

## COMMISSION DECISION

of 27 March 2007

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

(notified under document number C(2007) 819\_2)

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

(2007/195/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<sup>(1)</sup>, and in particular Article 4(3)(ii) thereof,

Whereas:

(1) Community measures, as in particular contained in Council Regulation (EC) No 3093/94 of 15 December 1994 on substances that deplete the ozone layer<sup>(2)</sup> 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 to not 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 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 each importer to their respective percentage market share in 1999 and for each importer in the Member States that acceded on the 1 May 2004 to the average of its percentage market share in 2002 and 2003, 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 2005/103/EC<sup>(3)</sup> which determined 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 should be amended in order to take account of a revised base date for producers and importers in the Member States that acceded on the 1 May 2004 and the increased quota for hydrochlorofluorocarbons (Group VIII) in Annex III to Regulation (EC) No 2037/2000, as amended by the 2005 Act of Accession and the historical market share of undertakings in the Member States that acceded on the 1 January 2007.

(7) In the interests of legal clarity and transparency Decision 2005/103/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,

<sup>(1)</sup> OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Regulation (EC) No 1791/2006 published in OJ L 363, 20.12.2006, p. 1.

<sup>(2)</sup> OJ L 333, 22.12.1994, p. 1.

<sup>(3)</sup> OJ L 33, 5.2.2005, p. 65.

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)(e) and (f) of Regulation (EC) No 2037/2000, shall be as set out in Annex I to this Decision.

The market shares for each producer in the respective markets shall be as set out in Annex II <sup>(1)</sup>.

#### Article 3

##### Quotas for producers

1. For 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 levels 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.

By way of derogation the calculated level of hydrochlorofluorocarbons that each importer in the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia may place on the market or use for its own account shall not exceed, as a percentage of the calculated levels set out in Article 4(3)(i)(d), (e) and (f) of Regulation (EC) No 2037/2000, the average of its percentage market share in 2002 and 2003.

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.

<sup>(1)</sup> Annex II is not published nor notified to all the addressees because it contains confidential information.

## Article 5

Decision 2005/103/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 S.A. Cours Michelet — La Défense 10 F-92091 Paris-La Défense	Arkema Química SA Avenida de Burgos 12, planta 7 E-28036 Madrid
DuPont de Nemours (Nederland) bv Baanhoekweg 22 3313 LA Dordrecht Nederland	Honeywell Fluorine Products Europe bv Laarderhoogtweg 18, 1101 EA Amsterdam Nederland
Ineos Fluor Ltd PO Box 13 The Heath Runcorn Cheshire WA7 4QF United Kingdom	Phosphoric Fertilizers Industry S.A. Thessaloniki Plant P.O. Box 10183 GR-541 10 Thessaloniki
Rhodia UK Ltd PO Box 46 — St Andrews Road Avonmouth, Bristol BS11 9YF United Kingdom	Solvay Électrolyse France 12, cours Albert 1 <sup>er</sup> F-75383 Paris
Solvay Fluor GmbH Hans-Böckler-Allee 20 D-30173 Hannover	Solvay Ibérica SL C/ 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. 3 <sup>o</sup> E-08007 Barcelona
Alcobre SA C/ Luis I, Nave 6-B Polígono Industrial Vallecas E-28031 Madrid	AGC Chemicals Europe World Trade Center Zuidplein 80 H-Tower, Level 9 1077 XV Amsterdam Nederland
Avantec 26, avenue du Petit-Parc F-94683 Vincennes Cedex	BaySystems Iberia S/A Crta. Vilaseca La Pineda s/n E-43006 Tarragona
Blye Engineering Co. Ltd Naxxar Road San Gwann SGN 07 Malta	BOC Gazy ul. Pory 59 02-757 Warszawa Polska
Boucquillon nv Nijverheidslaan 38 B-8540 Deerlijk	Calorie Fluor 503, rue Hélène-Boucher Z.I. Buc B.P. 33 F-78534 Buc Cedex
Caraiibes Froids SARL B.P. 6033 Sainte-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 Cedex	Empor d.o.o. Leskoškova 9a SI-1000 Ljubljana
Etis d.o.o. Tržaška 333 SI-1000 Ljubljana	Fibran S.A. 6th km Thessaloniki Oreokastro P.O. Box 40306 GR-560 10 Thessaloniki
Fiocco Trade SL C/ Molina 16, pta. 5 E-46006 Valencia	Freolitus JSC Centrinė g. 1D LT-54464 Ramučiai, Kauno raj. Lietuva
G.AL.Cycle-Air Ltd 3, Sinopis Str., Strovolos P.O. Box 28385 Nicosia, Cyprus	Galco S.A. Avenue Carton de Wiart 79 B-1090 Bruxelles
Galex S.A. B.P. 128 F-13321 Marseille Cedex 16	UAB 'Genys' Lazdijų 20 LT-46393 Kaunas Lietuva
GU Thermo Technology Ltd Greencool Refrigerants Unit 12 Park Gate Business Centre Chandlers Way, Park Gate Southampton SO31 1FQ United Kingdom	Harp International Gellihirion Industrial Estate Rhondda Cynon Taff 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/ Sant Martí s/n E-08107 Martorell (Barcelona)	Linde Gaz Polska Sp. z o.o. ul. Jana Pawła II 41a 31-864 Kraków Polska
Matero Ltd 37 St. Kyriakides Ave. CY-3508 Limassol	Mebrom Assenedestraat 4 B-9940 Rieme-Ertvelde
Nagase Europe Ltd Berliner Allee 59 D-40212 Düsseldorf	OU A Sektor Kasteheina 6-9 EE-31024 Kohtla-Järve
Plasfi SA Ctra. Montblanc s/n E-43420 Sta. Coloma de Queralt (Tarragona)	Prodex-System sp. z o.o. ul. Artemidy 24 01-497 Warszawa Polska
PW Gaztech ul. Kopernika 5 11-200 Bartoszyce Polska	Quimidroga SA C/ Tuset 26 E-08006 Barcelona
Refrigerant Products Ltd. Banyard road Portbury West Bristol BS 20 7XH United Kingdom	Resina Chemie bv Korte Groningerweg 1A 9607 PS Foxhol Nederland

Sigma Aldrich Chimie SARL 80, rue de Luzais L'isle d'abeau-Chesnes F-38297 Saint-Quentin-Fallavier	Sigma Aldrich Company Ltd The Old Brickyard New Road Gillingham SP8 4XT United Kingdom
SJB Chemical Products bv Slagveld 15 3230 AG Brielle Nederland	Solquimia Iberia SL C/ Mexico 9, P.I. Centrovía E-50196 La Muela (Zaragoza)
Synthesia Española SA C/ Conde Borrell 62 E-08015 Barcelona	Tazzetti Fluids Srl Corso Europa, 600/a I-10088 Volpiano (TO)
Termo-Schiessl Sp. z o.o. ul. Raszyńska 13 05-500 Piaseczno Polska	Universal Chemistry & Technology SpA Viale A. Filippetti, 20 I-20122 Milano
Vrec-Co Export-Import Kft. Kossuth u. 12 H-6763 Szatymaz	Vuoksi Yhtiö Oy Lappeentie 12 FI-55100 Imatra
Wigmors ul. Irysowa 5 51-117 Wrocław Polska	

Done at Brussels, 27 March 2007.

*For the Commission*  
Stavros DIMAS  
*Member of the Commission*

ANNEX I

**Indicative quantities assigned for 2006, 2007 and 2008 in tonnes/ozone-depleting potential.**

Market	2006	2007	2008
Refrigeration	2 054,47	2 094,63	1 744,59
Foam Production	0,00	0,00	0,00
Solvents	66,17	67,01	55,81
Total	2 120,64	2 161,64	1 800,40