

# EUROPEAN PARLIAMENT

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**A5-0172/2004**

18 March 2004

**\*\*\*I**

## **REPORT**

on the proposal for a European Parliament and Council regulation on certain fluorinated greenhouse gases  
(COM(2003) 492 – C5-0397/03 – 2003/0189(COD))

Committee on the Environment, Public Health and Consumer Policy

Rapporteur: Robert Goodwill

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## PROCEDURAL PAGE

By letter of 11 August 2003 the Commission submitted to Parliament, pursuant to Articles 251(2) and 95 of the EC Treaty, the proposal for a European Parliament and Council regulation on certain fluorinated greenhouse gases (COM(2003) 0492 – 2003/0189(COD)).

At the sitting of 1 September 2003 the President of Parliament announced that he had referred the proposal to the Committee on the Environment, Public Health and Consumer Policy as the committee responsible and the Committee on Industry, External Trade, Research and Energy for its opinion (C5-0397/2003).

The Committee on the Environment, Public Health and Consumer Policy appointed Robert Goodwill rapporteur at its meeting of 25 September 2003.

At its meeting of 20/21 January 2004 the Committee on the Environment, Public Health and Consumer Policy decided to request the opinion of the Committee on Legal Affairs and the Internal Market on the proposal's legal basis pursuant Rule 63(2).

The committee considered the Commission proposal and draft report at its meetings of 20 January 2004, 17 February 2004 and 16 March 2004.

At the last meeting it adopted the draft legislative resolution by 41 votes to 6, with 1 abstention.

The following were present for the vote: Caroline F. Jackson (chairman), Alexander de Roo (vice-chairman), Mauro Nobilia (vice-chairman), Guido Sacconi (vice-chairman), Robert Goodwill (rapporteur), María del Pilar Ayuso González, Hans Blokland, John Bowis, Hiltrud Breyer, Martin Callanan, Dorette Corbey, Chris Davies, Avril Doyle, Saïd El Khadraoui, Anne Ferreira, Marialiese Flemming, Karl-Heinz Florenz, Cristina García-Orcoyen Tormo, Cristina Gutiérrez Cortines, Jutta D. Haug (for Béatrice Patrie), Marie Anne Isler Béguin, Christa Klaß, Hans Kronberger, Bernd Lange, Peter Liese, Giorgio Lisi (for Raffaele Costa), Torben Lund, Jules Maaten, Minerva Melpomeni Malliori, Rosemarie Müller, Riitta Myller, Giuseppe Nisticò, Ria G.H.C. Oomen-Ruijten, Marit Paulsen, Dagmar Roth-Behrendt, Jacqueline Rousseaux, Yvonne Sandberg-Fries, Karin Scheele, Inger Schörling, Jonas Sjöstedt, Renate Sommer (for Martin Kastler), María Sornosa Martínez, Catherine Stihler, Nicole Thomas-Mauro, Antonios Trakatellis, Peder Wachtmeister, Rainer Wieland (for Horst Schnellhardt), Phillip Whitehead.

The opinion of the Committee on Industry, External Trade, Research and Energy and the opinion of the Committee on Legal Affairs and the Internal Market on the legal basis, are attached.

The report was tabled on 18 March 2004.

## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a European Parliament and Council regulation on certain fluorinated greenhouse gases  
(COM(2003) 0492 – C5-0397/2003 – 2003/0189(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2003) 0492)<sup>1</sup>,
  - having regard to Articles 251(2) and 95 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0397/2003),<sup>1</sup>
  - having regard to the opinion of the Committee on Legal Affairs and the Internal Market on the proposed legal basis,
  - having regard to Rules 67 and 63 of its Rules of Procedure,
  - having regard to the report of the Committee on the Environment, Public Health and Consumer Policy and the opinion of the Committee on Industry, External Trade, Research and Energy (A5-0172/2004),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1  
Citation 1

Having regard to the Treaty establishing the European Community, and in particular Article 95 thereof,

Having regard to the Treaty establishing the European Community, and in particular Article 95 **and Article 175** thereof,

*Justification*

*The proposed Regulation is similar to Regulation (EC) 2037/2000 concerning ozone depleting substances, which was based on Article 175. Adding Article 175 EC as a legal base*

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<sup>1</sup> Not yet published in OJ.

*is consistent with existing Community legislation.*

Amendment 2  
Recital 3 a (new)

***(3a) Annex II of Council Decision 2002/358/EC of 25 April 2002 lays down different reduction targets for individual Member States. The Member States are therefore required to take individual measures. Individual Member States must therefore be able to take adequate measures or to maintain them to attain their national reduction targets.***

*Justification*

*Account must be taken of the individual Member States' requirements to reduce emissions.*

Amendment 3  
Recital 4

(4) Provision should be made for the prevention and minimisation of emissions of fluorinated gases, without prejudice to Council Directive 75/442/EEC of 15 July 1975 on waste<sup>1</sup>, Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control<sup>2</sup>, to Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles<sup>3</sup> and to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment<sup>4</sup>.

(4) Provision should be made for the prevention and minimisation of emissions of fluorinated **greenhouse** gases, without prejudice to Council Directive 75/442/EEC of 15 July 1975 on waste<sup>1</sup>, Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control<sup>2</sup>, to Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of-life vehicles<sup>3</sup> and to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment<sup>4</sup>.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

*Justification*

*Everywhere in the text, fluorinated gases is replaced by fluorinated greenhouse gases.*

Amendment 4  
Recital 4 b (new)

***(4b) Since alternatives to HFCs, PFCs and SF6 do exist for the vast majority of applications, it is essential to restrict their use to the applications where there is no alternative available.***

*Justification*

*For a vast majority of applications, there are replacements to HFCs, PFCs and SF6. Unfortunately there is a great deal of inertia in the business that prevents quicker take-up of alternatives, in part due to the decades-long relationship with the powerful fluorocarbon industry, which had - and continues to have - an obvious vested interest in the use of CFCs, HCFCs and now, HFCs. While CO2, methane and N2O - the other gases covered by the Kyoto Protocol - levels are steady or rising slightly in Europe, HFCs emissions in particular are growing very fast. The Regulation should therefore promote alternatives to the f-gases in order to get eventually a phase-out of these very potent greenhouse gases.*

Amendment 5  
Recital 7

(7) The Kyoto Protocol requires reporting on emissions of fluorinated gases and data on the production, imports and export of fluorinated gases can help to validate the accuracy of these reports. Annual reporting should therefore be required from producers, importers and exporters of fluorinated gases.

(7) The Kyoto Protocol requires reporting on emissions of fluorinated gases and data on the production, imports and export of fluorinated gases can help to validate the accuracy of these reports. Annual reporting should therefore be required from producers, importers and exporters of fluorinated gases. ***In order to fulfil their obligations under the Kyoto Protocol to record emissions of fluorinated gases on their territory, the Member States should also be able to stipulate additional national reporting requirements.***

*Justification*

*In order to comply with reporting requirements at national level, the Member States must be able to obtain data at regional level.*

Amendment 6  
Recital 8

(8) Emissions of hydrofluorocarbon-134a (HFC-134a) from air conditioners in motor vehicles are of growing concern because of their impact on climate change. Cost-effective and safe alternatives are expected to be available imminently. These alternatives are not damaging or are

(8) Emissions of hydrofluorocarbon-134a (HFC-134a) from air conditioners in motor vehicles are of growing concern because of their impact on climate change. Cost-effective and safe alternatives are expected to be available imminently. These alternatives are not damaging or are

considerably less damaging to the climate and do not adversely affect vehicles' energy consumption and related carbon dioxide emissions. ***The use of alternative refrigerants should be facilitated by using market mechanisms in the form of transferable quotas.***

considerably less damaging to the climate and do not adversely affect vehicles' energy consumption and related carbon dioxide emissions.

*Justification*

*Consistent with the deletion of Article 10.*

Amendment 7  
Recital 9 a (new)

***(9a) Putting into service, servicing, maintenance, as well as recovery and inspection activities are international professions, which should be carried out by adequately trained and certified professionals. The development of a European set of criteria of professional qualifications is essential for achieving the objective of this Regulation;***

*Justification*

*Together with amendment 1 and 2 this amendment reinforces the provisions concerning training and certification programmes.*

Amendment 8  
Article 1, paragraph 1

This Regulation shall apply to the containment, the use, ***placing on the market of*** the fluorinated greenhouse gases hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride, ***and to the reporting of information on those gases. These substances are listed in Annex A to the Kyoto Protocol.*** An indicative list is given in Annex I.

This Regulation shall apply to the containment, the use, ***and the recovery of*** fluorinated greenhouse gases, including hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride ***as listed in Annex A to the Kyoto Protocol, to the placing on the market and use of products and equipment containing these gases and to the reporting of data on these gases.*** An indicative list ***of the gases covered by this Regulation*** is given in Annex I.

*Justification*

*The Regulation applies to the placing on the market of products and equipment containing*



*fluorinated greenhouse gases, not the placing on the market of the gases themselves.*

Amendment 9  
Article 2, point (-a) (new)

***(-a) "producer" means any natural or legal person manufacturing fluorinated greenhouse gases within the Community;***

*Justification*

*This definition is taken from Regulation (EC) 2037/2000 on substances that deplete the ozone layer. The Commission itself states in the explanatory statement of the draft that a link with this regulation is important, but then misses opportunities to have a parallel wording. For industry, it would certainly be easier if definitions corresponded to each other. In this case, the words "controlled substances" from 2037/2000 have been replaced by "fluorinated greenhouse gases".*

Amendment 10  
Article 2, point (a)

***(a) "placing on the market" means the supplying of **unused products and equipment containing fluorinated gases by a manufacturer or an importer for the first time in the European Union;*****

***(a) "placing on the market" means the supplying **or making available to third parties, against payment or free of charge, of fluorinated gases governed by this regulation, or of products and equipment containing such fluorinated gases or requiring them for their operation. With regard to vehicles, "placing on the market" relates to new vehicle types;*****

*Justification*

*Fluorinated gases are chemicals which are governed by the substance directive and the preparation directive. These directives already contain a definition of 'placing on the market'. The same definition should therefore be used to avoid a process - 'placing on the market' - having a different definition in different regulations. The ozone regulation, 2037/2000, contains a similar definition of 'placing on the market'. As the Commission's proposal essentially covers the placing on the market of products and equipment, this should also be reflected in the definition.*

*Clarification of scope of Regulation. Due to the high cost and associated technical problems with changing vehicles already in production, this legislation should apply only to new vehicles types. Also see amendment to Article 9, paragraph 2.*

Amendment 11  
Article 2, point (b)

(b) “*container*” means a product designed for the purpose of transporting or storing fluorinated gases;

(b) “*receptacle*” means transportable pressure equipment for the supply of fluorinated greenhouse gases, in accordance with the definition of Council Directive 1999/36/EC<sup>1</sup> in Article 2, paragraph 1. This definition does not cover containers used in laboratories for analytical purposes and metered dose inhalers.

<sup>1</sup> OJ L 138, 1.6.1999, p. 20.

*Justification*

*This justification is in line with Council Directive 1999/36/EC<sup>1</sup> which governs receptacles used for the supply of fluorinated gases.*

<sup>1</sup> OJ L 138, 1.6.1999, p. 20.

Amendment 12  
Article 2, point (c)

(c) “*recovery*” means the collection and storage of fluorinated gases from, for example, machinery, equipment and containment vessels during servicing or **for** disposal;

(c) “*recovery*” means the collection and storage of fluorinated **greenhouse** gases from, for example, machinery, equipment and containment vessels during **their** servicing or disposal;

*Justification*

*It does not make sense to state that recovery can occur for disposal. It should occur during servicing or during disposal - and the recovered part is then not disposed of.*

Amendment 13  
Article 2, point (e a) (new)

(**ea**) “*destruction*” means the irreversible transformation of the chemical nature of a substance.

*Justification*

*Article 4 says that fluorinated gases should be recovered for recycling, reclamation or destruction. While the first three terms are defined in Article 2, such a definition is lacking for the last term.*

Amendment 14  
Article 2, point (g)

(g) "air conditioning systems containing fluorinated gases with a global warming potential higher than 150" means air conditioning systems that use hydrofluorocarbons the global warming potential of which exceeds 150 as specified in Annex I;

(g) "air conditioning systems containing fluorinated gases with a global warming potential higher than 150" means air conditioning systems that use hydrofluorocarbons the global warming potential of which exceeds 150 as specified in Annex I. ***Where applicable to motor vehicles, it refers to vehicle air conditioning systems designed to condition air in the passenger cabin that use hydrofluorocarbons the global warming potential of which exceeds 150 as specified in Annex I;***

*Justification*

*Clarification of scope of Regulation. References to motor vehicles should not include refrigeration systems such as those fitted to vehicles transporting food etc. which are covered by other areas of the Regulation.*

Amendment 15  
Article 2, point (g a) (new)

***(ga) "hydrofluorocarbon" means an organic compound consisting of carbon, hydrogen and fluorine where no more than six carbon atoms are contained in the molecule, whether isolated or in a mixture or preparation, and whether it is virgin, recovered, recycled or reclaimed;***

*Justification*

*It is essential to include the chemical definition in order to provide legal coherence as to the scope of the regulation. Emissions of recovered, recycled and reclaimed HFC should also be covered by this regulation.*

Amendment 16  
Article 2, point (g b) (new)

***(gb) "perfluorocarbon" means an organic compound consisting solely of carbon and***

***fluorine, and where no more than six carbon atoms are contained in the molecule, whether isolated or in a mixture or preparation, and whether it is virgin, recovered, recycled or reclaimed;***

*Justification*

*It is essential to include the chemical definition in order to provide legal coherence as to the scope of the regulation. Emissions of recovered, recycled and reclaimed PFC should also be covered by this regulation.*

Amendment 17

Article 2, point (g c) (new)

***(gc) "fluorinated gases" means hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF6) and preparations containing these substances except where the preparation is a controlled substance under Regulation (EC) No 2037/2000 or where the preparation has a global warming potential of less than 15;***

*Justification*

*This addition defines the substances controlled by the Regulation to be both pure fluorinated gas compounds and mixtures containing these compounds, except where the mixture would be controlled by EC Regulation 2037/2000 on substances that deplete the ozone layer, or where the global warming potential of the mixture is very low.*

Amendment 18

Article 2, point (g d) (new)

***(gd) "global warming potential" means either the 100 year time horizon Global Warming Potential (GWP) published in the second assessment report adopted by the Intergovernmental Panel on Climate Change (IPCC) or where this value is not published in that report a Global Warming Potential (GWP) determined in accordance with IPCC methodology;***

*Justification*

*A definition of GWP is needed because not all fluorinated greenhouse gases are listed in Annex 1.*

Amendment 19  
Article 2, point (h)

(h) “enhanced HFC-134a air conditioner” means an air conditioner containing fluorinated gases with a global warming potential higher than **150** where the rate of leakage is verified as being less than 20 grams of fluorinated gases with a global warming potential higher than **150** per year for a single evaporator system, or less than 25 grams of fluorinated gases with a global warming potential higher than **150** per year for a dual evaporator system, **and where the system will not require refilling for at least 12 years**; and

(h) “enhanced HFC-134a air conditioner” means an air conditioner containing fluorinated gases with a global warming potential higher than **15** where the rate of leakage is verified as being less than 20 grams of fluorinated gases with a global warming potential higher than **15** per year for a single evaporator system, or less than 25 grams of fluorinated gases with a global warming potential higher than **15** per year for a dual evaporator system, and

*Justification*

*The amendment suggests a reduction from GWP 150 to GWP 15.*

*The original wording provides no additional environmental benefits beyond those achieved by a 20g per year leak rate. Over a 12 year period around 50% of the gas originally supplied is likely to be lost and manufacturers will build MACs with excess refrigerant charges to compensate. This change is also necessary to enable systems to be recharged in the event of a failure or collision damage.*

Amendment 20  
Article 2, point (i)

(i) “**novelty** aerosols” means **those aerosol generators listed** in the Annex to Directive 94/48/EC.

(i) “**technical** aerosols” means **aerosols used in maintenance, repair, cleaning, testing, disinfecting, manufacturing, installation and other applications where a non-flammable formulation is required for safety reasons, including silly string aerosols as referred to** in the Annex to

*Justification*

*Given that this is a typically domestic product used above all by children, it would be advisable to wait until the findings of the scientific study on security measures for silly string aerosols have been submitted before imposing an alternative propellant which, given the lack of certainty over how safe it is to use, might well cause a large number of domestic accidents.*

Amendment 21  
Article 2, point (i a) (new)

***(ia) "small-scale manufacturers' means manufacturers of vehicles who sell no more than 50 000 vehicles per calendar year in the EU;***

*Justification*

*A small-scale category is needed because particular conditions apply thereto.*

Amendment 22  
Article 2 a (new)

***Article 2 a***  
***Prevention***

***All measures that are technically and economically feasible shall be taken to prevent and minimise emissions of fluorinated gases.***

*Justification*

*This obligation, proposed by the Commission as part of art. 3 on containment, should be applicable to more sectors and not just cover refrigeration, heating and airconditioning but all sectors where HFCs, PFCs or SF6 are used.*

Amendment 23  
Article 3, paragraph 1

1. ***All*** measures that are technically and economically feasible ***shall be taken*** to prevent and minimise emissions of

1. ***Owners and operators shall take all*** measures that are technically and economically feasible to prevent and

fluorinated gases.

minimise emissions of fluorinated **greenhouse** gases.

*Justification*

*This gives more legal clarity.*

Amendment 24

Article 3, paragraph 1 a (new)

***1a. Before putting refrigeration, air conditioning and heat pump systems into service, all components and the whole system shall undergo standardised tests defined in accordance with the procedure referred to in Article 12(2).***

*Justification*

*Containment starts before the systems are put into service. Leaks should be detected before fluorinated gases are introduced.*

Amendment 25

Article 3, paragraph 2, introductory part

2. Subject to paragraph 3, stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing fluorinated gases shall be inspected for leakage according to the following schedule:

2. Subject to paragraph 3, ***the owner shall ensure that stationary - and mobile, with the exception of the systems referred to in Article 9 - refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing fluorinated greenhouse gases except equipment and systems exclusively for personal use shall be inspected for leakage after maintenance and on a regular basis*** according to the following schedule:

*Justification*

*Article 9 covers air conditioning systems in new vehicles, but there are more mobile appliances, e.g. mobile refrigerating units. These too should be covered.*

*The responsibility for inspections need to be specified and this should rest on the owner of the equipment/system. Inspections should also be performed on all mobile systems to minimise leakage. This provision should apply at least to systems with 3 kg of refrigerant change or more. Any equipment/systems that fall within the categories 3.2 a-c) that are not intended for professional use but intended exclusively for personal use should be exempted from this*

*provision so as to avoid undue burdens on individuals/households. In addition to inspections on a regular basis according to the proposed schedule any maintenance on the system/equipment should be followed by any inspection for leakage to ensure that there are no leaks.*

Amendment 26  
Article 3, paragraph 2, point (a)

(a) equipment containing 3kg or more of fluorinated gases shall be inspected at least once every year;

(a) equipment ***including at least one independently charge circuit*** containing 3kg or more of fluorinated gases shall be inspected ***by accredited companies/certified personnel*** at least once every year;

*Justification*

*Article 3 includes obligations relating to fire protection systems; however, a system's capacity has no effect on emissions. All fire protection systems are designed and tested so as to ensure that there are no emissions. A fire protection system which leaked would not perform its proper function.*

*According to a study produced for the Commission as part of the ECCP process, on the basis of a business as usual scenario the fire-fighting sector should account for approximately 0.3% of HFC emissions in the EU and only 0.0054% of greenhouse gas emissions in the EU by 2010. The vast majority of fire protection systems are fitted with a pressure gauge, which is an effective means of detecting leakage. The ISO 14520 standard recommends weekly checking of such gauges and requires twice-yearly servicing by an authorised company or person. The regulation should therefore stipulate that the inspection intervals laid down in Article 3 do not apply to fire protection systems complying with the ISO 14520 standard.*

*The inspections provided for are too frequent and their number should be halved for larger capacity systems.*

*To ensure the quality of inspections the personnel performing them should be certified and/or the company they belong to should be accredited (see further article 5 for proposals on requirements for certified personnel/accredited companies).*

Amendment 27  
Article 3, paragraph 2, point (b)

b) equipment containing 30kg or more of fluorinated gases shall be inspected four times per year;

b) equipment containing 30kg or more of fluorinated gases shall be inspected ***by accredited companies/certified personnel***



four times per year;

*Justification*

*To ensure the quality of inspections the personnel performing them should be certified and/or the company they belong to should be accredited (see further article 5 for proposals on requirements for certified personnel/accredited companies).*

Amendment 28  
Article 3, paragraph 2, point (c)

c) equipment containing 300kg or more of fluorinated gases shall be inspected monthly.

c) equipment containing 300kg or more of fluorinated gases shall be inspected **by accredited companies/certified personnel** monthly.

*Justification*

*To ensure the quality of inspections the personnel performing them should be certified and/or the company they belong to should be accredited (see further article 5 for proposals on requirements for certified personnel/accredited companies).*

Amendment 29  
Article 3, paragraph 2, subparagraph 1 a (new)

***In the case of point (a), where leakage is detected and rectified, an additional inspection shall be carried out one month later.***

*Justification*

*Systems which leak should be more regularly checked and vice versa. It is important that this regulation reinforces and not duplicates existing inspection regimes.*

Amendment 30  
Article 3, paragraph 2, subparagraph 1 b (new)

***In the case of point (b) and (c), where no leakage is detected on three consecutive inspections the frequency of inspections shall be halved to six months and two months respectively.***

*Justification*

*Systems which leak should be more regularly checked and vice versa. It is important that this regulation reinforces and not duplicates existing inspection regimes.*

Amendment 31

Article 3, paragraph 2, subparagraph 1 c (new)

***In the case of fire protection equipment where there is an existing inspection regime in place to meet ISO 14520 standard, these inspections may also fulfill the obligations of this Regulation so long as those inspections are at least as frequent.***

*Justification*

*Systems which leak should be more regularly checked and vice versa. It is important that this regulation reinforces and not duplicates existing inspection regimes.*

Amendment 32

Article 3, paragraph 3

3. Where a leakage detection system is in place, the competent authority may adjust the frequency of inspections under paragraph 2(b) and (c) as appropriate.

3. Where a leakage detection system is in place ***to monitor areas where leakage is likely***, the competent authority may adjust the frequency of inspections under paragraph 2(b) and (c) as appropriate.

*Justification*

*It is not necessary to monitor all parts of a large cooling system.*

Amendment 33

Article 3, paragraph 4

4. Owners of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 300kg or more of fluorinated gases shall install leakage detection systems.

4. ***Operators*** of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems ***including at least one independently charged circuit*** containing 300kg or more of fluorinated gases shall install leakage detection systems ***to monitor the areas where***

*leakage is likely.*

*Justification*

*Where separate systems/circuits are installed in the same location the quantity of fluorinated gases in each independent unit should be regarded as the criterion for the inspection frequency.*

*It is not necessary to monitor all parts of a large cooling system.*

*We also propose changing of the terminology of "owner" to "operator" so that it covers third parties who operate systems on the behalf of the actual owners.*

Amendment 34  
Article 3, paragraph 5

5. Owners of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 3kg or more of fluorinated gases shall maintain records on the quantity and type of fluorinated gases installed, any quantities added and the quantity recovered during maintenance and servicing. The records shall be made available on request to the competent authority and to the Commission.

5. Owners **and operators** of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 3kg or more of fluorinated **greenhouse** gases shall maintain records on the quantity and type of fluorinated **greenhouse** gases installed, any quantities added and the quantity recovered during maintenance and servicing. The records shall be made available on request to the competent authority and to the Commission.

*Justification*

*It is not always the owner who operates equipment. A lot of companies lease equipment. Thus the operator must be mentioned.*

Amendment 35  
Article 3, paragraph 5 a (new)

**5a. Leaks shall be identified and repaired as soon as practicable by a duly certified person.**

Amendment 36  
Article 3, paragraph 5 b (new)

**5b. Entities that install, distribute or maintain fire protection systems shall register with the relevant competent**

**authority.**

*Justification*

*The proposed recordkeeping requirements require system owners to keep records that could be inspected at any time by the Competent Authority or the European Commission. System owners don't have to submit records or even be registered by anyone identifying them as a system owner. Reporting is focused on import, export, production, and recycling. The Reporting will not identify for the Authorities or the European Commission who exactly has systems that could be inspected. The bottom line is that the Authorities will not be able to enforce any of these measures because neither the record keeping nor the reporting requirements will help either the European Commission or the Authorities know where systems exist. The consequence is that it will be impossible to audit any of these measures in the future and, as a result, at the end of the life of HFC fire protection systems there will be no disincentive or consequence for simply releasing the agent. This is what is believed to be happening right now with halons and we will simply be repeating history with HFCs because there will be no mechanism to know where they exist.*

*Please also consider that, on this basis, it is inadequate to evaluate the environmental impact of HFCs from fire protection by simply assessing annual emissions scenarios. Under the policy currently articulated by the European Commission one needs to consider the environmental impact of HFCs by using an emission scenario that assumes all or a large fraction of the HFCs used in fire protection is emitted at the end of its useful life.*

Amendment 37

Article 4, paragraph 1, point (a)

a) ***the cooling circuits of*** refrigeration, air-conditioning and heat pump equipment;

a) refrigeration, air-conditioning and heat pump equipment;

*Justification*

*In order to reduce the emissions of f-gases as far as possible, the gases need to be recovered and reused or destroyed. Because of the delayed release of blowing agents from foamed products, there is a particular opportunity to focus on end-of-life issues for recovery. Depending of the type of foams, the total remaining f-gases could be as high as 90-92% of the initial amount of the blowing gas injected into the foam (range of the total remaining gas at decommissioning: 0-92%).*

Amendment 38

Article 4, paragraph 1, point (d a) (new)

***da) foams.***

### *Justification*

*In order to reduce the emissions of f-gases as far as possible, the gases need to be recovered and reused or destroyed. Because of the delayed release of blowing agents from foamed products, there is a particular opportunity to focus on end-of-life issues for recovery. Depending of the type of foams, the total remaining f-gases could be as high as 90-92% of the initial amount of the blowing gas injected into the foam (range of the total remaining gas at decommissioning: 0-92%).*

### Amendment 39

Article 4, paragraph 1, last sentence

Recovery shall take place during the servicing and maintenance of that equipment **or** during the final disposal thereof.

Recovery shall take place during the servicing and maintenance of that equipment **and** during the final disposal thereof.

### *Justification*

*Recovery of fluorinated gases should be required both during servicing and maintenance and during final disposal of equipment/systems.*

### Amendment 40

Article 4, paragraph 3 a (new)

***3a. Member States shall ensure that a publicly accessible electronic register of certified personnel and undertakings is established.***

### *Justification*

*A publicly accessible electronic central register will assist owners and operators of equipment containing Fluorinated Greenhouse gases in verifying that the maintenance is carried out by duly licensed personnel. This is of particular importance for cross-border services. In this respect national and European professional organisations can play a useful role in this respect.*

### Amendment 41

Article 5, paragraph 1

1. Member States shall establish training and certification programmes for the personnel involved in ***carrying out the*** activities provided for in ***Articles 3 and 4.***

1. Member States shall establish training and certification/***accreditation*** programmes for the personnel/***servicing company handling fluorinated gases including those*** involved in ***putting into service, servicing, maintenance as well as recovery and***

***inspection*** activities provided for in ***Article 3, paragraphs 2-5, and Article 4, based on a set of criteria that guarantee professional standards or bring already existing schemes into line with the requirements of this Regulation.***

***The owner of the equipment/system shall be responsible for ensuring that the personnel/servicing company involved has the required certification/accreditation.***

***Member States shall designate the competent authorities responsible for delivering mandatory certification to companies and personnel in the industrial sectors concerned and for controlling the proper implementation of the certification scheme as well as the continuity of the compliance with the required competence and qualifications. The certification applies to:***

- putting into service,***
- responsible servicing,***
- maintenance,***
- recovery and inspection activities provided for in Articles 3 and 4.***

#### *Justification*

*This article introduces training and certification programmes but only for personnel involved in containment and recovery. There are many other occasions when personnel handle fluorinated gases outside this definition, for example installation of equipment which must be covered by the future Regulation.*

*The responsibility of different players involved in handling fluorinated gases should be clarified. The owner of the equipment/system containing these gases should be responsible for ensuring that servicing personnel/companies has got the required certification/accreditation.*

*In some Member States, there are strict criteria in certain sectors (such as energy supply companies) for the personnel involved. Setting up new 'training and certification programmes' is not necessary in those cases.*

#### Amendment 42 Article 5, paragraph 1 a (new)

***1a. Certification/accreditation programmes shall ensure that personnel/servicing***

***company involved in carrying out the activities provided for in article 3 and 4 has obtained a competence in applicable regulations and standards as well as competence in handling safely the type and size of equipment that he or she will be handling in his/her profession.***

*Justification*

*Experience has shown that high standards for programmes regarding competence for personnel involved in maintenance, inspection and recovery of ozone depleting substances and fluorinated gases can lead to dramatically decreased emissions of these substances, particularly from stationary refrigeration systems. Certain standards need however to be established with regard to the requirements for accreditation/certification.*

Amendment 43

Article 5, paragraph 1 b (new)

***1b. If a Member State considers that the set of criteria of professional qualifications which attest to a sufficient level of competence for the pursuit of putting into service, servicing, maintenance as well as recovery and inspection activities provided for in Articles 3 and 4, on the basis of which the competent authorities accredit the qualifications obtained in another Member State does not offer adequate guarantees with regard to professional qualifications, it shall inform the Commission accordingly.  
The Commission shall, if appropriate, take a decision establishing essential requirements and mutual recognition for the training and certification programmes in accordance with the procedure referred to in Article 12 a.***

*Justification*

*The rules existing at national level differ considerably and it is of paramount importance that the rules are subject to the new approach to mutual recognition in order to avoid problems arising in relation to freedom to provide services and establishment and distortions of competition on the internal market.*

*The criteria set by the essential requirements will allow the Member States, in close co-operation with their national professional organisation(s), to adapt -if necessary- their*

*national education degrees, certificates or other national accreditation.*

Amendment 44  
Article 5, paragraph 2

2. Within two years of the entry into force of this Regulation, Member States shall notify the Commission of information on the training and certification programmes referred to in paragraph 1. Member States shall give recognition to the certificates issued in another Member State and shall not restrict the freedom to provide services or the freedom of establishment for reasons relating to the certification issued in another Member State.

2. Within two years of the entry into force of this Regulation, Member States shall notify the Commission of information on the training and certification programmes referred to in paragraph 1 **and 1 a. The Commission shall assess whether a programme is in conformity with paragraph 1 a and if so approve it subject to the procedure laid down in paragraph 12.** Member States shall give recognition to the certificates issued in another Member State and shall not restrict the freedom to provide services or the freedom of establishment for reasons relating to the certification issued in another Member State **provided that these certification/accreditation programmes have been approved by the Commission.**

*Justification*

*It is imperative that there is an authority that can assess the programmes that MS establish to ensure a high and fair and equal treatment of technicians from different MS wishing to work in another MS. The Commission with the help of the committee under article 12 could do this assessment and approval.*

Amendment 45  
Article 6, paragraph 1

1. By 31 March each year from the second calendar year following entry into force of this regulation, the following data in respect of the preceding year shall be communicated to the Commission:

1. By 31 March each year from the second calendar year following entry into force of this regulation, the following data **as specified below for each fluorinated greenhouse gas** in respect **of the period 1 January to 31 December** of the preceding year shall be communicated to the Commission, **and a copy sent to the competent authority of the Member State concerned:**



### *Justification*

*The proposed reporting scheme is not fully consistent with Regulation 2037/2000 on ozone-depleting substances. The changes suggested in this amendment are taken from Article 19 of Regulation (EC) 2037/2000 on substances that deplete the ozone layer.*

*Since there already exists a Regulation which deals with fluorinated gases such as CFCs and HCFCs, there is no reason to introduce a separate regime for other fluorinated gases like HFCs and PFCs, which have been promoted by industry as substitutes for CFCs and HCFCs in refrigeration systems, aerosols, foams and other applications over the last decade or so. The Commission missed the opportunity to propose having a single Regulation and even misses opportunities to have parallel wording. At the very least, the requirements for reporting need to correspond to each other.*

### Amendment 46

Article 6, paragraph 1, point (a), introductory part

(a) Each producer who produces more than one tonne per annum shall communicate:

(a) Each producer **of fluorinated greenhouse gas** who produces more than one tonne per annum shall communicate:

### *Justification*

*The reporting should specify the responsible entity who should report and distinguish between producers/importers of fluorinated gases and producers/importers of final products.*

*Producers and importers are unable to provide estimates of expected emissions of gases that they supply to others, however they can provide details of the quantities they supply and expected use.*

*Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

### Amendment 47

Article 6, paragraph 1, point (a), indent 1

- its total production of each fluorinated gas, **identifying the applications in which the substance is expected to be used and providing an estimate of the expected emissions over the life-cycle of the substance;**

- its total production of each fluorinated **greenhouse gas,**

### *Justification*

*The reporting should specify the responsible entity who should report and distinguish between producers/importers of fluorinated gases and producers/importers of final products. Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

*Producers and importers are being asked to perform an impossible task, namely to provide a declaration on the emissions that are expected to be generated by the use of fluorinated gases in all expected applications. This sort of information is outside the control of producers and could only possibly be known by those involved in the final stages of the distribution process.*

### Amendment 48

Article 6, paragraph 1, point (a), indent 1 a (new)

***- the quantities of each fluorinated greenhouse gas placed on the market in the Community, including estimates of quantities produced for a range of applications;***

### *Justification*

*Producers and importers are unable to provide estimates of expected emissions of gases that they supply to others, however they can provide details of the quantities they supply and expected use.*

### Amendment 49

Article 6, paragraph 1, point (a), indent 1 b (new)

***- any quantities of used fluorinated gases imported for recycling, for reclamation or for destruction;***

### *Justification*

*The reporting should specify the responsible entity who should report and distinguish between producers/importers of fluorinated gases and producers/importers of final products. Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

Amendment 50  
Article 6, paragraph 1, point (a), indent 2

- any quantities recycled, reclaimed or destroyed.

- any quantities recycled, reclaimed or destroyed **of each fluorinated gas**;

*Justification*

*For the reporting to be meaningful each fluorinated gas should be reported separately, since these gases have a highly varying impact on climate change from HFC 152 with a GWP around 140 to SF6 with a GWP around 23900.*

Amendment 51  
Article 6, paragraph 1, point (a), indent 2 a (new)

- **any stocks.**

*Justification*

*The proposed reporting scheme is not fully consistent with Regulation 2037/2000 on ozone-depleting substances. The changes suggested in this amendment are taken from Article 19 of Regulation (EC) 2037/2000 on substances that deplete the ozone layer.*

*Since there already exists a Regulation which deals with fluorinated gases such as CFCs and HCFCs, there is no reason to introduce a separate regime for other fluorinated gases like HFCs and PFCs, which have been promoted by industry as substitutes for CFCs and HCFCs in refrigeration systems, aerosols, foams and other applications over the last decade or so. The Commission missed the opportunity to propose having a single Regulation and even misses opportunities to have parallel wording. At the very least, the requirements for reporting need to correspond to each other.*

Amendment 52  
Article 6, paragraph 1, point (b) introductory part

(b) Each importer **who imports more than one tonne per annum**, including any producers who also import, shall communicate:

(b) Each importer **of fluorinated greenhouse gases**, including any producers who also import, shall communicate:

*Justification*

*The proposed reporting scheme is not fully consistent with Regulation 2037/2000 on ozone-depleting substances. The changes suggested in this amendment are taken from Article 19 of Regulation (EC) 2037/2000 on substances that deplete the ozone layer.*

*Since there already exists a Regulation which deals with fluorinated gases such as CFCs and HCFCs, there is no reason to introduce a separate regime for other fluorinated gases like HFCs and PFCs, which have been promoted by industry as substitutes for CFCs and HCFCs*

*in refrigeration systems, aerosols, foams and other applications over the last decade or so. The Commission missed the opportunity to propose having a single Regulation and even misses opportunities to have parallel wording. At the very least, the requirements for reporting need to correspond to each other.*

#### Amendment 53

Article 6, paragraph 1, point (b), indent 1

- any quantities of fluorinated **gases marketed** in the Community, **separately identifying the applications in which the substance is expected to be used and providing an estimate of the expected emissions over the life-cycle of the substance;**

- any quantities of **each** fluorinated **greenhouse gas imported or supplied** in the Community,

#### *Justification*

*The proposed reporting scheme is not fully consistent with Regulation 2037/2000 on ozone-depleting substances. The changes suggested in this amendment are taken from Article 19 of Regulation (EC) 2037/2000 on substances that deplete the ozone layer.*

*Since there already exists a Regulation which deals with fluorinated gases such as CFCs and HCFCs, there is no reason to introduce a separate regime for other fluorinated gases like HFCs and PFCs, which have been promoted by industry as substitutes for CFCs and HCFCs in refrigeration systems, aerosols, foams and other applications over the last decade or so. The Commission missed the opportunity to propose having a single Regulation and even misses opportunities to have parallel wording. At the very least, the requirements for reporting need to correspond to each other.*

*For the reporting to be meaningful each fluorinated gas should be reported separately, since these gases have a highly varying impact on climate change from HFC 152 with a GWP around 140 to SF6 with a GWP around 23900.*

*The reporting should specify the responsible entity who should report and distinguish between producers/importers of fluorinated gases and producers/importers of final products. Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

#### Amendment 54

Article 6, paragraph 1, point (b), indent 1 a (new)

**- the quantities of each fluorinated greenhouse gas placed on the market in the Community, including estimates of quantities imported for a range of**

***applications;***

*Justification*

*Producers and importers are unable to provide estimates of expected emissions of gases that they supply to others, however they can provide details of the quantities they supply and expected use.*

Amendment 55

Article 6, paragraph 1, point (b), indent 2

- any quantities of used fluorinated ***gases*** imported for recycling, for reclamation or for destruction.

- any quantities of ***each*** used fluorinated ***gas*** imported for recycling, for reclamation or for destruction;

*Justification*

*For the reporting to be meaningful each fluorinated gas should be reported separately, since these gases have a highly varying impact on climate change from HFC 152 with a GWP around 140 to SF6 with a GWP around 23900.*

Amendment 56

Article 6, paragraph 1, point (b), indent 2 a (new)

- ***any stocks;***

*Justification*

*The proposed reporting scheme is not fully consistent with Regulation 2037/2000 on ozone-depleting substances. The changes suggested in this amendment are taken from Article 19 of Regulation (EC) 2037/2000 on substances that deplete the ozone layer.*

*Since there already exists a Regulation which deals with fluorinated gases such as CFCs and HCFCs, there is no reason to introduce a separate regime for other fluorinated gases like HFCs and PFCs, which have been promoted by industry as substitutes for CFCs and HCFCs in refrigeration systems, aerosols, foams and other applications over the last decade or so. The Commission missed the opportunity to propose having a single Regulation and even misses opportunities to have parallel wording. At the very least, the requirements for reporting need to correspond to each other.*

Amendment 57

Article 6, paragraph 1, point (b), indent 2 b (new)

- ***an estimate of the expected emissions over the life-cycle of the substance.***

### *Justification*

*The reporting should specify the responsible entity who should report and distinguish between producers/importers of fluorinated gases and producers/importers of final products. Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

### Amendment 58

Article 6, paragraph 1, point (c), introductory part

(c) Each exporter ***who exports more than one tonne per annum***, including any producers who also export, shall communicate:

(c) Each exporter, including any producers who also export, shall communicate:

### *Justification*

*The proposed reporting scheme is not fully consistent with Regulation 2037/2000 on ozone-depleting substances. The changes suggested in this amendment are taken from Article 19 of Regulation (EC) 2037/2000 on substances that deplete the ozone layer.*

*Since there already exists a Regulation which deals with fluorinated gases such as CFCs and HCFCs, there is no reason to introduce a separate regime for other fluorinated gases like HFCs and PFCs, which have been promoted by industry as substitutes for CFCs and HCFCs in refrigeration systems, aerosols, foams and other applications over the last decade or so. The Commission missed the opportunity to propose having a single Regulation and even misses opportunities to have parallel wording. At the very least, the requirements for reporting need to correspond to each other.*

### Amendment 59

Article 6, paragraph 1, point (c), indent 1

- any quantities of fluorinated ***gases*** exported from the Community;

- any quantities of ***each*** fluorinated ***gas*** exported from the Community;

### *Justification*

*For the reporting to be meaningful each fluorinated gas should be reported separately, since these gases have a highly varying impact on climate change from HFC 152 with a GWP around 140 to SF6 with a GWP around 23900.*

### Amendment 60

Article 6, paragraph 1, point (c), indent 2

- any quantities of used fluorinated **gases** exported for recycling, for reclamation or for destruction.

- any quantities of used **each** fluorinated **gas** exported for recycling, for reclamation or for destruction.

*Justification*

*For the reporting to be meaningful each fluorinated gas should be reported separately, since these gases have a highly varying impact on climate change from HFC 152 with a GWP around 140 to SF6 with a GWP around 23900.*

Amendment 61

Article 6, paragraph 1 a (new)

***1a. The Commission shall undertake a survey to estimate the impact of the import and export of equipment containing fluorinated gases on the above emission estimates***

*Justification*

*The reporting should specify the responsible entity who should report and distinguish between producers/importers of fluorinated gases and producers/importers of final products. Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

Amendment 62

Article 6, paragraph 1 b (new)

***1b. The competent Member State authorities shall review every 2 years a representative sample of the records for each of the categories indicated in Article 3 (2) and report to the Commission estimated emissions. The format of the report shall be established in accordance with the procedure referred to in Article 12(2) within one year of the entry into force of this Regulation.***

*Justification*

*The reporting should specify the responsible entity who should report and distinguish between*

*producers/importers of fluorinated gases and producers/importers of final products. Reporting practices are detailed as referring to international activities of UNFCCC. There is no clear link between the containment and reporting provisions in the proposal. The reporting requirements in the proposal only monitor trade flow and will not meet the objectives of the proposal: the monitoring of actual emissions. It is essential to include a sampling of the real data to ensure an accurate picture of emissions.*

Amendment 63  
Article 6, paragraph 3 a (new)

***3a. In the case of fire protection systems, actual emission figures equating to data on refills shall be recorded as set out in Article 3(5), in lieu of the requirements set out in paragraphs 1 and 2 of this Article. Such data shall be recorded by the trained and certified personnel as defined in Article 5(1).***

*Justification*

*Annual data on actual refills is a far more accurate indication of emissions than the estimates of system producers and importers, over the lifetime of a system which can be in excess of 15 years. The trained and certified personnel are better placed to record the quantities used to refill the system.*

Amendment 64  
Article 7, paragraph 1

1. The use of sulphur hexafluoride in magnesium die-casting, ***except where the quantity of sulphur hexafluoride used is below 500 kilograms per year***, shall be prohibited from 1 January 2007.

1. The use of sulphur hexafluoride in magnesium die-casting shall be prohibited from 1 January 2007.

*Justification*

*Sulphur hexafluoride (SF6) has a huge global warming impact. SF6 is 23900 times more harmful to the climate than CO2 and has a tremendously long lifetime in the atmosphere of 3200 years. Since alternatives are available and have been found technically feasible at the international level, and their use contributes to cost reductions compared to SF6, the use of SF6 should be forbidden as soon as possible. Impact assessments suggest that in the case of the United Kingdom alone, adoption of this measure would increase the reduction in emissions by magnesium companies from 5% to 98%.*

Amendment 65  
Article 7, paragraph 3



**3. The use of fluorinated gases with a global warming potential higher than 150 to fill air conditioning systems for the first time in new vehicles placed on the market as from 1 January 2009 shall be prohibited, except as provided for in article 10.** *deleted*

*Justification*

*This provision is rendered superfluous by the type-approval arrangements laid down in Article 9.*

Amendment 66  
Article 7, paragraph 3 a (new)

**3a. The use of fluorinated gases in the production of free-standing, ready-to-plug refrigerating and freezing equipment shall be prohibited from 1 January 2008.**

*Justification*

*The use of hydrocarbons is already state of the art in household refrigerators and freezers both as a refrigerant and in the insulation. Furthermore, owing to the small quantities of refrigeration involved, there are no safety reservations about the use of such equipment containing hydrocarbons as refrigerant.*

Amendment 67  
Article 8

The placing on the market of **fluorinated gases** in applications listed in Annex II shall be prohibited as specified in that Annex.

The placing on the market of **products and equipment which contain fluorinated gases or require them for their operation** in applications listed in Annex II shall be prohibited as specified in that Annex.

*Justification*

*While paragraph 2 regulates the placing on the market of fluorinated gases as substances in certain containers, paragraph 1 - with reference to Annex 2 - covers the placing on the market of products and equipment which either contain these gases or must be filled with them to become operational.*

*This amendment also takes into account the fact that placing on the market of fluorinated gases, even for the purpose of servicing and maintaining appliances and equipment should not be banned or restricted, and the fact that the equipment-related applications listed in Annex 2 may no longer be used from the applicable date even if the equipment is not to be filled with f-gases until after set-up.*

Amendment 68  
Article 8, paragraph 1 a (new)

***The placing on the market of fluorinated gases in non-refillable containers, except for laboratory and analytical use, shall be prohibited from the entry into force of the Regulation.***

*Justification*

*While paragraph 2 regulates the placing on the market of fluorinated gases as substances in certain containers, paragraph 1 - with reference to Annex 2 - covers the placing on the market of products and equipment which either contain these gases or must be filled with them to become operational.*

*This amendment also takes into account the fact that placing on the market of fluorinated gases, even for the purpose of servicing and maintaining appliances and equipment should not be banned or restricted, and the fact that the equipment-related applications listed in Annex 2 may no longer be used from the applicable date even if the equipment is not to be filled with f-gases until after set-up.*

Amendment 69  
Article 8, paragraph 1 b (new)

***Member States shall promote the placing on the market of refrigeration and air conditioning equipment using gases with a global warming potential of less than 150. If Members States introduce fiscal or other incentives to encourage the placing on the market of such equipment, they shall notify these measures to the Commission.***

*Justification*

*New technologies are being developed which could replace the use of fluorinated gases entirely, thereby strongly reducing global warming emissions from air conditioning and refrigeration equipment, both stationary and mobile. The emergence and commercialization of these technologies must be encouraged.*

Amendment 70  
Article 9, paragraph 1

1. From 1 January **2005**, any person placing new vehicles on the market with air conditioning systems containing fluorinated gases **with a global warming potential higher than 150** shall ensure that the rate of leakage has been verified as not exceeding 40 grams of fluorinated gases per year for a single evaporator system or 50 grams of fluorinated gases per year for a dual evaporator system.

1. From 1 January **2006**, any person placing new vehicles on the market with air conditioning systems containing fluorinated gases shall ensure that the rate of leakage has been verified as not exceeding 40 grams of fluorinated gases per year for a single evaporator system or 50 grams of fluorinated gases per year for a dual evaporator system.

*Justification*

*Urgent action is required by manufacturers to reduce leakage, but to set a legal requirement that the limits be met by 1 January 2005 is impractical.*

*Air conditioning systems containing HFCs with a low global warming potential should also meet these conditions because the high number of individual items makes for extremely large quantities present in vehicles, which therefore have a significant impact on f-gas emissions. Manufacturers should also regard a reduction in leakage as product improvement which customers may find attractive and which will increase the reliability of vehicle air-conditioning systems.*

Amendment 71  
Article 9, paragraph 1 a (new)

***1a. The Commission shall specify a standard for measuring the leak rate.***

*Justification*

*No such standard yet exists. This must be clarified so that manufacturers can assess the design changes required to meet the enhanced leakage level.*

Amendment 72  
Article 9, paragraph 2

2. From 1 January 2009, ***the placing on the market of new vehicles with air conditioning systems containing fluorinated gases with a global warming potential higher than 150 shall be prohibited, except as provided for in Article 10.***

2. From 1 January 2009, ***Member States shall no longer issue EC type- approval pursuant to Directive 70/156/EEC for any new type of vehicle if the global warming potential of the gases used in the air-conditioning system is higher than 50. For small-scale manufacturers, this provision shall apply from 1 January 2011.***

*Justification*

*Linking new technologies to the type-approval procedure has proved to be efficient and a*

*more cost-effective way of introducing technological innovations. No interim solutions should be sought; future-proof, climate-friendly and safe solutions should be introduced.*

Amendment 73  
Article 9, paragraph 2a (new)

***2a. From 1 January 2014, Member States shall refuse to authorise the sale or use of new vehicles fitted with an air-conditioning system using gases with a global warming potential higher than 50.***

*Justification*

*As the new types penetrate the market, the old systems will disappear. Despite that, a clear final date should also be set for the conversion of old types.*

Amendment 74  
Article 9, paragraph 2 b (new)

***2b. Member States shall promote the installation of air conditioning systems using a gas, such as CO<sub>2</sub>, that is efficient and which has a global warming potential of less than 100. If Member States introduce fiscal or other incentives to encourage the installation of systems with lower global warming potential, they shall notify these measures to the Commission.***

*Justification*

*New technology is being developed which could replace the use of fluorinated gases entirely. Lower rates of road tax, for example, could encourage the early adoption of these systems.*

Amendment 75  
Article 9, paragraph 2c (new)

***2c. Member States may grant tax or financial concessions for the conversion of existing vehicles in operation if air-conditioning systems using gases with a global warming potential of less than 50***

*are installed.*

*Justification*

*Self-explanatory.*

Amendment 76  
Article 10

***Article 10***

***deleted***

***Quotas***

***1. Any person that intends to place new vehicles with air conditioning systems containing fluorinated gases with a global warming potential higher than 150, on the market from 1 January 2009 shall be allocated quotas representing a percentage of the vehicles placed on the market by that person in accordance with the following:***

***a) between 1 January and 31 December 2009, 80% of vehicles placed on the market in 2007;***

***(b) in 2010, 60% of vehicles placed on the market in 2008;***

***(c) in 2011, 40%; of vehicles placed on the market in 2009;***

***(d) in 2012, 20%; of vehicles placed on the market in 2010;***

***(e) in 2013, 10%. of vehicles placed on the market in 2011.***

***2. Applications for first quota shall be submitted to the Commission by 30 June 2008, including information on the number of new vehicles referred to in paragraph 1 that were placed on the market by the applicant. The applications for the subsequent quotas shall be submitted to the Commission by 30 June of each year.***

***The annual quota for each quota-holder shall be published by 30 September of each year in the Official Journal of the***

*European Union.*

*3. Allocation of a quota shall entitle the quota-holder to place a corresponding number of new vehicles referred to in paragraph 1 on the market, one quota unit corresponding to one vehicle. The quotas shall be transferable between quota-holders without restrictions. Transfers shall take effect through notification to the Commission of transfers in quota-holdings.*

*4. Any quota-holder that places new vehicles on the market with air conditioning systems containing no fluorinated gases or fluorinated gases with a global warming potential equal to or lower than 150 between the date of entry into force of this Regulation and 31 December 2008 shall be entitled, on substantiated application, to a corresponding increase in his quota for 2009.*

*Any quota-holder that places new vehicles on the market with enhanced HFC-134a air conditioning systems between the date of entry into force of this Regulation and 31 December 2008 shall be entitled, on substantiated application, to an addition to his quotas for 2009 corresponding to the 50% of the number of these vehicles placed on the market.*

*5. Each quota-holder shall by 31 March every year report the numbers of vehicles referred to in paragraph 1 that were placed on the market during the preceding year, together with supporting evidence. The first report shall be submitted to the Commission by 31 March 2010. Any such vehicle containing an enhanced HFC-134a air conditioning system shall be considered to be half such a vehicle.*

*6. On 30 June every year, quotas held by each quota-holder corresponding to the number of such vehicles placed by him on the market during the preceding year*

*shall be cancelled.*

*7. Quota-holders who exceed their quotas shall have their quotas for the following year reduced by two units for each vehicle exceeding the quota.*

*8. Unused quotas shall be added to the quotas of the quota-holder for the following year.*

*9. On 30 July 2014, the name of any quota holder that has exceeded his total quota holdings for the period 2009 to 2013 shall be published. Any such quota-holder shall be subject to a financial penalty of 200 EUR in respect of each vehicle exceeding the quota.*

*10. Quota-holders with quotas remaining after 2013 may continue to place vehicles referred to in paragraph 1 on the market until 31 December 2018 in accordance with paragraphs 5 to 9.*

*11. By way of derogation from paragraphs 2 to 10, any person who places vehicles on the market below the small series and end of series limits defined in Annex XII to Council Directive 70/156/EEC shall be exempt from the requirements of this Article, provided that the number of vehicles placed on the market is below these limits. Any person that places a vehicle on the market that has been used for personal use shall also be exempt from the requirements of this Article.*

*12. In order to accommodate new entrants, any person who did not place any vehicles on the market during the period referred to in paragraph 1 (year X-2) shall be allocated non-transferable quotas corresponding to the relevant percentage listed in sub-paragraphs (a) to (e) of vehicles placed on the market by him in the year X, rather than year X-2.*

*13. Without prejudice to the Treaty, a group of persons may apply to fulfil the provisions of this Article as if they were a single person, specifying the period for which they want to so act. In the event of*

***non-compliance with the provisions of this Article they shall be jointly and severally responsible.***

*Justification*

*The proposed quota system (Article 10) for new vehicles foresees a phase out of HFC 134a between 2009 and 2018. This quota system would entail high administrative costs and would be complicated. It is also difficult for manufacturers to accurately predict sales of particular models. The proposed quota system would also be impossible to implement by smaller manufacturerers with a limited number of models. The quota system could be implemented as part of EU legislation on type approval (Directive 92/53, as subsequently amended) and the provisions governing the EU certificate of conformity, which would also provide for the phase out of this refrigerant and offer a simple, practical and easily policed solution. The European vehicle market is very competitive so that new models are regularly introduced ensuring the progressive phase out of HFC 134a.*

Amendment 77  
Article 10 a (new)

***Article 10a***

***Member States shall promote the placing on the market of equipment using gases with a global warming potential of less than 100. If Member States introduce fiscal or other incentives to encourage the placing on the market of such equipment they shall notify these measures to the Commission.***

*Justification*

*The rapporteur proposes this measure for mobile air conditioning systems but there is no reason not to extend it to all sectors. Promotion of alternatives and economic instruments like taxes and subsidies have been effective in limiting F-gas emissions.*

Amendment 78  
Article 10 b (new)

***Article 10b***

***Information to consumers***

***Member States shall ensure that consumers and citizens are informed of the global warming potential of products containing fluorinated gases.***



*Justification*

*The global warming potential of fluorinated gasses is invisible and therefor not known to citizens and consumers. In order to raise awareness of the global warming potential of products member states in cooperation with producers have to use instruments available to them (e.g. labelling and information campaigns) to inform the public.*

Amendment 79

Article 11, paragraph 1

1. On the basis of progress in potential containment or replacement of fluorinated gases in air conditioning and refrigeration systems ***contained in other modes of transport***, the Commission shall review the present legislation and report thereon to the European Parliament and the Council by 31 December 2005 at the latest. The report shall be accompanied where necessary by legislative proposals.

1. On the basis of progress in potential containment or replacement of fluorinated gases in air conditioning and refrigeration systems, the Commission shall review the present legislation and report thereon to the European Parliament and the Council by 31 December 2005 at the latest. The report shall be accompanied where necessary by legislative proposals.

*Justification*

*There is no reason to limit a review clause to the transport sector only, especially as alternatives to fluorinated gases are emerging in other sectors as well*

Amendment 80

Article 11, paragraph 1 a (new)

***1a. Within two years after the entry into force of this Regulation, the Commission shall submit a report to the European Parliament and the Council on possible actions to gradually remove HFC in new air conditioning, refrigeration and heat pump systems based on an assessment of alternative technologies with lower total (direct and indirect) greenhouse gas emissions.***

*Justification*

*HFC emissions from stationary cooling, refrigeration and heating applications are at the same level as from MAC, and will continue to increase.. CO2 as well as other eco-efficient technologies are actively being developed by European industry, enabling gradual implementation from an early date.*

Amendment 81

Article 11, paragraph 2, indent 5a (new)

***- examine whether the rules and objectives concerning recovery, reclamation or destruction of fluorinated greenhouse gases have been complied with and achieved, and assess whether existing definitions, requirements and authorisation procedures for cross-border transport of fluorinated greenhouse gases for recovery or thermal recycling, require revision;***

*Justification*

*The Commission's proposed Regulation contains rules governing the recovery of fluorinated greenhouse gases. In connection with the revision and the measures to limit emissions, there should also be a review of whether the recovery targets have been achieved and whether the existing legal framework for recovery or reclamation is compatible with the proposed objectives.*

Amendment 82

Article 11, paragraph 3

3. The report shall, where necessary, be accompanied by proposals for revision of the relevant provisions of this Regulation.

3. The report shall, where necessary, be accompanied by proposals for revision of the relevant provisions of this Regulation, ***and for any modifications to Directive 2001/56/EC to take account of necessary control procedures for the measurement of the rate of leakage from vehicle air-conditioning systems.***

*Justification*

*A European Union standard for measuring leakage rates needs to be established and included within vehicle type approval requirements. Directive 2001/56/EC concerns the EC type approval procedure of motor vehicles and their trailers in regards to their heating systems, and should be amended to include the requirements of the present Regulation on air conditioning systems.*

Amendment 83

Article 12 a (new)

***Article 12a***

***Committee on the recognition of professional qualifications***

***1. The Commission shall be assisted by a Committee on the recognition of***

*professional qualifications, referred to hereafter as "the Committee", comprising representatives of the Member States and chaired by the representative of the Commission.*

*2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having due regard to the provisions of Article 8 of that Decision. The period provided for in Article 5(6) of Decision 1999/468/EC is fixed at two months.*

*3. The Committee may be asked to give its opinion on any other matter relating to implementation of this Regulation.*

*4. The Committee shall adopt its rules of procedure*

#### *Justification*

*This amendment follows logically from amendment 1.*

Amendment 84  
Annex II

Text proposed by the Commission

<u>Fluorinated gas</u>	<u>Application</u>	<u>Date of prohibition</u>
Fluorinated gases with a global warming potential higher than <b>150</b>	Air conditioning in passenger cars and light commercial vehicles	1 January 2009 – <b>31 December 2013*</b>
Sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons	Non-refillable containers, except for laboratory and analytical use and metered dose inhalers	One year after the date of entry into force
Hydrofluorocarbons and perfluorocarbons	Refrigerants in non-confined direct-evaporation systems	Date of entry into force
<b><i>Perfluorocarbons</i></b>	<b><i>Fire protection systems and fire extinguishers</i></b>	<b><i>Date of entry into force</i></b>
Sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons	Windows	Two years after the date of entry into force
Sulphur hexafluoride	Footwear	Date of entry into force
Hydrofluorocarbons	One component foams, except when required to meet national safety standards	One year after the entry into force
Hydrofluorocarbons	<b><i>Novelty aerosols</i></b>	<b><i>Three</i></b> years after the entry into force
Hydrofluorocarbons and perfluorocarbons	Footwear	1 July 2006

***\* Progressive controls on placing on the market applicable in accordance with Article 10.***

## Amendments by Parliament

<u>Fluorinated gas</u>	<u>Application</u>	<u>Date of prohibition</u>
Fluorinated gases with a global warming potential higher than <b>50</b>	Air conditioning in passenger cars and light commercial vehicles	1 January 2009 <b>(1 January 2011)*</b>
Sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons	Non-refillable containers, except for laboratory and analytical use and metered dose inhalers	One year after the date of entry into force
Hydrofluorocarbons and perfluorocarbons	Refrigerants in non-confined direct-evaporation systems	Date of entry into force
Sulphur hexafluoride, hydrofluorocarbons and perfluorocarbons	Windows	Two years after the date of entry into force
Sulphur hexafluoride	Footwear	Date of entry into force
Hydrofluorocarbons	One component foams, except when required to meet national safety standards	One year after the entry into force
Hydrofluorocarbons	<b><i>Aerosols, except when used in technical aerosols and metered dose inhalers or other pharmaceutical products</i></b>	<b><i>Two</i></b> years after the entry into force
Hydrofluorocarbons and perfluorocarbons	Footwear	1 July 2006

***\* For small-scale manufacturers the date 1 January 2011 applies***

## EXPLANATORY STATEMENT

The introduction of hydrofluorocarbons (HFCs) in refrigeration systems, aerosols and other applications has played a major role in dramatically reducing the use of chlorofluorocarbons (CFCs) which, as ozone depleting gases, were a major cause of the depletion of the stratospheric ozone layer. Using alternatives such as HFCs enabled EU Member States to meet the requirements of the Montreal Protocol. HFCs also have characteristics, which mean they are hard to replace in some applications. Alternatives are available but may have limitations, for example, Hydrocarbons (HCs) are flammable and ammonia is toxic. Carbon Dioxide and Sterling pumps are now also being brought into commercial use for some cooling applications.

HFCs, like CO<sub>2</sub>, are greenhouse gases. Their global warming potential (GWP) is measured in relation to CO<sub>2</sub> which has a GWP of one. This regulation will be effective by firstly improving the containment of HFCs in systems and secondly, by, in the case of vehicle air conditioning systems, requiring the change over from HFC-134a with a GWP of 1,300 to HFC-152a with a GWP of 140.

It is also important to take into account the "atmospheric lifetime" of different fluorinated gases i.e. how long they stay around in the atmosphere. In that respect HFC-134a has an atmospheric lifetime of 14 years whereas HFC-152a degrades ten times as fast.

The reference to Article 95 of the treaty is valid as this is primarily a single market proposal.

Your rapporteur has tabled a number of amendments to simplify this regulation and make it more effective.

### Mobile Air Conditioning

The proposed quota system for vehicles outlined in Article 10 would be bureaucratic and hard to implement. Motor manufacturers can not always predict the sales of a particular model in the next year, for example, the new "mini" has far exceeded expectations. The best time to introduce new technology is when a new model is "type approved". The introduction timetable for HFC-152a or alternatives outlined in article 10 is unlikely to match the programme of new model roll out for a particular manufacturer. Some smaller manufacturers of, for example, sports cars, only have very few models so they would be unable to conform to a 5 stage introduction. Member states could go further by introducing incentives such as lower road tax for CO<sub>2</sub> or other systems with a GWP of less than 100. It should be borne in mind, however, that the "lifetime" global warming impact of a vehicle will depend on the energy efficiency of the air conditioning as much as the type of gas used; particularly if leakage is minimised, and if the vehicle is ultimately scrapped in a way that recovers harmful materials.

### Stationary systems

The proposal aims to control emissions by inspecting installations at frequencies dependant on their size. Where leakage is detected it is logical to increase the frequency of inspections and vice versa. It is also important that these inspections "dovetail" into any existing inspection schedule to comply with, for example, fire regulations. The leakage detectors referred to in article 3 should be located in areas such as compressor houses as it is

impractical as well as pointless to monitor low risk components such as pipework.

### Aerosols

The use of HFCs in aerosols should be limited to applications where they are the only possible propellant. The most usual alternative would be an HC like propane. Somewhat bizarrely HCs for use in Novelty Products such as "silly string" were banned in Directive 94/48/EC pending the result of a scientific study into safety aspects. This study has never been undertaken. The products remain on the market but at any time the publication of the study could trigger the ban of HCs. In some cases HCs could present a fire risk and in others where the gas must or may be inhaled HFCs are the only safe option. This also applies to some fire protection systems in places like operating theatres. These are impossible to evacuate at certain times even in the event of fire.

Once adopted, your rapporteur hopes that this Regulation will contribute to the reduction and containment of greenhouse gases and play its part in the European Union's and Member State's Kyoto effort.

## OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET ON THE LEGAL BASIS

### Legal basis of the proposal for a Regulation on certain fluorinated greenhouse gases - COM(2003)492- 2003/0189(COD) - C5-0397/2003

Dear Mrs Jackson,

By letter of 22 January 2004 you requested the Committee on Legal Affairs and the Internal Market, under Rule 63(2), to consider the issue of the appropriate legal basis for the above proposal. You did so because, while the Commission had based its proposal on Article 95 of the EC Treaty, some Members of your Committee took the view that the proposal should be based on Article 175 of the EC Treaty.

The Committee on Legal Affairs and the Internal Market considered the above question at its meeting of 8 March 2004.

The Committee on Legal Affairs and the Internal Market is essentially asked to verify the choice of the appropriate legal basis for the measure which the Commission proposes and, in particular, on whether it should be founded on Article 95 or Article 175 of the EC Treaty.

It is clear from settled case law of the ECJ that the choice of the legal basis does not depend on the discretion of the Community legislature but must be based on objective elements which are amenable to judicial control. Among these elements are, in particular, the aim and the content of the legal act.<sup>1</sup> In practice, the Court bases its findings essentially on the recitals stated in the preamble.

It is also necessary to determine whether the measures in question relate principally to a particular field of action, having only incidental effects on other policies, or whether both aspects are equally essential.

If the first hypothesis is correct, recourse to a single legal basis is sufficient<sup>2</sup>; if the second is correct, it is insufficient<sup>3</sup> and the institution is required to adopt the measure on the basis of both of the provisions from which its competence derives.<sup>4</sup> However, no such dual basis is possible where the procedures laid down for each legal basis are incompatible with each other.<sup>5</sup>

In the present case, application of those criteria amounts to asking whether the draft Regulation, in the light of its context, its aim and its content, constitutes an act principally concerning environmental protection which is liable to have incidental effects on the internal market, whether, conversely, it is principally an act concerning internal market which incidentally takes account of certain environmental requirements, or whether it is inextricably

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<sup>1</sup> See, *inter alia*, ECJ, case C-42/97, *Parliament v Council*, para. 36.

<sup>2</sup> Case C-70/88 *Parliament v Council* [1991] ECR I-4529, paragraph 17, and Case C-271/94 *Parliament v Council* [1996] ECR I-1689, paragraphs 32 and 33.

<sup>3</sup> Case 242/87 *Commission v Council* [1989] ECR 1425, paragraphs 33 to 37, and Case C-360/93 *Parliament v Council* [1996] ECR I-1195, paragraph 30.

<sup>4</sup> Case 165/87 *Commission v Council* [1988] ECR 5545, paragraphs 6 to 13.

<sup>5</sup> Case C-300/89 *Commission v Council* [1991] ECR I-2867, paragraphs 17 to 21.



concerned both with environmental protection and with internal market.

It is true that numerous provisions of the draft Regulation relate specifically to the environment. However, the fact remains that, as shown by the above considerations, the draft proposal is, in the light of its aim and its content, an instrument intended essentially to harmonise the legislation of the Member States which have as their object the establishment and functioning of the internal market.

It follows from all of the foregoing considerations that adoption of the Regulation must be founded on a single legal basis, specific to the internal market. Consequently, Article 95 of the EC Treaty, is the appropriate legal basis.

The Committee on Legal Affairs and the Internal Market thus unanimously decided<sup>1</sup> that Article 95 of the EC Treaty is the appropriate legal basis.

Yours sincerely,

Giuseppe Gargani

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<sup>1</sup> At its meeting of 8 March 2004, the following were present for the vote: Giuseppe Gargani (President), Ioannis Koukiadis (vice-Chairman), Paolo Bartolozzi, Ward Beysen, Enrico Ferri, Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, José María Gil-Robles Gil-Delgado, Malcolm Harbour, Klaus-Heiner Lehne, Sir Neil MacCormick, Arlene McCarthy, Toine Manders, Manuel Medina Ortega, Elena Ornella Paciotti, Marianne L.P. Thyssen, Ian Twinn, Diana Wallis.

27 January 2004

## **OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH AND ENERGY**

for the Committee on the Environment, Public Health and Consumer Policy

on the proposal for a European Parliament and Council regulation on certain fluorinated greenhouse gases  
(COM(2003) 492 – C5-0397/2003 – 2003/0189(COD))

Draftsman: David Robert Bowe

### **PROCEDURE**

The Committee on Industry, External Trade, Research and Energy appointed David Robert Bowe draftsman at its meeting of 2 October 2003.

It considered the draft opinion at its meetings of 1 December 2003, 13 and 27 January 2004.

At the last meeting it adopted the following amendments by 38 votes to 0, with 5 abstentions.

The following were present for the vote: Luis Berenguer Fuster (chairman), Peter Michael Mombaur (vice-chairman), Yves Piétrasanta (vice-chairman), David Robert Bowe (draftsman), Per-Arne Arvidsson (for Paul Rübig), Sir Robert Atkins, Ward Beysen (for Marco Cappato), Hiltrud Breyer (for Nuala Ahern), Felipe Camisón Asensio (for Michel Hansenne), Gérard Caudron, Giles Bryan Chichester, Nicholas Clegg, Dorette Corbey (for Massimo Carraro), Elisa Maria Damião (for Harlem Désir), Willy C.E.H. De Clercq, Concepció Ferrer, Francesco Fiori (for Guido Bodrato), Colette Flesch, Glyn Ford (for Gary Titley), Norbert Glante, Roger Helmer (for Bashir Khanbhai), Hans Karlsson, Helmut Kuhne (for Rolf Linkohr), Werner Langen, Caroline Lucas, Erika Mann, Eryl Margaret McNally, Ana Miranda de Lage, Bill Newton Dunn (for Elly Plooij-van Gorsel), Reino Paasilinna, Paolo Pastorelli, José Javier Pomés Ruiz (for Jaime Valdivielso de Cué pursuant to Rule 153(2)), John Purvis, Godelieve Quisthoudt-Rowohl, Imelda Mary Read, Mechtild Rothe, Christian Foldberg Røvsing, Konrad K. Schwaiger, Esko Olavi Seppänen, Claude Turmes, W.G. van Velzen, Alejo Vidal-Quadras Roca, Myrsini Zorba and Olga Zrihen Zaari.

## SHORT JUSTIFICATION

The European Union is playing a major role in the global debate to prevent climate change and reduce green house gas emissions. Under the Kyoto Protocol, the EU is committed to reducing its emissions of green house gases by 8% within the first commitment period, entailing a reduction of around 340 million tonnes of CO<sub>2</sub>.

The Commission lists as overall objective of the proposal "to make a significant contribution towards the European Community's Kyoto Protocol target". To reach this goal, the Commission proposes to improve the containment of fluorinated gases, to prohibit their use in certain applications where alternatives do exist and to limit the use of fluorinated gases in car air conditioning systems to the chemical compound with the lowest carbon dioxide equivalent.

The Commission estimates that without legislation emissions in the EU will increase from 65,2 million tonnes of carbon dioxide equivalent to 98 million tonnes in 2010. This would be an increase of around 50%. The largest proportion comes from a rise in refrigeration and air-conditioning applications and from mobile air-conditioning, such as that found in motor vehicles. The Commission hopes that the proposal will enable us to inverse this trend and cut emissions by 2010 by around 23 million tonnes. This would result in around 75 million tonnes of emissions. Compared to the aim of 8% reduction this still is not good enough.

Impact of this proposal in the areas of competence of this committee:

### 1. Industry

For industry it is important that legislation is clear, simple and precise. Unfortunately, this is not always the case with this text. Definitions are missing, two terms are used to describe the same etc. In order to make the legislation easier to understand and to transpose, particularly as it is a Regulation which will not be transposed into national legislation, it is necessary to amend it. A couple of amendments have been drafted in this spirit, e.g. the definitions of "producer" or "destruction".

The proposal will impact on a number of industries in different ways:

**Producers of fluorinated gases** will have to follow rules on reporting and placing on the market. The demand for certain gases will fall as their use becomes prohibited in different areas, e.g. the use of sulphur hexafluoride. The demand for HFC152a, the only gas with a global warming potential under 150, may rise.

**Producers of aerosols** will have to find other gases to operate novelty aerosols and a couple of other technical gases. This does not seem to be a major problem at the moment. Medical dose inhalators are exempt from changes.

**Producers of refrigerating and air conditioning equipment** will have to consider the new demands on containment and reporting. The reactions of the various actors are mixed: Those who use fluorinated gases would like the phasing out to be slower. Those who are already working with carbon dioxide in cooling and refrigerating are keen on the phasing out period to be shortened so that the new technology will be developed faster. Preliminary testing with carbon dioxide filled air conditioning units has already been taken place and European as well

as overseas car manufacturers are keen on using this new technology. Therefore, the rapporteur has tabled amendments aiming to encourage the switch-over to carbon dioxide technology. This will improve the green house gas balance significantly as the next best gas has 140 times the potential as carbon dioxide, and some are much worse.

**Car manufacturers** will be affected by higher prices for the air-conditioning gases, since car prices are likely to rise by up to 50 € if other fluorinated gases are used and by up to 150 € if carbon dioxide is used. For this reason they naturally prefer a longer transitional period and do not want to be forced to shift to carbon dioxide technology.

## 2. Trade

As with all environmental measures, this too, will lead to complaints from those countries who are developing car manufacturing industries. However, it has to be said that air conditioning with fluorinated gases will soon be considered an obsolete technology. For countries with emerging markets it might be smart to opt directly for carbon dioxide technology, a strategy that China is already pursuing. As Europe has a huge car market, this Regulation will have no more effect than a new safety standard, which also has to be applied as soon as it is binding.

The other measures of the Regulation have no major impact on trade.

## 3. Research

In light of Kyoto, carbon dioxide cooling technologies offer new opportunities for research and development. This will improve Europe's innovative potential.

## AMENDMENTS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on the Environment, Public Health and Consumer Policy, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission <sup>1</sup>	Amendments by Parliament
Amendment 1 Recital 4	
4. Provision should be made for the prevention and minimisation of emissions of fluorinated gases, without prejudice to Council Directive 75/442/EEC of 15 July 1975 on waste <sup>1</sup> , Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control <sup>2</sup> , to Directive 2000/53/EC of	4. Provision should be made for the prevention and minimisation of emissions of fluorinated <b>greenhouse</b> gases, without prejudice to Council Directive 75/442/EEC of 15 July 1975 on waste <sup>1</sup> , Council Directive 96/61/EC of 24 September 1996 concerning integrated pollution prevention and control <sup>2</sup> , to Directive 2000/53/EC of

<sup>1</sup> OJ C ... / Not yet published in OJ

the European Parliament and of the Council of 18 September 2000 on end-of life vehicles<sup>3</sup> and to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment<sup>4</sup>.

the European Parliament and of the Council of 18 September 2000 on end-of life vehicles<sup>3</sup> and to Directive 2002/96/EC of the European Parliament and of the Council of 27 January 2003 on waste electrical and electronic equipment<sup>4</sup>.

*(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)*

#### *Justification*

*Everywhere in the text, fluorinated gases is replaced by fluorinated greenhouse gases.*

#### Amendment 2

##### Recital 8

(8) Emissions of hydrofluorocarbon-134a (HFC-134a) from air conditioners in motor vehicles are of growing concern because of their impact on climate change. Cost-effective and safe alternatives are expected to be available imminently. These alternatives are not damaging or are considerably less damaging to the climate and do not adversely affect vehicles' energy consumption and related carbon dioxide emissions. ***The use of alternative refrigerants should be facilitated by using market mechanisms in the form of transferable quotas.***

(8) Emissions of hydrofluorocarbon-134a (HFC-134a) from air conditioners in motor vehicles are of growing concern because of their impact on climate change. Cost-effective and safe alternatives are expected to be available imminently. These alternatives are not damaging or are considerably less damaging to the climate and do not adversely affect vehicles' energy consumption and related carbon dioxide emissions.

#### *Justification*

*Consistent with the deletion of Article 10.*

#### Amendment 3 Article 1, paragraph 1

This Regulation shall apply to the containment, the use, ***placing on the market of the*** fluorinated greenhouse gases hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride, ***and to the reporting of information on those gases. These substances are listed in Annex A to the Kyoto Protocol.*** An indicative list is given

This Regulation shall apply to the containment, the use, ***and recovery of*** fluorinated greenhouse gases, including hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride ***as listed in Annex A of the Kyoto Protocol, to the placing on the market and use of products and equipment containing these gases and to***

in Annex I.

**reporting data on these gases.** An indicative list **of the gases covered by this Regulation** is given in Annex I.

*Justification*

*The Regulation applies to the placing on the market of products and equipment containing fluorinated greenhouse gases, not the placing on the market of the gases themselves.*

Amendment 4  
Article 2, point (-a) (new)

**(-a) 'producer' means any natural or legal person manufacturing fluorinated greenhouse gases within the Community,**

*Justification*

*This definition is taken from Regulation (EC) 2037/2000 on substances that deplete the ozone layer. The Commission itself states in the explanatory statement of the draft that a link with this regulation is important, but then misses opportunities to have a parallel wording. For industry, it would certainly be easier if definitions corresponded to each other. In this case, the words "controlled substances" from 2037/2000 have been replaced by "fluorinated greenhouse gases".*

Amendment 5  
Article 2, point (a)

(a) "placing on the market" means the supplying of unused products and equipment containing fluorinated gases by a manufacturer or an importer for the first time in the European Union;

(a) "placing on the market" means the supplying of unused products and equipment containing fluorinated gases by a manufacturer or an importer for the first time in the European Union. **It does not apply to fluorinated gases as such. With regard to vehicles "placing on the market" relates to "new vehicle types";**

*Justification*

*The amendment is designed to clarify the scope of the regulation.*

*Due to the high cost and associated technical problems with changing vehicles already in production, this legislation should apply only to new vehicles types.*

Amendment 6  
Article 2, point (b)

(b) **"container" means a product designed**

(b) **"receptacle" means transportable**

*for the purpose of transporting or storing fluorinated gases;*

*pressure equipment for the supply of fluorinated greenhouse gases, in accordance with the definition of Council Directive 1999/36/EC<sup>1</sup> in Article 2, paragraph 1. This definition does not cover containers used in laboratories for analytical purposes and metered dose inhalers.*

<sup>1</sup> *OJ L 138, 1.6.1999, p. 20.*

*Justification*

*This justification is in line with Council Directive 1999/36/EC<sup>1</sup> which governs receptacles used for the supply of fluorinated gases.*

<sup>1</sup> *OJ L 138, 1.6.1999, p. 20.*

Amendment 7  
Article 2, point (c)

(c) “recovery” means the collection and storage of fluorinated gases from, for example, machinery, equipment and containment vessels during servicing or **for** disposal;

(c) “recovery” means the collection and storage of fluorinated **greenhouse** gases from, for example, machinery, equipment and containment vessels during **their** servicing or disposal;

*Justification*

*It does not make sense to state that recovery can occur for disposal. It should occur during servicing or during disposal - and the recovered part is then not disposed of.*

Amendment 8  
Article 2, point (e a) (new)

**(ea) “destruction” means the irreversible transformation of the chemical nature of HFC, PFC or SF6 in order to change their characteristics and transform them into substances not covered by this regulation.**

*Justification*

*Article 4 says that fluorinated gases should be recovered for recycling, reclamation or destruction. While these three words are defined in Article 2, the present definition is lacking.*

Amendment 9  
Article 2, point (g), subparagraph 1 a (new)

*Where applicable to motor vehicles, ‘air conditioning systems containing fluorinated gases with a global warming potential higher than 150’ means vehicle air conditioning systems designed to condition air in the passenger cabin that use hydrofluorocarbons the global warming potential of which exceeds 150 as specified in Annex;*

*Justification*

*This legislation concerns the mobile air conditioning systems in passenger cars and not the cooling systems of refrigeration trucks.*

Amendment 10  
Article 2, point (g a) (new)

***(ga) “Hydrofluorocarbon” means an organic compound consisting of carbon, hydrogen and fluorine, and where no more than six carbon atoms are contained in the molecule; whether it is isolated or in a mixture or in a preparation, and whether it is pure, recovered, recycled or reclaimed;***

*Justification*

*It is necessary to include the chemical definition in order to provide legal certainty as to the scope of the regulation. Recovered, recycled or reclaimed HFC emissions must also be covered by this regulation.*

Amendment 11  
Article 2, point (g b) (new)

***(gb) “Perfluorocarbon” means an organic compound consisting of carbon and fluorine only, and where no more than six carbon atoms are contained in the molecule; whether it is isolated or in a mixture or in a preparation, and whether it is pure, recovered, recycled or reclaimed;***

*Justification*

*It is necessary to include the chemical definition in order to provide legal certainty as to the scope of the regulation. Recovered, recycled or reclaimed HFC emissions must also be covered by this regulation.*



Amendment 12  
Article 2, point (g c) (new)

***(gc) "fluorinated greenhouse gases" means hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF6) and preparations containing these substances except where the preparation is a controlled substance under Regulation 2037/2000 or where the preparation has a Global Warming Potential of less than 15;***

*Justification*

*This addition defines the substances controlled by the Regulation to be both pure fluorinated gas compounds and mixtures containing these compounds, except where the mixture would be controlled by EC Regulation 2037/2000 on substances that deplete the ozone layer, or where the Global Warming Potential of the mixture is very low.*

Amendment 13  
Article 2, point (g d) (new)

***(gd) "Global Warming Potential" means either the 100 year time horizon Global Warming Potential (GWP) published in the second assessment report adopted by the Intergovernmental Panel on Climate Change (IPCC) or where this value is not published a Global Warming Potential (GWP) determined in accordance with IPCC methodology;***

*Justification*

*A definition of GWP is needed because not all fluorinated greenhouse gases are listed in Annex 1.*

Amendment 14  
Article 2, point (h)

***(h) "enhanced HFC-134a air conditioner" deleted***  
***means an air conditioner containing fluorinated gases with a global warming potential higher than 150 where the rate of leakage is verified as being less than 20 grams of fluorinated gases with a global warming potential higher than 150 per year for a single evaporator system, or less than***

**25 grams of fluorinated gases with a global warming potential higher than 150 per year for a dual evaporator system, and where the system will not require refilling for at least 12 years; and**

*Justification*

*The deletion of all references to "enhanced HFC-134a air conditioners" stems from the deletion of Article 10 (quota system for a progressive phase-out) as in the relevant amendment below.*

Amendment 15  
Article 3, paragraph 1

1. **All** measures that are technically and economically feasible **shall be taken** to prevent and minimise emissions of fluorinated gases.

1. **Owners and operators shall take all** measures that are technically and economically feasible to prevent and minimise emissions of fluorinated **greenhouse** gases.

*Justification*

*This gives more legal clarity.*

Amendment 16  
Article 3, paragraph 1 a (new)

**1a. Before putting refrigeration, air conditioning and heat pump systems into service, all components and the whole system shall undergo standardised tests defined in accordance with the procedure referred to in Article 12(2).**

*Justification*

*Containment starts before the systems are put into service. Leaks should be detected before fluorinated gases are introduced.*

Amendment 17  
Article 3, paragraph 2, subparagraph 1

2. Subject to paragraph 3, stationary refrigeration, air-conditioning and heat-pump equipment and fire protection

2. Subject to paragraph 3, stationary - **and mobile, with the exception of the systems referred to in Article 9** - refrigeration, air-

systems containing fluorinated gases shall be inspected for leakage according to the following schedule:

conditioning and heat-pump equipment and fire protection systems containing fluorinated **greenhouse** gases shall be inspected for leakage according to the following schedule:

*Justification*

*Article 9 covers air conditioning systems in new vehicles, but there are more mobile appliances, e.g. mobile refrigerating units. These too should be covered.*

Amendment 18

Article 3, paragraph 2, subparagraph 1 a (new)

***In the case of point (a), where leakage is detected and rectified, an additional inspection shall be carried out one month later.***

*Justification*

*Systems which leak should be more regularly checked and vice versa. It is important that this regulation reinforces and not duplicates existing inspection regimes.*

Amendment 19

Article 3, paragraph 2, subparagraph 1 b (new)

***In the case of points (a), (b) and (c), where no leakage is detected on three consecutive inspections the frequency of inspections shall be halved to six months and two months respectively.***

*Justification*

*Systems which leak should be more regularly checked and vice versa. It is important that this regulation reinforces and not duplicates existing inspection regimes.*

Amendment 20

Article 3, paragraph 4

4. Owners of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 300kg or more of fluorinated gases shall install leakage detection systems.

4. Owners **and operators** of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 300kg or more of fluorinated **greenhouse** gases shall install leakage detection systems.

*Justification*

*It is not always the owner who operates equipment. A lot of companies lease equipment. Thus the operator must be mentioned.*

Amendment 21  
Article 3, paragraph 5

5. Owners of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 3kg or more of fluorinated gases shall maintain records on the quantity and type of fluorinated gases installed, any quantities added and the quantity recovered during maintenance and servicing. The records shall be made available on request to the competent authority and to the Commission.

5. Owners **and operators** of stationary refrigeration, air-conditioning and heat-pump equipment and fire protection systems containing 3kg or more of fluorinated **greenhouse** gases shall maintain records on the quantity and type of fluorinated **greenhouse** gases installed, any quantities added and the quantity recovered during maintenance and servicing. The records shall be made available on request to the competent authority and to the Commission.

*Justification*

*It is not always the owner who operates equipment. A lot of companies lease equipment. Thus the operator must be mentioned.*

Amendment 22  
Article 5, paragraph 1

1. Member States shall establish training and certification programmes for the personnel involved in carrying out the activities provided for in **Articles 3 and 4**.

1. Member States shall establish training and certification programmes for the personnel involved in carrying out the activities provided for in **Article 3, paragraphs 2-5, and Article 4**.

*Justification*

*The proposed addition would prevent the training and certification obligation being extended without good reason to persons in the chain of suppliers (lorry drivers, for example) who have no influence on the emission of fluorinated gases. The aim is to avoid an excess of administrative and regulatory constraints for undertakings.*

Amendment 23  
Article 6, paragraph 1 (a)

(a) Each producer who produces more than

(a) Each producer **of fluorinated greenhouse gas** who produces more than

one tonne per annum shall communicate:  
- its total production of each fluorinated gas, *identifying the applications in which the substance is expected to be used and providing an estimate of the expected emissions over the life-cycle of the substance*;

- any quantities recycled, reclaimed or destroyed.

one tonne per annum shall communicate:  
- its total production of each fluorinated *greenhouse* gas;

- *the quantities of each fluorinated greenhouse gas placed on the market in the Community, including estimates of quantities produced for a range of applications*;

- any quantities *of fluorinated greenhouse gas* recycled, reclaimed or destroyed.

#### *Justification*

*Producers and importers are unable to provide estimates of expected emissions of gases that they supply to others, however they can provide details of the quantities they supply and expected use.*

#### Amendment 24 Article 6, paragraph 1 (b)

(b) Each importer who imports more than one tonne per annum, including any producers who also import, shall communicate:

- any quantities of fluorinated gases *marketed* in the Community, *separately identifying the applications in which the substance is expected to be used and providing an estimate of the expected emissions over the life-cycle of the substance*;

- any quantities of used fluorinated gases imported for recycling, for reclamation or for destruction.

(b) Each importer who imports more than one tonne *of fluorinated greenhouse gases* per annum, including any producers who also import, shall communicate:

- any quantities of fluorinated *greenhouse* gases *placed on the market* in the Community;

- *the quantities of each fluorinated greenhouse gas placed on the market in the Community, including estimates of quantities imported for a range of applications*;

- any quantities of used fluorinated *greenhouse* gases imported for recycling, for reclamation or for destruction

### *Justification*

*Producers and importers are unable to provide estimates of expected emissions of gases that they supply to others, however they can provide details of the quantities they supply and expected use.*

#### Amendment 25 Article 6, paragraph 1 (c)

(c) Each exporter who exports more than one tonne per annum, including any producers who also export, shall communicate:

- any quantities of fluorinated gases exported from the Community;
- any quantities of used fluorinated gases exported for recycling, for reclamation or for destruction.

(c) Each exporter who exports more than one tonne per annum, including any producers who also export, shall communicate:

- any quantities of fluorinated **greenhouse** gases exported from the Community;
- any quantities of used fluorinated **greenhouse** gases exported for recycling, for reclamation or for destruction.

### *Justification*

*This amendment ensures consistency.*

#### Amendment 26 Article 7, paragraph 3

3. The use of fluorinated gases with a global warming potential higher than 150 to fill air conditioning systems for the first time in new **vehicles** placed on the market as from 1 January 2009 shall be prohibited, **except as provided for in article 10.**

3. The use of fluorinated **greenhouse** gases with a global warming potential higher than 150 to fill air conditioning systems for the first time in new **vehicle types** placed on the market as from 1 January 2009 shall be prohibited.

### *Justification*

*The proposed quota system (Article 10) for new vehicles foresees a phase out of HFC 134a between 2009 and 2018. This quota system would entail high administrative costs. A ban of HFC 134a from 1 January 2009 for new vehicle types would also provide for the phase out of this refrigerant and offer a simplified, production viable and reliable solution.*

#### Amendment 27 Article 7, paragraph 3

3. The use of fluorinated gases with a global warming potential higher than 150

3. The use of fluorinated **greenhouse** gases with a global warming potential higher

to fill air conditioning systems for the first time in new vehicles placed on the market as from 1 January 2009 shall be prohibited, except as provided for in article 10.

than 150 to fill air conditioning systems for the first time in new vehicles placed on the market as from 1 January 2009 shall be prohibited, except as provided for in article 10.

*Justification*

*This amendment ensures consistency.*

Amendment 28  
Article 8, paragraph 1

The placing on the market of fluorinated gases in applications listed in Annex II shall be prohibited as specified in that Annex.

The placing on the market of fluorinated **greenhouse** gases in applications listed in Annex II shall be prohibited as specified in that Annex.

*Justification*

*This amendment ensures consistency.*

Amendment 29  
Article 9, paragraph 1

1. From **1 January 2005**, any person placing new **vehicles** on the market with air conditioning systems containing fluorinated gases with a global warming potential higher than 150 shall ensure that the rate of leakage has been verified as not exceeding **40 grams of fluorinated gases per year for a single evaporator system or 50 grams of fluorinated gases per year for a dual evaporator system.**

1. From **1 January 2007**, any person placing new **vehicle types** on the market with air conditioning systems containing fluorinated gases with a global warming potential higher than 150 shall ensure that the rate of leakage has been verified as not exceeding **suitable limit values specified in a separate verification procedure, which is included within the type approval framework.**

*Justification*

*At present no valid verification procedure for the leakage rate exists. 1 January 2005 is too tight a timetable to agree and implement a verification procedure for leakage. In addition, limit values have no meaning without an agreed verification procedure. The logical sequence is to first agree a procedure and then set the limit values with reference to the procedure.*

*Irrespective of the lack of a valid verification procedure, 1 January 2005 is too early for the introduction of a new technical requirement for a vehicle component, which necessitates substantial adjustments to production processes and vehicles.*

*Changes to vehicles in production cause unacceptably high costs. It is also for this reason*

*that the date for the leakage rate requirements of 2005 is not feasible. To enable an early introduction of the leakage rate requirement by 1 January 2007 and to ensure cost effectiveness, the requirements should be limited to new vehicle types.*

*The proposed quota system (Article 10) for new vehicles foresees a phase out of HFC 134a between 2009 and 2018. This quota system would entail high administrative costs. A ban of HFC 134a from 1 January 2009 for new vehicle types would also provide for the phase out of this refrigerant and offer a simplified, production viable and reliable solution.*

Amendment 30  
Article 9, paragraph 2

2. From 1 January 2009, the placing on the market of new **vehicles** with air conditioning systems containing fluorinated gases with a global warming potential higher than 150 shall be prohibited, **except as provided for in Article 10.**

2. From 1 January 2009, the placing on the market of new **vehicle types** with air conditioning systems containing fluorinated gases with a global warming potential higher than 150 shall be prohibited.

*Justification*

*The proposed quota system (Article 10) for new vehicles foresees a phase out of HFC 134a between 2009 and 2018. This quota system would entail high administrative costs. A ban of HFC 134a from 1 January 2009 for new vehicle types would also provide for the phase out of this refrigerant and offer a simplified, production viable and reliable solution.*

Amendment 31  
Article 9, paragraph 2 a (new)

**2a. Member States shall promote the installation of air conditioning systems using a gas, such as CO<sub>2</sub>, that is non-toxic, efficient and which has a global warming potential of less than 100. If Member States introduce fiscal or other incentives to encourage the installation of systems with lower global warming potential, they shall notify these measures to the Commission.**

*Justification*

*New technology is being developed which could replace the use of fluorinated gases entirely. Lower rates of road tax, for example, could encourage the early adoption of these systems.*

Amendment 32  
Article 10



**Quotas**

**1. Any person that intends to place new vehicles with air conditioning systems containing fluorinated gases with a global warming potential higher than 150, on the market from 1 January 2009 shall be allocated quotas representing a percentage of the vehicles placed on the market by that person in accordance with the following:**

**(a) between 1 January and 31 December 2009, 80% of vehicles placed on the market in 2007;**

**(b) in 2010, 60% of vehicles placed on the market in 2008;**

**(c) in 2011, 40%; of vehicles placed on the market in 2009;**

**(d) in 2012, 20%; of vehicles placed on the market in 2010;**

**(e) in 2013, 10%. of vehicles placed on the market in 2011.**

**2. Applications for first quota shall be submitted to the Commission by 30 June 2008, including information on the number of new vehicles referred to in paragraph 1 that were placed on the market by the applicant. The applications for the subsequent quotas shall be submitted to the Commission by 30 June of each year.**

**The annual quota for each quota-holder shall be published by 30 September of each year in the Official Journal of the European Union.**

**3. Allocation of a quota shall entitle the quota-holder to place a corresponding number of new vehicles referred to in paragraph 1 on the market, one quota unit corresponding to one vehicle. The quotas shall be transferable between quota-holders without restrictions. Transfers shall take effect through notification to the Commission of transfers in quota-holdings.**

**4. Any quota-holder that places new vehicles on the market with air**

*conditioning systems containing no fluorinated gases or fluorinated gases with a global warming potential equal to or lower than 150 between the date of entry into force of this Regulation and 31 December 2008 shall be entitled, on substantiated application, to a corresponding increase in his quota for 2009.*

*Any quota-holder that places new vehicles on the market with enhanced HFC-134a air conditioning systems between the date of entry into force of this Regulation and 31 December 2008 shall be entitled, on substantiated application, to an addition to his quotas for 2009 corresponding to the 50% of the number of these vehicles placed on the market.*

*5. Each quota-holder shall by 31 March every year report the numbers of vehicles referred to in paragraph 1 that were placed on the market during the preceding year, together with supporting evidence. The first report shall be submitted to the Commission by 31 March 2010. Any such vehicle containing an enhanced HFC-134a air conditioning system shall be considered to be half such a vehicle.*

*6. On 30 June every year, quotas held by each quota-holder corresponding to the number of such vehicles placed by him on the market during the preceding year shall be cancelled.*

*7. Quota-holders who exceed their quotas shall have their quotas for the following year reduced by two units for each vehicle exceeding the quota.*

*8. Unused quotas shall be added to the quotas of the quota-holder for the following year.*

*9. On 30 July 2014, the name of any quota holder that has exceeded his total quota holdings for the period 2009 to 2013 shall be published. Any such quota-holder shall be subject to a financial penalty of 200 EUR in respect of each vehicle exceeding*

*the quota.*

***10. Quota-holders with quotas remaining after 2013 may continue to place vehicles referred to in paragraph 1 on the market until 31 December 2018 in accordance with paragraphs 5 to 9.***

***11. By way of derogation from paragraphs 2 to 10, any person who places vehicles on the market below the small series and end of series limits defined in Annex XII to Council Directive 70/156/EEC shall be exempt from the requirements of this Article, provided that the number of vehicles placed on the market is below these limits. Any person that places a vehicle on the market that has been used for personal use shall also be exempt from the requirements of this Article.***

***12. In order to accommodate new entrants, any person who did not place any vehicles on the market during the period referred to in paragraph 1 (year X-2) shall be allocated non-transferable quotas corresponding to the relevant percentage listed in subparagraphs (a) to (e) of vehicles placed on the market by him in the year X, rather than year X-2.***

***13. Without prejudice to the Treaty, a group of persons may apply to fulfil the provisions of this Article as if they were a single person, specifying the period for which they want to so act. In the event of non-compliance with the provisions of this Article they shall be jointly and severally responsible.***

#### *Justification*

*The proposed quota system (Article 10) for new vehicles foresees a phase out of HFC 134a between 2009 and 2018. This quota system would entail high administrative costs and would be complicated. It is also difficult for manufacturers to accurately predict sales of particular models. The proposed quota system would also be impossible to implement by smaller manufacturers with a limited number of models. A ban of HFC 134a as from 1 January 2009 for new vehicle types would also provide for the phase out of this refrigerant and offer a simple, practical and easily policed solution. The European vehicle market is very competitive*

*so that new models are regularly introduced ensuring the progressive phase out of HFC 134a.*