

COMMISSION DECISION

of 23 August 2005

determining the quantities of methyl bromide permitted to be used for critical uses in the European Community from 1 January to 31 December 2005 pursuant to Regulation (EC) No 2037/2000 of the European Parliament and of the Council on substances that deplete the ozone layer

(notified under document number C(2005) 468)

(Only the Dutch, English, French, German, Greek, Italian, Polish, Portuguese and Spanish texts are authentic)

(2005/625/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 2037/2000 of the European Parliament and of the Council of 29 June 2000 on substances that deplete the ozone layer⁽¹⁾, and in particular Article 3(2)(ii) thereof,

Whereas:

- (1) Articles 3(2)(i)(d) and 4(2)(i)(d) of Regulation (EC) No 2037/2000 prohibit the production and import respectively of methyl bromide for all uses after 31 December 2004 except, among others, for critical uses in accordance with Article 3(2)(ii) and the criteria set out in Decision IX/6 of the Parties to the Montreal Protocol. Exemptions for critical uses are intended to be limited derogations to allow a short period of time for the adoption of alternatives.
- (2) Decision IX/6 states that methyl bromide should qualify as 'critical' only if the applicant determines that the lack of availability of methyl bromide for that specific use would result in a significant market disruption; and that there are no technically and economically feasible alternatives or substitutes available to the user that are acceptable from the standpoint of environment and health and are suitable to the crops and circumstances of the nomination. Furthermore, the production and consumption, if any, of methyl bromide for critical uses should be permitted only if all technically and economically feasible steps have been taken to minimise the critical use and any associated emission of methyl bromide. An applicant should also demonstrate that an appropriate effort is being made to evaluate, commercialise and secure national regulatory approval of alternatives and substitutes; and that research programmes are in place to develop and deploy alternatives and substitutes.

- (3) The Commission received 84 proposals for critical uses of methyl bromide from 10 Member States including Belgium (60 825 kg), France (467 135 kg), Germany (45 250 kg), Greece (227 280 kg), Italy (2 298 225 kg), Poland (44 100 kg), Portugal (130 000 kg), Spain (1 059 000 kg), the Netherlands (120 kg) and the United Kingdom (140 408 kg). A total of 4 472 343 kg was requested, comprising 4 111 640 kg (92 %) for pre-harvest uses and 360 703 kg (8 %) for post-harvest uses of methyl bromide.
- (4) The Commission applied the criteria contained within Decision IX/6 and Article 3(2)(ii) of Regulation (EC) No 2037/2000 in order to determine the amount of methyl bromide that is eligible to be licensed for critical uses in 2005. The Commission found that adequate alternatives were available in the Community and had become more prevalent in many Parties to the Montreal Protocol in the period since the critical use proposals were compiled by Member States. As a result, the Commission determined that 2 777 333 kg of methyl bromide can be used in 2005 to satisfy critical uses in each of these Member States. This amount equates to 14,4 % of 1991 consumption of methyl bromide in the European Community and indicates that more than 85 % of the methyl bromide has been replaced by alternatives. The critical-use categories are similar to those defined in Annex II Table A of the reports of the First Extraordinary Meeting of the Parties to the Montreal Protocol⁽²⁾, and in Table 1A of Decision XVI/2 at the Sixteenth Meeting of the Parties to the Montreal Protocol⁽³⁾.
- (5) Article 3(2)(ii) of Regulation (EC) No 2037/2000 requires the Commission to also determine which users may take advantage of the critical use exemption. As Article 17(2) of Regulation (EC) No 2037/2000 requires Member States to define the minimum qualification requirements for personnel involved in the application of methyl bromide, and as fumigation is the only use, the Commission determined that methyl bromide fumigators are the only users proposed by the Member State and authorised by the Commission to use methyl bromide for critical uses. Fumigators are qualified to apply it safely,

⁽¹⁾ OJ L 244, 29.9.2000, p. 1. Regulation as last amended by Commission Regulation (EC) No 2077/2004 (OJ L 359, 4.12.2004, p. 28).

⁽²⁾ UNEP/OzL.Pro.ExMP/1/3. First Extraordinary Meeting of the Parties to the Montreal Protocol, held 24-26 March 2004 in Montreal, Canada. www.unep.org/ozone/Meeting_Documents/mop/index.asp

⁽³⁾ UNEP/OzL.Pro.16/Dec XVI/2. Sixteenth Meeting of the Parties to the Montreal Protocol, held 22-26 November 2004 in Prague, Czech Republic. www.unep.org/ozone

rather than for example farmers or mill owners that are generally not qualified to apply methyl bromide but who own properties on which it will be applied.

- (6) Decision IX/6 states that production and consumption of methyl bromide for critical uses should be permitted only if methyl bromide is not available from existing stocks of banked or recycled methyl bromide. Article 3(2)(ii) of Regulation (EC) No 2037/2000 states that production and importation of methyl bromide shall be allowed only if no recycled or reclaimed methyl bromide is available from any of the Parties. In accordance with Decision IX/6 and Article 3(2)(ii) of Regulation (EC) No 2037/2000, the Commission determined that 205 926 kg of stocks are available for critical uses. The European Commission has put in place licensing procedures to ensure stocks are used before methyl bromide is authorised for importation or production.
- (7) As critical uses of methyl bromide apply from 1 January 2005, and for the purpose of ensuring that interested companies and operators may benefit from the licensing system, it is appropriate that this present decision shall apply from that date.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Committee established by Article 18 of Regulation (EC) No 2037/2000,

the Italian Republic, the Kingdom of The Netherlands, the Republic of Poland, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland shall be permitted to use a total of 2 777 333 kg of methyl bromide for critical uses from 1 January to 31 December 2005 for the specific quantities and categories of use described in Annexes I to X.

Article 2

Stocks declared available for critical uses by the competent authority of each Member State shall be deducted from the amount that can be imported or produced to satisfy critical uses in that Member State.

Article 3

This Decision is addressed to the Kingdom of Belgium, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, the Italian Republic, Kingdom of the Netherlands, the Republic of Poland, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Article 4

This Decision shall apply from 1 January 2005 and shall expire on 31 December 2005.

HAS ADOPTED THIS DECISION:

Done at Brussels, 23 August 2005.

Article 1

The Kingdom of Belgium, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic,

For the Commission

Stavros DIMAS

Member of the Commission

ANNEX I

KINGDOM OF BELGIUM

Categories of permitted critical uses	Kg
Greenhouse soil-bound lettuce cultivation	23 000
Endive cultivation	2 190
Greenhouse soil-bound tomato cultivation	4 846
Greenhouse soil-bound pepper and eggplant cultivation	3 000
Greenhouse soil-bound cucumber cultivation	549
Open-field white asparagus cultivation	225
Strawberry runner cultivation	2 306
Berryfruit (all except strawberry, replant)	1 350
Open-field, soil-bound leek and onion seeding fields only	660
Cut-flowers protected (except rose and chrysanthemum)	2 794
Protected, cut-flower chrysanthemum cultivation	896
Open-field, soil-bound nursery stock cultivation	630
Open-field, soil-bound tree nursery	230
Flour mills (17 mills)	4 264
Immovable antique structures and furniture (Axel Vervoort; Gemeentebestuur Bonheiden)	199
Old buildings (classified monuments and private houses)	438
Structures and objects (churches, houses, food processing structures) excluding moveable objects	307
Old buildings (ancient objects, roof structures and fixed furniture in historical constructions — Prohygiëna enterprise)	282
Woodworking premises (six premises)	101
Food processing premises (21 facilities)	300
Mills (25 mills)	200
Flour mill (Bloemmolens Diksmuide)	72
Food storage (dry), structure (17 facilities)	120
Sensitive electronic equipment	50
Empty silos (owned by 37 enterprises)	43
Food processing premises (one mill — Molens Vandenbempt)	15
Churches, monuments and ships' quarters (Bugbusters)	59
Total	49 126

Stocks of methyl bromide available for critical uses in the Member State = 2 848 kg.

ANNEX II

FRENCH REPUBLIC

Categories of permitted critical uses	Kg
Tomato and eggplant (protected and open field)	33 250
Cucumber (protected and open field)	21 140
Specialist sandy-soil carrots (grown in Brittany, harvested by hand and susceptible to <i>Fusarium solani</i> and <i>Rhizoctonia violacea</i>)	8 000
Strawberry runners	37 600
Strawberry fruit produced for the Perigord label	34 000
Ranunculus, anemone, paeonia and lily-of-the-valley open-field	21 785
Replant in apple, pear, peach, nectarine, apricot, plum and raspberry	10 000
Forest tree nursery — Douglas fir trees for truffle production	2 000
Orchard nursery	2 000
Seeds sold by PLAN-SPG company	135
Mills	21 440
Rice end-of-line rapid disinfestation	1 400
Chestnuts	2 000
Total	194 750

Stocks of methyl bromide available for critical uses in the Member State = 14 280 kg.

ANNEX III

FEDERAL REPUBLIC OF GERMANY

Categories of permitted critical uses	Kg
Food processing structures, especially mills, with fumigation sites larger than 10 000 m ³	19 350
Artefacts (Disinfestation of <i>Serpula lacrimans</i> dry-rot fungus in churches)	250
Total	19 600

Stocks of methyl bromide available for critical uses in the Member State = 7 000 kg.

ANNEX IV

HELLENIC REPUBLIC

Categories of permitted critical uses	Kg
Tomato (protected)	92 000
Cucumber (protected including tunnels added after treatment, permanent glasshouses and open-ended polyhouses)	24 000
Carnation, rose and gypsophila cut-flowers (open-field and protected)	8 000
Mills, food processing structures, processors	16 000
Raisin and dried figs	3 081
Total	143 081

Stocks of methyl bromide available for critical uses in the Member State = 0 kg.

ANNEX V

ITALIAN REPUBLIC

Categories of permitted critical uses	Kg
Tomato (protected)	671 000
Cut-flowers (protected)	162 000
Strawberry fruit (protected)	130 000
Melon (protected)	112 000
Pepper (protected)	111 000
Eggplant (protected)	96 000
Strawberry runners	78 000
Mills and processors	89 600
Museum artefacts	4 180
Total	1 453 780

Stocks of methyl bromide available for critical uses in the Member State = 167 474 kg.

ANNEX VI

REPUBLIC OF POLAND

Categories of permitted critical uses	Kg
Medicinal herbs and dried mushrooms as dry commodities	3 500
Strawberry runners	34 600
Total	38 100

Stocks of methyl bromide available for critical uses in the Member State = 210 kg.

ANNEX VII

PORTUGUESE REPUBLIC

Categories of permitted critical uses	Kg
Cut-flowers (protected and open-field)	35 000
Total	35 000

Stocks of methyl bromide available for this critical use in the Member State = 0 kg.

ANNEX VIII

KINGDOM OF SPAIN

Categories of permitted critical uses	Kg
Strawberry runners (in Castilla y León)	230 000
Strawberry fruit (protected, in Huelva)	330 000
Peppers (protected, in Murcia and south of Comunidad Valenciana)	150 000
Cut-flowers (protected, in Cadiz and Sevilla)	47 700
Cut-flowers in Cataluña	18 000
Total	775 700

Stocks of methyl bromide available for critical uses in the Member State = 8 309 kg.

ANNEX IX

KINGDOM OF THE NETHERLANDS

Categories of permitted critical uses	Kg
Post-harvest disinfestation of strawberry runners	120
Total	120

Stocks of methyl bromide available for this critical use in the Member State = 250 kg.

ANNEX X

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

Categories of permitted critical uses	Kg
Strawberry fruit and raspberry (open field)	35 700
Ornamental tree production for control of <i>Verticillium</i> wilt	5 000
Mills (46); and wheat, maize and rice buildings operated by Quaker Oats, Kelloggs, Weetabix Ltd, Ryecroft and EOM	18 326
Dried commodities (nuts, dried fruit, rice, beans, cereal grains, edible seeds) for Whitworths Ltd	1 571
Mill, associated biscuit food processing, finished product and storage areas operated by Ryvita Company Ltd (Dorset)	1 787
Structures — facilities and equipment, processing and storage operated by Whitworths Ltd	880
Structures — spices building operated by Newly Weds Foods Ltd	1 125
Processing plants operated by Warehouse and Spice Grinding Facility (Pataks Foods Ltd)	1 000
Processing plants associated with herbs and spices operated by British Pepper and Spice Ltd, Lion Foods, and East Anglian Food Ingredients	1 080
Specialised cheese stores	1 561
Occasionally-infested spice products (including pappadams) processed by McCormick (UK) Ltd, British Pepper and Spice Ltd, East Anglian Food Ingredients and Pataks Foods Ltd	46
Total	68 076

Stocks of methyl bromide available for critical uses in the Member State = 6 554 kg.