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Til underretning for Folketingets Europaudvalg vedlægges brev og non-paper vedrørende forslaget til forordning om regulering af visse fluoriserende drivhusgasser, der den 14. april 2005 af statsministeren er sendt til formanden for Europa-Parlamentet, formændene for de politiske grupper i Europa-Parlamentet og de danske medlemmer af Europa-Parlamentet.

DENMARK non-paper

# The Proposal for a Regulation of certain Fluorinated Greenhouse Gases

The common position of the Council of a Regulation of certain fluorinated greenhouse gases (F-gas regulation) from October 2004 introduces some improvements on a European level but it only uses a fraction of available eco-efficient technologies. The European Parliament now has the opportunity to improve these shortcomings.

**Background**
The Kyoto Protocol has just entered into force, largely due to leadership of the European Union. Three of the six gases included in the Kyoto Protocol are F-gases, which are the background for the proposal for the regulation as put forward by the Commission in August 2003.

In October 2004 the Council (Environment) reached a common position based on a revised proposal from the Commission. The Commissions original proposal is now split in two parts:

1. A regulation covering education, inspection etc. based on the Treaty's article 175 and bans on a few minor applications based on the Treaty's article 95
2. A restriction in use of F-gases in Mobile Air Condition systems (MACs) in an amendment to the car type approval directive solely based on the Treaty's article 95.

Austria and Denmark are currently implementing a general ban on using certain F-gases. The Danish and Austrian experiences, as well as innovations seen in other Member States, show that there are technical/financial viable and environmentally better alternatives to the F-gases. Alternatives are commercially available for a long range of products and equipment, where the overall emissions of greenhouse gases are significantly lowered. Most alternatives even reduce the energy consumption also.

Alternatives are being produced and marketed by a broad range of European producers. The consumers can now do their shopping in supermarkets where the refrigeration is based on the alternatives, which are delivered by the major players on the European market like Linde AG and York Refrigeration. Another example is a McDonald's restaurant, where the public can dine in a F-gas free restaurant.

The German Federal Environmental Agency has carried out a comprehensive and detailed work on the availability and effectiveness of the alternatives. The report shows that alternatives exist for all important applications, and concludes – for uses in supermarkets and in air-conditioning of buildings - that today, F-gas free systems are already state-of-the-art.

**What are the shortcomings of the common position of the Council?**
Firstly, the common position is not ambitious enough. The proposal of a Regulation of certain F-gases does not take the proven and already existing developments into account.

It is in opposition to our ambition on promotion of eco-innovations and environmental technologies with synergies between environmental protection, economic growth and new jobs. By imposing only negligible bans, we not only halt the eco-innovation process in this field, but we also lose credibility in the development of eco-efficient solutions in general.

Secondly, the common position of the Council of the Regulation will not allow Member States – of their own choice – to be more ambitious and in line with the economical and feasible technical alternatives.

The internal burden sharing agreement assigns Member States with highly differentiated obligations on reduction of greenhouse gases. It is therefore necessary for the individual Member States to use different means in order to reach their reduction targets

Within the refrigeration sector we will in the next decade see a major shift away from the ozone-depleting substances. This can be replaced by a significantly growing use of F-gases and parallel contribution to climate change. Or, on the other hand, we can guide the promotion of available alternatives by banning unnecessary uses of F-gas and thereby ensure the protection of the environment and - through the stimulation of further eco-innovation – a front-runner advantage for European industry in this field.

In the public, the current proposal from the Council will be seen as an endorsement of the aggressive greenhouse gas and it will be seen as a halt to innovation and introductions of environmentally better products. At the European market alternatives are increasingly visible to the public, in contradiction to the signal that the common position of the Council communicates.

## What can the European Parliament do to improve these shortcomings?

The dossier as of the common position of the Council is quite different from the dossier on which the European Parliament based its first reading. The European Parliament therefore has to reflect on the separation and the content of the 2 elements of the dossier. New amendments beyond the amendments of the first reading should be accepted.

The European Parliament can choose to ban unnecessary uses (in new systems/products) of certain F-gases within a reasonable time frame. Alternatives exist already for a very broad range of applications from household refrigerators and freezers to supermarket cooling/freezing systems and heat pumps. This will necessitate an expansion of the list of applications in Annex II to the Regulation, e.g. as suggested by DK/AT/SE in the Council (attached).

Or, the European Parliament can choose to base the full regulation on the Treaty's article 175 (environment), to secure that those Member States, deciding to use feasible solutions for fulfilling their commitments to the Kyoto Protocol and the internal burden sharing, can do so. This solution is in accordance with the opinion given by the Parliaments legal service which points towards article 175 alone as the correct legal basis for this environmental Regulation.

The use of the Treaty's article 175 can even be a solid platform for progressive innovation in the EU and opening new markets worldwide.

Alternative table for Annex II as proposed by Denmark, Austria and Sweden in the negotiations in the Council in October 2004

| **Fluorinated greenhouse gases** | **Application** | **Date of prohibition** |
|---|---|---|
| Hydro fluorocarbons<br>Perfluorocarbons | Refrigerants in non-confined direct-evaporation systems | Date of entry into force |
| Hydro fluorocarbons<br>Perfluorocarbons | Fire protection systems and fire extinguishers * | Date of entry into force |
| Fluorinated greenhouse gases | Windows | 1 July, 2006 |
| Fluorinated greenhouse gases | Footwear | 1 July, 2006 |
| Fluorinated greenhouse gases | Tyres | Date of entry into force |
| Fluorinated greenhouse gases | One component foam ** | Date of entry into force |
| Hydro fluorocarbons | Aerosols *** | Date of entry into force |
| Fluorinated greenhouse gases | Stationary refrigeration, air-conditioning and heat pump equipment and dehumidifiers with charges with or above 10 kg **** | 1 January, 2008 |
| Hydro fluorocarbons | Household refrigerators and freezers with charges less than 150 grams | 1 January, 2008 |
| Hydro fluorocarbons | District heating pipes | Date of entry into force |
| Sulphur hexafluoride | Tracer gas ***** | 1 January, 2006 |
| Perfluorocarbons | Refrigerant | 1 January, 2006 |
| Hydro fluorocarbons | Production of flexible polyure-thane foam | 1 January, 2006 |

* Except for use in military installations and in critical uses (to be defined by the Committee referred to in Article 10).

** Except in uses where safety regulations prohibit the use of alternatives.

*** Except for medical purposes and for use in confined space where fire standards prevent the use of flammable propellants or where their use is stipulated for maintenance of electrical or electronic components.

**** Except in uses where safety regulations prohibit the use of alternatives or if it does not entail disproportionate cost for the industry.

***** Except for use in laboratories.