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Means of transport under Regulation (EC) No 1005/2009

Frequently asked questions

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Important note:

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1. INTRODUCTION

Under Regulation (EC) No 1005/2009 ("the Regulation") the import and export of ozone-depleting substances (ODS) as well as products and equipment containing or relying on ODS are subject to licensing. Furthermore, the placing on the market of such goods is restricted. These obligations also apply to means of transport such as aircraft, vessels, road vehicles or refrigerated containers which include products or equipment containing or relying on ODS.

This document provides answers to frequently asked questions when applying the requirements of the Regulation to means of transport.

Given that any other use is prohibited by the Regulation, this document only covers following applications

- The use of HCFC to supply and service refrigeration equipment on board of non-EU flagged ships and refrigerated containers and the removal of ODS from such equipment for later destruction
- The use of halon or products and equipment containing or relying on halons to supply and service means of transport such as aircraft, military ships or tanks
- The import or export of HCFC and halon and of means of transport containing or relying on halon

For simplicity in this document the term EU is used to identify the customs territory of the Union as specified in Articles 3(18) and 3(19) of the Regulation. Different rules may apply for cases where territories are part of the EU but not of its customs territory and vice versa.

This document does not provide any information about the licence application process itself. Please consult the available documentation in our CIRCA online forum¹.

2. DEFINITIONS

2.1. Servicing

For the purpose of this document servicing means the use of ODS (e.g. for maintenance, refilling) by a person on a means of transport where the person is employed by the company supplying the ODS and is not part of the crew operating the means of transport and where:

- (1) an EU flagged means of transport is located inside the EU, or

¹ http://circa.europa.eu/Public/irc/env/review_2037/library

- (2) an EU flagged means of transport is located outside the EU under a transit, transshipment or temporary admission procedure, or
- (3) a non-EU flagged means of transport is located inside the EU under a transit, transshipment or temporary admission procedure.

Example: A technician employed by a German servicing company refills the refrigeration equipment on-board of a ship that is flagged to Panama and currently in a port in Poland under temporary admission.

2.2. Supply

For the purpose of this document supply means the delivery of HCFC or halon to a means of transport in the cases listed below while no servicing (e.g. maintenance, refilling) or major repair takes place by the company delivering the ODS or any other EU based company.

- (1) The delivery of HCFC to an EU flagged means of transport currently located in the EU, or
- (2) the delivery of HCFC to a non-EU flagged means of transport currently located in the EU under a transit, transshipment or temporary admission procedure, or
- (3) the delivery of halon or products and equipment containing or relying on halon to a non-EU flagged means of transport currently located in the EU under a transit, transshipment or temporary admission procedure, or
- (4) the delivery of HCFC to an EU flagged means of transport currently located outside the EU under a transit, transshipment or temporary admission procedure², or
- (5) the delivery of halon or products and equipment containing or relying on halon to an EU flagged means of transport currently located outside the EU under a transit, transshipment or temporary admission procedure,

Example: A Dutch company delivers HCFC to a ship that is flagged to Belize and currently in a port in Germany under temporary admission. However, the delivering company does not execute any kind of work on the ship.

Note: the supply of products and equipment containing or relying on ODS other than those containing or relying on halons for critical uses is prohibited. This also covers for example spare parts for refrigeration equipment that is controlled by the Regulation.

2.3. Removal / Import for later destruction

For the purpose of this document removal from a means of transport refers to any movement of ODS or equipment containing or relying on ODS from the means of transport into the EU for later destruction in the EU.

² This scenario would actually be prohibited (see question 4.2)

2.4. Major repair (including overhaul or maintenance)

For the purpose of this document the term major repair refers to cases in which the means of transport is imported or exported under a re-export procedure such as inward or outward processing before maintenance or other work is executed on the means of transport.

2.5. EU flagged means of transport

For the purpose of this document an EU flagged means of transport is a means of transport which is flagged to a Member State of the European Union or to a territory of an EU Member State where the territory is part of the Union's customs territory.

Examples: An aircraft flagged to Germany, a truck with a Danish licence plate, a ship sailing under the flag of Guadeloupe

A means of transport that is flagged to a territory of an EU Member State where the territory is not part of the Union's customs territory are not considered EU flagged. Such territories are for example Bermuda and Faroe Islands.

A list of territories of EU Member States and their relation to the customs territory is available in our CIRCA online forum for ODS licensing¹.

2.6. Goods

For the purpose of this document the term "goods" or "controlled goods" refers to ozone-depleting substances and products and equipment containing or relying on ozone-depleting substances as covered by the Regulation. The term "uncontrolled goods" refers to any other commodity that is not covered by the Regulation

3. GENERAL ISSUES FOR ALL MEANS OF TRANSPORT

3.1. Can I import or export means of transport?

Means of transport containing or relying on halon and that are covered by Annex VI of the Regulation can be imported and exported

Examples: civil aircraft, military ships

EU flagged means of transport containing or relying on HCFC cannot be exported. However, Article 17(3) provides for the possibility to request an exemption under certain conditions.

Non-EU flagged means of transport containing or relying on HCFC cannot be imported

Means of transport containing or relying on any other ODS than halon or HCFC cannot be imported or exported except for destruction, transit, trans-shipment or under a temporary admission procedure.

Note: The prohibition to export includes re-flagging of ships and the export of ships for dismantling

3.2. Do I need a licence for means of transport that enter and exit the EU unchanged?

Means of transport containing or relying on ODS or that have ODS on board entering and leaving the EU again without any supply, removal, servicing or major repair do not require a licence if:

- (1) The means of transport enters the EU under a transit, transshipment or temporary admission procedure, and
- (2) The means of transport remains in the EU for no longer than 45 days

Examples: A scheduled passenger flight, a truck delivering uncontrolled goods, a ship passing through territorial waters of the EU but not calling an EU port.

Note: means of transport entering under other customs procedures such as inward processing are subject to licensing.

3.3. Do I need a licence for means of transport imported for major repair that does not concern the ODS equipment?

Yes, usually a licence will be required. Non EU flagged means of transport that come into the EU for maintenance, repair, overhaul or similar activities are usually imported under the inward processing procedure. This procedure does not benefit from the exemption that applies to transit, transshipment or the temporary admission procedure regardless whether or not during the stay in the EU work is executed on the product or equipment containing or relying on ODS that is on the means of transport.

Note: the import and export of products and equipment containing or relying on CFC or HCFC is prohibited except for their destruction.

3.4. What rules apply to EU flagged means of transport?

Regulation (EC) No 1005/2009 is fully applicable to all EU flagged means of transport, whether or not they are located in the EU.

4. QUESTIONS RELATED TO SHIPS

4.1. Can I get HCFC in European ports?

Yes. Reclaimed HCFC for servicing can be obtained from any supplier in the EU until 31 December 2014. Containers with reclaimed HCFC must be labelled accordingly and thus be identified easily.

Virgin HCFC for supply of non EU flagged ships can be obtained only from producers or re-packagers until 31 December 2019.

4.1. Can I get halon fire extinguishers for non-military ships in European ports?

No. The use of halon and equipment containing or relying on halons on board of non-military ships is prohibited in the European Union. Also the placing on the market or export for these purposes is prohibited. Thus in EU ports you will not be able to purchase any halon, halon based fire extinguisher or spare parts for such uses for use on board non-military ships.

4.2. Can I service/supply an EU flagged ship?

For the servicing and supply of EU flagged ships in the EU the same rules apply as for a land based company in the EU. Servicing is only permitted until 31 December 2014 and only non-virgin HCFC may be used. Import or export licenses are not required.

If servicing of an EU flagged ship takes place in a non EU port, no import license is required because servicing is considered as consumption by the country in which the port is located. However, only non-virgin HCFC may be used and the servicing is only permitted until 31 December 2014.

The supply (without servicing) of HCFC to an EU flagged ship in a non EU port is prohibited because this would constitute an import into the EU. However, imports of HCFC for servicing are prohibited under the Regulation.

4.3. Can I service a non-EU flagged ship in an EU port?

Servicing of non EU flagged ships remains possible until 31 December 2014. The same rules apply as for servicing any fixed installation within the EU. Only non-virgin HCFC may be used.

If the servicing involves the recovery of an ODS refrigerant that is removed off board, an import license for destruction will be required.

4.4. Can I supply HCFC to a non EU flagged ship in an EU port?

Exports of HCFC remain possible until 31 December 2019. The same rules apply as for any other export of HCFC.

5. QUESTIONS RELATED TO AIRCRAFT

5.1. Can I get halon fire extinguishers at EU airports?

Yes, halons can still be placed on the market but only if they are used for one of the uses covered by Annex VI to the Regulation and until the deadline indicated.

5.2. Can I use portable extinguishers using a mix of halon 1211 and halon 1301?

No. The use of halon 1301 in portable extinguishers is not permitted by Annex VI to the Regulation.

5.3. Can I service/supply an EU flagged aircraft?

Yes. For the servicing and supply of EU flagged aircraft in the EU the same rules apply as for any other land based company in the EU. Servicing and supply is only permitted for uses covered by Annex VI and until the indicated deadlines. Import or export licenses are not required.

If servicing takes place outside the EU, no import license is required because servicing is considered as consumption by the country in which the port is located. Servicing is only permitted for uses covered by Annex VI until the indicated deadlines.

Example: exchange of fire-extinguishers undertaken by a person employed by a company in the non-EU country and other than the crew of the aircraft

The supply (without servicing) of halon or products and equipment containing or relying on halons to an EU flagged aircraft outside the EU is only permitted for the uses covered by Annex VI and until the indicated deadlines. An import licence would be required.

5.4. Can I service a non-EU flagged aircraft in the EU?

Yes, the same rules apply as for servicing an EU flagged aircraft.

5.5. Can I supply a non EU flagged aircraft in the EU?

Yes, the same rules apply as for supplies to an EU flagged aircraft. However, an export licence would be required.

6. OTHER QUESTIONS

6.1. What rules apply to containers refrigerated with HCFC?

Usually the same rules apply as indicated above for ships.

6.2. Who can I contact if I have more questions?

For any remaining questions, the Competent Authority in the Member State concerned or the European Commission should be contacted. Up to date contact information is available in our CIRCA online forum.

ⁱ http://circa.europa.eu/Public/irc/env/review_2037/library