Council of the European Union

Brussels, 19 June 2020
(OR. en, fr)

8971/20

Interinstitutional File: 2012/0305(COD)

ENV 364
ENT 66
MI 185
CODEC 525

COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases - Member States comments on pre-charge ban alternatives

Delegations will find in the Annex document DS 1615/13 that has been downgraded PUBLIC

Encl.: 1615/13

COUNCIL OF THE EUROPEAN UNION

Brussels, 16 July 2013

DS 1615/13

Interinstitutional File: 2012/0305 (COD)

LIMITE

MEETING DOCUMENT

from:	General Secretariat
to:	Working Party on the Environment
on:	19 July 2013
No. Cion prop.:	15984/12 ENV 843 ENT 284 MI 706 CODEC 2614 - COM(2012) 643 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases - Member States comments on pre-charge ban alternatives

With a view to the WPE meeting on 19 July 2013, delegations will find in Annex comments from DE, FR, HU, NL, PL and UK concerning the abovementioned proposal related to pre-charge ban alternatives.

GERMANY

Pre-charge ban / Registration / Cost-based quota allocation

With regard to these issues, Germany's views are as follows:

1. Although the comprehensive **pre-charge ban** proposed by the Commission (Article 12) allows HFC quantities in products and equipment to be included in the phase-down and prevents disadvantages for European producers, Germany is concerned about the possibility of a number of undesirable effects, including additional emissions, liability risks and unwanted market obstacles. Therefore, as before, Germany **cannot agree** to the proposal.
2. Against the background of the information from the Commission that highlights split air-conditioning equipment in particular as a problem area, Germany proposes reviewing once again whether **limiting a pre-charge ban to split air-conditioning equipment** would be an alternative. As these products and this equipment would then have to be charged in the EU, the corresponding quantities would be covered by the phase-down and at the same time it would be possible to avoid disadvantaging European producers on the global market.
3. We cannot yet reach a conclusion about whether **incorporating products into quotas** is a practical alternative because we still need pertinent information about market structures and the expected administrative burden. Additionally, it would be important to first establish a sound data basis for allocating quotas for products and equipment.
4. The implementation of **a cost obligation is basically supported** by DEU. The proposal of allocating quotas via **auctioning** could have some advantages in view of potential, unjustified economic benefits for producers and importers of HFC ("windfall profits") and by covering HFC contained in products. However, this option can only be considered under the following conditions:

    - The discrimination of small market participants must be precluded.
    - The design of the auctioning provides for sufficient flexibility and pnanning security for actors ;
    - A Phase-Down-concept with a auctioning component must not undermine the exemplary character of the European regulation for a global phase-down which does not include auctioning, and thus affect the international negotiation position of the EU in this regard.

    Insofar we would favour the option of appropriate **fees** to address the economic effects of the quota allocation to market participants. Compared to an auction fees would ensure investment- and planning security (no price fluctuation) and prevents (larger) market participants from cutting out competitors by tactical behaviour. The fee rates should be determined on the basis of an impact assessment by the Commission.

    In both cases it must be ensured that the proceeds accrue to national budgets without earmarking. The **distribution model** proposed by France and the EP leaves a great deal of room for interpretation and is therefore **problematic**. We are also concerned that the use of large sums for the Montreal Protocol's MLF could lead to distortions in the MLF's existing financing and decision-making system. The practical implications of finance administration would also have to be clarified.

5. The **traceability system** proposed by the Irish presidency would prevent many of these problems and therefore provides a **good basis** for further discussion. However, a range of aspects need to be looked at in greater detail, for example the number of market participants, the time frame, costs and labelling. Germany cannot reach a conclusion until further text proposals have been submitted. Germany therefore wishes to have a scrutiny reservation.
6. Finally, Germany would like to propose looking into **reimbursement of fees** in the sense of a 'deposit system' if gases are returned after use and destroyed/recycled.

EXPLANATION

I. Background

The **Commission proposal** prescribes a gradual reduction in the available quantity of HFCs on the EU market (cf. Article 13 in conjunction with Annex V). The reduced quantities and expected price signal aim to offer an incentive to users of HFCs to deploy more climate-friendly alternatives. This goal is supported by clear signals, for example bans on use and placing on the market for sectors in which alternatives are already available or will be available in the near future and represent the better choice (Articles 9, 11 and Annex III).

Producers and importers may only place HFCs on the market (so-called bulk HFCs, i.e. no HFCs in equipment) on the basis of a **quota** allocated in advance by the Commission. This quota is calculated annually on the basis of reference values from the previous years, the total available quantities and the number of participants. The quota calculation in subsequent years is based on the quantities of HFCs actually used and reported per applicant. Unused quotas expire at the end of the year (Article 14(3)). 5% of the total available quantity is available for new importers or producers that can also apply for quotas.

The Commission proposal prescribes the free-of-charge allocation of quotas to HFC producers and importers. Quotas can be transferred, fully or in part, to other importers or producers (Article 16), including to those that have not previously received quotas. Trade in quotas is therefore possible.

Quotas for HFCs in products are not planned. However, as it is a question of an exclusively European regulation it is essential to ensure that the phase-down is not undermined by imported products and that non-European producers, which can purchase HFCs on the non-EU market to an unlimited extent and thus more cheaply, do not benefit. The Commission has therefore proposed that only the import of non-charged equipment and products should be permitted. These would then have to be charged with gases covered by the quotas in the EU by certified personnel. This **ban on pre-charging** is also to apply to all EU products.

A number of MS point out the considerable disadvantages of such a ban on pre-charging, including the increase in consumption quantities and the emission risk when charging and emptying for test purposes, liability issues and increased consumer costs. At the same time, the incorporation of products into the quota system is considered too complicated.

In its **non-paper dated 21 May 2013** the **Irish presidency** therefore proposed the establishment of a registration system as a basis for being able to trace all HFCs, including those in products, back to EU quotas. Market participants can choose whether to forgo pre-charging or to take part in the registration system.

Furthermore, **Denmark and France** have both presented proposals that envisage the **auctioning** of F-gas quotas in order to prevent windfall profits for producers and importers due to free-of-charge quota allocation.

Incidentally, the opinion from the **EP-ENVI** also contains the proposal of charging a **fixed fee** for awarding F-gas quotas. This proposal also prescribes using the funds to promote phase-down projects and for the MLF.

II. Opinion:

1. Assessment of the proposals to introduce auctioning

Summary of the proposals:

Denmark and France have both proposed the auctioning of quotas in order to "absorb" the benefits for those holding quotas as a result of the expected price increase. Both proposals expressly include HFCs contained in products in the quota system.

- Denmark's proposal prescribes extending quotas to cover PFCs and SF6 and suggests that auctions could take place at short intervals in order to increase planning certainty for market participants. It states that this would be a way to avoid a complicated registration system. The Danish proposal also prescribes paying out auction revenues to member states pursuant to the existing market shares.
- To secure planning certainty for market participants, the French proposal also prescribes raising the NER from 5% to 10% and a one-off quota allocation for the entire period from 2015 to 2030. Auctioning is to be integrated into the newly established ETS platform. It also proposes specification of a reserve price to secure revenues for the long term and the use of revenues as a contribution to the Montreal Protocol's MLF and to support enforcement of the regulation in warmer EU member states.

The approach being pursued with these proposals on auctioning – to prevent windfall profits and unjustified economic benefits for producers and importers of HFCs due to the phase down-related price increase – can be expedient to ensure an equal burden for all market participants concerned and in light of the inclusion of HFC in products.

The auctioning options, however, have the following, decisive disadvantages:

- The overview of market participants presented by the Commission shows a large market concentration on the global market of both producers and importers of bulk gases and of producers of products and equipment. The bulk market is dominated by only a few producers (chemical corporations) from the US, Japan and China. They have the market power to crowd out European companies and SMEs from auctioning and to even trade with quotas on top.
- Raising the NER poses the risk that non-European market participants can push their way onto the market to the detriment of European producers, thus reducing global competition.
- Germany has doubts as to whether such a system would be covered by the chosen legal basis.
- Denmark estimates the expected revenues for the EU to be around 1.5 billion euros at first and then 1 billion euros in 2030. It states that the revenue volumes would quickly fall due to the phase-down. Germany doubts whether the necessary administrative burden for this sector of industry is appropriate in relation to the expected revenues.

- Germany is of the opinion that the analogy to the ETS made by Denmark and France is not appropriate in the case of F-gases: Under the ETS, some stakeholders were allocated quotas free of charge, others were not. In the case of F-gases, all players are treated in the same way. It is also important to clarify whether windfall profits are to be expected as a result of pricing-in imaginary profits from quota trading for producers and importers. After all, the Commission proposal prescribes the expiry of unused quotas at the end of the year. The unlimited allocation of quotas is what could in fact generate a quota market. Furthermore, we believe that auctioning at very short intervals (weekly?) as proposed by Denmark is not practicable.
- Such windfall profits should not be viewed in a purely negative way. If market participants do not use their full quota because they are deploying more efficient technologies they should be able to profit from selling on quotas. This is not an unjustified windfall profit, it is a strong, market-based incentive to reduce F-gas use.
- The proposed allocation of the revenues is problematic. Firstly, from our point of view proceeds should only be accrued to national budgets, without earmarking. Secondly, the proposals on the allocation modus to MS budgets (market share, emission rates) need a more thorough evaluation. The proposal to use part of the revenues to support negotiations under the Montreal Protocol or for the MLF needs to be given further consideration. As the estimated amount of voluntary contributions made available on conditions can lead to distortions in the existing financing system there is currently heated debate on the framework for voluntary contributions (which is what is referred to here – compulsory contributions are determined in a set modus on the basis of UN scales).These consultations under the Montreal Protocol have to be taken into account during Council negotiations (and in the trialogue with the EP, which proposes a similar use).
- As far as incorporating HFCs in products is concerned we see a range of practical challenges because the fluctuation of market participants in the product sector is much greater than is the case with producers and importers of gases. Without reference to existing market shares there will be even greater impairment of the planning certainty and cost predictability for market participants.

Germany does not see any reason to incorporate SF6 and PFCs into quotas. While it is true that SF6 and HFCs/PFCs used by the semi-conductor industry have very high greenhouse gas potential, they actually only play a minor role due to the emission rates of the uses concerned (<1%). Additionally, these substances can only be replaced in some areas at best (switchgear). Auctioning would therefore be likely to lead to an increase in product prices (in some cases a fifteenfold increase) rather than to further emission reductions. This would cause massive competitive disadvantages for EU companies compared with non-EU companies that are not restricted in this way. We consider it very unlikely that these two substances would be deployed as replacements due to the phase-down.

2. Assessment of the EP proposal to introduce fees

In its decision of 18 June 2013 the EP proposed levying fees for the allocation of quotas. Ultimately, this proposal is based on the idea that individual market participants should not gain an advantage to the detriment of other sectors. The revenues are to be used, similarly to the French proposal, to support member states in the implementation of the regulation and for negotiations under the Montreal Protocol.

Apart from the fact that the use of funds generally needs a more detailed consideration - as already described under no. 1 - terminology must be taken into consideration as, in German law, the legal implications differ depending on which term is used. Fees in the strict sense of the German word "Gebühren" can only be levied if they are linked to an official act or public service provided directly to the individual party obligated to pay the fee. This principle limits how revenues may be used. Taking into consideration the overall concept of the EP proposal, fee probably rather refers to the German concept of "Abgabe".

In addition, we consider the following issues to be problematic:

- Regarding the levying of fees (Abgaben), Germany doubts whether the EU has the right to pass legislation at all. The legal basis would have to be reviewed as well.

- Germany is of the opinion that an impact assessment has to be carried out prior to laying down the amount of a fee. Simply laying down an amount in the base regulation is not in line with good law-making. Moreover, fees cannot be laid down freely; they are subject to the principle of proportionality. Courts of law can review both legal basis and the amount. A key aspect in this case is if and to what extent the fee serves to cover the costs incurred by an administrative body for performing a specific individual service. Any exceedance of the amount actually needed to cover the service would have to be justified and might call into question the whole legal basis for levying that fee. Also, using the base regulation as a basis is not very flexible. Special cases, for instance SMEs, would have to be regarded separately. Consideration should therefore be given to authorising the Commission to pass an implementing regulation (cf. e.g. Article 80 Regulation (EU) No 528/2012). Supplementing this with the express mandate for the Commission to carry out a cost-benefit analysis prior to passing an implementing regulation specifying fees is also feasible.

- What administrative burden and what costs will be incurred by the Commission for charging and allocating fees to the member states?

In general, we believe that, out of the available market instruments, the recovery and reuse of F-gases would profit more from a deposit system supporting the return of F-gases than from a fee-based quota system.

3. <u>Assessment of the registration system proposed by Ireland</u>

This is a brief summary of the Irish concept:

In order to avoid competitive disadvantages for EU producers of products with HFCs, products and equipment may only be placed on the EU market if the F-gases they contain can be traced back to an EU quota. It would thus not only be European gas producers that take part in the allocation of quotas; non-EU producers could also receive quotas. These non-EU producers would, however, have to have a branch in the EU or appoint an only representative (cf. REACH regulation). A web-based registry would be established, where all relevant market participants, quotas and transactions of HFCs are recorded, allowing for F-gases used in products and equipment to be traced back to the corresponding quota.

In this system, every tonne of CO_2 equivalent will be assigned a unique identifier, which will facilitate traceability to the holder of the quota (producer or importer of HFCs). In addition, the system will warn the user when quotas are exceeded and enable authorities to carry out controls in real time.

The traceability system proposed by the Irish presidency is a <u>good basis for further discussion</u>.
<u>Advantages</u> of a traceability system:

- As before, a quota would still <u>only</u> be required for bulk gases, and producers of products and equipment would not have to participate in the quota system. The burden on the Commission would not change.
- The work involved in registering transactions should, pursuant to first estimates, be rather low compared with an allocation of quotas, even if they were to include product producers.
- Using an IT system, monitoring imported goods and equipment would probably create less work for customs and other enforcement agencies than the ban on pre-charging, which requires not only customs controls but also monitoring of the charging within the EU by certified personnel (that is, of course, provided that the identifier allows for the verification that the gas in the product is in line with the quota). The effort of monitoring charged or non-charged products at borders is presumably the same.
- Market participants have the choice of participating in the registration scheme or foregoing pre-charging, which would facilitate flexible market response.
- Producers of products and equipment within the EU would not need to register as the gases used in the EU have already been placed on the market (imported or by the producer).
- Available quantities would not have to be increased for non-EU participants as the quantities for charging products and equipment have already been considered in the Commission proposal for a phase-down.

We do see the <u>need for discussion</u> on some other issues.

- In order to assess requirements for and the costs of a traceability system, the number of participants from outside the EU would have to be estimated. As a rule, only those market participants have to be considered that are involved in the chain before a charged product is placed on the market in the EU for the first time, i.e. all non-European producers and distributors of gases and products. Who would maintain the IT system? How will data protection be ensured?
- How long will it take for the register to be set up? Could this delay the implementation of the quota system? Will this have an impact on the phase-down scheme? Will it have an impact on the negotiations for a global HFC regulation?
- How can it be ensured that the F-gas in a product is the same for which the quota applies? Is a unique identifier sufficient for this purpose? Is additional labelling needed? What is the effort involved in labelling (especially regarding mixtures, portions or products and equipment in general)? Each and every product or batch that is placed on the market and is subject to the quota would have to be labelled individually.
- How would re-imports be treated?

FRANCE

Les autorités françaises tiennent à remercier la Commission pour sa présentation du marché communautaire des HFC. Elles tiennent également à remercier la Présidence d'avoir bien voulu organiser une première réunion d'échanges traitant plus particulièrement de l'interdiction de mise sur le marché des équipements préchargés.

Elles souhaitent, en complément des positions exprimées par les autorités françaises lors de la réunion du groupe de travail du 5 juillet 2013, faire part des commentaires suivants :

CONDITIONS D'INSTALLATION DES EQUIPEMENTS PRECHARGES

Les autorités françaises estiment que l'ajout d'une simple disposition à l'article 9, visant à encadrer la vente des équipements préchargés suivant le même principe que celui proposé à l'article 9.3 pour la vente des gaz à effet de serre fluorés, serait à même de limiter le risque d'installation d'équipements préchargés par des entreprises non certifiées. Cet ajout serait opérant quelle que soit la disposition alternative à l'interdiction de mise sur le marché des équipements préchargés qui sera retenue. Pour ce faire, le paragraphe suivant pourrait être inséré :

"Equipments that are placed on the market precharged with fluorinated greenhouse gases and that are not hermetically sealed can only be sold to:

- ***undertakings or persons that hold the relevant certificates in accordance with article 8;***
- ***undertaking or persons that justify that they contracted the installation of the equipment with an undertaking or a person that holds the relevant certificate in accordance with article 8;***
- ***undertakings that can justify an activity of equipment retailer."***

DISPOSITIONS ALTERNATIVES A L'INTERDICTION DE MISE SUR LE MARCHE DES EQUIPEMENTS PRECHARGES EN HFC TELLE QUE PREVUE A L'ARTICLE 12 DE LA PROPOSITION DE REGLEMENT

Les autorités françaises ne sont pas favorables à la proposition de système de traçabilité de la précédente Présidence irlandaise qui leur semble présenter un certain nombre d'inconvénients rédhibitoires :

1) Robustesse juridique ;
2) Renforcement du risque de profit d'aubaine;
3) Lourdeurs administratives.

1) Robustesse juridique

Par analogie avec l'ETS aviation, où les vols internationaux sont soumis au même encadrement que les vols internes, le système de traçabilité présente une potentielle faiblesse juridique dans la mesure où il va soumettre des entreprises tierces à l'Union, et n'ayant aucune activité sur le territoire communautaire, à des obligations d'enregistrement entrainant, en cas de non enregistrement de ces entreprises tierces à l'Union, la mise en œuvre d'interdictions d'importation et de mise sur le marché.

2) Renforcement du risque de profit d'aubaine

Le système de traçabilité repose sur le mécanisme d'allocation de quotas de HFC basé sur les données historiques (*grandfathering*). La présentation effectuée par la Commission lors du groupe environnement du 5 juillet 2013 laisse apparaître que 5 entreprises européennes représentent à elles seules 90% du marché de HFC en vrac. Ainsi, environ 85,5% des quotas devant être alloués à chaque période d'allocation seront alloués à ces 5 entreprises européennes, compte tenu de la réserve de 5% pour les « nouveaux entrants ». Cette domination du marché communautaire va permettre à ces entreprises de répercuter le prix de la rareté des quotas à leurs clients sans pour autant craindre de pertes de part de marché puisque ces dernières vont être sanctuarisées par le mécanisme d'allocation de quotas. Ce prix de la rareté des quotas sera *in fine* répercuté sur l'utilisateur final des HFC.

Le système de traçabilité va renforcer la dépendance des producteurs européens d'équipements préchargés vis-à-vis des 5 entreprises détenant 85,5% des quotas de HFC, permettant à ces dernières d'augmenter leurs profits d'aubaine en leur créant de nouveaux marchés. En effet, en raison de la complexité du système de traçabilité, certains producteurs européens d'équipements vont chercher à raccourcir leur filière d'approvisionnement en HFC, afin de la sécuriser. En limitant le nombre d'intervenants, ces producteurs d'équipements vont chercher à limiter le risque de défaut d'enregistrement d'un intervenant dans le système de traçabilité puisque tout défaut aurait pour effet d'interdire toute mise sur le marché des équipements préchargés avec des HFC ayant transité par cet intervenant défaillant.

Les producteurs européens d'équipements préchargés auront donc intérêt à se rapprocher des producteurs proposant un circuit d'approvisionnement le plus court, donc le plus robuste, donc intérêt à se rapprocher des plus gros acteurs de cette filière : les 5 entreprises détenant 85,5% des quotas de HFC.

3) Lourdeurs administratives

La base de données du système de traçabilité va être sensiblement plus importante et plus compliquée à mettre en œuvre que la base ODS servant notamment aux importations et exportations de substances qui appauvrissent la couche d'ozone. En effet, outre les importations et les exportations, le système de traçabilité devra enregistrer les différentes cessions de HFC effectuées en amont de l'importation (i.e. depuis leur production) ainsi qu'en aval de cette dernière, jusqu'à la charge de l'équipement préchargé. Or, l'expérience acquise sur la base ODS démontre que ce type de dispositif n'est pas des plus accessibles, notamment pour les PME.

Cette base de données va nécessiter que chaque fournisseur intervenant dans la filière d'approvisionnement en HFC d'un producteur européen d'équipements préchargés s'enregistre dans le système. Il en est de même pour les importateurs d'équipements préchargés qui devront réussir à s'assurer que tous les fournisseurs non communautaires intervenant dans la fourniture des HFC servant à charger les équipements qu'ils importent sont bien enregistrés dans la base. Enfin, il faudra que l'ensemble de ces acteurs saisissent au fil de l'eau l'ensemble des transactions relatives à des HFC qu'ils réalisent sous peine d'interdire la mise sur le marché ou l'importation des équipements préchargés avec ces HFC.

Un tel mécanisme d'enregistrement paraît donc particulièrement contraignant pour les PME qui n'ont que très rarement la possibilité d'imposer à leurs fournisseurs leurs propres conditions d'approvisionnement. Dans le cas d'une PME important des équipements préchargés, ou plus simplement des HFC en vrac, il paraît peu vraisemblable que cette entreprise soit en mesure d'obliger l'ensemble de ses fournisseurs extra communautaires à s'enregistrer dans cette base et à la renseigner.

La solution proposée par la précédente Présidence irlandaise ne semble pas mieux répondre que la proposition initiale de la Commission aux enjeux de bonne couverture du marché européen de HFC par le règlement. Les autorités françaises demeurent favorables à ce que les quotas de quantités de HFC mises sur le marché soient alloués par enchères, ce qui constitue une alternative plus appropriée à l'interdiction de mise sur le marché des équipements préchargés que le système de traçabilité.

The French authorities would like to thank the Commission for its presentation of the EU HFCs market. They also thank the Presidency for having organized a first meeting dealing more specifically with the ban of the placing on the market of precharged equipments.

In addition to the French positions expressed during the 5 July WPE, the French authorities wish to make the following comments:

INSTALLATION REQUIREMENTS APPLICABLE TO PRECHARGED EQUIPMENTS

The French authorities consider that adding a simple provision to Article 9, designed to regulate the sale of these equipments on the same principle as the one proposed in section 9.3 for the sale of fluorinated greenhouse gases, would reduce the ability of companies which do not hold the appropriate mandatory certification to install precharged equipments. This addition would operate regardless of the alternative provision to the precharge ban that will be retained. To do this, the following paragraph could be inserted:

"Equipments that are placed on the market precharged with fluorinated greenhouse gases and that are not hermetically sealed can only be sold to:

- **undertakings or persons that hold the relevant certificates in accordance with article 8;**
- **undertaking or persons that justify that they contracted the installation of the equipment with an undertaking or a person that holds the relevant certificate in accordance with article 8;**
- **undertakings that can justify an activity of equipment retailer."**

ALTERNATIVE PROVISIONS TO ART. 12 PRECHARGE BAN

The French authorities are not in favor of the traceability system proposed by the former Irish presidency which seems to have a number of crippling disadvantages:

1) Legal Robustness;
2) Increased risk of windfall profits;
3) Administrative burden.

1) Legal Robustness

By analogy with the aviation ETS, where international flights are subject to the same provisions than internal flights, the traceability system appears as having a potential legal weakness since it will submit non EU based companies, having no activity within the Union, to mandatory registration/records in the traceability system. This would result, in case of non registration/record of these non EU based companies, in a prohibition of the importation and placing on the market.

2) Increased risk of windfall profits

The traceability system relies on a mechanism of allocation of HFC based on historical data (grandfathering). The presentation given by the Commission during the 5 July WPE reveals that five European companies alone account for 90% market share of bulk HFCs. Thus, about 85.5% of quotas to be allocated to each allocation period will be allocated to these five European companies, given the 5% reserve for the "new entrants". This domination of the EU market will allow these companies to raise their prices and transfer the opportunity cost of quotas allocated, without risking the loss of substantial market share since they will be sanctuarized by the allocation mechanism. The price of the scarcity of quotas will be ultimately transferred to the end user of HFCs.

The traceability system will strengthen the dependence of European precharged equipments manufacturers to the five companies having 85.5% of the HFC quotas, allowing the latter to increase their windfall profits by creating new markets to them. Indeed, due to the complexity of the traceability system, some European equipment manufacturers will try to shorten their HFC supply chain, to secure it. By limiting the number of players, these equipments manufacturers will reduce the risk of registration default in the traceability system from their suppliers, since any default would effectively prohibit the placing on the market of equipments charged with HFCs that have passed through this faulty supplier.

European equipments manufacturers will therefore be interested in being supplied by the HFC producers offering the most robust, i.e. the shortest, supply system which means being supplied by the biggest players: the five companies having 85.5 % of the HFC quotas.

3) Administrative burden

The database of the traceability system will be significantly more important and complicated to implement than the ODS database that is used for imports and exports of substances that deplete the ozone layer. Indeed, in addition to imports and exports, the traceability system will record the different transactions of HFCs done prior to import (i.e. from production) and downstream of the latter, until the charge of the precharged equipment. However, the experience gained on the ODS database demonstrates that such a mechanism is not that easy to use, especially for SMEs.

This database will require each entity involved in the supply chain of a European precharged equipment manufacturer to be recorded in the traceability system. It will be the same for an importer of precharged equipments which will need to ensure that all non-EU entities participating in the HFC supply of its equipments to be imported are registered in the traceability system. Finally, all these entities will have to record in real-time all their transactions related to HFCs to avoid the prohibition of the placing on the market or import of these HFC precharged equipments.

Such a registration mechanism therefore seems particularly burdensome for SMEs which have very few opportunities to impose their own conditions to their suppliers. In the case of a SME importing precharged equipments, or more simply bulk HFCs, it is unlikely that the company will be able to require all its non-EU suppliers to be registered in the traceability system and to record the relevant data.

The solution proposed by the former Irish Presidency does not seem to better respond than the original proposal of the Commission to the challenges of good coverage of the European HFC market by the Regulation. The French authorities remain in favor of the establishment of an auctioning mechanism in order to allocate HFC quotas, which is a more appropriate alternative to the ban of the placing on the market of precharged equipments than the traceability system.

HUNGARY

Proposal for a Regulation of the European Parliament and of the Council on fluorinated greenhouse gases

3 options: pre-charging ban, auctioning of F-gas quotas, traceability system for HFCs
Hu's questions

Pre-charging ban

1. Have you taken into account that pre-charging of equipment in the factory is needed to test proper functioning of the equipment (for ex. refrigerant circuit), and if the malfunctioning is discovered on the field, it leads to waste of gas and costs to transport and change equipment? If manufacturers extract gases for testing after testing, they need some additional materials for these, and all in all the danger of leakage increases.

2. Do you consider it can be a long-term solution giving a very regulated playing field to producers, importers and new entrants?

Auctioning

1. If auctioning system of HFCs would be integrated under the EU ETS, would not be faster to elaborate such an auctioning system for F-gases?

2. What can we learn from the USA's F-gas auctioning system? Is it working well?

Traceability system for HFCs

1. How do you plan to monitor palyers outside of EU juridistion and gas streams outside the EU?

2. This solution could have negative effect on EU's relation with these parties outside the EU, do not you consider it?

3. How do you imagine the intermediate solution?

4. Traceability system has almost the same disadvantages as auctioning system. Which is the most important advantage of traceability against auctioning?

5. SMEs are likely to not be able to fulfil obligations of this proposed regulation. How do you plan to support them? From which financial source?

THE NETHERLANDS

As a result of the discussion regarding options to the pre-charge ban in WPE F-gases on July 5th, the Dutch delegation suggests to make a schematic comparison of the **four options,** using the information available. This could help to decide which option is favorable. This discussion also covers partly the discussion on allocation of quotas (article 14).

The four options are :

1. **pre-charge ban (Commission's proposal)**
2. **tracking scheme (traceability system)**
3. **auctioning (see French and Danish papers)**
4. **allocation fee (see EP amendment 68)**

Criteria to score are: administrative burden (companies), administrative burden (authorities), enforcement (risk of fraud); economical effects (price of products, windfall profits, risk of market dominance); environmental/climate benefits.

POLAND

Non-paper regarding a proposal for a Regulation on Fluorinated Greenhouse Gasses.

Background

The Commission has tabled a proposal for a new regulation on fluorinated greenhouse gases (COM(2012)643 Council and European Parliament regulation on fluorinated greenhouse gasses) to replace the existing F-gas regulation (EC) No 842/2006.

An important element of the new regulation is the introduction of a quota scheme for placing hydroflourocarbons (HFCs) on the market. The main idea is to establish an annual, maximum limit on the quantity of HFCs which can be placed on the EU market. The maximum annual quantity shall decrease by 79 % from 2015 till 2030. Importers and producers of HFCs shall surrender quotas for each tonnes of CO2-equivalent of F-gases they put on the EU-market. Such quotas are to be handed out for free according to historic production or imports or for new entrants wanting to start production or imports.

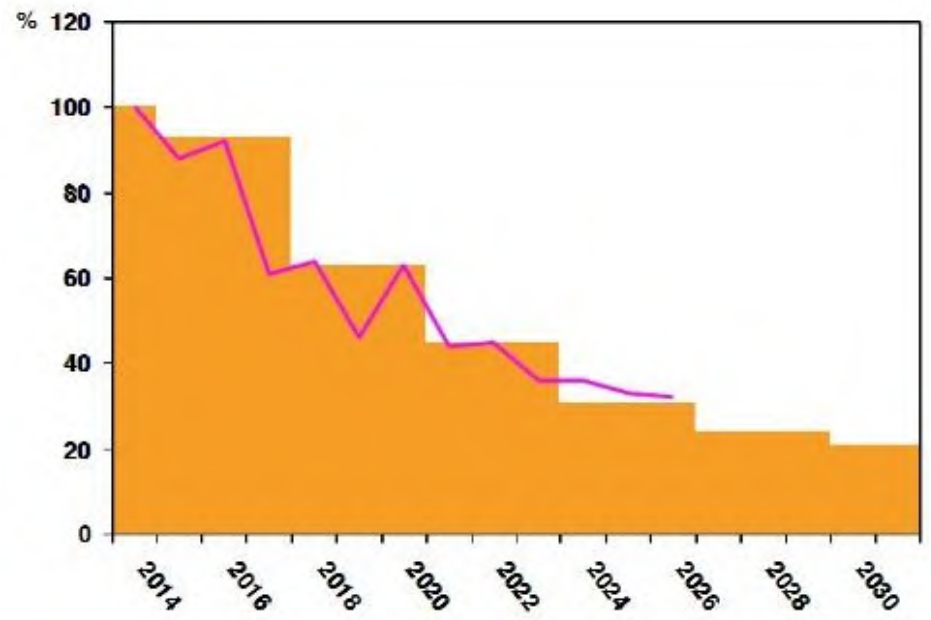
Denmark supports the idea of a placing on the market quota scheme as a cost effective instrument to reduce greenhouse gas emissions. However, Denmark has three major amendments to the Commission proposal for a HFC quota scheme:

1. The phase down schedule should be more ambitious and should reflect the technological development of cost efficient alternatives.
2. All quotas should be auctioned, and the revenue should be distributed among Member States based on a fair distribution key.
3. Perflourocarbons (PFCs) and Sulphurhexaflouride (SF_6) should also be included in the quota scheme.

1. A MORE AMBITIOUS PHASE DOWN SCHEDULE

The phase down of the supply of HFC to the market is a key measure in the proposed regulation. The function of the phase down mechanism is to create an incentive for industry to develop and switch to alternatives by limiting the amount of HFC available. The amount available must be adjusted to the demand in order to achieve this. Denmark proposes to amend Annex V by introducing a more steep and ambitious phase-down mechanism.

Experiences from the phase down of HFCs in Denmark shows that the market and industry can adapt to a rather steep phase out schedule. The figure below shows the phase down schedule of the Commission proposal compared to the reduction achieved in Denmark. The red line represents the reduction that took place in Denmark in the years immediately after the adoption of a national regulation. It is super imposed on the reduction steps. The figure shows that in a situation where the availability of the alternatives where much less mature than at present, it was possible to achieve a reduction comparable to the proposed phase down. This indicates that the phase down can be more ambitious than proposed by the Commission under the present conditions.



Regarding the phase down schedule proposed in the revised regulation we have different views than those of dk. While we agree that the final reduction of hfc quantities placed on the market should reach 21% in 2030, we believe that the rate at which it will be achieved could be slower and that the phase down could be implemented in lower number of steps than proposed what would give the users more time to convert the production lines and equipment relying on hfcs to alternative technologies.

2. QUOTAS SHOULD BE AUCTIONED RATHER THAN GIVEN AWAY FOR FREE AND REVENUES DISTRIBUTED TO MEMBER STATES.

A quota scheme on HFCs with decreasing annual amounts of quotas and HFC-gases put on the EU-market will lead to scarcity and a price being formed on quotas. The Commission proposal is to hand out quotas for free to incumbent suppliers relative to their share of the HFC-supply 2008-11. The HFC market in the EU is dominated by a handful of suppliers most of which are affiliates of foreign chemical companies. Handing out quotas for free to market incumbents this will guarantee these suppliers a near monopoly on HFC-supply for many years to come.

Experiences from the EU CO2 emissions trading scheme (the EU ETS) regarding electricity suppliers clearly indicate that the price of quotas will be passed on into the prices of HFCs. This will lead to windfall profits for incumbent suppliers. A simplified calculation indicate that these extra profits could amount to € 1,5 Billion from 2015. Denmark sees no reason why incumbent suppliers should receive such windfall profits, as all costs of replacing F-gases will be borne by F-gas users, which have to invest in new equipment.

Rather, quotas should be sold to the highest bidders on public auctions, where all F-gas suppliers must buy quotas in order to be able to market F-gases on the EU-market. Auctioning revenues should be distributed to EU Member States based on a predetermined distribution key.

Denmark proposes to use F-gas emissions in the EU 2008-11 as reported to the UNFCCC as the distribution key. This is an objective key, which will compensate EU Member States relative to their share of the costs of F-gas replacement. Table 1 indicate the potential revenue for each EU Member State in 2015, if this distribution key is used.

Table 1: Potential revenue for EU Member States from F-gas auctioning

	Average HFC 2008-10	Average PFC 2008-10	Average SF6 2008-10	Average F-gas emissions 2008-10	Share of EU 27	**Potential revenue 2015**
	1000 t CO2e	1000 t CO2e	1000 t CO2e	1000 t CO2e		**€ Mio.**
Austria	1.092	93	359	1.543	1,8%	**27,6**
Belgium	1.773	7	97	1.876	2,2%	**33,5**
Denmark	817	13	35	866	1,0%	**15,5**
Finland	1.015	7	38	1.060	1,2%	**18,9**
France	15.097	342	353	15.792	18,4%	**282,1**
Germany	11.155	210	2915	14.280	16,6%	**255,1**
Greece	3.290	52	6	3.349	3,9%	**59,8**
Ireland	550	70	43	662	0,8%	**11,8**
Italy	8.141	88	390	8.619	10,0%	**154,0**
Luxembourg	65	0	7	72	0,1%	**1,3**
Netherlands	1.757	152	179	2.088	2,4%	**37,3**
Portugal	1.148	0	7	1.155	1,3%	**20,6**
Spain	6.791	215	355	7.361	8,6%	**131,5**
Sweden	862	2	42	905	1,1%	**16,2**
Great Britain	13.769	72	589	14.430	16,8%	**257,8**
Bulgaria	283	0	11	294	0,3%	**5,3**
Cyprus	109	0	0	109	0,1%	**1,9**
Czech Republic	1.269	28	38	1.335	1,6%	**23,8**
Estonia	142	0	2	144	0,2%	**2,6**
Hungary	619	2	244	864	1,0%	**15,4**
Lithuania	153	0	7	160	0,2%	**2,9**
Latvia	100	0	12	112	0,1%	**2,0**
Malta	93	0	2	95	0,1%	**1,7**
Poland	7.248	14	33	7.295	8,5%	**130,3**
Romania	763	0	10	772	0,9%	**13,8**
Slovenia	194	0	16	211	0,2%	**3,8**
Slovakia	301	0	19	320	0,4%	**5,7**
	0	0	0	-	0,0%	
EU-27 total	78.881	1.366	5807	**86.054**	100,0%	**1.532**

Source of F-gas emissions: Annual European Union greenhouse gas inventory 1990–2010 and inventory report 2012,

Introduction of F-gas auctioning would follow the example set by the EU CO2-emissions trading scheme, where more than half of the emission-permits (called EU allowances) starting from January 2013 are auctioned at four different auctioning platforms. Up to three weekly auctions are held in order to make the market liquid and to avoid collusion and market abuse by a few, dominant buyers. Numerous auctions pr. year make it very hard for a few dominant buyers to control the auctions and establish a new monopoly on F-gas supply. Auctioning of F-gas quotas may to a large degree be based on the template established by the EU CO2-emissions trading scheme.

Distributing quotas by means of auctioning could easily include F-gases embodied in imported equipment. Importers of such equipment would have to buy quotas for the amounts imported (calculated in terms of CO2-equivalents). In this way both the precharge ban and the complicated tracking scheme for F-gases embodied in imported equipment, as suggested by the Irish Presidency, may be avoided. Control procedures for imports would be more or less the same for a system based on auctioning and the Presidency proposal.

Regarding the approach to the quota system, we support the idea of distribution of quotas based on the historical records of placing HFCs on the EU market giving the newcomers some room for quotas since in our view such system would be fair. The question is what would be the percentage of quota left for newcomers – here we could be flexible and could go for higher percentage than 5% foreseen in the COM proposal since we agree with DK that the HFC market was (and still is) dominated by few major players and that may lead to significant rise of HFCs prices if higher share of other stakeholders is not allowed.

Regarding the auctioning system proposed by DK we have certain doubts since if the HFC quantities to be placed on the EU market are to be auctioned, the market prices will certainly rise to very high levels due to the scarcity of HFCs allowed for supply and very high market demand . The smaller markets like that in PL would suffer the most from such situation. Therefore, we would support the tracking system proposed by the PRES, though we see certain problems in its implementation in practice which will have to be solved.

3. PERFLOUROCARBONS (PFCS) AND SULPHURHEXAFLOURIDE (SF_6) SHOULD ALSO BE INCLUDED IN THE QUOTA SCHEME

Finally, two other large sources of F-gases – PFCs and SF_6 should also be included in a common F-gas auctioning scheme. The Commission proposal for a revision of the F-gas regulation contains few restrictions on the use of these potent greenhouse gases. Including them in a common F-gas auctioning scheme would ensure a common price increase on all F-gases and hence an incentive to economize the use of them.

Regarding possible inclusion of PFCs in the quota system we share the views of DK that PFCs should be part of that system. The reason is that while at present the price of PFCs is higher than that of HFCs, it may change in the future once the phasing down of HFCs will proceed. Since already now PFCs are being used in different sectors and specifically there are several refrigerant blends on the market which contain PFCs, their production may rise significantly when the supply of HFCs , including HFC-containing refrigerant blends, will diminish due to phase down schedule and use bans imposed by the Regulation. Therefore, we also believe that those bans proposed in AnnexIII which concern only HFCs should be extended to cover PFCs.

However, we do not share the views of DK that similar approach should be taken to SF6. Here, unlike in case of PFCs, there is no risk that ban on HFCs would lead to uncontrolled rise in SF6 supply since, unlike PFCs, SF6 is not used in the same applications as HFCs. Moreover, the major use of SF6 is in electrical switchgear and that use is crucial to proper functioning of that equipment. Though there are some technologies alternative to SF6 in electrical switchgear, those are still far from wider use and can only be considered as suitable for selected applications. Therefore, we believe that it is premature to limit the use of SF6 in electrical switchgear through a quota system. However, perhaps in the future, when the Regulation will be revised again, it might be possible to ban certain specific uses of SF6 in electrical switchgear if the relevant studies showed that technically and economically feasible alternative solutions were available.

UNITED KINGDOM

UK comments and questions to the Presidency on the Pre-Charge Ban

1. Article 12 - Pre-charge ban

Questions to the Commission

We would like to pose the 4 questions below to the Commission. Further detail and background relating to these questions are set out in the subsequent text below.

1. What estimates has the Commission made of the additional costs relating to:
   - Extra costs in the factory
   - Extra installation costs
   - Extra costs for the refrigerant itself
   - Extra energy costs

   Are these reflected in the Commission estimates that have been made available to Member States and, if so, where? Without this information we have strong reservations about the robustness of the Commission's cost arguments.

2. What calculation has the Commission made of the environmental impacts of a pre-charge ban across all the market sectors and sub-sectors covered by the ban? In particular this would relate to sectors where a [pre-charge ban seems particularly illogical including chillers, heat pumps and vehicle systems where we believe there is no possible environmental benefit. For these systems all refrigerant handling is done in the factory under very precise conditions that would be impossible to replicate in the field. We have highlighted some specific details in paragraphs outlining where such a ban would be illogical below.

3. Have the Commission carried out an assessment of the costs associated with a traceability scheme (as proposed by the Irish Presidency) in light of the detailed market analysis they recently undertook?

4. Do the Commission believe that a pre-charge ban is the only way to address issues relating to installation of refrigeration and air-conditioning by uncertified personnel and companies, in particular DIY type installation? What other options have the Commission considered?

UK's preferred way forward

We continue to believe that the Commission's proposal for a pre-charge ban will have an overall negative environmental impact and cannot be justified and have provided further information to demonstrate this in the sections below.

We therefore have a strong preference for further developing the alternative proposal from the Irish Presidency set out in their non-paper. We would be very interested in seeing an updated version of the paper as referred to at the Working Party meetings at the start of July and would like to focus on developing a suitable traceability scheme. We believe the Presidency non-paper serves as a very good basis to construct an alternative approach that is workable but also believe there may be scope for further simplifying this. In this context we believe it would be useful to focus on the following aspects moving forward:

a. Further assessment of the likely administrative burden of implementing such a scheme. We believe that further consideration and detail is needed to build on the Commission's market analysis results and are in the process of carrying out further work in this respect.

b. Further consideration of other schemes operating under other regulatory frameworks (e.g. the REACH Directive) which could serve as a useful comparison.

c. Estimate of likely timescales for the implementation of such a scheme, including consideration of any interim measures that may be necessary.

d. Consideration of further engagement with industry to assess their receptiveness to such a scheme.

Costs and Impacts of a pre-charge ban

The proposal from the Commission helps protect the integrity of the phase down by ensuring that refrigeration and air-conditioning equipment (RAC equipment) is not imported into the EU containing any HFCs that would otherwise not be accounted for in the phase down quota system.

Unfortunately, the ban includes much equipment that is filled within the EU, which clearly does not affect the integrity of the phase down as it would already be covered by the phase-down. If the Commission have a particular type of system or application that they are attempting to address here (e.g. split system air-conditioning) then surely there must be more effective ways of achieving this than a blanket ban on all pre-charged equipment?

The current practice of pre-charging certain types of RAC equipment has evolved over a number of years on a voluntary basis. It reflects the experience of manufacturers of certain types of equipment that pre-charging will provide best quality and lowest cost. Whilst we are aware that the proposal from the Commission is administratively simple, our initial calculations show that there is a significant extra cost associated with the Commission's proposal. We have summarised these as follows:

We have previously investigated the different cost elements and set these out in our written comments submitted on 10 April. These can be summarised as follows:

a) *Extra cost step in factory* – systems must still be filled in the factory to carry out a running test. An extra step is required to remove the refrigerant after the running test and re-process "waste" refrigerant created.

b) *Extra cost step in field* – the most important extra cost relates to the Labour required to fill the equipment in the field. Currently, over 90% of pre-charged systems required no on-site refrigerant addition. Extra labour costs will be incurred for charging on-site.

c) *Extra refrigerant cost* – refrigerant used in the field by a contractor costs 2 to 3 times the amount of refrigerant purchased in bulk for factory filling.

d) *Extra energy cost* – energy efficiency drops if system is over or under charged. For 90% of systems (i.e. those for which the standard charge is sufficient) there is a new risk of inaccurate charging if done in the field.

e) *Extra warranty risks* – related to risks such as contamination, incorrect charging.

f) *Double product lines in factories* (for EU and non-EU customers).

The extra factory costs were low – just a few € per system. (We assume that this must be the figure that Commission refer to when they claim that additional costs will only represent 1 – 3 euros per unit?)

However, the installation costs are more significant e.g. €25 for a small system. In addition, the extra refrigerant cost is also significant. The large manufacturers buy in bulk and pay about one third of the amount that a contractor would sell the refrigerant for. This could add a further €10 for a small system.

The three costs (a) to (c) above give our estimate of €300 to €400 million. This extra cost is estimated to be 2% of the total cost of installed new equipment. Although this percentage increase is relatively small, the absolute amount is large

These figures do not include any allowance for items (d) and (e) above, which could both be very significant. It is quite hard to quantify these costs and impacts. For example there is no data to quantify the extra warranty risks or to assess the extra energy costs created through inaccurate filling. as it is highly dependent on the skill level of the installation technicians. We made what we believe to be a conservative estimate i.e. that only 10% of systems are badly filled and this gives a 10% drop in efficiency for these systems. This gives a cost in 2030 of €1,000 million (it will take some years for this cost to "ramp up" as more new systems are installed following the pre-charge ban. By 2030 most systems in the market will have been installed after 2017).

These costs will need to be paid by companies or individuals that are installing new air-conditioning systems across all Member States. Furthermore, it is reasonable to assume that 60 – 70% of the costs would fall upon the eight warmest Member States.

We believe that these are conservative estimates.

We doubt that these extra costs can be justified in terms of environmental benefit and we don't believe that establishing a tracking/traceability system would incur the same costs but would still preserve the integrity of the phase-down.

Sectors where a pre-charge ban is illogical

It is clear that the pre-charge ban will affect a range of market sectors, mainly related to air-conditioning. For the majority of the affected sectors (including chillers, heat pumps and vehicle systems) there is no possible environmental benefit. Under current arrangements all refrigerant handling is done in the factory under very precise and controlled environments and all equipment is leak tested to a very rigorous level prior to the equipment leaving the factory. Forcing this to be done on-site has no benefits and creates a significant risk of negative environmental impact and could lead to greater emissions as well as extra cost which is clearly contrary to the objectives of the Regulation.

The transport refrigeration and large vehicle mobile air-conditioning sectors represent markets for which a pre-charge ban is particularly illogical. In both these markets the refrigeration or MAC systems are built as stand-alone pre-charged units in specialist factories. They are shipped to a vehicle manufacturer (e.g. a factory making refrigerated lorries or a factory making railway carriages). The pre-charged refrigeration or MAC units are then fitted to the vehicles in the second factory, without any requirement for refrigerant handling. If the pre-charge ban is applied in these markets it will be necessary for the non-specialist vehicle factory to carry out refrigerant charging, a practice which they currently do not have the equipment to do.

Numbers of companies involved

We previously undertook some work to estimate the number of companies involved. However, this was very approximate and had not been properly researched. We intend to update this in light of the information provided by the Commission at the Working Party on the 5 July.

Concluding observations

For the majority of the affected sectors (including chillers, heat pumps and vehicle systems) there is no possible environmental benefit of the Commission's proposal. Under current arrangements all refrigerant handling is done in the factory. Forcing this to be done on-site has no benefits and creates a significant risk of negative environmental impact as well is extra cost.

It is argued by some that there are environmental benefits linked to the split system air-conditioning market. We do not believe these claims are justified, unless all installation engineers are both highly trained and highly diligent. Most of the affected systems (small split system air-conditioning) are sold at very low prices and are unlikely to be installed by engineers of such high quality. Even if only a small proportion is inaccurately charged with refrigerant on site there will be a significant energy penalty, creating both extra cost and extra CO_2 emissions. The only part of the market where an environmental benefit may accrue is snap-fit systems which could be fitted by unqualified personnel and we believe that there are other measures available to tackle this issue, such as a ban on the sale of such equipment.

Based on these comments, we believe that the pre-charge ban has an overall negative environmental impact and cannot be justified. We therefore continue to welcome the alternative proposal from the Irish Presidency and their non-paper. We believe that this is a major step in the right direction but also consider there is some further work to so in order to develop this and simplify it. Nevertheless we think that the non-paper serves as a very good basis to further develop an alternative approach that is workable.

2. Auctioning

Questions to the proponents

We believe a lot of work would be needed to address things such as the framework for auctioning including some practical considerations relating tohow it would operate in practice etc. We have a number of basic questions regarding the operation of an auctioning scheme for HFC quotas:

Who will host the auction?

What will the auction methodology would be? For e.g. Would it be similar to EBay with a ticking clock, can other bidders see the other bids etc

How frequent will auctions be?

Would there be any price management mechanisms for the auction?

What if the auction is somehow cancelled?

Who determines the redistribution of revenue and on what basis?

UK's preferred way forward

In terms of auctioning, we believe a lot of work would be needed to develop and implement an auctioning system that could result in a major bureaucratic system. We are also sceptical that such a system would provide value for money, particularly over the relatively short horizon we are talking about given that HFCs are ultimately being phased-down. We therefore have severe reservations about introducing such a significant change particularly at this fairly late stage in proceedings.
We have set out specific detail on our concerns in the sections below.

UK concerns

We remain sceptical that introducing a complex auctioning scheme would provide value for money, particularly over the relatively short horizon we are talking about given that HFCs are ultimately being phased-down.

We believe a lot of work would be needed to develop and implement an auctioning system that could result in a major bureaucratic system. Any system would need to determine the process for auctioning, including elements like the development of appropriate auctioning rules to ensure a fair and equitable system etc. We also have severe reservations about introducing such a significant change particularly at this fairly late stage in proceedings.

The possible revenue from the auctioning of F gases is difficult to predict with any degree of accuracy as most of the price determinants are not well-known and it is interesting to note that, in their impact assessment, the Commission discarded the option of auctioning as the necessary set-up of such a scheme was considered to be disproportionate to the size of the market to be addressed.

We would also echo the concerns raised by other Member States at the Working Party on the 5 July regarding smaller companies. Given the financial resources involved, an auctioning system would presumably make it even harder for smaller companies to participate in the F gas market.

We are also aware of concerns from industry regarding business certainty associated with auctioning.

Furthermore, we have concerns regarding the inclusion of non-EU companies and their potential dominance of the market that could lead to the withdrawal of EU producers and consequently much higher prices in the future due to manipulation of the market.

Of course, these are all issues and factors that would depend very much on how the auctioning process was put in place.

Specific comments on the presentation from Denmark

Having had a chance to consider the slides presented by Denmark, we would remain sceptical that emulating a complex EU ETS type structure would provide value for money, particularly over the relatively short horizon we are talking about given that HFCs are ultimately being phased-down.

The EU ETS model operates through fixing volumes and permitting the price to fluctuate in the market. The Danish modelling, to the extent we can tell, assumes that the price increases 3 fold over the 15 year horizon to maintain revenue at c€1bn pa as the HFC volumes are phased down by 80% over that period. The price will be of course determined by the fundamentals of supply and demand. Restricting supply will push up the price (all else equal). Demand determinants (through availability of substitutes etc) over that horizon that will have a significant impact on the yield. The reduction in demand for EU ETS permits between Budget 2012 and 1013 amounted to c£2bn as a consequence of economic conditions. We could therefore not support such an approach and the lack of information on the assumptions made to deliver the revenue proposed.

Furthermore, although EU-ETS is not a tax, we would be guided by the general tax principles, namely that potential revenue (and sustainability) in any scheme would need to significantly outweigh the administrative burden for Government and businesses.

The estimated yield for the UK in 2015 of c€260m is not insignificant, although would not generally be at the threshold where a tax would be implemented owing to the complicate costs and admin burden entailed. The sustainability of this yield is sensitive to the assumptions employed in the modelling.

The proposal from Denmark also seems to suggest that there will be some sort of central auctioning and MS will receive their ‘fair share’. On the EU ETS the UK fought hard to retain control over the auctioning of our emissions permits to maintain fiscal sovereignty. Along with Germany and Poland the UK opted-out of a common auction platform and we have procured auctioning services from the private sector (Intercontinental Exchange). We would therefore be unlikely to support central auctioning.