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NOTE

From: General Secretariat of the Council
To: Delegations
Subject: Better enforcement of the EU phase-down for hydrofluorocarbons
– Information from the Commission

Delegations will find in the Annex an information note from the Commission on the above subject, to be dealt with under 'Any other business' at the Council (Environment) meeting on 5 March 2019.

Better enforcement of the EU phase-down for hydrofluorocarbons**- Information from the Commission -**

Since 2015, Regulation (EU) No 517/2014 requires a gradual reduction on the placing on the EU market of hydrofluorocarbons, the so-called EU HFC phase-down. This mechanism has been very successful; the climate impact of the HFCs sold on the Union market has already been reduced by almost half and, according to industry sources, the shift to more-climate friendly alternatives in various kinds of equipment has been more accelerated than expected. Moreover, the early start of the EU HFC phase-down contributed to reaching a global agreement in 2016 on the Kigali Amendment to the Montreal Protocol on substances that deplete the ozone layer.

While the price increase of HFCs resulting from the market shortage created by the phase-down has driven the success, it has also strengthened the incentive for illegal EU imports of HFCs outside the quota system. Members of the European Parliament and industry are raising concerns, alleging that substantial amounts of HFCs are being imported illegally into the Union jeopardising the phase-down's environmental integrity and hindering fair competition. While the extent of the problem can only be assessed after 31 March 2019, when undertakings have reported their imports for 2018, the Commission is monitoring this issue very closely and is encouraging all Member States to take targeted action against illegal trade.

In parallel, the Commission is taking all possible measures in order to ensure the correct implementation of the Regulation. In particular, the Commission requests Member States to investigate possible cases of illegal trade and impose penalties where needed, as required under the Regulation. To identify possible offenders, the Commission also asked Member States for their assistance in comparing customs' surveillance data with data reported under the Regulation. Furthermore, the Commission is providing guidance on how customs can play a role in the enforcement of the Regulation and is facilitating the sharing of best practices across the Union. The Commission is also creating an IT application to be made available to Member States custom authorities by 2020 giving possible automatic alerts on potential illegal trade cases. While the EU acquis does not specifically require custom authorities to carry out market surveillance tasks with regards to the placing on the market of HFCs, the Commission considers that the illegal import of HFCs can only be efficiently tackled if custom authorities are involved.

Given the importance of sustaining the achievements of the EU HFC phase-down and the obligation on Member States to enforce the EU acquis, the Commission will not hesitate to open infringement procedures in cases where lack of enforcement appears to threaten the success of this policy.

The Regulation has been instrumental in the fight against climate change. It is crucial to ensure that it reaches its full potential. Member States are encouraged to take all possible measures to fully enforce the Regulation. Cooperation at national level across competent authorities is strongly encouraged.