Climate change: fluorinated greenhouse gases, hydrofluorocarbons HFCs, perfluorocarbons PFCs, sulphur hexafluoride

2003/0189A(COD) - 23/12/2005

Of the 26 amendments adopted by the European Parliament, the Commission can accept 4 amendments in full, 7 amendments in part and a further 8 amendments in principle. 7 of the adopted amendments are not acceptable to the Commission.

The following amendments were among those accepted in full:

- introducing the element of “preventing” emissions as well as reducing emissions of fluorinated greenhouse gases which is already used in relation to leaks;

- further developing the definition of hermetically sealed systems;

- including energy efficiency as an element to take into account in assessing whether new products and equipment containing these gases should be prohibited.

The Commission considers that these amendments are in line with and improve the current text and will facilitate the implementation and contribute to the effectiveness of the Regulation.

The following amendments were accepted in part:

- a new recital specified that individual Member States, because they have different targets under the burden sharing agreement under the Kyoto Protocol should be able to take individual measures to meet their targets. However, it is not indicated that such measures must be compatible with the Treaty and the Regulation. The Commission suggests a form of wording to give effect to this;

- a number of clarifications are made regarding the article on the scope of the Regulation. Most of these changes can be accepted but it would be preferable to preserve the word “inspection” rather than “control on use” as suggested;

- one amendment changes the word inspection to “checked” and substitutes “circuits” for equipment in relation to hermetically sealed systems. The second part is acceptable but the Commission would wish to maintain “inspection” rather than “checked”;

- the words “inspected for leakage” with are changed to “checked for leakage” and Parliament specified language with respect to indirect methods. The Commission cannot accept the first element. As regards the second part it would be possible to accept with some redrafting and the text could possibly meet the concerns with regard to the use of the word “inspection”. The Commission suggests alternative wording;

- Parliament added in the reporting provision “solvents and fire protection systems” to the main category of applications that will guide producers and importers in their reporting. The Commission could accept the inclusion of fire protection systems but not solvent users since there are many small users and producers and importers would have considerable difficulty in collecting data;

- there are a number of changes with respect to the labelling provisions, notably indication of global warming potential. The Commission could accept the principle but believes this could be best done in comitology, and suggests a form of wording;

- one amendment specifies that Member States should promote alternatives, taking into account gases with a high GWP and that the Commission should be notified by the Member States of bans. The Commission could accept the first part of paragraph with some suggested rewording but does not believe the notification is necessary. Listing the applications which are covered in paragraph 2 is not necessary and should, therefore, be dropped.

The following amendments were accepted in principal:

- there is a new recital about the high global warming potential of fluorinated greenhouse gases. The Commission suggests an alternative text;

- a new recital specifies that application and enforcement of this Regulation should spur technological innovation. This amendment can be accepted with some slight redrafting of the text with the focus on technological innovation;

- a new recital that specifies that the Regulation should not prevent Member States from maintaining or introducing stricter protective measures is accepted in another recital;

- the term “circuits” is added to equipment. Circuit would cover all the elements in equipment where the fluorinated greenhouse gas is used and is the standard term in standards documents. In this context it might be useful to add “in particular” before circuits;

- Parliament requires that companies and their personnel involved in the maintenance and the installation of equipment covered by the Regulation should also be covered by the certification and training requirements. The Commission can agree in principle with the aim of covering “installation” but believes that this is disproportionate for the small plug in items. Maintenance is a wide concept and the relevant operations would be covered by the term “servicing”. A text is suggested;

- each owner of stationary applications is required to obtain a registration number from the relevant competent authority for each system installed. It would be useful to indicate that this number should be used in all the record keeping provided for under the relevant clause;

- Parliament requires the Member States’ competent authorities to review every 2 years a representative sample of the records. The Commission could accept if period is increased to three years;

- One amendment provides for some delay in the fitting of leakage detectors to fire protection systems. The Commission could accept this with a delay of two years and without the inclusion of safety and insurance provisions since these are implicitly covered. The Commission does not wish to see such factors delaying even further the implementation of the Regulation.

The amendments rejected are as follows:

- the amendment providing another definition of “placing on the market” by replacing producer by manufacturer. The existing definition does not lack clarity or ambiguity and so could be maintained;

- on the definition of "stationary" applications, the Commission believes that the wording of this amendment could lead to confusion and should be rejected.

- the word “inspections” is changed to “control measures”. The rejection of this amendment is in line with the position taken on the same issue (see above).

- the Commission accepts in principal the amendment specifying that Member States shall facilitate the cross-border transport of recovered fluorinated greenhouse gases for destruction or reclamation. However, since the cross border shipment of F-Gases will be covered by the new proposed Regulation on “Waste Shipment”, the Commission believes that it is not necessary to include it in this Regulation;

- one amendment requires the Commission to present legislative proposal by the 31 December 2008 with respect to mobile air-conditioning systems (MACs) in vehicles other than cars and refrigeration systems in transport. The Commission cannot accept this since it would have to produce proposals by a certain data irrespective of what emerges from its technical and economic evaluations and this could unduly restrict the Commission’s right of initiative.

- the amendment to facilitate the Commission’s role and increase transparency in relation to national measures on F-Gases and also ensure timely Member State notification is rejected since there is already a system of notification of national measures and this amendment would provide no added value.

- Finally, Parliament states that the Regulation shall not prevent Member States from taking stronger protective measures. This amendment refers to an article of the Regulation. Some Member States may use it as a justification for any stricter measure even if they are detrimental to the internal market. The provisions of the Treaty are directly applicable, hence this amendment is not acceptable.

The Commission underlines that, in order to contribute positively to the conciliation phase, it is ready to look at ways of facilitating solutions to outstanding issues.