

EPEE NEWS

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A Newsletter from the European Partnership for Energy and the Environment (EPEE)

SPECIAL EDITION: ADOPTION OF F-GAS PROPOSAL BY EUROPEAN PARLIAMENT

Introduction

On 26 October 2005, the European Parliament adopted the proposal for a Regulation on fluorinated greenhouse gases at 2nd reading. Following elections of the European Parliament in the summer of 2004, this 2nd reading was an “open” 2nd reading. This means that MEPs were allowed to table almost any amendment that they deemed useful without being limited by the rules usually governing “classic” 2nd readings.

The Parliament voted some 45 amendments. The overall outcome of the vote was positive for EPEE, as the Parliament rejected all requests for additional bans and supported the split legal basis proposed by the Council in its Common Position. The Commission and the Council are currently examining the Parliament’s position. It will then have to be decided whether they can accept the Parliament’s position or whether the whole issue will have to go into the conciliation procedure (3rd reading).

The aim of this Newsflash is to highlight the key elements of the debate and the final report as adopted by the European Parliament, with a particular emphasis on how this issue will be taken forward, now that the Council has started to review the position as adopted.

Debate in the EP & results of the vote

The debate ahead of the vote took place on 25 October late at night. Despite the late hour, more than 20 MEPs stood up and expressed their views on the issue. The debate was dominated by the issues of the legal base and the introduction of additional bans to Annex II of the Regulation.

Mainly the Green and Socialist MEPs advocated additional bans, in particular on domestic, commercial and industrial refrigeration as well as on stationary air-conditioning.

Regarding the legal base, certain members of the centre-right camp, including the rapporteur – Irish MEP Avril Doyle – advocated a change from a split legal base to a purely environmental one. This would have facilitated the introduction of stricter protective national measures by individual Member States. This approach was supported by the Socialist and Greens.

**EPEE is a business partnership committed
to responsible global energy and environmental policy.**

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Voting result

1. On the legal base

All amendments related to changing the legal base (those calling for a single environmental legal base as well as those calling for a single internal market legal base) were rejected. This means that the split legal base (internal market for the provisions on labeling, control of use and marketing bans, environment for all other provisions) proposed by the Council in October 2004 remains in place.

2. On additional bans

All amendments proposing additional marketing bans were rejected. These included in particular amendments 34, 35 and 36 on domestic, commercial and industrial refrigeration as well as on stationary refrigeration respectively.

3. On the rights of individual Member States

Amendments 2, 7 and most importantly 45 were adopted by the Parliament. These amendments state that individual Member States have the right to maintain or introduce stricter protective measures than those foreseen by the Regulation. This is being justified by the obligation of Member States to comply with their individual Kyoto-Protocol emission reduction targets. The compatibility of these amendments with the legal base of the Regulation (EU Treaty) and the Council's reaction to them still needs to be determined.

4. On the Promotion of alternatives

The European Parliament also adopted a new provision (Amendments 44) stating that EU Member States should promote the introduction on the market of equipment using alternatives to gases with a high GWP (Global Warming Potential), taking into account the energy efficiency benefits provided by certain gases in certain applications.

5. On registration obligations

Amendment 22 adopted by the Parliament foresees that every owner of stationary applications needs to obtain a registration number for each system installed.

6. Labelling

Amendment 25 adopted by the Parliament provides that the label placed on products or equipment containing f-gases need to state their GWP. The label needs to be placed outside of the product or equipment in a clearly visible way. If this is not adjacent to the service points for charging or recovering f-gases, an additional label needs to be placed adjacent to these points.

7. Shipment of waste

Amendment 19 provides that Member States will have to facilitate the cross-border transport of recovered f-gases in the EU by granting pre-consents to facilities that recover f-gases.

8. Training and certification

Amendment 20 provides that minimum requirements need to be established for both companies and all relevant personnel involved in the installation, maintenance, servicing and in the carrying out of controls of the equipment.

9. Review

Amendment 27 establishes an obligation on the Commission to come up with legislative proposals by the end of 2008. Amendment 29 includes the criteria of energy-efficiency in

the assessment of whether additional products and equipment should be included in the list of bans of Annex II in the course of the review.

10. Register

Amendment 42 foresees the creation of a register containing information about (proposed) market restrictions regarding f-gases in each EU Member State. In this context, Member States will have to notify all information regarding such marketing restriction to the Commission.

NEXT STEPS

While the European Parliament has approved the Council's Common Position on the key issues of the legal base and the introduction of additional bans, it has also adopted a number of amendments that deviate from it.

The Council is currently examining the issue at working group level to review all amendments. Amendment 45 is particularly controversial and even its most fervent supporters, such as Denmark, acknowledge that it is problematic. Compromise texts are currently being discussed in this respect. These developments have made a swift adoption of the proposal by the Council unlikely. It rather seems that the proposal will go into the conciliation procedure where representatives of the Council and the Parliament will seek to draft a text acceptable to both sides. However, the key issues of the split legal base and additional bans will not be discussed anymore.

Process for 'second reading' by the Council of Ministers:

- 1. The time limit for the second Council reading is 3 (+ 1) months. It starts to run from the official receipt of the amendments resulting from the second European Parliament reading.**
- 2. Before deciding whether or not to accept the European Parliament amendments, the Commission drafts an opinion on them which is referred to the Council. The Commission encloses a modified proposal with its opinion (still awaited).**
- 3. The Council may accept or reject these amendments:**
 - a. Amendments accepted (the Council acts by qualified majority or unanimously, depending on the subject matter, and always unanimously if the amendments were the subject of a negative opinion from the Commission) — act deemed to have been adopted. If the Council agrees to accept all the amendments, the act is deemed to have been adopted in the form of the common position thus amended. The legislative text is then submitted directly for the signature of the Presidents and Secretary-General of the European Parliament and of the Council and published in the Official Journal.**
 - b. Not all amendments are accepted — convening of the Conciliation Committee. Within a time limit of 6 (+ 2) weeks after the Council notes the impossibility of accepting all the amendments, its President, in agreement with the President of the European Parliament, convenes the Conciliation Committee. This binding time limit is one of the major changes introduced by the Treaty of Amsterdam. In the past, the expression 'without delay' in the Maastricht Treaty had often been applied in a somewhat lax manner (more than one year for some matters).**

UPCOMING EVENTS CALENDAR

6 December:	EPEE Strategy Meeting
7 December:	EPEE Annual General Assembly and Steering Committee (pm)
	COREPER scrutiny of Parliaments' position
February/March:	Possible Conciliation meetings

Please submit items for EPEE NEWS and the UPCOMING EVENTS CALENDAR to
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