

Ozone layer protection: base year for the allocation of quotas of hydrochlorofluorocarbons (HCFCs) for the new Member States that acceded on 1 May 2004

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PURPOSE : to amend the base date in Regulation 2037/2000/EC for determining the allocation of quotas of hydrochlorofluorocarbons (HCFCs) to producers and importers in the EU-25 with respect only to the 10 new Member States that acceded on the 1 May 2004.

PROPOSED ACT : Council Regulation.

CONTENT : 1999 is the base date in Regulation 2037/2000/EC of the European Parliament and of the Council for the allocation of the placing on the market quota to importers for HCFCs.

The HCFC market in the ten new Member States has changed considerably since 1999 with the arrival of new companies and changing market shares with respect HCFCs. The application of 1999 as the base date for the allocation of HCFCs in these new Member States would result in a large number of companies not receiving an import quota. This could be considered as being arbitrary and might also result in a breach of the principles of non-discrimination and legitimate expectations.

As a general rule, quotas should be based on the most recent and representative figures available in order to ensure that a number of importing companies in the new Member States are not excluded. It is therefore appropriate to choose the years for which the most recent data are available. In order to best reflect the commercial situation on the HCFC market in the ten new Member States the average market-share of 2002 and 2003 should therefore be laid down as basis for the companies from those Member States.

According to the Commission, changing the base date from 1999 to an average of 2002 and 2003 would result in importers in the new Member States being allocated 10.35 ODP tonnes and producers being allocated 126.99 ODP tonnes compared to 5.44 ODP tonnes and 131.89 ODP tonnes respectively in 1999.