



Council of the European Union
General Secretariat

**Interinstitutional files:
2022/0099 (COD)**

Brussels, 05 May 2023

WK 5938/2023 ADD 2

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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on the Environment
N° prev. doc.:	WK 5555/23 INIT
Subject:	F-gases Regulation: Follow-up to the WPE meeting on 26 April 2023: comments from a delegation

Following the above WPE meeting and the call for comments (WK 5555/23 INIT), delegations will find attached the comments on the EP amendments from DE.

GERMANY

**Comments on the European Parliament amendments for the
Proposal (COM 2022 150 final) for a regulation of the European Parliament and the Council on fluorinated greenhouse
gases, amending Directive (EU) 2019/1937 and repealing Regulation (EU) No 517/2014**

Submitted by Germany

04 May 2023

Note: Reservation of scrutiny remains.

Comments per article/annex

Amendment Article 4 column table (Line)	Comments
Amendment 42 Article 4 (5) Line 115	Detailed arrangements of declaration of conformity may be determined by the COM by means of implementing act. Detailed requirements as proposed by the EP are not needed. It is also difficult to assess the implications of all these requirements.
Amendment 44 Article 4 (6) Line 118b	Council position in line 109a (4 column table) is preferred instead of EP proposal. We prefer Councils broader approach that is not only focused on SF. The specifics of the requested “declaration of conformity” remain unclear.
Amendment 58 Article 9 Line 188	The development of producer responsibility schemes should be “encouraged” instead of “required” by MS. DE prefers to maintain the Council text in Article 9.
Amendment 68 Article 10 (6) Line 204 a	6 months for establishment of certification schemes and training programmes is not sufficient. 1 year is needed for implementation (minimum).
Amendment 70 Article 10 (8) Line 206	DE opposes EP proposal. In DE, for example, we do not collect the data of the certified persons centrally and we do not see any benefit in it.
Amendment 79 Article 11 a (new) Line 229b	The export ban should remain as in the Council compromise text. EP's military exception should also be adopted in the Council compromise text.
Amendment 152, 89, 90, 91 and 92 Article 13 Line 271, 274, 274a, 275, 275a	We reject the changes in Article 13. Here we should absolutely stick to the compromise of the Council text. Service and maintenance of existing/installed systems should not be further restricted (red line).

Amendment 94 Article 13 (4) Line 277a	The meaning of this sentence is not quite clear. It might be advisable to be more specific here. It remains unclear if the prohibition from 2030 only applies to wood fumigation, or also to the use of SF in the area of biocide legislation / stored product protection? We look forward to the COM assessment regarding feasibility.
Amendment 95 Article 16 (2) point (e) Line 204 a	We reject amendment 95 (red line). A deletion of the semiconductor quota exemption brings hardly any emission savings potential. Alternatives to HFC do not appear to be available at present.
Amendment 101 Article 17 (6) (6b) Line 315 a Line 315 c	In Article 17 and Annex VII we are in favour of maintaining the Council's compromise proposal. We are optimistic and hope that we can convince EP of the Council's position to maintain the idea of Article 17 (6b) and ultimately find an ambitious compromise regarding the phase down schedule.
Amendment 102 Article 17 (7) Line 316	EP's proposal for Art. 17 (7) must be rejected. In principle, revenue from the F-Gas Regulation should go to the general Union budget. The supplements of the EP do not serve the purpose of covering the administrative costs. The Council's position was only accepted by DE as a compromise, including capping of earmarking (red line).
Amendments 111 (and 114, 115) Article 20 (4) Article 22 (1) Line 338 Line 361 Line 361 a	We reject the deletion of the exemption "in cases of temporary storage and" and the corresponding consequential changes.
Amendment 113 Article 20 (7)	We have concerns whether all data can be publically available as requested by the EP. We are particularly unclear about (c) the type and scope of the data to be transmitted and published. Who should transmit this to the F-Gas-portal?
Amendment 117, 118 Article 23 (12) Line 386 Line 387	We reject the obligation to have the goods destroyed by the customs authorities and the exclusive responsibility for the seizure by the customs authorities. Council compromise text must remain due to nationally regulated responsibilities (red line).
Amendment 127	We don't see the need for such a common general framework that MS shall use to design centralised electronic systems.

Article 27 Line 420a	It is important for us that MS can still not be obliged to introduce such a centralized system if national circumstances do not allow it.
Amendment 131 Article 29 (7a) Line 441a	We reject the EP proposal to collect data from logbooks on MS level and submit the data to the COM. The administrative effort is disproportionate and the benefit of the data is not apparent.
Amendment 132 Article 31 (5) Line 458	<p>We refer to our previous statements on Article 31. The Council compromise on Article 31 should be retained in any case (red line).</p> <p>If necessary, recital 34 could be supplemented to accommodate the EP and achieve a harmonization effect in the fight against illegal trade:</p> <p><i>"Member States may lay down rules for administrative as well as criminal penalties for the same infringements. In case of criminal offences to be established under the ECD, MS should ensure that priority is given to the imposition of the penalties or sanctions provided for by these offences over the imposition of administrative penalties. In any case, the imposition of criminal and administrative penalties should not lead to a breach of the right not to be tried or punished twice in criminal proceedings for the same criminal offence (ne bis in idem), as interpreted by the Court of Justice."</i></p> <p>An amendment to EG 34 to establish the priority of criminal law over administrative offenses would be conceivable if violations in individual MS can be punished either with a criminal law sanction or with an administrative law sanction.</p>
Amendment 137 Article 35 (1a) Line 476a	We reject the idea that the COM can amend the regulation and strengthen the prohibition of Annex IV as part of a delegated act.
Amendment 140 Article 35 Line 477	2027 is too early for a review. We should stick to the Council text here (2030). The explicit consideration of the effects of this regulation on the health sector, in particular on the availability of metered dose inhalers, can be supported.
Amendment 145, 153cp1, 157cp1, 153cp2, 153cp3, 153cp4 Article 11 / Annex IV	<p>We support the goal of using the bans in Appendix IV to incentivize the switch to natural alternatives. However, bans must be feasible and take sufficiently into account that a complete phase-out of F-gas is not yet feasible in any cases. Safety requirements must be taken into account in individual cases. In addition, the heat pump run-up must not be jeopardized, which requires appropriate transition times. The transition periods in the Council compromise are already very ambitious and should not be shortened any further (red line). In the area of monoblock heat pumps and switchgear a complete changeover to natural alternatives is already technically possible. In other areas, longer transition periods than those proposed by the EP would probably be needed.</p>

Amendment 146 Annex IV	The Council's compromise on switchgear (including shift from Annex IV to Article 13) should definitely be retained. Regarding proposed F-Gas ban instead of GWP < 10 threshold a compromise may be possible.
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