II

*(Acts whose publication is not obligatory)*

# COMMISSION

## COMMISSION DECISION

**of 16 December 1997**

**allocating import quotas for the fully halogenated chlorofluorocarbons 11, 12, 113, 114 and 115, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane, hydrobromofluorocarbons and methyl bromide for the period 1 January to 31 December 1998, and in addition, allocating placing on the market quotas for hydrochlorofluorocarbons for the period 1 January to 31 December 1998**

**(Only the Dutch, English, French, German, Greek, Italian and Portuguese texts are authentic)**

**(Text with EEA relevance)**

(98/27/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 3093/94 of 15 December 1994 on substances that deplete the ozone layer [1], and in particular to Articles 4(8) and 7(2) thereof,

Whereas Article 7(1) of Regulation (EC) No 3093/94 states that without prejudice to Article 4(8) and unless the substances are intended for destruction by a technology approved by the Parties, for feedstock use in the manufacture of other chemicals or for quarantine and pre-shipment, the release for free circulation in the Community of controlled substances imported from third countries shall be subject to quantitative limits;

Whereas the quantitative limits for the release into free circulation in the Community of controlled substances are set out in Annex II and Article 4(8) of Regulation (EC) No 3093/94; whereas these limits may be modified pursuant to Article 7(3);

Whereas any modification of these quantitative limits may not lead to Community consumption of controlled substances exceeding the quantitative limits established according to the Montreal Protocol on substances that deplete the ozone layer;

Whereas Article 4(8) of Regulation (EC) No 3093/94 defines the total calculated level of hydrochlorofluorocarbons (HCFCs) which producers and importers may place on the market or use for their own account in the period 1 January to 31 December 1995 and in each 12-month period thereafter; whereas this corresponds to a quantity of 8 079 ODP tonnes;

Whereas the Commission is required, under Article 4(8), in accordance with the procedure laid down in Article 16, to assign a quota to each producer or importer when the total quantity of HCFCs which producers and importers place on the market or use for their own account reaches 80% of the quantitative limit established or at the latest on 1 January 2000, whichever comes first;

[1] OJ L 333, 22. 12. 1994, p. 1.

Whereas the 80% threshold has been reached in the year 1997; whereas it is likely that this will also be the case in 1998 making it necessary to assign placing on the market quotas for HCFCs for 1998;

Whereas the Commission is required under Article 7(2) of Regulation (EC) No 3093/94 to allocate quotas for controlled substances to undertakings each year in accordance with the procedure set out in Article 16;

Whereas the Commission has published a notice to importers in the European Community of controlled substances that deplete the ozone layer [1] and has thereby received applications for import quotas;

Whereas the applications for import quotas of the chlorofluorocarbons 11, 12, 113, 114 and 115 and halons exceed the import quotas available under Article 7(2); therefore the Commission cannot satisfy the applications;

Whereas some of the applications from the producers of ODS in the Community have been made for specific contingency purposes of possible breakdown of production, technical failure and non-availability of the substances in the Community; whereas requests by a producer to import under a contingency quota can only be considered following interruption to normal supply and non-availability of the substances within the Community;

Whereas the allocation of individual quotas to producers and importers is based on the principles of continuity, equality and proportionality; whereas, in establishing quotas, the Commission has been guided by the need to reduce further the production, import and use of substances which damage the ozone layer while interfering in the market as little as possible;

Whereas it is appropriate to retain part of the total HCFC placing on the market quota for allocation to importers in the Community who are not engaged in the production of HCFCs; whereas, in 1996, the level of imports by non-producers reached about 3% of the total quota available; whereas the 1997 level is likely to be similar; whereas it is therefore appropriate in 1998 to retain 4% of the total quota for allocation to importers who are not engaged in the production of HCFCs; whereas this corresponds to a quantity of 323 ODP tonnes;

Whereas the HCFC placing on the market quota for each producer in the Community in 1998 shall reflect the market share which that producer reached in 1996, calculated in ODP tonnes; whereas it is appropriate to take 1996 as a base-year, which is the latest year for which data are available, in order to reflect most closely recent market activity by each producer; whereas it is considered appropriate to allocate the total available HCFC quantity of 7 756 ODP tonnes between producers without leaving a reserve;

Whereas for methyl bromide the import quotas are allocated to the primary importers, considered by the Commission to be the importers who deal directly by way of invoicing with the producers outside the Community; whereas a reserve of 100,5 ODP tonnes of methyl bromide is retained for allocation during 1998 in accordance with the Article 16 procedure;

Whereas import licences shall be issued by the Commission in accordance with Article 6 of the aforesaid Regulation, after verification of compliance by the importer with Articles 7, 8 and 12;

Whereas the release for free circulation in the Community of chlorofluorocarbons 11, 12, 113, 114 and 115, other fully halogenated chlorofluorocarbons, halons, carbon tetrachloride, 1,1,1-trichloroethane and hydrobromofluorocarbons imported from any State not party is prohibited in accordance with Article 8 of Regulation (EC) No 3093/94;

Whereas the measures provided for in this Decision are in accordance with the opinion of the committee established by Article 16 of the same Regulation,

HAS ADOPTED THIS DECISION:

*Article 1*

1. The quantity of chlorofluorocarbons 11, 12, 113, 114 and 115 subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 0 ODP weighted tonnes.

2. The quantity of chlorofluorocarbons 11, 12, 113, 114 and 115 subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 1 600 ODP weighted tonnes of virgin material for use as feedstock.

3. The quantity of other fully halogenated chlorofluorocarbons subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 0 ODP weighted tonnes.

4. The quantity of halons subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 0 ODP weighted tonnes.

5. The quantity of carbon tetrachloride subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 15 235,1 ODP weighted tonnes of virgin material for use as feedstock or as a processing agent.

[1] OJ C 285, 20. 9. 1997, p. 2.

6. The quantity of 1,1,1-trichloroethane subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 0,166 ODP-weighted tonnes of virgin material to be used as feedstock.

7. The quantity of methyl bromide subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 shall be 5 870 ODP weighted tonnes of virgin material for uses other than feedstock and quarantine and preshipment.

8. The quantity of hydrobromofluorocarbons subject to Regulation (EC) No 3093/94 which may be released for free circulation in the European Community in 1998 from sources outside the Community shall be 0 ODP weighted tonnes.

*Article 2*

1. The quantity of virgin carbon tetrachloride which may be imported by producers of ozone depleting substances in the European Community in 1998 for their own use as contingency against a possible breakdown of production or technical failure and where the substance is not available in the Community shall be 2 200 ODP weighted tonnes.

2. Any quantity of virgin carbon tetrachloride imported by producers of ozone depleting substances from sources outside the Community for the purposes defined in paragraph 1 of this Article shall be accounted for as production of carbon tetrachloride.

3. The quantity of virgin 1,1,1-trichloroethane which may be imported by producers of ozone depleting substances in the European Community in 1998 for their own use as contingency against a possible breakdown of production or technical failure and where the substance is not available in the Community shall be 2000 ODP weighted tonnes.

4. Any quantity of virgin 1,1,1-trichloroethane which is imported by producers of ozone depleting substances from sources outside the Community for the purposes defined in paragraph 3 of this Article shall be accounted for as the production of 1,1,1-trichloroethane.

*Article 3*

1. The quantity of hydrochlorofluorocarbons subject to Regulation (EC) No 3093/94 which producers and importers may place on the market or use for their own account within the Community in 1998 shall be 8 079 ODP tonnes.

2. The quantity of hydrochlorofluorocarbons subject to Regulation (EC) No 3093/94 which producers may place on the market or use for their own account within the Community in 1998 shall be 7 756 ODP tonnes.

3. The quantity of hydrochlorofluorocarbons subject to Regulation (EC) No 3093/94 to be allocated by the Commission to importers within the Community who are not engaged in the production of HCFCs shall be 323 ODP tonnes.

*Article 4*

1. The allocation of import quotas for chlorofluorocarbons 11, 12, 113, 114 and 115, carbon tetrachloride, 1,1,1-trichloroethane and methyl bromide during the period 1 January to 31 December 1998 shall be for the purposes indicated and to the companies indicated in Annex Ia hereto.

2. The allocation of quotas for the placing on the market or use for their own account of hydrochlorofluorocarbons by producers in the Community during the period 1 January to 31 December 1998 shall be to the undertakings indicated in Annex Ib hereto.

3. The import quotas for carbon tetrachloride, 1,1,1-trichloroethane and methyl bromide during the period 1 January to 31 December 1998 shall be as set out in Annex II [1] hereto.

4. The quotas for the placing on the market or use for their own account of hydrochlorofluorocarbons by producers in the Community during the period 1 January to 31 December 1998 shall be as set out in Annex III [1].

*Article 5*

This Decision is addressed to the undertakings listed in Annex IV hereto.

Done at Brussels, 16 December 1997.

*For the Commission*

Ritt BJERREGAARD

*Member of the Commission*

[1] Annexes II and III are not published because they contain confidential commercial information.

*ANNEX Ia*

GROUP I

**Import quotas for virgin chlorofluorocarbons 11, 12, 113, 114 and 115 allocated to importers in accordance with Regulation (EC) No 3093/94 for the use as feedstock**

Company

Zeneca (UK)

GROUP IV

**Import quotas for virgin carbon tetrachloride allocated to importers in accordance with Regulation (EC) No 3093/94 for use as feedstock**

Company

AlliedSignal (NL)
SCING (GR)
Harlow (UK)
Knoll (UK)
Rhône-Poulenc (UK)

**Import quotas for virgin carbon tetrachloride allocated to importers in accordance with Regulation (EC) No 3093/94 for use as feedstock for contingency purposes**

Company

ICI (UK)

GROUP V

**Import quotas for virgin 1,1,1-trichloroethane allocated to importers in accordance with Regulation (EC) No 3093/94 for use as feedstock**

Company

Metron (D)
Metron (F)
Metron (UK)
Olin Hunt (B)

**Import quota for virgin 1,1,1-trichloroethane allocated to importers in accordance with Regulation (EC) No 3093/94 for use as feedstock for contingency purposes**

Company

Elf Atochem (F)

GROUP VI

**Import quotas for methyl bromide allocated to importers in accordance with Regulation (EC) No 3093/94 for use as soil fumigation and other uses subject to quotas**

Company

Albermarle (B)
Alfa Supplies (GR)
Agriquímicos de Levante (E)
Biochem Ibérica (P)
Bromine (UK)
Eurobrom (NL)
Great Lakes (UK)
Mebrom (B)
Neoquímica (P)

*ANNEX Ib*

**Quotas for placing on the market or use for their own account of hydrochlorofluorocarbons by producers in the Community during the period 1 January to 31 December 1998 shall be assigned to the undertakings indicated below**

| Company |
|---|
| AlliedSignal (NL) |
| Ausimont (I) |
| DuPont (NL) |
| Elf Atochem (E, F) |
| ICI (UK) |
| Rhône-Poulenc (UK) |
| Solvay (B, D, F) |
| SCING (G) |

*ANNEX IV*

AlliedSignal Fluorochemicals Europe BV
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Elf Atochem SA
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