
Changes to legislation: There are currently no known outstanding effects for the Commission Decision of 31 January 2005 determining a mechanism for the allocation of quotas to producers and importers of hydrochlorofluorocarbons for the years 2003 to 2009 according to Regulation (EC) No 2037/2000 of the European Parliament and of the Council (notified under document number C(2005) 134) (Only the Dutch, English, Estonian, Finnish, French, German, Greek, Italian, Lithuanian, Polish, Slovenian, Spanish and Swedish texts are authentic) (2005/103/EC). (See end of Document for details)

Commission Decision of 31 January 2005 determining a mechanism for the allocation of quotas to producers and importers of hydrochlorofluorocarbons for the years 2003 to 2009 according to Regulation (EC) No 2037/2000 of the European Parliament and of the Council (notified under document number C(2005) 134) (Only the Dutch, English, Estonian, Finnish, French, German, Greek, Italian, Lithuanian, Polish, Slovenian, Spanish and Swedish texts are authentic) (2005/103/EC)

COMMISSION DECISION

of 31 January 2005

determining a mechanism for the allocation of quotas to producers and importers of hydrochlorofluorocarbons for the years 2003 to 2009 according to Regulation (EC) No 2037/2000 of the European Parliament and of the Council

(notified under document number C(2005) 134)

(Only the Dutch, English, Estonian, Finnish, French, German, Greek, Italian, Lithuanian, Polish, Slovenian, Spanish and Swedish texts are authentic)

(2005/103/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer⁽¹⁾, and in particular Article 4(3)(ii) thereof,

Whereas:

- (1) Community measures, in particular those contained in Council Regulation (EC) No 3093/94 of 15 December 1994 on substances that deplete the ozone layer⁽²⁾ which was replaced by Regulation (EC) No 2037/2000, have led over several years to a reduction of overall consumption of hydrochlorofluorocarbons (HCFCs).
- (2) In the context of that reduction, quotas for individual producers and importers were fixed based on historical market shares and calculated by reference to the ozone depleting potential of those substances.
- (3) Since 1997 the market for those substances in respect of different uses has been stable. Almost two-thirds of the HCFCs were used for the production of foam until this use of HCFCs was banned on 1 January 2003.
- (4) In order not to disadvantage users of HCFCs making non-foam products from 1 January 2003, which would occur if the allocation system were to be based on historical market share of the use of HCFCs for foam products, it is appropriate to provide for a new allocation mechanism for the use of HCFCs after that date for the manufacture of non-foam products. For 2004 to 2009, the allocation system considered most appropriate

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was that based solely on the average, historical market share of HCFCs used for non-foam production.

- (5) While it is appropriate to limit the quotas available to importers to their respective percentage market share in 1999, provision should also be made to reallocate to registered HCFCs importers any import quota which has not been claimed and allocated in a given year.
- (6) Commission Decision 2002/654/EC of 12 August 2002 determining a mechanism for the allocation of quotas to producers and importers for hydrochlorofluorocarbons for the years 2003 to 2009 under Regulation (EC) No 2037/2000 of the European Parliament and of the Council⁽³⁾ should be amended in order to take account of the increased quota for hydrochlorofluorocarbons (Group VIII) in Annex III to Regulation (EC) No 2037/2000, as amended by the 2003 Act of Accession and the historical market share of undertakings in the Member States that acceded on the 1 May 2004.
- (7) In the interests of legal clarity and transparency, Decision 2002/654/EC should therefore be replaced.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18(1) of Regulation (EC) No 2037/2000,

HAS ADOPTED THIS DECISION:

Article 1

Definitions

For the purposes of this Decision, the following definitions shall apply:

- (a) 'market share for refrigeration' means the average market share of sales of hydrochlorofluorocarbons for refrigeration applications of a producer in the years 1997, 1998 and 1999 as a percentage of the total market for refrigeration applications;
- (b) 'market share for foam production' means the average market share of sales of hydrochlorofluorocarbons for foam production of a producer in the years 1997, 1998 and 1999 as a percentage of the total market for foam production; and
- (c) 'market share for solvent uses' means the average market share of sales of hydrochlorofluorocarbons for solvent uses of a producer in the years 1997, 1998 and 1999 as a percentage of the total market for solvent uses.

Article 2

Basis for the calculation of quotas

The indicative quantities assigned for the consumption of hydrochlorofluorocarbons for refrigeration, foam production and solvents from the producers share of the calculated levels set out in Article 4(3)(i)(d) and (e) of Regulation (EC) No 2037/2000, shall be as set out in Annex I to this Decision.

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The market shares for each producer in the respective markets shall be as set out in Annex II⁽⁴⁾.

Article 3

Quotas for producers

1 For the years 2004 to 2007, for each producer the quota of the calculated level of hydrochlorofluorocarbons set out in Article 4(3)(i)(e) of Regulation (EC) No 2037/2000 which it places on the market or uses for its own account shall not exceed the sum of the following:

- a the producer's market share for refrigeration of the total indicative quantity assigned for refrigeration in 2004;
- b the producer's market share for solvents of the total indicative quantity assigned for solvents in 2004.

2 For the years 2008 and 2009, for each producer the quota of the calculated level of hydrochlorofluorocarbons set out in Article 4(3)(i)(f) of Regulation (EC) No 2037/2000 which it places on the market or uses for its own account shall not on a pro rata basis exceed the sum of the following:

- a the producer's market share for refrigeration of the total indicative quantity assigned for refrigeration in 2004;
- b the producer's market share for solvents of the total indicative quantity assigned for solvents in 2004.

Article 4

Quotas for importers

The calculated level of hydrochlorofluorocarbons that each importer may place on the market or use for its own account shall not exceed, as a percentage of the calculated level set out in Article 4(3)(i)(d), (e) and (f) of Regulation (EC) No 2037/2000, the percentage share assigned to it in 1999.

Any amounts, however, which cannot be placed on the market, because importers entitled to do so did not apply for an import quota, shall be reallocated between those importers that have been given an import quota.

The amount unallocated shall be divided between each importer and calculated on a proportional basis by reference to the size of the quotas already determined for those importers.

Article 5

Decision 2002/654/EC is repealed.

References to the repealed Decision shall be construed as references to this Decision.

Article 6

This Decision is addressed to the following undertakings:

Arkema SA

Cours Michelet — La Défense 10

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F-92091 Paris La Défense

Arkema Quimica SA

Avenida de Burgos, 12 — planta 7

E-28036 Madrid

DuPont de Nemours (Nederland) BV

Baanhoekweg 22

3313 LA Dordrecht

The Netherlands

Honeywell Fluorine Products Europe BV

Kempenweg 90

PO Box 264

6000 AG Weert

The Netherlands

Ineos Fluor Ltd

PO Box 13

The Heath

Runcorn Cheshire WA7 4QF

United Kingdom

Phosphoric Fertilizers Industry SA

Thessaloniki Plant

PO Box 10183

GR-54110 Thessaloniki

Rhodia Organique Fine Ltd

PO Box 46 — St Andrews Road

Avonmouth, Bristol BS11 9YF

United Kingdom

Solvay Electrolyse France

12 Cours Albert 1^{er}

F-75383 Paris

Solvay Fluor GmbH

Hans-Böckler-Allee 20

D-30173 Hannover

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Solvay Iberica SL
Barcelona
Calle Mallorca 269
E-08008 Barcelona
Solvay Solexis SpA
Viale Lombardia 20
I-20021 Bollate (MI)
AB Ninolab
P.O. Box 137
S-194 22 Upplands Väsby
Advanced Chemical SA
C/ Balmes, 69 Pral 3º
E-08007 Barcelona
Alcobre SA
C/Luis I, Nave 6-B
Poligono Industrial Vallecas
E-28031 Madrid
Asahi Glass Europe BV
World Trade Center
Strawinskylaan 1525
1077 XX Amsterdam
The Netherlands
Avantec
Bld Henri Cahn
B.P. 27
F-94363 Bry-sur-Marne Cedex
BaySystems Iberia S/A
C/ Pau Clarís 196
E-08037 Barcelona
BOC Gazy
ul. Pory 59
PL-02-757 Warszawa

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Boucquillon NV
Nijverheidslaan 38
B-8540 Deerlijk
Calorie
503 Rue Hélène Boucher
Z.I. Buc
B.P. 33
F-78534 Buc Cedex
Caraibes Froids SARL
B.P. 6033
Ste Thérèse
4,5 km Route du Lamentin
F-97219 Fort-de-France (Martinique)
Celotex Limited
Lady Lane Industrial Estate
Hadleigh, Ipswich, Suffolk,
IP7 6BA
United Kingdom
Efisol
14/24 Rue des Agglomérés
F-92024 Nanterre Cédex
Empor d.o.o.
Trzaska 333
1000 Ljubljana
Slovenia
Etis d.o.o.
Leskoškova 9a
1000 Ljubljana
Slovenia
Fibran SA
6th km Thessaloniki
Oreokastro

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PO Box 40 306
GR-560 10 Thessaloniki
Fiocco Trade SL
C/ Molina N° 16, Pta 5
E-46006 Valencia
G.AL.Cycle-Air Ltd
3, Sinopis Str., Strovolos
PO Box 28385
Nicosia, Cyprus
Galco SA
Avenue Carton de Wiart 79
B-1090 Brussels
Galex SA
B.P. 128
F-13321 Marseille Cedex 16
Genys UAB
Lazdiju 20
Kaunas
Lithuania
GU Thermo Technology Ltd
Greencool Refrigerants
Unit 12
Park Gate Business Centre
Chandlers Way, Park Gate
Southampton SO31 1FQ
United Kingdom
Guido Tazzetti & Co.
Strada Settimo 266
I-10156 Torino
Harp International
Gellihirion Industrial Estate
Rhondda Cynon Taff

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Pontypridd CF37 5SX

United Kingdom

H&H International Ltd.

Richmond Bridge House

419 Richmond Road

Richmond TW1 2EX

United Kingdom

ICC Chemicals Ltd

Northbridge Road

Berkhamsted

Hertfordshire

HP4 1EF

United Kingdom

Kal y Sol

P.I. Can Roca

C/Carrerada s/n,

E-08107 Martorelles (Barcelona)

Linde Gaz Polska Sp. z o.o.

ul. J. Lea 112

PL-30-133 Kraków

Matero Ltd

37 St. Kyriakides Ave.

3508 Limassol

Cyprus

Mebrom

Assenedestraat 4

B-9940 Rieme — Ertvelde

Nagase Europe Ltd

Berliner Allee 59

D-40212 Düsseldorf

OU A Sektor

Kasteheina 6-9

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EE-31024 Kohtla-Järve

Plasfi SA

Ctra Montblanc, s/n

E-43420 Sta Coloma de Queralt

(Tarragona)

Prodex-system sp. Z o.o.

24th Artemidy ST

PL-01-497 Warsaw

PW Gaztech

ul. Kopernika 5

PL-11-200 Bartoszyce

Quimidroga SA

Calle Tuset 26

E-08006 Barcelona

Refrigerant Products Ltd

N9 Central Park Estate

Westinghouse Road

Trafford Park

Manchester M17 1PG

United Kingdom

Resina Chemie BV

Korte Groningerweg 1A

9607 PS Foxhol

The Netherlands

Sigma Aldrich Chimie SARL

80, rue de Luzais

L'isle d'abeau Chesnes

F-38297 St Quentin Fallavier

Sigma Aldrich Company Ltd

The Old Brickyard

New Road

Gillingham SP8 4XT

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United Kingdom

SJB Chemical Products BV

Wellerondom 11

3230 AG Brelle

The Netherlands

Solquimia Iberia SL

C/Duque de Alba No 3, 1º

E-28012 Madrid

Synthesia Espanola SA

Conde Borrell, 62

E-08015 Barcelona

Termo-Schiessl Sp. z o.o.

ul. Raszynska 13

PL-05-500 Piaseczno

Universal Chemistry & Technology SpA

Viale A. Filippetti 20

I-20122 Milano

Vuoksi Yhtiö Oy

Lappeentie 12

FIN-55100 Imatra

Wigmors

Irysowa str. # 5

PL-51-117 Wroclaw

Done at Brussels, 31 January 2005.

For the Commission

Stavros DIMAS

Member of the Commission

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ANNEX I

INDICATIVE QUANTITIES ASSIGNED FOR 2004 AND 2005 IN TONNES/OZONE-DEPLETING POTENTIAL

Market	2004	2005
Refrigeration	1 990,61	2 054,47
Foam Production	0,0	0,0
Solvents	64,11	66,17
Total	2 054,72	2 120,64

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- (1) [OJ L 244, 29.9.2000, p. 1](#). Regulation as last amended by Commission Regulation (EC) No 2077/2004 ([OJ L 359, 4.12.2004, p. 28](#)).
- (2) [OJ L 333, 22.12.1994, p. 1](#).
- (3) [OJ L 220, 15.8.2002, p. 59](#).
- (4) Annex II is not published because it contains confidential commercial information.

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