

THE EUROPEAN PARTNERHSIP FOR ENERGY AND THE ENVIRONMENT's (EPEE) ROLE IN THE EU DECISION MAKING PROCESS

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ABSTRACT

The European Partnership for Energy and the Environment (EPEE) is a broad-based group of responsible companies, national associations and European associations active in the European air-conditioning, heat-pump and refrigeration industry. It was formed in September 2000 to contribute to the development of effective European policies to reduce greenhouse gases from the use of refrigerants. EPEE members include businesses involved in the development and manufacture of equipment which relies on HFCs as a refrigerant.

EPEE's principal focus at a European level is a proposal for an EU- wide Regulation of Fluorinated Gases. The proposal aims at an emissions reduction from fluorinated gases by regulating the containment, the use, placing on the market of fluorinated greenhouse gases (HFCs, PFCs and SF6) and the reporting of information on those gases. In August 2003, the European Commission adopted a proposal for a Regulation on certain fluorinated greenhouse gases. The European Parliament (composed of directly elected members) and the Council of Ministers of the EU (composed of the representatives of the EU Member State governments) will examine this proposal and decide on the final shape of the Regulation.

Keywords. European Union, Fluorinated Gasses, Hydrofluorocarbons, Responsible Use, Containment

THE BACKGROUND

- The 1989 Montreal Protocol on “Substances that Deplete the Ozone Layer” established the elimination of Chlorofluorocarbons (CFCs), a refrigerant used by the air conditioning, heat-pump and refrigeration industry (ACR).
- The ACR industry quickly resorted to HFCs, which the Technology and Economic Assessment Panel (TEAP) of the Montreal Protocol reported as important to the safe and cost-effective phase-out of CFCs in developing countries
- HFCs were subsequently recognised as a greenhouse gas, contributing to the global warming effect.
- The 1997 Kyoto Protocol requires Europe to cut emissions from 1990 levels by 8% by 2008-2012 and allows each Member State to set its own targets. Certain Member States would like to ban HFCs altogether.
- Due to the realisation that more effective action in the European Union was needed, the European Partnership for Energy and the Environment EPEE was founded to participate at an early stage in the European and national regulatory and legislative decision-making process and by promoting the understanding of the environmental and societal benefits of HFCs as refrigerants.

EPEE'S MISSION

- EPEE was founded in September 2000 by a broad-based grouping of responsible companies, national associations and European associations active in the European air-conditioning, heat pump and refrigeration industry.
- Our mission is to contribute to the development of effective European policies to limit greenhouse gas emissions from the use of refrigerants.
- EPEE promotes the availability of HFCs as part of the solution for the RAC industry to enable society to meet the environment goals of climate change while not compromising health and safety, energy efficiency and costs.

THE F-GAS REGULATION and other FUTURE CHALLENGES/ OPPORTUNITIES

In August 2003, the European Commission published a proposal for a Regulation on certain fluorinated greenhouse gases. Following this publication, the European Parliament (composed of directly elected members) and the Council of the EU (composed of the representatives of the EU Member State governments) are currently deciding on the final shape of the Regulation. To achieve this, they are following the so-called “co-decision” procedure which means that both, the Parliament and the Council have to agree on the final text.

The original proposal

The original proposal as drafted by the Commission aims at a reduction of emissions from fluorinated gases by regulating the containment, the use, placing on the market of fluorinated greenhouse gases (HFCs, PFCs and SF₆) and to the reporting of information on those gases. It did not aim to ban these gases, as it recognised their value and their benefits.

However, the European Commission also included certain bans (i.e. uses are emissive by nature), in particular in areas where it is difficult to contain fluorinated gas emissions or because the use of fluorinated gases is considered inappropriate. In such circumstances, the use and placing-on-the-market are prohibited and controls are proposed because technically-feasible and cost effective alternatives are considered to be available.

At the same time, the proposal foresaw the phase out of HFC 134a air conditioning in passenger vehicles and light commercial vehicles between 2009 and 2013 through a complex quota system.

With this in mind, the Commission also decided to base the proposal on a legal base protecting the free movement of goods in the internal market of the EU (Article 95 EC Treaty). The Commission wanted to avoid that the Member States could impose stricter national requirements than in the proposal and hamper the free movement of goods. EPEE supported this approach. Many environmental NGOs and green decision makers believed that the proposal should be based on an environmental legal base because of its contribution to achieving the goals set out in the Kyoto protocol. However, this would have allowed Member States to adopt stricter national measures.

The position of the European Parliament

According to the co-decision procedure, the European Parliament has to examine the Commission proposal in 1st reading. On 31 March 2004, the Parliament voted on the Commission proposal on f-gases adopting a number of amendments. After lengthy discussions in the Environment Committee and among the political groups, the Parliament decided to stick to the internal market legal base proposed by the European Commission. Other attempts by green and socialist MEPs to introduce additional bans of fluorinated gases were rejected. Certain technical amendments to containment provisions and training provisions however were adopted. Overall, EPEE was satisfied with the outcome of the 1st reading of the European Parliament.

The Council of the EU

Following the 1st reading position of the European Parliament, the proposal has to be approved by the Council of the EU in a Common Position of the Ministers of the EU Member States. In this case, the Council needs a qualified majority to agree its final position, unless it substantially alters the Commission proposal without its consent (e.g. by changing the legal base).

The Council reached a political agreement between all Member States on 14 October. This precedes the official Common Position.

The original proposal has been split into two different proposals. The first one is a proposal for a Directive (i.e. a legislative instrument that needs to be transposed into national law by each Member State) relating to emissions from air conditioning systems in motor vehicles. The second one is the original proposal for a Regulation (i.e. directly applicable in the Member States; does not require transposition) without the provisions on air conditioning in motor vehicles.

While the proposal on air conditioning in motor vehicles was agreed early, the proposal for a Regulation remained far more controversial, in particular the legal base. The Council decided to base the Regulation on a dual legal base to take into account environmental aspects and competitive aspects. In particular the provisions relating to use bans have been based on a legal base making it more difficult for Member States to adopt stricter national legislation that would harm the competitiveness of the industry. While certain Member States, such as Denmark and Austria tried to extend the list of use bans, the compromise sticks to the original bans foreseen by the European Commission. This is a major victory for EPEE.

Next steps: challenges and opportunities

- *In the Parliament*

Once the Council approves its Common Position – which is expected to take place early this summer – it is forwarded to the European Parliament for 2nd reading. The Parliament then has 3 months to complete its 2nd reading. It can either reject the Council Common Position with an absolute majority, in which case the procedure is terminated

and the proposal fails to become binding legislation. However, this option is highly unlikely.

Another option would be that the Parliament approves the Common Position with an absolute majority. In this case, the proposal becomes binding legislation and the procedure is terminated. The same applies in the case that the Parliament does not take a decision within the 3-month time limit.

Finally, the most likely option is that the Parliament adopts a number of amendments to the Council Common Position with an absolute majority. Here it has to be noted that in 2nd reading, one can only table amendments on aspects of the proposal that were already discussed in 1st reading or that were discussed in the Council. Hence, the possibility to fundamentally alter the proposal is limited.

- *In the Council*

Following the Parliament's 2nd reading and in the case that it has adopted amendments, the Council has to look at the proposal for a 2nd time as well. If it approves all amendments adopted by the Parliament within 3 months by qualified majority (in the case that the European Commission also approves all amendments) or by unanimity (in case the European Commission does not approve the amendments), the procedure is terminated and the amended proposal becomes binding EU law.

If the Council does not approve all amendments, the Council and the Parliament can discuss their differences on the dossier in the Conciliation Committee. If an agreement is found, the proposal is adopted and becomes binding EU law. If no agreement is found, the proposal fails to become EU law.

Conclusions

The RAC sector, compared to other sectors, such as the automobile sector, the IT sector, telecoms or the chemical industry, still has a relatively limited influence in Europe but is a growing market (its health and safety value is often underestimated –the European heat wave in 2003 resulted in 15,000 deaths).

It is important to have a prominent eye and ear in the decision making process. This is even more important when one becomes aware of the growing complexity of the EU. Since May 2004, 10 new Member States joined the EU bringing its total membership up to 25. These are all 25 independent countries with their own interests, their own policies and own culture. With a total of 20 official languages (compared to 11 before), it has become increasingly challenging for the EU to adopt a common position on individual issues. As a consequence, associations like EPEE now have to deal with this diversity and ensure that their message is adapted to it. However, any challenge also brings opportunities which we will now have to seize.