, having a molecular weight not less than 10,000 and not more than 40,000 and containing by weight : - not less than 9.5% and not more than 13% of vinyl acetate - not less than 5% and not more than 6.5% of vinyl alcohol	0
ex 39.02 C XII	Reflecting polyacrylic sheeting, whether or not in rolls	0
ex 39.02 C XII	Copolymerization products of acrylic and methacrylic esters in the form of film of a thickness not less than 50 and not more than 150 micrometers, whether or not in rolls	0
ex 39.02 C XII	Copolymer of acrylic acid and 2-ethylhexyl acrylate containing not less than 10 % and not more than 11 % by weight of 2-ethylhexyl acrylate	0
ex 39.02 C XIV b)	Reflecting sheeting of an acrylic polymer modified by melamine-formaldehyde, whether or not in rolls	0
ex 39.02 C XIV b)	Polyvinylidene fluoride film, whether or not in rolls	0
41.02-B	Bovine cattle leather (including buffalo leather) not further prepared than chrome-tanned, in the wet-blue state	0
ex 48.07 D	Kraft paper with latex addition to the stock, coated on one side with polybutadiene-styrene weighing not less than 104 g and not more than 130 g/m ² for the manufacture of all-in-one disposable nappies (a)	6
ex 51.01 A	Yarn, multiple, of polyamide, coated, impregnated or covered with a phenolic resin	0
ex 51.01 A	Yarn of poly(p-phenyleneterephthalamide)	4.5
ex 51.01 A	Yarn of synthetic textile fibres of aromatic polyamides obtained by polycondensation of m-phenylenediamine and isophthalic acid	0
ex 56.01 A	Synthetic textile fibres of aromatic polyamides obtained by polycondensation of m-phenylenediamine and isophthalic acid	0
ex 59.03	Bonded fibre fabrics, with a thickness of not more than 300 micrometres, of spun-bonded polyethylene fibres, with a weight not exceeding 115 g/m ² , whether or not in rolls	0

(a) Control of the use for this special purpose shall be carried out pursuant to the relevant Community provisions.

ex 59.08	Knitted or woven fabric coated or covered on one side with artificial plastic material in which are embedded glass microspheres	0
ex 59.12	Cotton fabric coated with adhesive in which are embedded glass balls the diameters of which range from 45 to 75 micrometres, weighing not less than 300 g/m ² and not more than 550 g/m ²	0
62.03 A I	Sacks and bags, of a kind used for the packing of goods, used, of jute or of other textile bast fibres of heading No 57.03	0
ex 70.20 B	Yarns of 34 tex or a multiple thereof obtained from continuous spun glass filaments having a diameter of not less than 5.2 and not more than 6.2 micrometres, other than those treated so as to improve their adhesion to elastomers	6.3
ex 70.20 B	Yarns of 33 tex or a multiple thereof obtained from continuous spun glass filaments having a diameter of not less than 5.8 and not more than 6.4 micrometres, other than those treated so as to improve their adhesion to elastomers	6.3
ex 81.03 B	Wire of unalloyed tantalum, of a diameter not less than 0.2 mm and not more than 0.5 mm, for the manufacture of capacitors (a)	0
ex 84.31 A	Suction roll shells, not drilled, being alloy steel tubes with a length of not less than 5 207 mm and an outside diameter of not less than 754 mm for use in machinery for making paper or paperboard (a)	0
ex 84.51 A	Electronic pocket communicators for handicapped persons which, by means of push buttons and printing thermic head, print and issue text on tape	0
ex 85.55 C	Parts and accessories of electronic pocket communicators for handicapped persons which, by means of push buttons and printing thermic head, print and issue text on tape	0
ex 85.21 A V	Digital displays consisting of a glass tube mounted on a board up to 220 mm long and 45 mm wide excluding leads. The tube contains a straight line of digits not less than four in number, each digit consisting of a number of segments containing an inert gas with a metallic base coated with phosphorus salts which give off light when bombarded with electrons	0
ex 85.21 D II	Digital displays consisting of a printed circuit board of a size not exceeding 35 x 90 mm with a single line of digits, not less than three in number comprising light-emitting diodes manufactured from gallium-based semi-conductor compounds mounted thereon. Each digit is composed of seven segments plus a decimal point and the line of digits has a protective cover of transparent plastic	0
ex 85.21 D II	Digital displays, consisting of a printed circuit board of a size not exceeding 35 x 90 mm with a single line of characters not less than two in number comprising light-emitting diodes made from gallium-based semi-conductor compounds mounted thereon. Each character is composed of up to eight segments and the line of characters has a protective cover of transparent plastic	0

(a) Control of the use for this special purpose shall be carried out pursuant to the relevant Community provisions.

It is quite clear from lengthy discussions within the Council that there are no arguments likely to change the Commission's choice of the solution of the country of employment. At the very most, it could be considered that the arguments for and against the solutions cancel each other out¹.

Under such conditions, the social motivations must become the determining factors. In this respect, it should be noted that family benefits are much higher in the country of immigration (country of employment of the worker) than in the country of emigration (country of residence of members of the family). The adoption of a solution based on the award of benefits by the country of residence would therefore mean that the majority of the persons concerned, i.e., members of the family residing in Italy or in Ireland, would suffer a considerable drop in the level of benefits.

The Commission also examined several compromise solutions, including one which would provide for the award of benefits and a supplement by the country of residence. None of these solutions were likely both to maintain the level of benefits currently guaranteed by Community law and to satisfy the partisans of the country of residence. At the very most, these solutions could diminish the losses entailed by the pure and simple adoption of the country of residence system.

The opinion of the Commission, however, according to which "the rights of migrant workers are to be determined by the same principles in whichever Member State they are employed, such a uniformization may not result in a reduction of the rights most of the persons concerned are entitled to"¹, has not changed.

In this respect, the Commission would like to recall the objectives the Council set itself in 1974 and 1976 respectively, namely:

- " - to improve the conditions of free movement within the Community of workers from Member States, including social security..."²;
- " - to continue and enhance the humanization of freedom of movement (for workers provided for in Articles 48 to 51 of the Treaty..."³.

It does not appear to be possible to reconcile the demands of social progress with the adoption of a solution that would lead to the loss of rights afforded to migrant workers under Community law.

¹ See the very detailed tabled given in Council document 8014/80 SOC 226.
explanatory memorandum to the Commission proposal - doc. COM(75)132 final.
² Council Resolution of 21 January 1974 concerning a social action programme.
³ Council Resolution of 9 February 1976.

thermore, a change in the economic and social situation of the Community could not be invoked to justify such measures. Even if the situation were to lead Member States to economize in this sector, the measures should affect migrant workers in the same way as nationals and should not affect migrant workers alone.

C. CONCLUSIONS

1. The examination carried out by the Commission shows that:

- the fundamental data relating to the standardization of the system of paying family benefits to workers the members of whose families reside in a Member State other than the country of employment, have not changed since the Commission presented its proposal to the Council in 1975;
- essentially, the solution consisting in the award of family benefits by the country of residence and the solutions deriving therefrom can only result in a reduction of the rights that most of the persons concerned enjoy at present;
- that the "only solution which would be in accordance both with the aim of standardizing the Community rules and with the maintenance of the benefits acquired under these provisions would be the payment by all Member States of family benefits provided for under their legislations to workers who are subject to those legislations and to members of their families residing in other Member States."¹

2. The Commission, in accordance moreover with the European Parliament Resolution of 17 June 1980, does not plan to amend its proposal of 10 April 1975 and thus maintains its position in favour of the speedy adoption of the country of employment system and the abolition of the exemption scheme applied by France.

¹Doc. COM(75)132 final.