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Committee on the Environment, Public Health and Food Safety

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*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 2037/2000 of the European Parliament and of the Council, as regards the base year for the allocation of quotas of hydrochlorofluorocarbons with respect to the Member States that acceded on 1 May 2004
(COM(2004)0550 –13632/2005 - C6-0421/2005 –2004/0296 (COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Karl-Heinz Florenz

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION	5

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

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(COM (2004)0550 – 13632/2005 - C6-0421/2005 –2004/0296 (COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM (2004)0550 - 13632/2005)¹,
 - having regard to Article 251(2) and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0421/2005),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A6-0000/2006),
1. Approves the Commission proposal;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

EXPLANATORY STATEMENT

¹ Not yet published in OJ.

Background

Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer takes 1999 as the base year for allocating quotas of hydrochlorofluorocarbons (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 to HCFCs.

The base year in the Regulation should be changed for the following reasons:

- It will allow some commercial operators in the EU-10 in 2002/2003 that had not been in the market in 1999 to continue their business.
- Keeping 1999 as the base date for the allocation of HCFC quotas 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.

Commission proposal and effect of the new base year (average of 2002 and 2003)

In order to best reflect the economic situation on the HCFC market in the ten new Member States, the Commission proposes that the average market-share of 2002 and 2003 should be laid down as the basis for businesses from those Member States.

Changing the base year from 1999 to the average of 2002 and 2003 would mean that importers in the new Member States would receive an allocation of 10.35 ODP tonnes and producers would receive 126.99 ODP tonnes, as opposed to 5.44 ODP tonnes and 131.89 ODP tonnes respectively in 1999.

Changing the base date has no environmental consequences. It is purely an economic matter since the total quota for market release remains unchanged.

Legal basis - Background

On 11 August 2004, the Commission adopted a proposal pursuant to Article 57 of the Treaty of Accession 2003. Both the Legal Service and the Committee on Legal Affairs of the European Parliament were of the opinion that Article 175 of the EC Treaty would have been the proper legal basis. The Council has now reached agreement to base the proposal on Article 175(1) of the EC Treaty and this has also been accepted by the Commission.

Rapporteur's recommendation

The change to the base year has no environmental consequences and is necessary in order to

best reflect the economic situation on the HCFC market in the ten new Member States. This being so, and given that the rapporteur has not received any opinions to the contrary from the parties concerned, it is proposed that this regulation be adopted without amendment. The rapporteur also hopes that an agreement can be reached in first reading, so that the problems in the new Member States are not prolonged unnecessarily.