



EPEE NEWS HEADLINES

KEY ITEMS

Danish HFC phase-out plan 2

This proposal is being finalised by the Danish Environment Ministry. They are taking external comments into account and according to officials major changes have been made to the revised text, which will be ready by mid-October.

Danish Tax Act on HFCs 2

The extended period for receipt of comments in the Danish tax action closed on 6 September. The Commission is still considering submissions from interested parties before deciding on next steps. EPEE has received a response from the European Commission to its complaint.

ECCP next steps update 3

The Communication on the implementation strategy of the ECCP is currently being finalised in inter-service consultation within the Commission. The Communication is likely to be adopted by the College of Commissioners on 17 October 2001.

Planned Framework Directive on fluorinated gases 3

A restricted call for tender will be released in October to carry out a cost-benefit analysis study. DG Enterprise has confirmed that it will start the drafting of the Framework Directive, in parallel with this cost-benefit analysis. The Framework proposal is not expected before the Summer of 2002.

Commission holds information session on WEEE/ROHS proposal 3

At a WEEE information session, the Commission confirmed that it is not in agreement with the Parliament, which wants to categorize HFCs as a hazardous substance. The Second Reading is not expected to get under way until late 2001 at the earliest.

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Danish HFCs phase-out plan

In late August, the Danish Environment Minister, Sven Auken, announced to the Environment Committee of the Danish Parliament that he would present them with the "final proposal" on the planned phase-out of fluorinated gases. Latest indications are that this revised proposal will be ready by mid-October.

The text is currently being finalised by Environment Ministry officials who have informed EPEE that "major changes" have been made. They would not, however, provide specific details apart from stating that mobile air conditioners will continue to be excluded from the measure. They claim to have taken external comments into account and will not be strengthening the measure, although it looks likely that the measure will continue to include phase-out provisions.

The Danish Parliament will debate the fluorinated gases statutory order. Should no amendments be tabled a statutory order is deemed to be adopted. A statutory order is secondary legislation, therefore in legal terms the Parliament has no right to comment or amend such an order, which is implementing legislation linked in this case to the National climate change programme. Most statutory orders pass through Parliament by written procedure. However, if the issue is highly political in nature or MPs disagree with the line taken by the Minister/Ministry, Parliament can make moves to try and amend the proposal.

The Danish Authorities will not submit the revised proposal to the European Commission for approval, as it is merely an implementing measure. They will, however, provide the Commission and the four Member States who made comments with the new version (including an explanatory memorandum). The Commission retains

the power to raise legal objections to the amended measure if it does not adequately respond to their concerns, e.g. its proportionality.

Danish Tax Act on HFCs

The extended period for receipt of comments in the Danish tax action closed on 6 September 2001. The Commission is considering submissions from interested parties in view of taking a decision on how to proceed.

EPEE, for its part, has received a response from the European Commission to its complaint submitted in December 2000. EPEE's complaint covered four distinct areas of EC law: (i) internal taxation and discrimination; (ii) customs duties and measures having equivalent effect; (iii) effect on the free movement of goods; (iv) and State aid to local businesses in the form of exemptions and rebates. As these areas are to some extent mutually exclusive, EPEE was aware that the Danish tax measure could not simultaneously fall within every one of these areas. EPEE however considers that there are aspects of each of these four points raised that the Commission should investigate further.

Although the Commission has yet to conclude its enquiries, and the complaint is dismissed with regard to certain areas, EPEE's concerns have been justified and the Commission is continuing to investigate some of the more important aspects. The Commission concludes that there is no evidence of State aid, and that the tax measure, as a general system of internal taxation, should be considered in the light of the Treaty provisions on internal taxation rather than a charge having an equivalent effect to a customs duty. However, the Commission has picked up on EPEE's

argument that the rules on the presumption of the amount of HFC contained in an imported finished product could result in discrimination. The Commission has, therefore, requested from EPEE further input on this point.

Given the current focus on internal taxation, the Commission will not at this stage investigate the further allegation that some aspects of the tax measure could have an effect on trade between Member States and, therefore, breach the free movement of goods provisions, though this possibility has been left open.

EPEE is currently reviewing the Commission letter with its advisers in the light of other meetings held with Commission officials and with a view to drawing to the Commission's attention further factual and legal arguments, which may help to persuade the Commission to challenge the Danish tax measure.

ECCP next steps update

The Communication on the implementation strategy of the ECCP is currently being finalised in inter-service consultation in the Commission. (This is when the lead service, in this case DG Environment, circulates the draft document for comment to other implicated services). The inter-service consultation has gone smoothly, due to the fact that most of the implicated Directorate Generals/Services were involved in the ECCP programme itself. Agenda permitting, it is expected that the Communication will be adopted by the College of Commissioners on Wednesday 17 October 2001.

The Communication in the main will take up the proposed measures made by the various working groups in the ECCP. Particular attention has been paid to the measures at an advanced stage of preparation (such as a

Directive on the energy performance of buildings and a framework Directive on fluorinated gases).

Measures in the pipeline that receive specific mention in the Communication include work on a proposal for energy services and minimum efficiency standards for electrical equipment.

Planned Framework Directive on Fluorinated gases

DG Enterprise has confirmed their intention to carry out a cost-benefit analysis of such a framework proposal in the area of fluorinated gases. The drafting of the actual proposal has not yet commenced.

A restricted call for tender will be released in the coming weeks for this planned cost-benefit study. The study is being commissioned and financed by DG Environment rather than DG Enterprise. Given the normal timeframe for responding to such tenders and the selection process it is most likely the study will not start before early 2002.

DG Enterprise has stated that they will start the work on the Framework proposal in parallel with the cost benefit study, as the services already have a 'clear idea' of the direction for the proposal. It is widely expected that the proposal will be adopted before the Summer of 2002.

Commission information session on WEEE and ROHS proposals

On 26th September, DG Environment held an information meeting with industry and NGO representatives on the proposed WEEE Directive. Darcy Nicolle from UTC/Carrier attended this meeting on behalf of EPEE.

Commission officials confirmed that the Council of Ministers is still working on the detailed language of the text of their Political Agreement adopted at June Environment Council. This work should be completed by November, at which stage the Council will adopt a formal Common Position. It is widely expected that Second Reading in the European Parliament will not take place before February 2002 with a final agreement not expected before next Summer. The Parliament's Rapporteur is only expecting an exchange of views on the Common Position in Committee before December.

On the Directive restricting the use of hazardous substances (lead, mercury, hexavalent chromium and cadmium), the Commission stated in its introduction that the European Parliament had proposed expanding the list to include "HFCs and other hazardous substances". The Commission's reply to this proposal was that any such expansion of the list 'to include such hazardous substances' would be made in the future by a technical committee. The Commission official accepted, on prompting from a query from the EPEE representative, that HFCs are not hazardous.

The discussion thus confirmed that the Commission would try to resist future moves by Parliament to include HFCs in this Directive. At this point in the legislative procedure there is, however, little room for manoeuvre for the Commission to influence the discussions and we must remain vigilant in Parliament's Second Reading.

The main concern of industry concerning WEEE is the future financial liability of producers and the Council decision to allow Member States to make producers financially liable for the collection of their products from individual households, instead of being liable once WEEE had been collected by municipal authorities. The Commission stated that although they did

not support this decision they are not in a position to oppose it. The issue will have to be debated between Council and Parliament in Second Reading. It is likely that the Directive will remain 'vague' on many provisions with the detailed implementation being left to Member States. The areas this "vagueness" applies to include:

- "visible fees," whose introduction remains up to individual Member States as the Directive does not prevent them;
- whether producers can be individually or collectively liable for their products, which will also have to be defined at Member State level; and
- the financing of the recycling of "orphan" products (when the manufacture is unidentified or has withdrawn from the market). This point remains controversial, as the Council wants to transfer the responsibility of policing and financing "orphan" appliances to the industry. It is expected to be a main point of disagreement between Council and Parliament, as the latter wants to encourage individual financing to encourage design for recycling and limit collective financing to "historical" (i.e. already on the market) and "orphan" appliances only.

Update on Swedish Climate Change Programme

As a follow-up to the Swedish Environment Protection Agency's (EPA) study on fluorinated gases, EPEE representatives met with the EPA as well as with the Swedish Environment and Industry Ministries to discuss the issue.

The EPA proposal contained a discussion on a wide range of measures including taxation, legislation and Voluntary

Negotiated Agreements. The meeting confirmed that no firm way forward has been decided.

EPEE representatives raised the point that taxation was an indirect measure whereas direct action would be more effective in reducing fluorocarbon emissions. The Swedish officials noted that there is a political objective to take national action, although EPA has recommended harmonisation at EU level.

The officials stressed that the EPA study concentrated on all greenhouse gases, especially carbon dioxide, and not just fluorocarbons, and did not consider energy efficiency, the effects on SMEs or the impacts of banning some fluorocarbons. The Ministry of Environment emphasised (i) minimising electricity use in domestic heating; (ii) the grants available for the installation of heat pump equipment; and (iii) the use of bio-fuels in heat pump plants.

The Swedish Ministry of the Environment is currently finalising its strategy based on the EPA report and negotiating with the partners in the ruling coalition (Social Democrats, Green and Left Parties). As soon as the strategy is published, it will be considered for adoption by the Swedish Parliament. Once the strategy is adopted by Parliament, the Government will be mandated to produce specific proposals.

Energy efficiency in buildings - short discussion in the European Parliament

A brief exchange of views on the Commission's Communication on energy efficiency in buildings was held in the Industry and Energy Committee of the Parliament on 19 September. The Rapporteur is Mr Alejo Vidal-Quadras Roca, a Spanish Christian Democrat.

While there was general agreement on the need to take action on energy efficiency, the main point of divergence in the debate was to what extent such action should be taken at a European level. Several MEPs including Peter Mombaur (EPP, Germany) argued that Member States should themselves act on energy savings in buildings since due to climate/geographical differences in Europe, harmonisation of such norms/standards is not necessary. Mr Vidal-Quadras Roca gave little indication of the direction he would take in the preparation of his report. He announced his intention to present his report to the Committee in early November.

A Commission official reminded the Committee that EU level legislative action was needed to ensure a level playing field for consumers and industry in the internal market. He further stressed that the energy efficiency will cover both heating and cooling systems, stating 'Energy efficiency should not just be applied under cold climate conditions where heating is controlled but also under warm conditions through energy efficient air conditioning measures.'

Energy efficiency is a declared priority of the Belgian EU Presidency. The Belgian Secretary of State Mr. Olivier Deleuze restated his hope this month of reaching a political agreement on a new EU Directive on efficiency in buildings before December (a discussion on the issue is scheduled for the December Energy Council). A formal Common Position does not seem possible, given that the European Parliament is unlikely to have finished its deliberation on the dossier by then.

Belgium launches support programme on energy efficiency

Olivier Deleuze the Belgian State Secretary for Energy and Sustainable Development announced that Belgium's federal

government and its three regions of Brussels, Flanders and Wallonia have agreed an annual Euros 24.8m national support package for energy efficiency measures.

The funding will be generated from a levy on electricity distribution prices. The exact tax rate will be 'back-calculated' from historical electricity consumption and is not yet available. The scheme is expected to be in place by the start of next year and will run indefinitely.

The decision to allocate the funds was taken by the government a year ago. Agreement with the regions was necessary because under Belgium's complicated federal structure these have jurisdiction over spending on energy efficiency, while the federal government is responsible for electricity pricing. The federal parliament must also approve the initiative but this step is not expected to be controversial.

The European Parliament and Climate Change

The European Parliament continued its ongoing discussions on Climate Change and the Kyoto Process, following the COP6 bis meeting in Bonn in July 2001. The September Plenary Session adopted a Resolution on the Bonn Conference outcome and the Environment Committee is now working on a Resolution on the upcoming Marrakesh Conference.

The Resolution stresses the 'lead role' the EU should retain in international efforts on climate change. The EP calls on the European Commission to: (i) table a proposal to ratify the Kyoto Protocol before the Marrakesh Conference in October; (ii) to issue concrete Directive proposals for an EU emissions trading regime by the end of the year; and (iii) to encourage all Member States to adopt as soon as possible their

own national greenhouse gas emission-reduction plans.

The draft Marrakesh Conference Resolution repeats the thinking presented in the Bonn Conference Resolution, stating that the Parliament considers that the central task of Marrakesh is 'to secure the ratification and implementation of the Protocol by as many parties as possible and especially to bring the US back into the process'. Discussions in Marrakesh should cover, in particular, stronger compliance mechanisms. The Parliament intends also to set up a Parliamentary Climate Change Network with the Council of Europe and other interested parties from Member States national Parliaments.

Commenting on the Commission strategy for Marrakesh, Caroline Jackson, the Chairman of the Environment Committee, stated that in light of the attacks against the USA and the likely recession that will ensue, it is most unlikely that President Bush's administration will be drawn back into the Kyoto process. She emphasised, however, that the European Union should proceed with the implementation of the agreement.

18th Session of the Intergovernmental Panel on Climate Change

The eighteenth session of the Intergovernmental Panel on Climate Change (IPCC-18) was held from 24 to 29 September 2001 in London. Some 300 delegates, experts and representatives of international and non-governmental organisations attended the session.

The IPCC-18 focused on adopting a Synthesis Report of the IPCC's Third Assessment Report (TAR). The draft report of 120 pages, which includes a 15-page Summary for policymakers, was presented in a question-and-answer format. Answers to the nine policy-relevant scientific

questions were based on information synthesised from the three "Climate Change 2001" volumes agreed earlier this year. These volumes are The Scientific Basis; Impacts, Adaptation and Vulnerability; and Mitigation.

In the course of the meeting, the British Deputy Prime Minister John Prescott paid tribute to the IPCC and argued that the Panel's work had helped defeat the "flat-earthers" who denied the existence of human-induced climate change. He suggested that the adoption of the Kyoto Protocol had marked a coming together of sound science and political will. Mr. Prescott presented the UK's climate change programme, which is expected to cut greenhouse gas emissions by 23% and emphasised the opportunities for "gain not pain" in climate policy through cost-effective measures and better technology. Finally, he expressed hope that the "Bonn Agreements," recently adopted at the COP-6 (Bis) conference in Bonn would pave the way for the entry into force of the Kyoto Protocol by 2002.

UNEP Assistant Executive Director Jorge Illueca, speaking on behalf of UNEP Executive Director Klaus Töpfer, argued that the scientific consensus on climate change had "grown stronger". He highlighted UNEP's role in addressing climate change, notably in the areas of adaptation, renewable energy and public awareness, as well as its work on international environmental governance.

Dennis Tirpak, Co-ordinator for Methods, Science and Technology, UNFCCC Secretariat, underlined the importance of COP-7, noting that decisions adopted during this session in October will "close one chapter of the climate change negotiations and start opening a new one". He stated that a key question at COP-7 with regard to the TAR would be the use of its information. He

put forward several specific operational, research and policy questions to be considered.

Reformatting of October's Transatlantic Business Dialogue meeting (TABD)

It was announced in late September that given the economic and political uncertainties in the follow-up to events in the US on 11 September, changes have been made to the format of the planned October TABD meeting.

The meeting will now take place in Washington D.C. rather than in Stockholm. It will be much smaller in scale and will comprise only of a meeting with senior government decision-makers (i.e. senior US Administration officials and Commission officials) with the "leadership" CEOs. The reformatted meeting will allow the TABD to continue its work and ensure that recommendations are incorporated into the trade policy agenda for economic development

Only the priority issues of the TABD will be discussed and, therefore, will be the subject of the resulting recommendations. This means issues such as climate change and refrigerants, which are considered expert issues within the TABD, will not be discussed. It would seem such expert issues have been put on-hold for the moment.

Sustainable Development

Ministers of Member States of the United Nations Economic Commission for Europe (UNECE) met in Geneva on 24-25 September 2001 at the Regional Ministerial Meeting for the World Summit on Sustainable Development and agreed on key policy issues and priorities for the World Summit on Sustainable Development to be

held in Johannesburg, South-Africa, in September 2002.

In terms of sustainable management and conservation of natural resources, the regional ministers declared that the Summit in Johannesburg should urge countries to strengthen their commitment to multilateral environmental agreements (MEAs) and to meet their national targets, such as limitation and reduction targets for greenhouse-gas emissions. This means seeking the entry into force of the Kyoto Protocol to the UN Framework Convention on Climate Change (UNFCCC) by 2002, with timely ratification processes.

As one of the priority actions for the UNECE region, the regional ministers mentioned the great role of business and industry in the economic and social system. Business and industry have a special responsibility for ensuring environmentally friendly production methods, products and services, taking into consideration environmental effects at all stages of the product lifecycle. The ministers stated also that they “will strive to significantly increase the share of environmentally sound renewable energy in the total domestic primary energy supply and to assist in accelerating the development of energy-efficient technologies.”

U P C O M I N G E V E N T S C A L E N D A R

O c t o b e r

- 10-12 **IKK Hannover** - Hannover, Germany
- 11-12 **TABD (Trans Atlantic Business Dialogue)** - Stockholm, Sweden
- 23 **EPEE Strategy Group Meeting** (closed) - Brussels
- 24 **EPEE General Assembly** (closed) - Brussels
- 25 **EPEE Steering Committee Meeting** (closed) - Brussels

N o v e m b e r

- 09-14 **ARI Annual conference/General Assembly** - Ft. Lauderdale, USA
- 27- 28 **EPEE Company Working Group Meeting** (closed)

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