

ALUMINIUM (CONTROL) ORDER, 1970

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SCHEDULE 1 :- SCHEDULE

ALUMINIUM (CONTROL) ORDER, 1970

¹1. S. O. 1103, dated 20th March, 1970 published in the Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), dated 20th March, 1970, pp. 419, 421. In exercise of the powers conferred by Sec. 3 of the Essential Commodities Act, 1955 (10 of 1955), the Central Government hereby makes the following Order, namely :

1. Short title, extent and commencement :-

- (1) This Order may be called the Aluminium (Control) Order, 1970.
- (2) It extends to the whole of India, ¹ [* * *]
- (3) It shall come into force at once.

1. Omitted by S.O. 2084, dated 24th May, 1971.

2. Definitions :-

In this Order, unless the context otherwise requires,-

(a) "aluminium" ¹[means indigenous aluminium or imported aluminium] in any of the forms specified in the Schedule and includes manufactures and semi manufactures thereof;

²[(aa) "aluminium price equalisation amount" means an amount calculated in the manner specified in Cl. 4-B, for equalising, as far as possible, the sale price of the indigenous aluminium and the sale price of the imported aluminium with a view to securing their availability at fair price;]

³[(aaa) "auxiliary plant" means a foundry, a rolling mill, an extrusion press, a wire rod mill or any other plant of a similar nature for making products such as alloys castings, rolled products, extruded products and wire rods;]

(b) "controller" means a person appointed by the Central Government to be the Controller of Aluminium for the purposes of this Order;

(c) "dealer" means any person, who carries on the business of buying or selling aluminium metal and manufactures and semi-manufactures of aluminium metal, whether or not in conjunction with other business and includes a producer or manufacturer thereof ⁴[or a person acquiring aluminium for manufacture;]

⁵[(cc) "expenses for administration" means the expenses estimated to be incurred by the controller in discharge of his functions under this Order;]

⁶⁷[(ccc)] "importing agent" means a person appointed by the Central Government as an agent for import of aluminium into India;

⁷[(cccc)] "imported aluminium" means aluminium which is imported into India under any law for the time being in force:

⁷[(ccccc) "indigenous aluminium" means aluminium which is produced or manufactured in India;]

(d) "manufacture" means any person licenced or registered under

Industries (Development and Regulation) Act, 1951, who manufactures aluminium;

10[(dd) "price of imported aluminium" means such price of imported aluminium, inclusive of insurance and freight up to an Indian port, import duty, if any, and charges of the importing agent for importing aluminium but exclusive of the Central Sales-tax and local taxes, as may be fixed by the Controller on the basis of the material received by him under Cl. 8 or Cl. 9 or on any other relevant consideration;]

(e) "producer" means any person licenced or registered under Industries (Development and Regulation) Act, 1951, who produces aluminium from bauxite or alumina and includes the price fixed by the Central Government in respect of each producer, per tonne of unwrought aluminium produced and transferred by such producer to his auxiliary plant for further processing and sale as aluminium of different specifications;

11[(ee) "retention price" means the price fixed by the Central Government, in respect of each producer, per tonne of aluminium produced and sold by such producer **12**[and includes the price fixed by the Central Government in respect of each producer, per tonne of unwrought aluminium produced and transferred by such producer to his auxiliary plant for further processing and sale as aluminium of different specifications.]

2[(eee) "sale price of importer aluminium" means the sale price of imported aluminium fixed under Cl. 4;] .

14[(f) "sale price of indigenous aluminium" means the ex-factory price of indigenous aluminium payable by its purchaser inclusive of-

(i) dealer's commission;

(ii) expenses for administration and research and development to be determined by the Controller from time to time subject to a maximum of Rs. 100 per tonne;

(iii) expenses for modernisation and development of aluminium industry to be determined by the Central Government from time to time subject to a maximum of 5 per cent of the weighted average of retention price, and

(iv) the aluminium price equalisation amount, but exclusive of

excise duty, Central sales tax, local taxes, transport charges, insurance charges, if any, and includes the price at which unwrought indigenous aluminium is produced and transferred by a producer and transferred by a producer to his auxiliary plant for further processing and sale as indigenous aluminium of different specifications;

(g) "schedule" means the Schedule appended to this Order.

15 [(gg) "weighted average of retention prices" means the sum of the product of the quantity of indigenous aluminium estimated to be produced from time to time by each producer and the retention prices fixed under Cl. 4-B, divided by total estimated quantity of indigenous aluminium produced by all the producers.]

1. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979), for the words "means aluminium".
2. Ins. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).
3. Ins. by S.O. 74(E), dated 6th February, 1979, and relettered by S. O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).
4. Added by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).
5. Ins. by S.O. 229(E).
6. Ins. by S.O. 565 (E), dated 4th October, 1979 (w.e.f. 4th October, 1979).
7. Rellettered by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).
10. Ins. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).
11. Ins. by S.O. 355(E), dated 15th July, 1975.
12. Ins. by S.O. 74(E), dated 6th February, 1979.
14. Subs. by S.O. 1056(E), dated 17th November, 1989 (w.e.f. 17th November, 1988).
15. Ins. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

3. Control of sale price :-

1 [(1)] No producer or manufacturer or dealer or any other
2 [indigenous aluminium] at a sale price exceeding the sale price to be fixed in pursuance of Cl. 4.

3 [(2) No importing agent or dealer shall sell or agree to sell or otherwise dispose of imported aluminium at a price exceeding the sale price of imported aluminium fixed under Cl. 4.]

1. Renumbered as sub-clause "(1)" by S.O. 565(E), dated 4th

October, 1979 (w.e.f. 4th October 1979).

2. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

3. Ins. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

4. Fixation of sale price :-

(1) The Central Government or the Controller may, having regard to ¹[all relevant factors including] the estimated cost of production or manufacture of indigenous aluminium, fixed from time to time, by notification in the Official Gazette, the sale price of indigenous aluminium, and different sale prices may 'be fixed in respect of indigenous aluminium of different sizes or specifications or in respect of indigenous aluminium produced or manufactured in different areas or different factories in India: Provided that, where the Central Government, may require any producer to supply, under Cl. 4-C indigenous aluminium of such specifications and in such quantities to such persons specified in that clause, the Central Government or the Controller may, if it is considered necessary so to do, fix in respect of such indigenous aluminium separate sale prices: Provided further that only one price shall be fixed for indigenous aluminium of the same specifications ¹ [required to be supplied by a producer under Cl. 4-C] whether produced in different areas or in different factories in India : Provided also that the Government may, by order, fix the sale price of unwrought indigenous aluminium produced by a producer and transferred by him to his auxiliary plant for further processing and sale as indigenous aluminium of different specifications.

(2) The Central Government or the Controller may, having regard to the price of imported aluminium, the estimated cost of production of indigenous aluminium, and the provisions of Cl. 4-B fix from time to time, by notification in the Official Gazette, the sale prices of imported aluminium and different sale prices of imported aluminium may be fixed, in respect of different sizes or specifications of imported aluminium.]

1. Added by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March. 1981).

4A. Fixation of retention price of aluminium :-

The Central Government may, having regard to all relevant factors, including the estimated cost of production of ¹[indigenous aluminium] produced by a producer, by order fix from lime to time,

the retention price in respect of ²[indigenous aluminium] produced and sold by such producer and different retention prices may be fixed in respect of ¹[indigenous aluminium] of different specifications produced by such producer. ²[Such retention price may also be fixed per tonne of unwrought ¹[indigenous aluminium] produced and transferred by a producer to his auxiliary plant for further processing and sale as ¹[indigenous aluminium] of different specifications:] Provided that, whether the Central Government may require any producer to supply, under Cl. 4-C, ⁷[indigenous aluminium] of such specifications and in such quantities to such persons specified in that clause, the Central Government or Controller may, if it is considered necessary so to do, fix in respect of such ³[indigenous aluminium] separate retention price: Provided further that only one retention price shall be fixed for ³[indigenous aluminium] of the same specification ¹⁰[required to be supplied by a producer under Cl. 4- C] for each producer, whether such ³ [indigenous aluminium] is produced in different areas or in different factories in India.

1. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

2. Ins. by S.O. 74(E) dated 6th February, 1979, published in the Gazette of India, Extraordinary, Pt. II, Sec.3(ii), dated 6th February, 1979.

7. Subs. by S.O. 565(E), dated 4th October, 1979 (or the word, "aluminium" (w.e.f. 4th October, 1979).

10. Added by S.O. 565(E).

4B. Fair pricing of aluminium :-

]

¹[(1) With a view to securing the availability of aluminium to the consumers at a fair price, the Central Government may, from time to time, pool-

(a) the retention prices of indigenous aluminium, or

(b) the weighted average of retention prices with the price of imported aluminium:] ²[Provided that the expenses for administration ³[for Research and Development as determined by the Controller and for modernisation and development of aluminium industry as determined by the Central Government] may be included in the sale price of indigenous and imported aluminium determined by such pooling : Provided further that if in the opinion

of the Central Government an increase in the cost of production of a producer is imminent, or is likely to be brought about as a result of a decision of a court and the additional cost to be incurred by him not having been considered in fixation of his retention price, has to be reimbursed to him, the sale prices of indigenous and imported aluminium may be enhanced suitably for the purpose];

4[(2)] An account, to be called the Aluminium Regulation Account, shall be maintained by the Controller or by such authority or person as may be specified by the Central Government in this behalf.

4[(3)] Where the retention price fixed under Cl. 4-A in respect of **6**[indigenous aluminium] ingot or of any other specification produced by any producer is lower than the sale price in respect of **5**[indigenous aluminium] ingot or of such specification fixed under Cl. 4, such producer shall, as soon as may be after each sale and in any case not later than such period as may be specified by the Controller in this behalf pay into the Aluminium Regulation Account an amount equivalent to the difference between the retention price and sale price in respect of each tonne of **5**[indigenous aluminium] sold by him. **9**[Provided that where the retention price of unwrought **5**[indigenous aluminium] produced and transferred by a producer to his auxiliary plant for further processing and sale as **5**[indigenous aluminium] of different specifications is lower than the sale price, such producer shall, as soon as may be after each sale, and in any case not later than such period as may be specified by the Controller in this behalf, pay into the Aluminium Regulation Account an amount equivalent to the product of the difference between the sale price and the retention price in respect of each tonne of unwrought **5**[indigenous

13[(4)] Where the retention price, fixed under Cl. 4-A in respect of **14**[indigenous aluminium] ingot or of any other specification produced by any producer is higher than the sale price in respect of **8**[indigenous aluminium] ingot or of such specification fixed under Cl. 4, such producer shall be paid from the money standing to the credit the Aluminium Regulation Account, an amount equivalent to the difference between the retention price and sale price in respect of each tonne of **8**[indigenous aluminium] sold by him.] **7**[Provided that where the retention price of unwrought **8**[indigenous aluminium] produced and transferred by a producer to his auxiliary

plant for further processing and Sale as ⁸[indigenous aluminium] of different specifications, is higher than the sale price, such producer shall be paid from the money standing to the credit of Aluminium Regulation Account, an amount equivalent to the product of the difference between the retention price and sale price in respect of each tonne of unwrought ⁸[indigenous aluminium] and the number of tonnes of ⁸[indigenous aluminium] sold by such producer and for which no sale price has been fixed.]

22[(5) The expenses for administration, if any, may be subject to such limits as may be laid down by the Central Government and shall be paid from the money standing to the credit of the Aluminium Regulation Account.

(6) Where the sale prices of indigenous and imported aluminium have been enhanced with a view to reimbursing a producer for an imminent increase in his cost of production or for an increase in his cost of production likely to be brought about as a result of a decision of a Court, the Central Government may direct payment of such sums of money as may be determined by it to the producer from the Aluminium Regulation Account by way of reimbursement of additional cost incurred by the producer in this behalf.]

23[**24**[(7)] For the purpose of pooling the weighted average of retention prices and the prices of imported aluminium, in any one period, the weighted average of retention prices with excise duty for that period shall be multiplied by the quantity of the indigenous aluminium estimated to be produced in that period. To the product so arrived at shall be added another product obtained by multiplying the estimated price of imported aluminium inclusive of import duty, if there be any, for that period, by the quantity of imported aluminium estimated to be available for sale in the same period. The sum of these two products shall be divided by the sum of the quantities of the indigenous aluminium and imported aluminium estimated to be available for sale in the said period. The aluminium price equalisation amount shall then be calculated by subtracting the amount of the weighted average of retention prices plus excise duty from the amount of the pooled price so arrived at according to the following formula :

(i) $p = \frac{(A \times B) + (C \times D)}{A + C}$

(ii) $E = P - B$ Where A = Quantity of indigenous aluminium estimated

to be available for sale in any one period ; B = Weighted average retention prices of indigenous aluminium with excise

25[(8)] The estimates referred to in sub-clause (5) or sub-clause (gg) of Cl. 2 may be made on the basis of the record maintained or the information, return or reports supplied under Cl. 8 or, on such other information or report as may be relevant in the opinion of the Central Government, for the purpose of such estimates. **26**[The effect of the difference, if any, between these estimates and the actuals shall be taken into account by the Central Government at the time of pooling of the prices for the subsequent period.]

12 [(9)] Every importing agent shall be paid from the money standing to the credit of the Aluminium Regulation Account an amount equal to the difference between the price of the imported aluminium and the sale price of that aluminium, in respect of each tonne of imported aluminium sold by him at the sale price or imported aluminium fixed under Cl. 4].

1. Subs. by S.O. 565(E).
2. Ins. by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).
3. Subs. by S.O. 1056(E), dated 17th November, 1988 (w.e.f. 17th November, 1988), for the words "and for Research and Development as determined by the Controller".
4. Renumbered by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).
6. Subs. by S.O. 565(E), dated 4th October, 1979 (or the word, "aluminium" (w.e.f. 4th October, 1979).
9. Added by S.O. 74(E), dated 6th February 1979, published in the Gazette of India, Extraordinary, Pt. II, Sec.3(ii), dated 6th February, 1979.
13. Added by S.O. 74(E), dated 6th February, 1979, published in the Gazette of India, Extraordinary. Pt II, Sec.3(ii), dated 6th February, 1979.
14. Subs. by S.O. 565 (E), dated 4th October, 1979 for the word "aluminium" (w.e.f. 4th October 1979).
22. Ins, by S.O. 229(E). dated 27th March, 1981 (w.e.f. 27th March, 1981).
23. Ins. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).
24. Renumbered by S O. 229(E). dated 27th March, 1981 (w.e.f. 27th March, 1981).
25. Renumbered by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).
26. Subs. by S.O. 229(E).

4BB. Utilisation of the amount collected for research and development :-

The amount determined by the Controller for research and development and included in the sale price from time to time and collected as such shall form a part of Aluminium Regulation Account; and shall be administered separately by the Controller with a view to encouraging research and development activities connected with the production of aluminium and its alloys.]

4BC. Utilisation of amount collected for modernisation and development :-

The amount determined by the Central Government for modernisation and development of aluminium industry included in the sale price from time to time and collected as such shall form part of Aluminium Regulation Account and shall be administered separately by the Central Government with a view to encouraging modernisation and development of the aluminium industry.]

4C. Power to issue directions to supply a part of aluminium :-
]

(1) The Central Government may, from time to time, by order, issue directions to any producer to supply to-

(a) the Central Government, including any department or organisation of, or under, that Government, or

(b) a State Government, or

(c) a statutory corporation, including an Electricity Board, or

(d) any other person, ¹[* * *] aluminium of such specification and in such quantities as may be specified in the order and at a price not exceeding the price fixed under Cl. 4.

(2) Where any direction is issued to any producer under sub-clause (1) for supply of ¹[* * *] aluminium to,-

(a) the Central Government, including any department or organisation of, or under, that Government, or

(b) a State Government, or

(c) an Electricity Board, that Government, department or organisation or Board may either arrange to take delivery of the aluminium by itself or nominate any person, organisation or

authority to take delivery of the ³ [* * *] aluminium.

1. Omitted by S.O. 596(E).

3. Omitted by S.O. 596(E), dated 18th October, 1978.

5. Power to regulate sale of aluminium :-

¹ [Subject to the provisions of Cl. 4 the Central Government may], by notification in the Official Gazette that the producers or manufacturers or dealers shall sell aluminium only to such person or persons or companies as may be specified by the Controller or such other officer as may be authorised by the Central Government in this behalf.

1. Subs. by 355(E), dated 15th July, 1975.

5A. Power to regulate production, supply and distribution of aluminium :-

The Central Government may, if it is of opinion that it is necessary and expedient so to do for maintaining and increasing supply and for securing equitable distribution of aluminium, by notification in the Official Gazette, direct that no producer, manufacturer or dealer in ¹ [or importing agent shall undertake production or engage in supply and distribution or import, as the case may be,] of and or all forms of aluminium specified in the Schedule to this order except to such extent and in such manner as may be specified by the Central Government or Controller or such other officer as the Central Government may, by order made from time to time, authorise in this behalf.]

1. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

5B. 5B :-

Any person acquiring aluminium from a producer, manufacturer, dealer or importing agent shall not use such aluminium otherwise than in accordance with any general or specific orders as may be issued from time to time by the Controller or such other officer as the Central Government may by order made from time to time, authorize in this behalf.]

6. Price list to be displayed at the place of business :-

Every producer or manufacturer or dealer shall display at a conspicuous part of the premises, where he carries on his business in aluminium, a list of sale prices of the various items kept for sale in such a manner as to be easily accessible for consultation by any

customer visiting the premises.

7. Producer, manufacturer or dealer not to withhold sale :-

No producer, manufacturer or dealer shall withhold from sale aluminium ¹ [* * *] ordinarily kept for sale.

1. The words "produced or manufactured in India and" omitted by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

8. Power to give directions and call for information :-

The Controller, or such officer of the Central Government or the State Government as may be authorised by the Central Government in this behalf may, by order:

(a) direct any producer or manufacturer or ¹[or dealer or importing agent] ²[or any person acquiring aluminium for manufacture] to maintain such records relating to the production or manufacture or purchase or sale or ³[or import or other transaction] ⁴[or utilization], as the case may be, of aluminium as the Controller or the officer authorised in this behalf may specify in the order;

(b) specify the manner in which a producer, manufacturer or ¹[or dealer or ⁶[or any person acquiring aluminium for manufacture] shall keep accounts of any production, manufacture, purchase, sale or ⁷[or import or other transaction] ⁵[or utilization], as the case may be, in aluminium;

(c) require any producer or manufacturer or ⁹[or dealer or importing agent] ⁵[or any person acquiring aluminium for manufacture], to furnish within such period or at such intervals, such information, returns or reports relating to the production, manufacture, purchase or sale ⁶[or import or other transaction] ⁵[or utilization], as the case may be, of aluminium in such forms as may be specified in the Order.

1. Subs. by S.O. 565(E), dated 4th October, 1979 for the word "dealer" (w.e.f. 4th October, 1979).

2. Added by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).

3. Subs. by S.O. 565(E), dated 4th October, 1979, for the words "other transaction" (w.e.f. 4th October, 1979).

4. Added by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).

6. Added by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).

7. Subs. by S.O. 565(E), dated 4th October, 1979, for the words

"other transaction" (w.e.f. 4th October, 1979).

9. Subs. by S.O. 565(E), dated 4th October, 1979, for the word "dealer" (w.e.f. 4th October, 1979).

9. Powers-of examination, entry, search and seizures :-

(1) The Controller, or such Gazetted Officer of the Central Government or of the State Government, as may be authorised by the Central Government in this behalf may,-

(a) examine-

(i) any books, accounts or records relating to the production or ¹[manufacture or import ²[or utilisation] of aluminium and belonging to or under the control of a producer, manufacturer or importing agent] ³[or any person acquiring aluminium for manufacture],

(ii) any books, accounts or records relating to the purchase, sale or other transaction ²[or utilisation] in aluminium and belonging to or under the control of a dealer,

(iii) any stocks of aluminium belonging to or under the control of any producer, manufacturer or/dealer ⁵[or importing agent] ²[or any person acquiring aluminium for manufacture]

(b) enter or search-

(i) any premises where aluminium is produced, manufactured or sold ⁴[or stored] ³ [or used for manufacture] or where the Controller or the Officer authorised has reason to believe that a contravention of this Order in respect of the aluminium has been, is being, or is about to be committed.

(ii) any vehicle or other conveyance which is being or is about to be used or which the Controller or the officer authorised has reason to believe, is being or is about to be used, for carrying aluminium; and the Controller or the Officer authorised to make the examination, entry or search may seize-

(i) any aluminium in respect of which he has reason to believe that a contravention of this order has been, is being, or is about to be committed and any packages, coverings or receptacles in which such aluminium are found;

(ii) any vehicle or other conveyance used in carrying such aluminium if he has reason to believe that such vehicle or other

conveyance is liable to be forfeited under the provisions of Essential Commodities Act, 1955 (10 of 1955):

(iii) any books of accounts and documents which in his opinion would be useful for, or relevant to, any proceedings under the said Act: Provided that such books shall be returned as soon as may be after such seizures, and in any case not later

(2) The provisions of Code of Criminal Procedure, 1973 , relating to search and seizure shall, as far as may be, apply to searches and seizures under this clause]

1. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

2. Added by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).

3. Ins. by S.O. 229(E), dated 27th March, 1981 (w.e.f. 27th March, 1981).

5. Ins. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

10. Compliance of orders :-

Every ¹ [producer or manufacturer or dealer or importing agent] or any other person, to whom any order or direction is issued under any powers conferred by or under this order shall comply with such order or direction.

1. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

11. Power to debar any person from receiving aluminium :-

The Controller may, by order, for reasons to be recorded in writing, debar any person for any period not exceeding five years, from receiving aluminium from any producer, manufacturer or dealer or importing agent-

(a) if the aforesaid person uses aluminium, otherwise than in accordance with any general or specific orders issued under Cl. 5-B, or,

(b) if he violates any condition laid down under any clause of this order or any direction issued thereunder: Provided that before any such order is made, the person concerned shall be given a reasonable opportunity of being heard.]

12. Appeal :-

Any ¹ [producer or manufacturer or dealer or importing agent] or

any other person aggrieved by any order or direction issued under this order, may, within 30 days from the date of receipt of a copy of such order or direction, prefer an appeal to the Central Government and thereupon the Central Government may confirm, reverse or modify such order or direction.

1. Subs. by S.O. 565(E), dated 4th October, 1979 (w.e.f. 4th October, 1979).

SCHEDULE 1

SCHEDULE

(See Cl. 2) 1. Aluminium unwrought in any form, including ingots, bars, blocks, billets and shots. 2. Aluminium wrought, including plates, sheets, corrugated sheets, circles, strips, pipes, tubes, extruded shapes and sections, rod and foils.