

Questions and Answers on Illegal Imports of HFCs

GENERAL HFCs & ILLEGAL TRADE

1. What are HFCs?

HFCs or hydrofluorocarbons, are greenhouse gases, manufactured for use in refrigeration, air conditioning, foam blowing, aerosols, fire protection and solvents. HFCs unlike most other greenhouse gases are not waste products but are intentionally produced. HFCs were developed as alternatives to ozone depleting substances that are being phased-out under the Montreal Protocol.

Hydrofluorocarbons are organic compounds that contain fluorine and hydrogen atoms and are the most common type of organofluorine compounds. They do not harm the ozone layer as much as the compounds they replace

2. What is Illegal trade of HFCs? And why now?

The European Union revised its F-Gas Regulation in 2014 to phase down hydrofluorocarbons (HFCs), a family of synthetic chemicals hundreds to thousands of times more potent than carbon dioxide and commonly used in refrigeration, air conditioning, fire protection, aerosols and foams. As supplies shrink and prices rise under the EU's HFC quotas, illegal trade has soared to meet demand, with non-quota HFCs entering the EU directly from China or via Russia, Ukraine, Turkey and Albania.

3. Are consumer products containing these illegal HFCs dangerous (health and safety)?

Illegally imported refrigerant can present a major risk for the health and safety of installers and users and for the reliability of equipment. In case of accidents which may result from the use of unknown substances contained in illegally imported containers or cylinders, installers will ultimately be responsible.

4. Where are illegals coming from?

Mainly from China.

5. How are they coming into the EU?

Complex shipping routes, passing through transit ports and free-trade zones where customs procedures may be more relaxed.

6. Which are the main countries where illegal traffic is taking place?

Bulgaria, Croatia, Denmark, Greece, Italy, Latvia and Poland

7. Is there Online traffic taking place on the internet platforms? Can the cyber police fight against it?

Online platforms such as eBay or Amazon are a popular way of selling illegal HFCs. These communication channels easily connect sellers and buyers. Enforcement protocols have been agreed in order to disrupt and take down suspicious adverts.

8. Are there statistics of the amount of illegal imports circulating in Europe?

The EIA report [Doors Wide Open: Europe's flourishing illegal trade in hydrofluorocarbons \(HFCs\)](#) provides comprehensive research into the illegal HFC trade with non-quota HFCs entering the EU directly from China or via Russia, Ukraine, Turkey and Albania. Key EU entry points and hotspots for illegal trade are thought to be Bulgaria, Croatia, Denmark, Greece, Italy, Latvia, Poland and Malta. EIA's analysis of European customs data indicates that bulk HFC imports in 2018 were too high for compliance with the 2018 quota at 16.3 MtCO₂e above the available quota. In addition, there is clearly some level of cross-border smuggling of HFCs which is under the radar of customs authorities. There are significant discrepancies between Chinese export and European import data that could indicate fraudulent import declarations.

This report complements the work that is being carried out by EFCTC in raising awareness of this issue and its consequences, and the level of illegal trade is consistent with previously reported estimates – see [EFCTC March 2019 Newsletter item](#).

The EIA's analysis of customs data for 2018 suggests as much as 16.3 MtCO₂e bulk HFCs were illegally placed on the market, equivalent to more than 16% of the quota. Previous reports by the refrigerant manufacturers put the illegal import figure at around 22.5MtCO₂e.

The environmental group also compared 2017 customs data to figures reported under the F-gas regulation. The customs data indicates an additional 14.8 MtCO₂e of HFCs placed on the European market compared to reported data, equivalent to 8.7 per cent of the 2017 quota. Significant discrepancies are also said to exist between Chinese export figures and Europe's import data, which could indicate fraudulent import declarations.

9. How do you define 'illegal'? in A: refer to F-Gas Regulation - difference between smuggling, illicit, counterfeit.

Counterfeit: Make an imitation of something else.

Smuggling: to import or export secretly contrary to the law and especially without paying duties imposed by law.

Illicit: Not permitted. Unlawful.

10. What are the local authorities doing to stop illegal trade?

EFCTC has established a proactive collaboration with Member states in order to raise the awareness and support implementation and enforcement of the F-gas Regulation and ADR Regulation.

EFCTC is also in contact with some European Commission bodies, DG Clima, DG Envi, DG TAXUD and DG MOVE, who are regularly updated on the Illegal import developments.

11. What are the sanctions in case of illegal imports of fluorocarbons? - Are the sanctions equal in each European country?

Penalties re put in place and implemented by individual Member States for infringements of this Regulation. According to the F-Gases Regulation, they must be notified by the Member States to the Commission by 1 January 2017 at the latest and shall notify it without delay of any subsequent amendment affecting them. EFCTC is working on promoting and improve the enforcement of the F-

gas Regulation, particularly at the EU border level. Member states are requested to prosecute and apply sufficiently high penalties.

12. What is the European Commission doing to fight these imports?

The European Commission informed EFCTC that it is taking the matter of illegal trade very seriously. Amongst other initiatives it indicated that an electronic system is being set up allowing automatic checks of incoming shipments, the identity and registration status of shipping companies as well as their allocated quota. According to the Commission, the system developed under the “Single Window for Customs Initiative” should become available in 2020.

13. How can EU’s F-Gas Regulation control illegals?

The F-gases regulation should be improved in several ways:

Cylinders:

Cylinders need to bear the following stamps and information:

- Labelled with the Pi (n) stamp
- EN 13322-1: compliance with standard of design and construction
- TPED approval
- Year and month of production
- Cylinders need to be maintained/inspected after 10 years. The year of end of service must be marked on the cylinder

Documentation:

Any refrigerant delivery needs to be accompanied by the relevant Safety Data Sheet (SDS) issued by the gas producer/or supplier. Besides many other criteria, the SDS needs to contain the following mandatory information:

- Issued by the gas producer in your national language
- Clear indication of CAS number
- Clear indication of CE registration
- Clear indication of the producer including address and emergency number

Labelling:

All refrigerant cylinders need to be clearly labelled:

- Clear indication of the producer
- Safety indication in your national language
- ADR Transport Symbol and UN number

14. Why isn’t it working, then?

Control of HFC trade at the customs level:

The lack of customs control is of particular concern given the influx of new companies reporting on F-gas activity since the F-gas Regulation began. The current system is not sufficient enough to confirm the legitimacy of new entrants and to prevent them from importing in excess of quota. Companies can simply shut down to avoid repercussions or mis-declare data to the HFC Registry.

HFC licensing:

While a licensing system for ODS exists, the EU does not have an HFC licensing system, based on an early decision made by the Commission not to incorporate one in the revised F-gas Regulation.

Non-refillable containers:

The F-gas Regulation defines a non-refillable container as “a container which cannot be refilled without being adapted for that purpose or is placed on the market without provision having been made for its return for refilling.”⁶⁴ This definition, which was not included in the EU ODS Regulation, therefore creates an exception for disposable containers where “provision ha[s] been made for its return for refilling.” It complicates enforcement since it is not clear what evidentiary requirements one must meet to show provision has been made for its return for refilling and no guidance has been forthcoming from the Commission.

Penalties

The main aim of penalties is to punish non-compliant behaviours. The penalties are being enforced across the European Countries and are directly applied by the Member States. There are various levels of fines that can be applied depending on the illicit action and member State. EFCTC ask the competent authorities to increase penalties and adopt the same level of severity in all EU countries.

Issues with the confiscated material

EFCTC has identified options that the authorities in the Member States have in respect of the treatment and disposal of Hydrofluorocarbons (HFCs) that have been confiscated for non-compliance with the EU F-Gas regulation (517/2014)¹, the Dangerous Goods Transportation rules (2008/65/EC)², or the EU Customs code.

- Destruction of the material
- Auctioning the Material to legitimate Quota Holders
- Return material to Country of Origin
- Additional penalties in case of non-compliance REACH registration
- Penalties/sanctions for status of non-compliance

EFCTC strongly believes that destruction (incineration) is the most desirable option. It provides a clear signal to the market that non-compliant product will not be tolerated and that offenders must carry the associated cost. In practice, it is well possible that the offending undertaking will be unable to cover the associated costs.

15. What are the consequences of the Illegal Trade of Fluorocarbons? Are they economic? What about the impact on Health and Security of the consumers? (Also refer to the unreliable quality of the products)

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32014R0517>

² <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32006L0126>

Environment:

Continued availability of HFCs outside the HFC phase-down schedule will hinder the uptake of climate-friendly technologies and
Illegal trade undermines the F-Gas Regulation's aim to phase down HFCs. Risks such as refrigerant leakage into the atmosphere increase even further with the use of inadequate cylinders, or illegal disposable cylinders which are not allowed to be produced/used in the EU according to regulations. Illegal trade will ultimately threaten the success of the F-gas Regulation and the EU's climate goals.

Safety:

Refrigerants fall under "dangerous substances" and need to be handled with care, even more so with the increased use of flammable and high-pressure gases. Refrigerants that do not comply with the gas producers' specifications or with the content indicated on the cylinders can pose a serious risk for the health and safety of installers and users.

Economy:

Illegal trade of HFCs undermines the F-gas Regulation, results in additional HFC emissions that fuel global warming and significantly reduces government income (there is an and seriously impact on tax revenue generated by Member States, as illegal imports will not be subject to applicable taxes) and the profits of legitimate businesses.

16. What can a European citizen do against Illegal imports of fluorocarbons?

European citizens are also the end-users of the devices containing the F-gases (fridge, Air-condition) In case of suspicious activity, one can anonymously report the case on the EFCTC Action Line through: <https://efctc.integrityline.org>.

Any information submitted is treated as confidential and is handled by EQS, a trusted and independent contractor. Suspicious activity will be shared with enforcement agencies at EU or Member State level (to disrupt the activity), and not with EFCTC members.

Additionally, EFCTC recommend to:

- Don't buy refrigerants in disposable cylinders which are banned in the EU
- Do not purchase from internet platforms and/or unknown sellers
- If the price given by the supplier is unusually low compared to the expected offer, checks the documents to verify the authenticity of the purchase.

17. How are illegal imports affecting our environment? And what about the climate?

The current Regulation strengthened the previous measures and introduced far-reaching changes by:

Limiting the total amount of the most important F-gases that can be sold in the EU from 2015 onwards and phasing them down in steps to one-fifth of 2014 sales in 2030. This will be the main driver of the move towards more climate-friendly technologies; Banning the use of F-gases in many new types of equipment where less harmful alternatives are widely available, such as fridges in



homes or supermarkets, air conditioning and foams and aerosols.

Preventing emissions of F-gases from existing equipment by requiring checks, proper servicing and recovery of the gases at the end of the equipment's life.

These measures were built on the successful phase-out of ozone-depleting substances which was achieved in the EU 10 years ahead of the internationally agreed schedule.

Thanks to the F-gas Regulation, the EU's F-gas emissions will be cut by two-thirds by 2030 compared with 2014 levels.

The non-respect of this requirements leads to unsafe and non-environmental friendly counterfeits.

EFCTC ACTION AGAINST ILLEGAL TRADE

18. What is the EFCTC Programme to fight against Illegal Trade of HFCs?

In response to rapid emergence of illegal traffic of Hydrofluorocarbons (HFCs- or refrigerants) across the European Union, EFCTC, European Fluorocarbons Technical Committee, a Sector group of Cefic, has launched a programme to fight against this illegal trade. One of its features include an "Action Line" that will permit any individual to report (in any language) alleged suspect HFC offerings confidentially to a trusted and independent contractor. Full details of how to access the "Action Line" can be found at:
<https://efctc.integrityline.org>.

19. What is the Action line?

One of the features of the EFCTC programme to fight against Illegal Trade of fluorocarbons includes an "Action Line" that will permit any individual to report (in any language) alleged suspect HFC offerings confidentially to a trusted and independent contractor. The results of this program will create a more detailed picture of the illegal HFCs supply chain, which can be then shared by the independent contractor with the EU/national authorities, for enforcement. Full details of how to access the "Action Line" can be found at: <https://efctc.integrityline.org>.

20. Is the use of the EFCTC Action Line Secure?

The use of the Action Line will be confidential and independently operated by a specialized consultant that has considerable investigative experience in identifying illegal trade

21. Why did EFCTC launch this programme?

In response to rapid emergence of illegal traffic of Hydrofluorocarbons (HFCs- or refrigerants) across the European Union.

22. How will you stop illegal trade with this Programme?

Raising awareness of illegal trade and how individuals and can work to deal with the issue is an important step to reducing the illegal trade, but industry needs the wholehearted support of compliance enforcement initiatives to help prevent the illegal trade. EFCTC acknowledges the steps





are being taken by the European Commission, Member States and their customs officials and is ready to support these efforts. This is an issue that will need continuing and collaborative efforts over a number of years.

23.

24. Where do we find information about the Illegal import actions?

Visit the EFCTC Website:

www.fluorocarbons.org

EPEE Global:

<https://www.epeeglobal.org/press-release-leading-eu-associations-express-concerns-about-the-illegal-trade-of-refrigerants/>

ADC3R (in French)

<https://adc3r.com/>

25. What can I do to help?

1. Ask before you buy.
2. Stick to certified products
3. Go to the Action Line to report in case of suspicion of Illegal trade.

