

4 NETWORKS DAY

Online conference

21 May 2021



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

EU GREEN WEEK 2021 PARTNER EVENT

ZERO #EUGreenWeek
POLLUTION
for healthier people and planet

Hosted by :  Life+ SATEC



4 NETWORKS DAY



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

Together in the fight against environmental crime

Date: 21 May 2021

Time: 09:00 - 12:30 | 13:30 - 16:15 CET

Location: online, hosted by LIFE+ SATEC



ILLEGAL TRADE IN F-GASES

Eva Cornelissen & Sijmen Roosma (NL)

Human Environment and Transportation Inspectorate

- EU + International goals
- F-gas regulation + illegal trade
- 2 cases
- Current developments
- Discussion
- Who is (fairly) new to the F-gas subject?



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

EU + International Goals

EU

- Aims to be climate-neutral by 2050
- Cut greenhouse gas emissions by 55% in 2030
- F-gases emission reduced by two-third in 2030

F-gases:

- Fluorinated greenhouse gases -> man-made, range of industrial applications
- Substitute for ODS but powerful GHG -> high Global Warming Potential
- Hydrofluorocarbon (HFC) -> most important F-gases (R404a: 3922 GWP: 1 kg ~ 3922 kg CO₂)
2013: 2.5% of EU GHG emissions (2050: 10% of global GHG without restrictions in place)

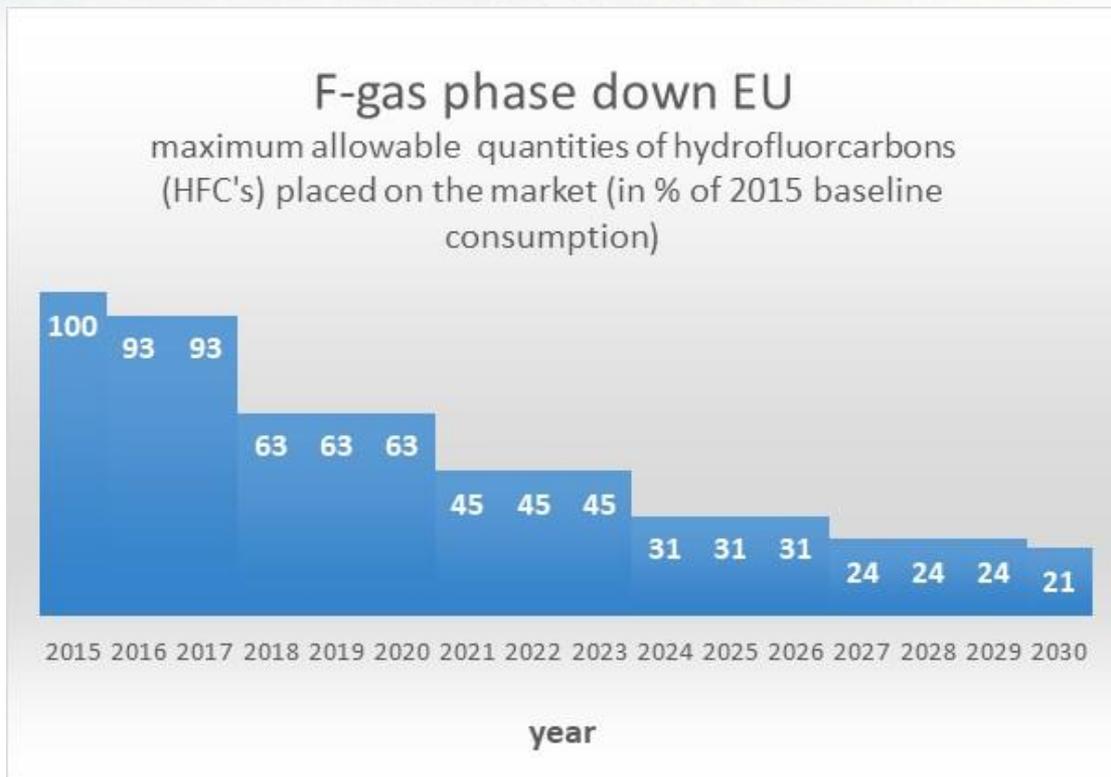
International

- Kigali amendment (signed 2016, effective 2019, 120 parties) to the Montreal Protocol
-> Aims reduction consumption and production HFC's
-> Different timing phases worldwide



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

EU F-gas Regulation Phase Down



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

EU F-gas Regulation Phase Down

- **Quota system:**
 - > HFC being put on the EU market (2015: 182,5 mln ton CO2 equivalent)
 - > Distributed among HFC Bulk importers:
 - > Registered in EU F-gas portal
 - > Sufficient quota
- Restrictions placing on EU market: products + equipment (e.g. non refillable cylinders since 2007)
- **ONLY THE PLACING ON THE EU MARKET IS PROHIBITED
FURTHER USE AND DISTRIBUTION ISN'T**
 - > = supplying or making available to another party in the Union for the first time,..... and includes customs release for free circulation in the Union;



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

ILLEGAL TRADE

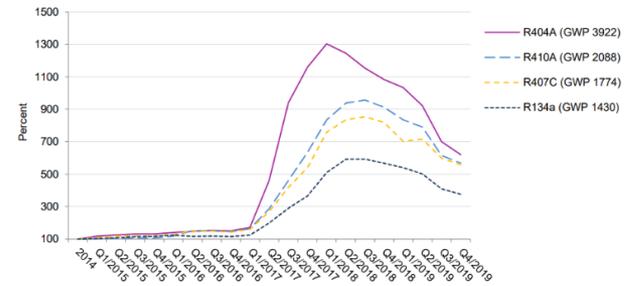
- Phase down- > high prices + demand-> estimates **16% - 42%** illegal import EU

- Criminal structure distribution:**

- > China: source country
- > Turkey + EU East border countries + EU ports
- > Distribution in EU crossing multiple internal EU borders
- > End users: door to door, online

- Ways of illegal import EU:**

- > import via customs while exceeding quota
- > import via customs via misdescription
- > misusing T1 (transit) procedure
- > plain smuggling



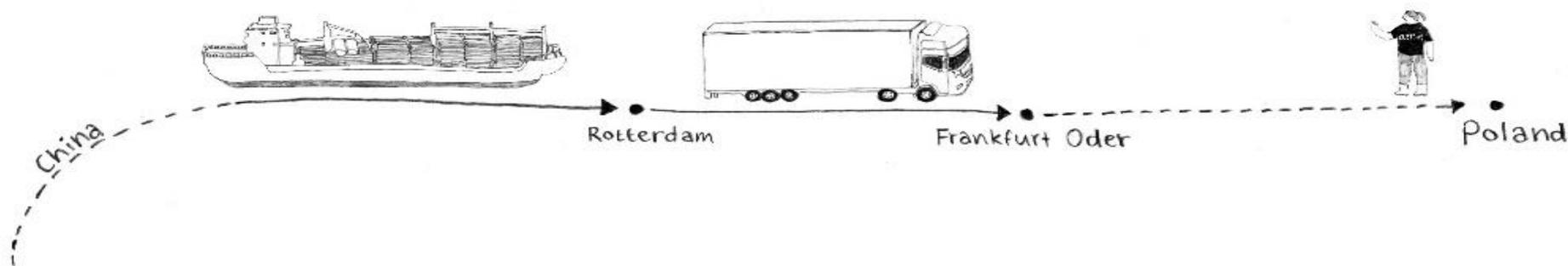
EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

CASE I What to do with F-gases from China that arrived in port of Rotterdam?

message received from OLAF (European Anti Fraud Bureau) of arrival of nine (9) ISO containers F-gas R134a with foreseen destination Poland

doubt about registration in F-gas portal and quota = possible attempt of illegal import ($\approx 200.000.000$ kg CO₂ equivalent)

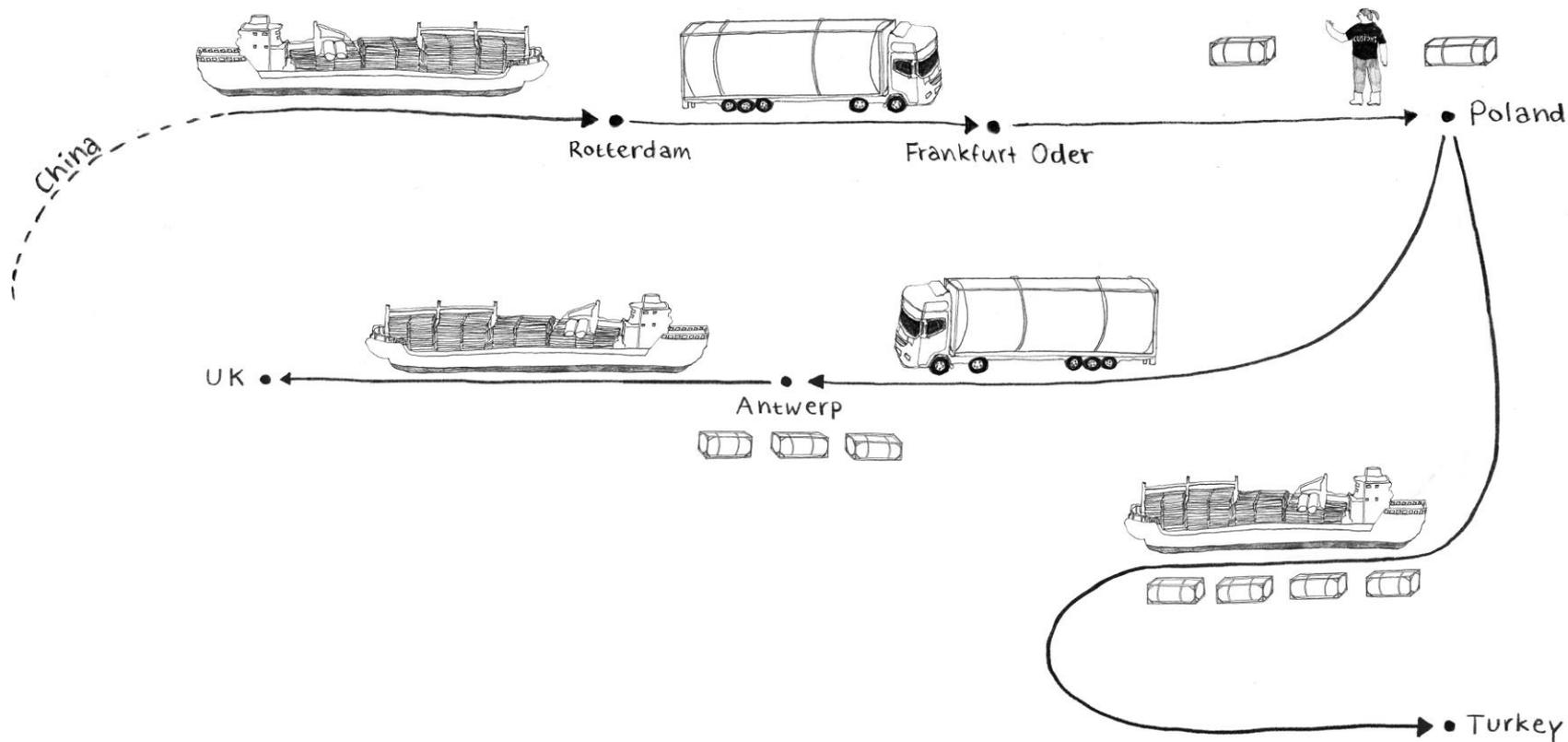
identity of importer for custom clearance still unknown, transport under T1 procedure



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

CASE I

What to do with F-gases from China that arrived in port of Rotterdam?



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

CASE I

What to do with F-gases from China that arrived in port of Rotterdam?

Question 1: Should Dutch authorities pay (more) attention to arrival(s) in port of Rotterdam, as a main EU port, when goods are destined for other Member States and transported under T1 procedure (not custom cleared in the Netherlands)?

No, because ... (who can I give the floor?)

Yes, because ... (who can I give the floor?)

Question 2: Should OLAF (=European Anti Fraud Bureau) been given more legal tools to investigate cases like this?

No, because ... (who can I give the floor?)

Yes, because ... (who can I give the floor?)



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

CASE II How many steps till illegal import? Is it worth to investigate?

Step 1: *Inspectorate received information about non-refillable cylinders*

Step 2: *17 empty cylinders that contained F-gas 134a found*



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

CASE II How many steps till illegal import? Is it worth to investigate?

Only import (placing on the EU-market) is illegal according F-gas regulation (517/2014); further distribution and use isn't.

Question 3: *Is it considered worth (feasible) to investigate the first placing on the EU-market (import)?*

No Yes



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

Case II How many steps till illegal import? Is it worth to investigate?

Step 3: *44 cylinders that contain F-gas 134a and 410a found equals \approx 850.000 kg CO₂ equivalent*



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

Case II How many steps till illegal import? Is it worth to investigate?

Step 4a: *illegal import(er) found !!*

1620 cylinders F-gas R134a from Turkey to a Dutch company

equals \approx 31.500.000 kg CO₂ equivalent (Global Warning Potential R134a = 1430) \approx same as 40 return flights Australia – Europa or 4200 Dutch households.

*gross profit step 4 to step 2 \approx 200 euro per cylinder
(1620 * 200 = 324.000 euro)*

Question 4: Is it considered meaningful to start a criminal investigation e.g. to stop illegal import / confiscate the ill-gotten gains / punish importer?

No, because ... (who can I give the floor?)

Yes, because ... (who can I give the floor?)



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

Case II

How many steps till illegal import? Is it worth to investigate?

Question 5: What is a reasonable fine?



10.000 euro max



20.000 euro or more

Step 4b: *invoice found of transfer of 1200 cylinders F-gas 134a from Slovenia to Dutch company*

Question 6: Should this transfer be further investigated that than needs international cooperation?



No, because ... (who can I give the floor?)



Yes, because ... (who can I give the floor?)



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

HOW TO STOP ILLEGAL TRADE

- **VERY INTERNATIONAL +CROSS BORDER -> COOPERATION NECESSARY**
- PARTIES INVOLVED: customs, F-gas authorities, investigation services/police + EU organizations (OLAF, Europol) + business + NGO's



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

HOW TO STOP ILLEGAL TRADE

CURRENT INITIATIVES + DEVELOPMENTS

-> Europol: EMPACT operational action F-gases, Operational Task Force, OP.
WEBGAS

-> DG TAXUD project group

-> EFCTC/KROLL project

-> Review F-Gas regulation

-> CCWP 10.2.2 Action Plan

February 2020 – Italy

- 1 098 cylinders - 12.5 tonnes
- containing HFC gas (R134a, R410a and R404a)
- Approx: 26 269 tonnes of CO₂e



August 2020 – Romania

- 76,045 kg of illicit refrigerant gases detained in Romania keep of illicit HFCs
- Potential global warming impact of 170,000 metric tonnes of CO₂
- Operation guided by Romanian authorities

July 2020 – The Netherlands

- 14 tonnes
- roughly 2,807 tonnes of CO₂ equivalent
- suspicious cargo destined for a consignee in Lithuania - not registered to receive imports of this nature
- Shipment coming from China was initially discharged in the port of Hamburg and declared in transit towards Rotterdam

September 2020 – Italy

- From China to the port of Livorno, Italy
- Approx: 3.7 tonnes of (HFC) and hydrochlorofluorocarbon gases (HCFC)
- Packaged in 300 non-refillable cylinders
- Imported gases were in non-refillable cylinders
- Equivalent to the emissions produced by a car travelling for 35 million Km - around 6,800 tonnes of CO₂



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT

EU GREEN WEEK 2021 PARTNER EVENT

Questions/discussion

DO YOU HAVE ANY QUESTIONS/DISCUSSION TOPICS?

We are interested in:

1. Would it be helpful to add infringements of F-gas Regulation in article 3 of the Environmental Crime Directive? (article3: listing of criminal offences)?
2. How to cooperate with China as main country of origin?
3. Your experiences (good and bad) with creating or maintaining an international, interdisciplinary and as much as possible effective enforcement network are very welcome?

CONTACT:

Sijmen Roosma: sijmen.roosma@ilent.nl

Eva Cornelissen: eva.cornelissen@ilent.nl



EU FORUM OF JUDGES FOR THE ENVIRONMENT
UE FORUM DES JUGES POUR L'ENVIRONNEMENT