II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

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

(notified under document number C(2002) 3029)

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

(2002/654/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] as last amended by Regulation (EC) No 2039/2000 [2], and in particular to 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 [3] which was replaced by Regulation (EC) No 2037/2000, have led, over several years, to a reduction of overall consumption of hydrochlorofluorocarbons (HCFC).

(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 market concerns the use of HCFC for the production of foams.

(4) In order to avoid placing certain producers at a disadvantage, which would occur were the allocation system based on historical market shares to be maintained after the prohibition, from 2003 onwards, of the use of HCFC for foam production, it is appropriate to provide for a new allocation mechanism for the individual quotas.

(5) For 2003 that allocation system should, for the last time, take account of recent average market shares concerning the use of HCFC for foam production and for the further twelvemonth periods be based solely on the average market shares concerning the use of HCFC for non-foam production.

(6) While it is appropriate to limit the quotas available for importers to their respective percentage share in 1999, provision should be made for an equitable allocation mechanism on case of import quotas which have not been claimed and allocated in a given year.

(7) The measures provided for in this Decision are in accordance with the opinion of the Committee established pursuant to Article 18(2) 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 for refrigeration applications of a producer in the years 1997, 1998 and 1999 as a percentage of the total market for refrigeration applications;

[1] OJ L 244, 29.9.2000, p. 1.
[2] OJ L 244, 29.9.2000, p. 26.
[3] OJ L 333, 22.12.1994, p. 1.

(b) 'Market share for foam production' means the average market share of sales 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 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)(d) and (e) 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 ([1]).

Article 3

Quotas for producers

1. For the year 2003, for each producer the quota of the calculated level of hydrochlorofluorocarbons set out in Article 4(3)(d) 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 2003;

(b) the producer's market share for foam production of the total indicative quantity assigned for foam production in 2003;

(c) the producer's market share for solvents of the total indicative quantity assigned for solvents in 2003.

2. For the years 2004 to 2007, for each producer the quota of the calculated level of hydrochlorofluorocarbons set out in Article 4(3)(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.

3. For the years 2008 and 2009, for each producer the quota of the calculated level of hydrochlorofluorocarbons set out in Article 4(3)(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)(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

This Decision is addressed to the following undertakings:

DuPont de Nemours (Nederland) BV
Baanhoekweg 22
3313 LA Dordrecht
Nederland

Atofina SA
Cours Michelet — La Défense 10
F-92091 Paris-La-Défense

Atofina España SA
Avenida de Burgos, 12-planta 7
E-28036 Madrid

Ausimont SpA
Viale Lombardia, 20
I-20021 Bollate (MI)

Honeywell Fluorine Products Europe BV
Kempenweg 90
Postbus 264
6000 AG Weert
Nederland

Ineos Fluor Ltd
PO box 13, The Heath
Runcorn WA7 4QF
United Kingdom

([1]) Annex II is not published because it contains confidential commercial information.

Rhodia Organique Fine Ltd
PO Box 46, St Andrews Road
Avonmouth
Bristol BS11 9YF
United Kingdom

Solvay Fluor und Derivate GmbH
Hans-Böckler-Allee 20
D-30173 Hannover

Solvay Électrolyse France
12, cours Albert
F-75008 Paris

Solvay Ibérica SL
Barcelona
Calle Mallorca 269
E-08008 Barcelona

Phosphoric Fertilizers Industry SA
Thessaloniki Plant
PO box 10183
GR-54110 Thessaloniki

AB Ninolab
Box 137
S-194 22 Upplands Väsby

Advanced Chemical SA
Balmes, 69 Pral 3º
E-08007 Barcelona

Alcobre SA
Luis I, Nave 6-B
Polígono Industrial Vallecas
E-28031 Madrid

Arch Chemicals NV
Keetberglaan 1A
Havennummer 1061
B-2070 Zwijndrecht

Asahi Glass Europe BV
World Trade Center
Strawinskylaan 1525
1077 XX Amsterdam
Nederland

Bayer Hispania SA
Pau Clarís 196
E-08037 Barcelona

Boucquillon NV
Nijverheidslaan 38
B-8540 Deerlijk

Calorie
503, rue Hélène-Boucher
ZI Buc
BP 33
F-78534 Buc Cedex

Caraïbes Froids SARL
BP 6033
Ste-Thérèse
4,5 km Route du Lamentin
F-97219 Fort-de-France (Martinique)

Celotex Limited
Warwick House
27/31 St Mary's Road
Ealing
London W5 5PR
United Kingdom

Efisol
14/24, rue des Agglomérés
F-92024 Nanterre Cedex

Fibran SA
6th km Thessaloniki
Oreokastro
PO box 40 306
GR-560 10 Thessaloniki

Fiocco Trade SL
Molina, 16, Pta 5
E-46006 Valencia

Galco SA
Avenue Carton de Wiart 79
B-1090 Bruxelles

Galex SA
BP 128
F-13321 Marseille Cedex 16

Gasco NV
Assenedestraat 4
B-9940 Rieme-Ertvelde

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
Pontypridd CF37 5SX
United Kingdom

H&H International Ltd
Richmond Bridge House
419 Richmond Road
Richmond
TW1 2EX
United Kingdom

ICC Chemicals (UK) Ltd
Northbridge Road
Berkhamsted HP4 1EF
United Kingdom

Kal y Sol
P.I. Can Roca
Sant Martí, s/n
E-08107 Martorelles (Barcelona)

Nagase Europe Ltd
Crown House
143 Regent Street
London
W1R 4NS
United Kingdom

Plasfi SA
Ctra Montblanc, s/n
E-43420 Sta Coloma de Queralt (Tarragona)

Polar Cool SL
Valdemorillo, 8 Polígono Industrial
Ventorro del Cano
E-28925 Alcorón

Promosol
Bld Henri Cahn
BP 27
F-94363 Bry-sur-Marne Cedex

Quimidroga SA
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
Nederland

SJB Chemical Products BV
Wellerondom 11
3230 AG Brielle
Nederland

Synthesia Española SA
Conde Borrell, 62
E-08015 Barcelona

Universal Chemistry & Technology SpA
Viale A. Filippetti, 20
I-20122 Milano

Vuoksi Yhtiö Oy
Lappeentie 12
FIN-55100 Imatra

Done at Brussels, 12 August 2002.

For the Commission
Margot WALLSTRÖM
Member of the Commission

ANNEX I

Indicative quantities assigned for 2003 and 2004 in tonnes/ozone depleting potential

Market	2003	2004
Refrigeration	1 962,88	1 862,88
Foam production	861,92	0,00
Solvents	60,00	60,00
Total	2 884,80	1 922,88