

EPEE NEWS



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

KEY ITEMS

1 Discussions on f-gases proposal start in the European Parliament

On 1 December 2003, discussions on the Commission proposal on f-gases kicked off in the opinion Industry Committee of the European Parliament. The draft Goodwill report was made public in early January 2004.

2 Update on Council Discussions

The Member States' (MS) environmental attaches met on 1 December 2003 for the fourth time to discuss the f-gases proposal. The meeting was the last attaché-meeting of the outgoing Italian Presidency. The next meeting is expected in early March under the chairmanship of the Irish Presidency.

3 Update on Norway taxation measures

The EFTA Surveillance Authority (ESA) has not yet started its work on the complaint against Norway concerning the taxation of certain climate gases. ESA has indicated, however, that a draft text of the future refund system has been circulated to the relevant parties.

4 Update on Austria and on Danish complaints

EPEE met with relevant officials in the European Commission in autumn 2003 to discuss EPEE's complaints against Austria and Denmark. A final decision on next steps by the Commission (which is expected to be the decision to send a letter of formal notifications) is expected to be taken in the first quarter of 2004.

5 Swiss update

According to the Commission, no further dialogue has taken place between the Commission and Switzerland on the issue of new Swiss modifications to regulations related to fluorinated gases.

6 The WEEE guidelines

Discussions on the exact scope and the border line cases for inclusion within the WEEE Directive are still ongoing between the Commission and the EU Member States.

7 An overview of the COP9 meeting in Milan

The Ninth Conference of the Parties to the Kyoto Protocol (COP9) was held in Milan, Italy, on 1-12 December 2003. Some two dozen legal decisions which explore a wide range of options for limiting greenhouse gas emissions and adapting to the impacts of climate change were adopted.

8 Eco-design proposal adopted

The European Parliament has appointed MEP Frédérique Ries (Liberal, Belgium) as Rapporteur for the Commission proposal on eco-design which was presented in August 2003.

OTHER ITEMS COVERED

9 Monitoring mechanism of Greenhouse Gases

10 Joint Implementation/Clean Development Mechanism EU proposal adopted

11 The Commission Workprogramme for 2004

12 Overview of the battery proposal

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I. Discussions on f-gases proposal start in the European Parliament

On 1 December 2003, discussions on the Commission proposal on f-gases kicked off in the opinion Industry Committee of the European Parliament. David Bowe MEP (UK, PES) presented his draft report to the Committee, saying that the Commission proposal was unambitious. He proposed several technical amendments to improve the legal clarity of the text. He also stressed that the proposal is an opportunity to give a legal push to use more environmentally friendly technology. He favours, in particular, CO₂.

According to him, technologies based on CO₂ are 'more energy efficient and more beneficial to the environment'. Finally, Mr. Bowe stated that he would not look for any change in the legal base because the proposal aims to set industrial standards and regulate products in the market place and therefore the internal market base is logical and necessary.

He believes the relevant industry sectors should see these developments as an opportunity. Keeping the status quo would not be good for industry as a whole and would hold back the development of other alternative technologies. However, there should be a set of reasonable exemptions to a general mobile and stationary equipment ban.

Other MEPs intervened in the discussion. Caroline Lucas MEP (Green, UK) agreed that the proposal was unambitious. However, she was also of the opinion that the legal base should be changed. It should be an environmental one as the internal market one proposed by the Commission would prevent Member States from designing stronger national legislation. Rolf Linkohr MEP (Germany, PES) disagreed with this position. He stated to be

favourable of a European wide proposal on this issue. Therefore, an internal market rule should be at its core.

The Industry Committee will deliver its final Committee Opinion on the Commission's proposal in the coming weeks. Members of the Committee submitted amendments to the proposal ahead of the vote. The amendments were much in line with the lead Environment Committee's Rapporteur, Robert Goodwill (EPP, UK), report. A vote in the Industry Committee on the opinion is scheduled for 27 January 2004.

The Rapporteur in the lead Environment Committee, Robert Goodwill (UK, EPP/ED), published his draft report mid-January. In his report, Mr. Goodwill stresses the role of f-gases in the change over from Ozone Depleting Substances (ODS) to meet the Montreal requirements. He acknowledges that replacing HFCs can be difficult in certain applications and that while alternatives are available, they have certain limitations. According to Mr. Goodwill, the focus in the proposal is on containment of HFC in systems. In particular, for stationary applications, the proposal aims to 'control emission' by inspections of leakages. Therefore, it would be logical to increase the number of inspections where a leak is detected and vice versa if no leaks are found. He will further suggest dovetailing these checks with existing inspection schedules (e.g. for fire regulations).

On the legal base of the proposal, Mr. Goodwill supports the internal market article as a legal base as it is primarily a single market proposal and not only an environmental one. Finally, Mr. Goodwill would like to see any reference to the ODS regulatory committee, as proposed by the European Commission, to be removed and in place rather a new committee specific to the new future regulation.

A first exchange of views in the Environment Committee took place on 20 January 2004 during which Mr. Goodwill pointed out that 'Good practice should be rewarded and leaks should be punished'. Dorette Corbey (NL, PES) mentioned that the check frequency might need further consideration. David Bowe (UK, PES) seemed to slightly change his initial approach on pushing CO2 technology by stating that it is 'not sensible to move against large Air-conditioning systems now, we should look at containment instead.' Finally, Eija-Riita Korhola (Finland, EPP) raised the issues of minimum qualification in Article 5 on training and certification programmes.

The Irish Environment Minister (Martin Cullen) spoke to the Committee ahead of the F-gases discussion and stressed that significant technical work still needs to be done on this issue within the Council. The expected completion of the First Reading in the Parliament before June would encourage this Council work.

Members of the Committee have to submit any amendments before 27 January 2004. The vote in Committee is scheduled to take place on 16 or 17 February 2004.

II. Update on Council Discussions

The Member States' (MS) environmental attaches met on 1 December 2003 for the fourth time to discuss the f-gases proposal. The meeting was the last attaché-meeting of the outgoing Italian Presidency.

It is expected that the next meeting will be held in February or March of 2004 under the Irish Presidency. This delay is due to the fact that the proposal is not on the agenda of the 2 March Environment Council. The Presidency will therefore as a first priority focus on preparing the agenda items for this

meeting, in the early part of the Presidency. According to the Irish Environment Minister, Martin Cullen, who spoke to the Environment Committee, a substantial policy debate on the issue at ministerial level is planned for the 28-29 June Environment Council.

Member States were asked to send a written comment on the proposal by 18 December 2003 to the Council secretariat which will include these comments in the text which will be the basis for the next attaché meeting in 2004 on the issue.

At the meeting the legal base was again discussed at length. France and Greece are the main advocates of an internal market legal base – the German ministries are split between environment and industry between 175 and 95 respectively. The UK suggested splitting the proposal into two:

- A Regulation with Internal Market 95 legal base covering the provisions on placing on the market;
- A Directive with a Environmental 175 legal base covering the monitoring, reporting, recovery, recycling, training and personal provisions.

A discussion on the MAC provisions as a whole and in particular the design of the quota system also took up a large part of the meeting.

Update on Norwegian taxation measures

The EFTA Surveillance Authority (ESA) has not yet started its work on the complaint against Norway concerning the taxation of certain climate gases. ESA has indicated, however, that a draft text (which has not yet been made public) of the future refund system has been circulated to the relevant parties. The refund system is expected to be put in place by 1 January 2005.

The Norwegian Heat Pump and Refrigeration Information Centre, as well as a number of individual companies filed a complaint with the ESA against Norway following the introduction of a tax on the import of HFCs and PFCs in January 2003. The complainants claim that this tax has an equivalent effect to a customs duty and is a discriminatory internal taxation.

Update Austria/ Denmark

EPEE met with relevant officials in the European Commission in autumn 2003 to discuss EPEE's complaints against Austria and Denmark. A final decision on next steps by the Commission (expected to be the decision to send a letter of formal Notifications) is expected to be taken in the first quarter of 2004.

Swiss update

In a response to a notification from the European Commission on new modifications to Swiss regulations related to climate gases, the Swiss State Secretariat for Economy sent a response outlining the main reasons for introducing new f-gas restrictions in Switzerland. According to the Commission, no further dialogue will take place between the Commission and Switzerland on this issue.

Scope of WEEE still under discussion

Discussions on the exact scope and the border line cases for inclusion within the WEEE Directive are still on-going between the Commission and the EU Member States. The Member States have not yet agreed on general guidelines for deciding on the types of electrical and electronic equipment that fall under the two new laws on electroscrap recycling and manufacture (WEEE and RoHS Directives). A meeting of officials

under the WEEE Directive's Technical Adaptation Committee (TAC) took place on Wednesday 17 December 2003. The meeting, however, failed to adopt a draft set of "generic criteria" for determining in borderline cases whether equipment should fall under the law.

The final decision is now postponed making it even closer to the August 2004 deadline for Member States to transpose the WEEE and RoHS Directives. The main point of contention is on how to classify items that do not obviously fit into waste categories defined in the WEEE Directive, or those that could be covered by other EU laws. These items include car radios, mobile home fridges, and batteries in discarded equipment and gas cookers, which contain only small electrical ignition elements. EPEE provided information to the Commission on the grey areas with regard to certain air-cons and mobile fridges ahead of the start of the discussions with Member States.

An overview of the COP9 meeting in Milan

EU Environment Commissioner Margot Wallström, speaking to the European Parliament's Environment Committee on the outcome of the Kyoto COP9 meeting, held in Milan from 1-12 December 2003, stated that the Kyoto Protocol is 'alive and well.' The EU had reaffirmed its commitment to the Protocol during the COP9 meeting. She also mentioned the outstanding issue of Russian ratification of Kyoto saying that the uncertainty around Russian ratification did cast some clouds over the meeting but that she remained confident that Russia would ratify in due time.

Chris Davies, a UK Liberal Member of the European Parliament, asked about what actions the EU is taking to stop Member States back-sliding on their Kyoto commitments. In response to this question

the Commissioner stressed the role of the European Climate Change Programme (ECCP) which she believes will put in place the structure to reduce emissions, cost effectively across many sectors.

The COP meeting adopted some two dozen legal decisions and exploring a wide range of options for limiting greenhouse gas emissions and adapting to the impacts of climate change. New emission reporting guidelines based on the good-practice guidance provided by the Intergovernmental Panel on Climate Change will be prepared by 2005 on changes in carbon concentrations resulting from land-use changes and forestry. Another major advance is the agreement on the modalities and scope for carbon absorbing forest-management projects in the Clean Development Mechanism.

The Ministerial debates during the conference focused on adaptation, mitigation, sustainable development, technology and assessment. Ministers agreed that climate change remains the most important global challenge to humanity and that its adverse effects are already a reality in all parts of the world. Ministers noted that economic growth and climate change policies are compatible and, if action is taken at an early stage, economic gains can be made. It was also agreed that implementing policies and measures such as energy-efficiency projects can help to decouple economic growth and the growth in emissions, in addition to achieving social and environmental benefits such as improved health.

Monitoring mechanism of Greenhouse Gases

On 21 October 2003, the European Parliament adopted the first reading Resolution drafted by Guido Sacconi (PES,

Italy) making several amendments to the Commission's proposal for a monitoring mechanism of Community greenhouse gas emissions and the implementation of the Kyoto Protocol. The European Parliament adopted 28 amendments to the Commission's proposal and deleted the provision stating that 1995 will be the base year for measuring emissions reduction. A number of other amendments were adopted on monitoring and measurement. The Environment Committee of the European Parliament is now awaiting the Common Position of the Council.

On 28 November, the European Commission also adopted fourth progress report under Council Decision 93/389/EEC (as amended by Decision 99/296/EC) for a monitoring mechanism of Community CO₂ and other greenhouse gas emissions. It assesses the actual and projected progress of Member States and the Community towards fulfilling their greenhouse gas emission commitments under the UNFCCC and the Kyoto Protocol. This can be found at:

http://europa.eu.int/comm/environment/climate/greenhouse_monitoring.htm

Joint Implementation/Clean Development Mechanism EU proposal adopted

The legislative discussions still remain at an early stage on the proposal for a new Directive, which will allow European companies to carry out emissions-curbing projects around the world and convert the credits earned into emissions allowances under the European Union emissions trading scheme.

At an Environment Council which was held on 22 December 2003 one major issue concerned the draft Directive linking EU

emissions trading to the Kyoto Protocol flexible mechanisms. Allegedly there is now a consensus among the EU Member States to link the emissions trading with the clean development mechanism from 2005 and with joint implementation from 2008.

The Environment Committee has the lead on the proposal and MEP Alexander De Roo (Green, the Netherlands) is working on his draft report which is scheduled to be discussed during the Environment Committee meetings, foreseen for 16-17 February 2004.

Eco-design proposal adopted

The European Parliament has appointed MEP Frédérique Ries (Liberal, Belgium) as Rapporteur for the Commission proposal on eco-design which was presented in August 2003. The draft report is scheduled to be discussed during the Environment Committee meetings on 20 – 21 January. Adoption of the report is expected on 17 February.

The draft agrees that the Directive establishes no immediate obligation but calls for a consultative committee to be set up upstream of the committee procedure to allow relevant parties such as industry and NGOs to have their say.

Ms Ries asks for the drawing up of an indicative list of products covered by the Directive covering sectors with the highest CO₂ emissions as a way to get around very exhaustive scope. Amendments 21 and 35 move to strengthen the dissemination and visibility of the Eco-management and audit scheme (EMAS). The Rapporteur moves to involve independent notified bodies on conformity assessment, she further calls for the Commission to draw up a report by mid-2006 on the compliance by manufacturers and distributors with safety standards which entitles them to affix CE marking to their products.

According to ENDS, the German Minister for

the Environment, Jürgen Trittin, has promised to promote changes to the European Commission's proposed energy-using products directive to make a system forcing all manufacturers and importers of products to match the best on the market an integral part of European product policy.

The draft report can be consulted at:

<http://www.europarl.eu.int/meetdocs/committees/envi/20040120/519393en.pdf>

The Commission Workprogramme for 2004

The European Commission published in late October 2003 its work programme for 2004. This is the last Legislative and Work Programme of the Prodi Commission, and covers a year of major changes for the European Union.

These will include:

- Accession on 1 May 2004, ten new Member States will join the European Union.;
- A new Constitutional Treaty will be signed by Heads of State or Government of the enlarged Union;
- In June 2004, citizens throughout the European Union will vote in elections for the European Parliament; and
- On 1 November 2004, the new Commission will take up office.

The programme makes it clear that 2004 will be a far from normal year for the programming of the EU institutions as it consists of only 73 new proposals, which is a far lower number of proposals than in the previous years. In view of this, the Commission states that the Programme for 2004 is more tightly focussed than in previous years.

In terms of environmental issues key points to note is the fact that one priority for the Commission will be to apply and monitor the

application of Community legislation in the new Member States, including: the enforcement of the *acquis*, especially in the areas of food safety, agriculture, environment, customs union, internal market, justice and home affairs, maritime safety.

The programme emphasises the idea of *Sustainable Growth* (this covers actions designed to promote and develop the European Economic and Social model covering prosperity, economic convergence, social cohesion, environmental protection and a better quality of life).

Key proposals awaited in 2004 include:

- Present a Communication on the use of economic instruments to protect the environment;
- A Climate Change Communication (March 2004);
- Communication Towards a thematic strategy on the prevention and recycling of waste (September 2004);
- A strategy on Mercury (October 2004);

- Action Plan Health and the Environment (Communication - June 2004);
- Integrated Risk strategy (March 2004); and
- Report on the main developments in environmental policy since the adoption of the EU sustainable development strategy in 2001.

Overview of the battery proposal

On 24 November 2003 the European Commission presented a new proposal for a Directive on batteries and accumulators. The main aim of the proposal is to set new ways and targets for recycling all kind of batteries, industrial included. Should the provisions be adopted as they are currently proposed, the new legislation could have an economic impact on the industry.

The new Commission proposal introduces several new elements compared to the existing legislation on batteries (Council Directive 91/157/EC on batteries amended by Commission Directive 98/101/EC), the most important of which can be summarised as follows:

- The proposal imposes a legal obligation on manufacturers to take-back all spent batteries and accumulators from final disposal operations (landfill and incineration).
- Industrial and automotive batteries have a lower risk of being disposed of in the environment (in comparison with portable batteries and accumulators) due to some existing collection schemes for these batteries. Subsequently, such batteries will not be subject to specific collection targets. Nevertheless, the proposal imposes a legal obligation on manufacturers to take back those batteries

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

J a n u a r y

- 20 Discussion on Goodwill Report in Environment Committee
- 27 Vote in Industry Committee on Bowe Opinion
- 27 Deadline for amendments to Goodwill report in Environment Committee

F e b r u a r y

- 24 Steering Meeting (closed) Brussels
- 25 Strategy Meeting (closed) Brussels

Week 16 February

Vote on Goodwill report in Environment Committee

M a r c h

- 2 Environment Council

Plenary week 9 or 29 March:

Possible European Parliamentary Plenary for vote on F-gases proposal

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