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Rev1

## NOTICE TO STAKEHOLDERS

### WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES ON FLUORINATED GREENHOUSE GASES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that as from 30 March 2019, 00:00h (CET) ('the withdrawal date')<sup>1</sup> the United Kingdom will be a 'third country'.<sup>2</sup>

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the uncertainties surrounding the ratification of the Withdrawal Agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to the transition period provided for in the draft Withdrawal Agreement,<sup>3</sup> as of the withdrawal date, the EU rules on fluorinated gases, and in particular, Regulation (EU) No 517/2014 of the European Parliament and of the Council of 16 April 2014 on fluorinated greenhouse gases<sup>4</sup> will no longer apply to the United Kingdom. This has in particular the following consequences:

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<sup>1</sup> In accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

<sup>2</sup> A third country is a country not member of the EU.

<sup>3</sup> Cf. Part four of the draft *Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community*, as agreed at negotiator's level on 14 November 2018 ([https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132\\_en](https://ec.europa.eu/commission/publications/draft-agreement-withdrawal-uk-eu-agreed-negotiators-level-14-november-2018-including-text-article-132_en))

<sup>4</sup> OJ L 150, 20.5.2014, p. 195.

## 1. QUOTA ALLOCATION FOR HYDROFLUOROCARBONS

According to Regulation (EU) No 517/2014, the placing on the market of hydrofluorocarbons is limited through quotas allocated by the Commission for each producer and importer in accordance with Article 16(5).<sup>5</sup>

As of the withdrawal date, hydrofluorocarbons placed on the market of the United Kingdom are no longer within the scope of Regulation (EU) No 517/2014 and do no longer count towards the quota allocated by the Commission to producers and importers.

As part of its preparedness measures, the Commission has amended UK companies' reference values to exclude the share related to the UK domestic activities.<sup>6 7</sup>

## 2. REPORTING ON FLUORINATED GASES<sup>8</sup>

According to **Article 19(1) of Regulation (EU) No 517/2014**, producers, importers and exporters of fluorinated greenhouse gases and gases listed in Annex II have to report annually, by 31 March, certain data. This obligation also applies to undertakings established in third countries and exporting fluorinated greenhouse gases and gases listed in Annex II to the EU acting through an EU-based "only representative".<sup>9</sup> As of the withdrawal date,

- undertakings established in the United Kingdom exporting fluorinated greenhouse gases and gases listed in Annex II to the EU are undertakings from a third country. As regards their trade in fluorinated gases with the Union, these undertakings will have to report the relevant data required by Regulation (EU) No 517/2014 through an EU-based only representative; and

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<sup>5</sup> The quotas for incumbent companies for the period until 31 December 2020 are calculated on the basis of reference values set in Commission Implementing Decision (EU) 2017/1984 of 24 October 2017 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values for the period 1 January 2018 to 31 December 2020 for each producer or importer which has lawfully placed on the market hydrofluorocarbons from 1 January 2015 as reported under that Regulation, OJ L 287, 4.11.2017, p. 4.

<sup>6</sup> Commission Implementing Decision (EU) 2018/2023 of 17 December 2018 on amending Commission Implementing Decision (EU) 2017/1984 determining, pursuant to Regulation (EU) No 517/2014 of the European Parliament and of the Council on fluorinated greenhouse gases, reference values as regards reference values for the period from 30 March 2019 to 31 December 2020 for producers or importers established within the United Kingdom, which have lawfully placed on the market hydrofluorocarbons from 1 January 2015, as reported under that Regulation (OJ L 323, 19.12.2018, p. 32). See also section 5 (subsection "EU climate policy") and Annex 2 of Commission Communication "Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan", COM(2018)880, 13 November 2018.

<sup>7</sup> This share was determined in a dedicated data collection exercise carried out between 18 January and 18 May 2018 with companies holding a reference value and established in the United Kingdom.

<sup>8</sup> It is recalled that, if the Withdrawal Agreement is ratified by the EU and the United Kingdom, its Article 96(3) provides that Article 19 of Regulation (EU) No 517/2014 continues to apply to and in the United Kingdom in respect of the reporting for the last year of the transition period.

<sup>9</sup> See point 4 of this notice.

- undertakings established in the EU-27 Member States have to report trade with entities in the United Kingdom as import to or export from the EU.

Regarding the 2018 reporting period, stakeholders are strongly encouraged to report before the withdrawal date.

According to **Article 19(4) of Regulation (EU) No 517/2014**, undertakings placing fluorinated greenhouse gases and gases listed in Annex II contained in products or equipment on the EU market have to report annually, by 31 March, certain data. As of the withdrawal date, undertakings established in the United Kingdom exporting such goods to the EU no longer report this data. Instead, this information will have to be reported by the EU-based importer placing the products or equipment on the market in the Union.

Regarding the 2018 reporting period, stakeholders are strongly encouraged to report before the withdrawal date.

According to **Article 19(2) and (3) of Regulation (EU) No 517/2014**, undertakings that destroyed or used a certain amount of fluorinated greenhouse gases as feedstock have to report this, annually, by 31 March, for the preceding calendar year. As of the withdrawal date, undertakings in the United Kingdom no longer have to report these activities.

Regarding the 2018 reporting period, stakeholders are strongly encouraged to report before the withdrawal date.

As part of its preparedness measures, the Commission has amended the format for reporting to ensure separate reporting of hydrofluorocarbons placed on the market in the United Kingdom and of the EU-27 market.<sup>10</sup>

### 3. VERIFICATION REPORT, ACCREDITATION OF AUDITORS

According to Article 19(6) of Regulation (EU) No 517/2014, producers, importers and exporters of fluorinated greenhouse gases shall make available verification reports, on request, to the competent authority of the Member State concerned and to the Commission. These verification reports shall be drawn up by an auditor accredited pursuant to Directive 2003/87/EC or by an auditor accredited to verify financial statements in accordance with the legislation of the concerned Member State.

In addition, according to Article 19(5) of Regulation (EU) No 517/2014, each importer of pre-charged equipment shall submit a verification document issued by accredited auditors, in accordance with Article 14 of Regulation (EU) No 517/2014.

As of the withdrawal date, accreditations by the UK National Accreditation Body will no longer be valid in the EU.

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<sup>10</sup> Commission Implementing Regulation (EU) 2018/1992 of 14 December 2018 amending Implementing Regulation (EU) No 1191/2014 as regards the reporting of data referred to in Article 19 of Regulation (EU) No 517/2014 in respect of hydrofluorocarbons placed on the market in the United Kingdom and in the Union of 27 Member States, OJ L 320, 17.12.2018, p. 25.

As a consequence, as of the withdrawal date, auditors accredited by the UK National Accreditation Body can no longer draw up verification reports for submission according to Article 19(5) and (6) of Regulation (EU) No 517/2014.

#### **4. "ONLY REPRESENTATIVE" IN CASE OF IMPORTS**

According to Article 16(5) of Regulation (EU) No 517/2014, the placing on the market of hydrofluorocarbons in the EU by a non-EU company requires an "only representative" established in the EU.

As of the withdrawal date, hydrofluorocarbons imported from the United Kingdom into the EU-27 by a company established in the United Kingdom require that an "only representative" established in the EU-27 is mandated.

As of the withdrawal date, representatives established in the United Kingdom are no longer considered as "only representatives" for the purpose of imports of hydrofluorocarbons into the EU-27 from third countries.

#### **5. CERTIFIED PERSONS AND UNDERTAKINGS**

According to Article 4(1) and (2) of Regulation (EU) No 517/2014, operators of certain equipment that contains fluorinated greenhouse gases shall ensure that this equipment is checked for leaks. According to the second subparagraph of Article 4(2), certain of these checks have to be carried out by certified persons.

According to Article 8(1) of Regulation (EU) No 517/2014, operators of certain stationary equipment or refrigeration units shall ensure the recovery of fluorinated greenhouse gases is carried out by natural persons holding a certificate.

According to Article 8(3) of Regulation (EU) No 517/2014, the recovery of fluorinated greenhouse gases from air-conditioning equipment in road vehicles falling within the scope of Directive 2006/40/EC shall be carried out by persons with a training attestation.

Pursuant to Article 10 of Regulation (EU) No 517/2014, EU Member States have to establish:

- certification programmes for undertakings carrying out installation, servicing, maintenance, repair or decommissioning of the equipment listed in points (a) to (d) of Article 4(2) for other parties;
- certification programmes for natural persons carrying out those activities; and
- training programmes for natural persons recovering fluorinated greenhouse gases from air-conditioning equipment in motor vehicles falling within the scope of Directive 2006/40/EC.

According to the second subparagraph of Article 10(10), the certificates and training attestations issued in one Member State are mutually recognised for activities carried out in other EU Member States.

As of the withdrawal date, certificates and training attestations issued in the United Kingdom are no longer recognised for activities carried out in the EU-27.

The website of the Commission on the fluorinated gases ([https://ec.europa.eu/clima/policies/f-gas\\_en](https://ec.europa.eu/clima/policies/f-gas_en)) provides general information in this regard. These pages will be updated with further information, where necessary.

European Commission  
Directorate-General Climate Action